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After the inter-communal troubles of December 1963, Nedjatigil continued practising as an advocate for some time. In 1967 he was appointed as a District Judge by the Turkish Administration and in September 1968 he was appointed as counsel at the Turkish Attorney-General's Office. In March 1975 he was elected by the Cyprus Turkish Bar Association as their representative in the Constituent Assembly of the Turkish Federated State of Cyprus. He became automatically a member of the Constitutional Committee of the Assembly, which Committee drafted the Constitution of the Turkish Federated State of Cyprus. Nedjatigil served as a member of the Constituent Assembly till July 1976.

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**Published by the Public Information Office,
Turkish Federated State of Cyprus.**

CYPRUS

CONSTITUTIONAL PROPOSALS AND DEVELOPMENTS

Z. M. NEDJATIGIL

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CYPRUS

CONSTITUTIONAL PROPOSALS AND DEVELOPMENTS

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Printed at the State Printing Office
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PREFACE

This monograph recounts the recent history of Cyprus by sketching the chronology of events and constitutional developments, as well as proposals, particularly from 1955 up to the present time. These developments raise a number of interesting legal and constitutional issues which have been discussed herein.

The Cyprus bicommunal Republic came into being in 1960 as a result of international agreements and was based on the participation in the State of the Greek and Turkish Cypriot Communities on an agreed basis, which Communities were also given autonomy in defined communal matters. Since the hostilities of 1963 participation of the two Communities in the running of the affairs of the Republic came to an end and the Turkish Cypriot Community found itself completely disenfranchised, as well as excluded from the State organs. The 1960 Constitution has been whittled away by the actions of the Greek Cypriot administration which tries to pass itself off as the "government" for the whole of Cyprus. Organic evolutionary developments have taken place within the Turkish Cypriot Community so that in reality there are in Cyprus today two autonomous administrations, one of the Greek Cypriots and the other of the Turkish Cypriots, which administrations exercise exclusive control over their respective regions. In the meantime, negotiations are going on for the establishment of a bicommunal federal State.

In fact the Cyprus problem was not created with the Turkish intervention of 1974, as some authors try to argue, but arose in December 1963 as a result of Greek Cypriot attack on the Turkish Community. The aim was to abrogate the 1960 Agreements and unite Cyprus with Greece.

I have appended a number of documents and materials to support the views expressed. I have found this a convenient method of collecting all the material in one volume.

I express my thanks to all those who have made the publication of this book possible. I owe a special debt of gratitude to his Excellency Rauf R. Denktaş, the President of the Turkish Federated State of Cyprus, for having given me during a private interview, valuable information about the issues discussed in this publication.

Nicosia,
August, 1977

Z.M.N.

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CYPRUS - CONSTITUTIONAL PROPOSALS AND DEVELOPMENTS

1 The years 1878 - 1960

The island of Cyprus was part of the Ottoman Empire from 1571 until 1878.

By the Convention of defensive alliance between Great Britain and Turkey signed at Istanbul on June 4, 1878, Turkey consented to assign the Island of Cyprus to be occupied and administered by Britain. By an Annex to this Convention of July 1, 1878 between the same Contracting Parties a provision was made that if Russia restores to Turkey, Kars and other conquests made by Russia during the last war, the Island of Cyprus will be evacuated by England and the Convention of June 4, 1878 will be at an end.

Cyprus was annexed by Great Britain in 1914.

By Letters Patent of March 10, 1925 Cyprus became a Crown Colony with a Governor, an Executive Council and a Legislative Council. Due to the serious disturbances of 1931 the Legislative Council was abolished and never reconstituted.

On the assumption of the Government by the Labour Party in 1945 a Consultative Assembly was convened in 1947 with a view to giving Cyprus a large degree of self - government, but this was dissolved in 1948 when the Greek Cypriots refused self-government and chose to continue the ENOSIS campaign, that is, union of Cyprus with Greece. Greek Cypriots under the leadership of Archbishop Leontios had already decided that their future aim should continue to be *Enosis* and only *Enosis*, a policy followed by his successor Archbishop Makarios II and Makarios III. This is confirmed by Mr. C. Tornaritis in his *Cyprus and its Constitutional and other Legal Problems* (Nicosia 1977) at p. 29.

On January 15, 1950 the Greek Cypriot Orthodox Church held a plebiscite in Churches where an overwhelming majority of Greeks voted in favour of *Enosis*, that is the colonization of Cyprus by Greece and spiritual expansion, in total disregard to the right to liberty of the Turkish Cypriot Community. It was in this atmosphere that Makarios, like his predecessors, was elected Archbishop on the *Enosis* ticket on October 20, 1950. When he was enthroned he took the following oath: "I take the Holy oath that I shall work for our national aspirations and shall never waiver from our policy of annexing Cyprus to mother Greece."

In true loyalty to his oath, Archbishop Makarios III, under the patronage of the Greek Orthodox Church, in a Machiavellian style that the end justifies the means, founded the EOKA underground organisation which launched its terrorist activities on April 1, 1955. The foundations of *Eoka* were laid in Athens in a secret meeting where Archbishop Makarios took the following oath on 7 March, 1953 : "I take the oath on the Holy Spirit not to disclose anything I know or I shall hear about the *Enosis* struggle of Cyprus even if it costs me

my life or even if I am subjected to the greatest tortures. I shall obey all orders given to me without questioning them."

The Greek Orthodox Church has ever since played a major part in the political life of Cyprus. The HOLY SYNOD, a gathering of Greek Orthodox Bishops meeting under Archbishop Makarios, held regular meetings to "chart the course of the Cyprus Problem" and drew up plans for the achievement of *Enosis*.

In 1954 the Greek Government brought the question of Cyprus before the United Nations claiming union of the island with Greece as a right of self - determination, but this request was turned down as it aimed at a change of sovereignty of the island. The Turkish Cypriot Community adamantly refused to be colonized by Greece and sought the aid of Turkey in presenting its case to the international forum.

After EOKA started its activities which spread death and destruction, the Governor of Cyprus was substituted by Field Marshal Sir John Harding, who after arriving in Cyprus started protracted talks with the Ethnarch (National Leader) Archbishop Makarios in order to find a solution to the problem. Due to the support given to the *Eoka* campaign by the Archbishop and his refusal to condemn violence, he was deported to the Seychelles, with the Bishop of Kyrenia and two others all of whose complicity in the *Enosis* movement was clearly proved and later proudly admitted by them all - including Archbishop Makarios.

The Archbishop refused a British proposal to grant him freedom in exchange for a denunciation of violence. But he was released shortly afterwards in March 1957, on the understanding that he could not return to Cyprus. He returned from exile in the Seychelles on March 1, 1959.

The British Government concentrated on preparing a working plan for self-government for Cyprus and for this purpose entrusted Lord Radcliffe to prepare and submit constitutional proposals for Cyprus. (1) These proposals were turned down by the leaders of the Greek community as they did not come up to their expectations - *Enosis* through Greek Cypriot self-determination at the expense of the Turkish Cypriots who looked upon *Enosis* as a change of Colonial masters for the worst.

In the ensuing violence that was unleashed Turkish Cypriots were forced out of 33 villages and many lives were lost. In fact *Eoka* terrorists killed more Greek Cypriots than British soldiers.

Eoka continued its activities and conditions in Cyprus deteriorated culminating in communal strife between the *Enosis* - bound Greek Cypriots and the anti-*Enosist* Turkish Cypriots. Sir John Harding was succeeded as Governor by Sir Hugh Foot (now Lord Caradon). It was the new Governor's ideas that mainly

(1) The Radcliffe Proposals - APPENDIX 1.

inspired the Macmillan Plan which was announced in 1958. (2) Under this Plan a partnership scheme was proposed for Cyprus — partnership between the two communities in the island and also between the Governments of the United Kingdom, Greece and Turkey. Archbishop Makarios declared that the Macmillan Plan was unacceptable. The Turkish Cypriots and Turkey indicated their willingness to accept this plan as an experiment in political partnership in the evolution of a bi-national independence.

Each year Greece brought the Cyprus problem before the United Nations General Assembly. Each time the General Assembly urged "the interested parties" i.e. the two national communities in the island and their respective motherlands, Turkey and Greece to settle the problem by peaceful means. So, early in 1959 negotiations were held in Zurich between the Greek and the Turkish Governments for the purpose of finding a just solution. After full consultations by the two motherlands with the respective Cypriot leaders an agreement was reached on February 11, 1959 at Zurich between the Greek and the Turkish Prime Ministers for the establishment of an independent state, the Republic of Cyprus. At a conference held in London in February 1959 documents setting out the agreed foundations of the final settlement of the problem of Cyprus were adopted and signed by the Prime Ministers of Great Britain, Greece and Turkey and the respective leaders of the two national Communities in Cyprus viz. Dr. F. Küçük and Archbishop Makarios (3) on February 19, 1959. The Constitution of the Republic of Cyprus which was prepared in 18 months by a Commission of experts representing the two Communities, Greece and Turkey under the Chairmanship of a Swiss Professor of International Law, viz. Prof. Marcel Bridel, was signed at Nicosia on August 16, 1960 by the then Governor on behalf of the British Government, by the representatives of the Governments of Greece and Turkey, by Archbishop Makarios, on behalf of the Greek Cypriot community and by Dr. F. Küçük on behalf of the Turkish Cypriot community and was put into force on that date.

II The 1960 Constitution and the uneasy years

As noted above, the Republic of Cyprus came into being as a result of international agreements. The Republic was set up as a compromise between the claim of Greek Cypriots for *Enosis* and the Turkish Cypriot standpoint that if Great Britain was to give up sovereignty over the island, the island should be returned to its former owner, Turkey and not to Greece.

The main features of the 1960 Constitution were as follows :

(a) It provided for a Presidential regime, the President being Greek Cypriot and the Vice-President being Turkish Cypriot elected on the basis of separate

(2) The Macmillan Plan - APPENDIX 2.
(3) For the principles adopted at the London Conference, see the Zurich Agreement, APPENDIX 3

Greek Cypriot and Turkish Cypriot electoral rolls respectively. (4) The President and the Vice-President had the right to say the final word in certain matters which concerned his own community. The Vice-President could not deputise for the President in the latter's absence. The President of the House of Representatives who could only be Greek had the right to deputise for him. On the other hand the Vice-President was vested with veto rights with regard to foreign affairs, defence, and security. (5)

(b) It provided for the participation of the two national communities in the Central Government, the Legislature, the Judiciary and the Public service. The Council of Ministers was composed of seven Greek Cypriot Ministers and three Turkish Cypriot Ministers. One of the following Ministries, that is to say the Ministry of Foreign Affairs, the Ministry of Defence or the Ministry of Finance was to be entrusted to a Turkish Cypriot Minister. (6)

The House of Representatives was composed of 35 Greek and 15 Turkish Members elected on the basis of separate Greek Cypriot and Turkish Cypriot electoral lists. (7)

The Constitution endowed the Republic with two superior courts, the Supreme Constitutional Court and the High Court of Justice. The Supreme Constitutional Court was composed of a neutral judge as President, a Greek Cypriot and a Turkish Cypriot Judge as members. On the other hand the High Court of Justice was composed of a neutral judge as President, two Greek Cypriot Judges and one Turkish Cypriot Judge. (8)

The subordinate Courts were the district Courts. In purely Turkish cases, the Court had to be composed solely of a Turkish Judge or Judges, in purely Greek cases of a Greek Judge or Judges and in mixed cases by mixed Courts. (9)

The Public Service was to be composed as to 70% of Greek Cypriots and as to 30% of Turkish Cypriots. (10)

(c) Each Community exercised autonomy in matters relating to religion, education, culture and teaching, personal status, family affairs and the like, through their respective Communal Chambers. (11) The Chambers were given legislative as well as executive powers in the above matters.

(d) According to Article 182 of the Constitution certain Articles set out in Annex III thereto which were incoporated in the Zurich Agreement of 11 February 1959, were the basic articles of the Constitution and they could not, in any

(4) Article 1 of the 1960 Constitution.
(5) Articles 36 - 60
(6) Article 46
(7) Articles 62 - 63
(8) Articles 133 - 164
(9) Article 159
(10) Article 123
(11) Articles 86 - 111

way, be amended. The other provisions in the Constitution could only be amended in the manner prescribed by Article 182, paragraph 3.

The 1960 Constitution contained checks and balances in order to ensure the co-existence of the two Communities in the island who professed divergent ideologies and philosophies, without one Community dominating the other or encroaching upon the rights of the other. The system envisaged by the 1960 Constitution was in effect a functional federation. Communal affairs had been defined by the 1960 Constitution and were given to the Communal Chambers. The Constitution also envisaged separate municipalities which are local government organs, whereas in the Central Government, the Legislature and the Judiciary the Constitution envisaged the partnership of the two Communities on an agreed basis. The functional federative system was therefore inherent in the Constitution in the way it provided for the partnership and co-founder status of the Communities, the bicommunality of the State and the dichotomy of functions and powers between the State and the Communities.

Under Article 1 of the Treaty concerning the Establishment of the Republic of Cyprus, (12) the Akrotiri and the Dhekelia Sovereign Base Areas remained under the sovereignty of the United Kingdom.

The Treaty of Alliance (13) was concluded between Cyprus, Greece and Turkey. By this Treaty the contracting parties undertook to resist any attack or aggression directed against the independence or territorial integrity of Cyprus. Under the Treaty of Guarantee, (14) the Republic of Cyprus undertook the obligation to maintain the state of affairs so created and the three Guarantor Powers, Great Britain, Greece and Turkey, guaranteed the continuation of the existence and maintenance of such order, as well as the independence and territorial integrity of Cyprus. Furthermore, they reserved the right to take steps for the restoration of the status of Cyprus in case of any change in, or disturbance of, such status.

There are many who believe that Archbishop Makarios accepted independence as a spring-board for achieving *Enosis*. This is supported by later public declarations. A Cypriot "nation" (15) did not in fact exist in Cyprus. The birth of such a "nation" would require time, goodwill and co-operation between the two Communities. The situation was not however condusive to the creation of such a "nation". Archbishop Makarios proclaimed that the Agreements had not

(12) The Treaty of Establishment - APPENDIX 4.
(13) The Treaty of Alliance - APPENDIX 5.
(14) The Treaty of Guarantee - APPENDIX 6.
(15) "No Greek, who knows me can ever believe that I would wish to work for the creation of a Cypriot national awareness. The Agreements have created a State but not a Nation."

Makarios in a statement published in the "Cyprus Mail" of 28th March 1963

in fact settled the Cyprus problem (16), that the "national aims" of the Greek Cypriots were inalterable and that the Greek Cypriot "national aim" was none other than the achievement of *Enosis*. (17)

On September 21, 1960 Cyprus became a member of the United Nations and on May 24, 1961 a member of the Council of Europe upon the application of the two Communities, as the State of Cyprus is composed of two Communities.

Uneasy years followed the establishment of the Republic because the Greek side did not want to implement certain articles of the Constitution which underlined the partnership status of the Turkish Community and thus reinforced all those provisions which prohibited union of Cyprus with Greece. The argument of the Greek Cypriot side that the Constitution was unworkable (18) was merely a pretext for demanding an amendment of the Constitution (19). For instance, Articles 173 to 177 of the Constitution provided that separate municipalities for the Greek and Turkish inhabitants shall be established for the towns of Nicosia, Limassol, Famagusta, Larnaca and Paphos and that the administration of such towns must bear certain additional fundamental features which are set out specifically in the said articles. Articles 87 and 89 of the Constitution further envisaged that the laws concerning municipal administration as far as they apply to the five

(16) "The aim of the Cyprus struggle was not the establishment of a Republic. These Agreements only laid the foundations."

From Makarios' statement made on 13th March 1963.

"Union of Cyprus with Greece is an aspiration always cherished within the hearts of all Greek Cypriots. It is impossible to put an end to this aspiration by establishing a Republic."

From Makarios' statement to the correspondent of London TIMES on 9 April 1963.

(17) "The noble struggles of the people never come to an end. These struggles, although undergo transformation, are never terminated. The struggle of the people of Cyprus too will go on.

"The Zurich and London Agreements form a landmark in the course of this struggle, but at the same time, are a starting point and bastion for further struggles, with the object of capitalizing on what has been achieved for further conquests."

From Makarios' speech delivered on 5 January 1962.

"Greek Cypriots must continue to march forward to complete the work began by the EOKA heroes... The struggle is continuing in a new form, and will go on until we achieve our goal..."

From Makarios' sermon at Kykko Monastery on 15 August, 1962.

"It is true that the goal of our struggle is to annex Cyprus to Greece."

From Makarios' interview published in Uusi Suomi of Stockholm on 5 September 1963.

(18) Professor Ernst Forsthoff, the independent President of the Supreme Constitutional Court who resigned from this office *de jure* as from 15 July, 1963, stated in answer to a question put to him by a correspondent of the Associated Press on 5th January, 1964 that "Every constitution can have its peculiar problems. There is no constitution in the world which has not got its particular difficulties and problems. This is primarily a question of goodwill. If there is goodwill a constitution can be implemented and this Constitution is capable of being implemented." The full Text of this interview is reproduced in APPENDIX 7.

(19) The AKRITAS Plan - see APPENDIX 8.

towns in question must be supplemented by subsidiary legislation and administrative measures of the Communal Chambers.

These separate municipalities had been functioning in Cyprus since the intercommunal violence of 1958. The Zurcih Agreement recognized these municipalities and left the door open for re-unification within 4 years if the two sides so desired. All that was needed was to pass legislation to give constitutionality to the existing municipalities. Yet, instead of proceeding to act as envisaged by the Constitution, the Greek Cypriot members of the Council of Ministers declared these municipalities to be non-existent and converted them into a mixed improvement area for the purposes of the Villages (Administration and Improvement) Law, Cap. 243. Moreover, the Council proceeded to make appointments to the improvement Boards of such areas thus destroying a vested right of the Turkish Community. This order of the Council of Ministers (20) was declared, by majority (21) of the Supreme Constitutional Court, as void *ab initio*. (22) Non-implementation of Articles 173 to 177 of the Constitution caused dissatisfaction among the Turkish inhabitants of towns, which culminated in a number of references to the Supreme Constitutional Court. (23) Archbishop Makarios himself publicly declared that he would not comply with the decision of the Supreme Constitutional Court to be issued in respect of municipalities. (24) As a result of this affront the President of the Supreme Constitutional Court resigned his post. (25)

On November 30, 1963 the President of the Republic, Archbishop Makarios made the famous 13 point proposals to the Turkish Vice-President for revision or amendment of the Constitution. These thirteen points were :

(1) The right to veto to be abandoned

(2) The Vice-President to deputize for the President in case of his temporary absence or incapacity to perform his duties

(3) The Greek President of the House of Representatives and the Turkish Vice-President to be elected by the House as a whole and not as stipulated in the Constitution.

(20) Not. Nos. 4 and 5, Supplement III of the Official Gazette of 10 January 1963.

(21) The Supreme Constitutional Court was composed of an independent President Prof. Ernst Forsthoff of Heidelberg University, and a Turkish and Greek Cypriot Judge, Messrs. N. Munir and M. Triantafyllides, respectively.

(22) *The Turkish Communal Chamber v. The Council of Ministers*, 5 R.S.C.C. p. 59 *et seq.* The headnote of the decision of the Court is reproduced in APPENDIX 9.

(23) See e.g. *The Turkish Communal Chamber v. The Council of Ministers* 5 R.S.C.C. 59 and *Celaleddin and Others v. The Council of Ministers and Others*, 5 R.S.C.C. 102.

(24) On February 12, 1963 while the cases relating to municipalities were pending before the Supreme Constitutional Court the *Cyprus Mail* reproduced the text of the statement made by Archbishop Makarios to a correspondent of the *Sunday Express*, which was to the following effect: "Even if the Constitutional Court says that what I am doing (on municipalities) is unconstitutional I will not respect anything of these things."

(25) Prof. E. Forsthoff's letter of resignation of 21 May 1963 addressed to the Vice-President of the Republic is reproduced in APPENDIX 10. A similar letter was addressed to the President.

(4) The Vice-President of the House of Representatives to deputize for the President of the House

(5) The constitutional provisions regarding separate majorities to be abolished

(6) Unified municipalities to be established

(7) The administration of justice to be unified

(8) The division of the Security Forces into Police and Gendarmerie to be abolished

(9) The numerical strength of the Security Forces and of the Defence to be determined by a Law

(10) The proportion of participation of Greek Cypriots and Turkish Cypriots in the compositon of the Public Service and the Forces of the Republic to be modified in proportion to ratio of the population of Greek and Turkish Cypriots

(11) The number of the members of the Public Service Commission to be reduced from 10 to 5

(12) All decisions of the Public Service Commission to be taken by simple majority

(13) The Communal Chambers should be abolished and a new system should be devised. Should the Turkish Community, however, desire to retain its Chamber, such a course is to be open to it.

Such proposals, as Vice-President Küçük pointed out immediately, were "of a sweeping nature" and attacked the very roots which gave life to the Republic; their "ulterior intention was to leave the Turks at the absolute mercy of the Greeks."

Mr. Polyvios G. Polyviou, in his book *Cyprus - The Tragedy and the Challenge* (1975), at p. 39 expresses the view that "putting forward all 13 proposals simultaneously may have been a mistake and a tactical miscalculation. It would have been preferable, given the climate of distrust, for a gradual process of amendment to have been embarked upon." This would have been the right approach had the proposals for amendment rested on any legitimate reason. In fact, as seen in the content of the AKRITAS Plan (26) the proposals for amendment of the Constitution were merely a pretext for abrogating the whole set of Agreements, the whole essence of which outlawed union of Cyprus with Greece.

An eminent German jurist, Dr. Christian Heinze in an article originally published in German in the *Europa - Archiv* in 1964, states : (26a)

> "But whatever politically justifiable claims to an amendment of the Constitution of 1960 the Greek Cypriots may have had, these have been lost through their policy of hostility towards the law and the agreements, which ended in violence and organized murder.
>
> .....(Greek Cypriots') fight cannot be justified either legally, politically or historically. This is, at the same time, an expression of opinion with regard to the policy of Greece. Should this policy be successful there is the danger that it would set an example, and that, when the next conflict arose in connection with the Western system of peace, other Western states would also ignore Agreements and justice, in order to further their interests....."

(26) See APPENDIX 8.

(26a) An English translation of this article has been published by the P.I.O. of the Turkish Federated State of Cyprus entitled: *The Cyprus Conflict - The Western Peace System is put to Test*, Second Ed. 1977.

The notorious AKRITAS Plan, a top secret document, was first published in the Greek Cypriot newspaper *Patris* in its issue of April 21, 1966. It was a plan dawn up by the Greek Cypriot leaders and Greek Army officers in 1963 whereby Archbishop Makarios set up a secret organization and appointed the Minister of the Interior Mr. Georghadjis as its head under the *nom de guerre* of Chief Akritas. This document shows that the final objective of the organization remans *Enosis* (but that the struggle must be based on "self-determination" in order to influence international public opinion) and dwells upon the method to be employed in achieving this objective. In order to be able to exercise the right of "self-determination" fully and without hindrance this secret organization planned ways and means of getting rid of the Agreements. The procedure to be followed, as postulated in the secret document was, briefly: First, the impression must be created in the international field that the Cyprus problem has not been solved, and consequently the Zurich-London Agreements and the Constitution would have to be reviewed. Then proposals should be put forward which seemed reasonable and justified, for

> "It is evident that for intervention (from Turkey) to be justifiable there must be more serious reason and more immediate danger than constitutional amendments.
>
> .....
>
> if we manage to become masters of the situation within a day or two, outside intervention would not be possible, probable or justifiable."

It should be noted that the *Akritas Plan* was never disclaimed by Archbishop Makarios or other Greek leaders. Moreover, the Greeks failed to become masters of the situation "within a day or two", but they succeeded in bringing about death, destruction and human misery on Turkish Cypriots in the years that followed the events of December 1963.

III Intercommunal hostilities of December, 1963

On December 21, 1963 the Greek Cypriot armed elements attacked the Turks of Nicosia. (27) The Greek Cypriot side, relying on their numerical superiority and force of arms ejected the Turkish Cypriots from the administration and set up a *de facto* Greek administration which usurped all the powers of the Government of Cyprus. (28) The Turkish Cypriots thus found themselves under such a predicament that they had to defend themselves (29)

As a result of the Greek Cypriot armed attacks of 21 December 1963, carried out in accordance with the notorious AKRITAS Plan (referred to above), hundreds of Turkish Cypriots were killed, wounded or maimed; 103 Turkish villages were completely or partially destroyed; and 25 000 Turks were made refugees in their own country. (30) From Omorphita (K. Kaimakli) alone 6 000 Turks were made refugees. Mr. Nicos Sampson, the owner of "Makhi" newspaper declared that "Omorphita has been conquered by Greek arms; conquered lands can never be returned." (31) The inhabitants of these 103 villages fled to the nearest bigger Turkish villages for safety. Greek Cypriots immediately destroyed all Turkish houses in these villages. The United Nations asked Mr. Ortega to prepare a report, which he did. The story is now a sad record of the past with detailed figures. This wanton destruction meant that the inhabitants of these houses were not wanted back. Indeed the Greek press was quite categoric in advising the Turkish population to leave Cyprus "if you do not like to live under the Greek flag."

Soon after the hostilities of December 1963, Archbishop Makarios, in accordance with the notorious *Akritas Plan* (32) declared that the London and Zurich Agreements were void. He tried to support this stance by reference to the Charter of the United Nations. On being warned by the British, he made a tactical change in his future course. News were fabricated that Turkish Cypriots were preparing for mortar attack. Accordingly, the Greek Cypriot side demanded that the Turkish Cypriots should surrender unconditionally. (33) In the meantime

(27) The Greek Cypriot armed elements consisted of the Greek members of the Cyprus police, Greek members of the Cyprus Army and secret armies formed under the leadership of Dr. Vassos Lyssarides, Mr. Tassos Papadopoullos and Mr. Polycarpos Georghadjis. In their meeting on 12 February 1977 under the auspices of the Secretary General of the United Nations Mr. R. Denktaş (President of the Turkish Federated State of Cyprus) probed this question of secret armies. Archbishop Makarios was frank enough to state that he had agreed to the formation of such secret armies upon reports by his Minister of Interior, late Mr. Polycarpos Georghadjis that the Turks were also arming (From private interview with Mr. Denktaş).

(28) This point is expounded upon further in later pages.

(29) See APPENDIX 11.

(30) See the U.N. Secretary-General's Report S/5950 of 10 September 1964, paragraphs 177 - 180, APPENDIX 12.

(31) From "Makhi" of 17 June 1973.

(32) See Appendix 8

(33) Police officer Pantelides demanded this over a telephone conversation with his colleague Kazim Nami.

Turkish Cypriots were being killed. Turkey therefore urged the Guarantor Powers to intervene. Greece refused to do so because she was collaborating with the Greek Cypriots. Britain refrained from intervention because her interests did not as yet necessitate such a course. Turkish war planes had therefore to make warning flights over Cyprus. Consequently, Britain urged Archbishop Makarios to appeal to the Guarantor Powers to intervene, otherwise Turkey would intervene alone. Archbishop Makarios therefore appealed to the three Guarantor Powers to intervene. Dr. Küçük, the Turkish Vice-President, also joined in this appeal.

On 24 December 1963, the three Guarantor Powers offered their good offices to help to resolve the difficulties in the island. On 25 December 1963, Archbishop Makarios announced that he had accepted an offer that forces from the United Kingdom, Greece and Turkey (the truce force) be stationed in Cyprus and placed under British command to assist in the preservation of the ceasefire and the restoration of peace. From 26 December 1963 until 27 March 1964, the truce force operated in the island, doing police work, under British command.

Greece and Greek Cypriots maintained that the Zurich and London Agreements which gave birth to the Republic of Cyprus, were void. This argument is devoid of any legal basis. As stated by Dr. Christian Heinze in his above-referred article :

> "No serious doubts can arise in respect of the legal binding force of the Agreements of 1959 and 1960. It is true that international law recognize the lapse of the basis of agreement as a legal ground for the dissolution of contractual obligations, and agreements under international law may, as an exception, lack binding force, should they have been concluded under compulsion or should their contents conflict entirely with political actuality. This can however under no circumstances apply to the Cyprus Agreements. The Constitution agreed upon may, perhaps, not be regarded as politically just in all respects, and it may be granted that the Greek Cypriots got the worst of the bargain. But it is an enormous exaggeration to speak for this reason of an inapplicable or even a fundamentally inappropriate Constitution. The only decisive pressure to which the partners were subjected in the matter of the acceptance of the Cyprus Agreements was the pressure of their own interests in the rights which were to be granted to them by these Agreements..."

In January 1964 a Conference was called in London for the purpose of making an attempt to reach a settlement. It ended in failure because the Greek Cypriot side, supported by Greece, proposed that the Turks should accept the abolition of all their partnership rights and agree to become a mere minority in

a Greek-ruled island completely open to union with Greece. After the deadlock in London, the Cyprus question was referred to the United Nations.

The United Nations dealt with the Cyprus problem both in the Security Council and the General Assembly. Under its decision of March 4, 1964 (34) the Security Council recommended the creation of a U.N. Peace Keeping Force in Cyprus. The U. N. Force in Cyprus became operational on March 27, 1964 with the arrival of the Canadian Contingent. Furthermore, the Security Council recommended that the Secretary-General designate a Mediator. The late Finnish diplomat, Sakari Tuomioja, was appointed as the first Mediator. He was succeeded upon his death by Dr. Galo Plaza.

It could be assumed that the reference in the Security Council Resolution of March 4, 1964 (which has been mentioned above), to the "Government of Cyprus", meant the constitutional or legal "Government of Cyprus" which under the 1960 Constitution was composed of both Greek and Turkish Cypriot elements. The Greek Cypriot wing of the "Government of Cyprus" which since December 1963 had attempted to overthrow the 1960 Constitution, pretended to be the "Government of Cyprus" and cynically argued that the peace-keeping force had been ordered to support the Greek Cypriots in their "struggle for peace and security against the Turkish rebels." The then Secretary-General of the United Nations, U-Thant is himself reported to have remarked that the solution of the Cyprus problem was first and foremost a matter for the "Cypriot Government". Such attitudes hardened the Greek Cypriot stand and failed to contribute to an agreed settlement of the Cyprus dispute.

The United Nations Secretary - General made reference to the establishment in Cyprus of compulsory conscription and the creation of a "Cyprus National Guard" as well as to the reorganization of the regular Police Force. (35) In his Report to the Security Council of 10 September 1964 (S/5950) the U. N. Secretary-General noted that the strength of the "National Guard" had increased from about 15,000 to an estimated total of 24,000. Including in this figure were an estimated 5,000 men who arrived in Cyprus from Greece during the month of July 1964 through the port of Limassol. (36) In the same Report the Secretary-General noted that during the month of July the "Cyprus Government" imported large amounts of arms and equipment which came in the main through Limassol. (37) These acts contravened the provisions of the 1960 Constitution, particularly Article 129 thereof, and the relevant resolutions of the United Nations, particularly that of 4 March 1964. (38).

(34) See APPENDIX 13.
(35) Report of 15 June 1964 (S/5764).
(36) See paragraph 20 of the Report
(37) See paragraphs 40 and 41.
(38) See APPENDIX 13.

Meanwhile, U.S. efforts launched for the purpose of resolving the Cyprus problem resulted in talks being held at Geneva in the summer of 1964 between the representatives of Greece and Turkey under the aegis of the U.N. Mediator and with the participation of Dean Acheson, the then American Secretary of State. American initiatives resulted in the putting forward of the *Acheson Plan*. This plan called for union of Cyprus with Greece, subject to the following conditions : That Turkey receive the Greek island of Kastellorizon, that two Turkish cantons be established in Cyprus, and that a military base be ceded to Turkey. This plan was described by the Greek side as proposing in effect a solution based on *double Enosis* and was denounced by Archbishop Makarios. The aim of the Greek side was to achieve *Enosis* without giving any concessions to Turkey or to Turkish Cypriots in return. Such attitudes were reinforced by the failure of other American initiatives, such as the efforts of Cyrus Vance in 1967.

The U.N. Mediator, Dr. Galo Plaza submitted his Report to the Secretary-General on March 26, 1965. (38a)

The larger part of Dr. Plaza's Report is devoted to a factual review of the positions of the parties to the Cyprus issue. Dr. Plaza was very critical of the 1960 Constitution which he described as a "constitutional oddity". Certain political circles then interpreted his suggestions in the Report as a rejection of the Zurich and London agreements which gave birth to the Republic of Cyprus. However, it was outside the terms of reference of the Mediator so to do. He concluded that any settlement of the Cyprus problem had to take account of, and be based upon the following considerations :

(i) The problem of Cyprus could not be solved by attempting to restore the situation which existed before December, 1963, but that a new solution had to be found.

(ii) Any settlement, to be viable, had to be "an agreed one". It had to be capable of securing the support of all the interested parties identified by the Security Council in its above-referred Resolution of 4 March 1964.

(iii) It had to be consistent with the provisions and principles of the U.N. Charter.

(iv) It had to be in the interest of the well being of the people of Cyprus as a whole.

(v) Finally, it had to be a lasting and durable settlement.

Dr. Plaza then proceeded to give his observations and recommendations. He suggested that there had to be "an independent Cyprus with adequate safeguards for the safety and the rights of all its people." He recommended to the

(38a) Galo Plaza Report, U.N. Security Council Document S/6252 of 26 March 1965. Paragraphs 130 - 171 of this Report are reproduced as APPENDIX 13A.

Greeks to shelve their demand for *Enosis* so long as the risk of opposition from the Turkish Cypriot Community and Turkey persisted. He suggested that establishment of guaranteed independence should be followed by demilitarisation of the island. According to the Mediator, establishment of a federal régime required a territorial basis which did not exist. He could not therefore accept the federal schemes proposed by Turkey or any other federal solutions. He was of the view that the Turkish Cypriot Community must be protected adequately, but expressed his satisfaction with the assurances which Archbishop Makarios had given concerning such protection. He suggested the appointment of a United Nations Commissioner with a staff of observers and advisers to be present in Cyprus for so long as necessary.

In fact Dr. Plaza had acted as an arbitrator rather than as a Mediator and the suggestions put forward by him meant that even the rights given to the Turkish Cypriots under the existing treaties would have to be curtailed. Instead of suggesting that the international agreements which gave birth to the Republic of Cyprus should form the basis of new discussions, because such agreements cannot unilaterally be abrogated but can only be amended by the consent of the parties concerned, and being highly critical of the 1960 constitutional arrangements, he went on to propose a new constitutional set-up in line with the aspirations of the Greek Cypriot side. This meant acceptance of the *fait accompli* created by the Greek Cypriot side since December, 1963. The Turkish Government's view was that Dr. Plaza had transgressed the limits of his mandate, which was to promote "a peaceful solution and an *agreed* settlement of the problem confronting Cyprus", by making suggestions which committed him to a certain stand on a final political settlement. He had put forward his own views and suggestions on the substance of the Cyprus problem without the agreement of the parties concerned.

The inter-communal hostilities which initially started in Nicosia spread throughout the island, to towns and villages. The Ayios Vasilios massacre and the armed attack against Turkish Cypriots in Limassol, Gaziveren, Paphos (Ktima) and Kokkina are typical events of December 1963 to August 1964. (39) The Kokkina fighting in August 1964 was yet another prelude to mass murder, because the Greek forces under George Grivas knew very well that the Turkish garrison at Kokkina which they were attacking was actually manned by about 500 Turkish Cypriot university students who were not properly armed or, even, trained. If the Greek attack were successful the whole garrison of students and the Turkish youth of the village would have been wiped out. The massacre was prevented by Turkish Air Force from the mainland which repulsed the Greek attack. On the other hand, Archbishop Makarios threatened that he would "order every Turkish Cypriot village to be attacked, if the Turkish Air Force did not stop bombing the Greek force around Kokkina." (39a)

(39) APPENDIX 14.
(39a) See U.N. Secretary - General's Report S/5950 of 10 September 1964, paragraph 83.

Again, the attacks at Kofinou (Geçitkale) - Ayios Theodoros (Boğaziçi) during November 1967 by 20 000 men from mainland Greece under the command of George Grivas, assumed the dimensions of genocide of the Turkish Cypriot populations of these villages, thus necessitating intervention by Turkey. Turkey accused Greece and insisted on the withdrawal of Greek armed forces from Cyprus. This incident which brought Turkey and Greece to the brink of war, was taken up by the U.S.A. and Mr. Cyrus Vance, the present Secretary of State, managed to get an accord between the parties following a shuttle diplomacy between Athens - Ankara - Nicosia. Under this agreement Greece withdrew from Cyprus over 10,000 troops it had clandestinely brought to the island. Archbishop Makarios, however, managed to leave behind 3,000 Greek Officers under the pretext that they were on contract to his administration for the training of his army.

Years later, Andreas Papandreou, former Minister in the Cabinet of George Papandreou, in his book *"Democracy at Gunpoint"* (39b) gave an authentic account of the criminal conspiracy which existed between his father, George Papandreou, the then Prime Minister of Greece, and Archbishop Makarios. He states that at the meeting held between Makarios and G. Papandreou in April 1964 an important, indeed vital, decision was taken. It was considered that Cyprus is far from Greece, which meant that Greece's undertaking to assist Cyprus would not mean much in the event of Turkey's landing troops on Cyprus. The contribution of Greece to the defence of Cyprus from a military point of view could be effective only if such contribution were to be realized before the Turks launched an attack. Indeed, if Greece could send arms and troops to Cyprus in a clandestine way this would make things difficult for the Turks and prevent a military intervention in the island. The Greek Prime Minister proposed so to do and Makarios accepted it. In consequence, large-scale operation of military aid began. This aid was being sent secretly. Ships loaded with arms and troops were approaching the island at night time and disembarking volunteers in mufti; and these volunteers were forming up military units in the island. This operation continued until mid-summer. About 20,000 fully equipped officers and men were landed in Cyprus. These officers and men formed a resolute defence force capable of preventing the Turks from coming to Cyprus. At the same time, the presence of these troops strengthened the Greek Government's bargaining position in Washington and New York.

Finally, the Graeco-Turkish Dialogue which had intermittently continued since May 1966 culminated in a meeting held in Thrace in September 1967 between the Prime Ministers of Greece and Turkey. These talks did not yield any result because Greece was still making efforts to achieve *Enosis*. Turkey insisted on geographical federation.

IV Usurpation of powers by the Greek Cypriot side

After the outbreak of intercommunal troubles of December 21, 1963, cooperation between the Greek and Turkish Cypriot Communities envisaged by

(39b) Andre Dentch, London (1970), p. 100.

the 1960 Constitution in the running of the affairs of the Republic came to an end. Indeed, with the outbreak of communal hostilities the Turkish Vice-President and Ministers found it impossible to attend their Ministries or the meetings of the Council of Ministers which were being held on the Greek side. Also the Turkish members of the House of Representatives found it impossible to attend the deliberations of the House. (40)

During this period more than 200 Turkish Cypriots were "arrested" by the Greek Cypriot armed elements never to be seen again. (41) No Turk could enter Greek areas and no Greek could enter the Turkish areas. Turkish Cypriot public servants were also not able to attend to their duties on the Greek side but continued to provide public service to the Turkish population in Turkish areas. (42)

Arguments of Greek Cypriot propaganda media that the Turkish Cypriots refused to cooperate in the Government machinery are untenable. The Greek Cypriot Community attempted since 1963, by armed attacks directed against the Turkish Community to put an end to the bi-communal nature of the state and attempted to take the administration of the state completely into their hands in violation of the Zurich and London Agreements of 1959, the Treaty of Guarantee of 1960 and the Constitution of Cyprus which is part of those agreements. In order to secure its continued existence the Turkish Community was forced to withdraw into a number of scattered enclaves where by necessity it had to set up its own administration. Moreover, Turkish enclaves were sealed off by armed Greek Cypriot elements soon after the outbreak of violence and economic blockade was enforced by the so-called "Government of Cyprus" on the Turkish Community. (43)

Basic human rights of Turkish Cypriots were continuously being violated during the years 1963 to 1974 by the Greek Cypriot Administration. (44)

The Greek Cypriots were doing all they could to make life unbearable for the Turkish Cypriots and, for fear of provoking Turkey's intervention, were trying to achieve by economic blockade and other inhuman methods what they had failed to achieve by use of armed force, namely, the subjugation and complete domination of the Turkish Cypriot Community in order to pave the way for *Enosis*. During this period the constitutional rights and guarantees of the Turkish Cypriots were systematically and consistently violated. The perpetrators of crimes against the Turkish Community were not only unpunished but in some cases they were even praised by the Greek Cypriot authorities. (45) Turkish villages were left without water supply and in many instances the economic blockade had reduced the Turkish inhabitants to starvation point. Turkish produce was purchased by Greek controlled boards at 15 - 20 % reduced prices and postal services were denied to the Turkish Cypriots. Very often mail addressed to the Turkish Cypriots were destroyed. Newly-born Turkish babies could not be registered in the Register of Births for eleven years. The payment of salaries to Turkish civil servants was suspended and payment of social insurance benefits to Turkish Cypriots who had for years been contributing to the Social Insurance Fund was withheld.

Under the circumstances the Turkish Cypriots whom the Greek Cypriots called "rebels" could not, and no one could expect them to, participate in the affairs of the Republic, as if nothing had happened.

V Cyprus Turkish Administration

The Turkish Cypriot Community thus having been completely disenfranchised formed its own administration under the Vice-President of the Republic. The establishment of the Provisional Cyprus Turkish Administration was accepted at a meeting convened on the night of December 28, 1967, in the office of the Vice-President of the Republic, consisting of the leading members of the Turkish Community who were previously elected to responsible positions under the 1960 Constitution. The Turkish point of view was that several Articles of the 1960 Constitution had hitherto been avoided and disregarded by the Greek Cypriot side who, in the absence of the Turkish Cypriot members of the House of Representatives, proceeded to pass legislation in contravention of the Constitution. These amendments consisted of statutes enacted by what had become the Greek Cypriot House. A list of some of such laws which have whittled away the Constitution, is worth looking at :

(1) The National Guard Law, 1964 (Law 20 of 1964) as amended, violates Article 129 of the 1960 Constitution which limits the srength of the Cyprus Army to two thousand men and lays down the proportions of

(40) Report of the Secretary-General of the United Nations on Recent Developments in Cyprus, Document S/6569 of 29 July 1965, paragraphs 7 - 11. See APPENDIX 15.
(41) See APPENDIX 16.
(42) Security Council Report S/5950 of 10 Sept. 1964, para. 106. See APPENDIX 17.
(43) See Extract from Secretary - General's Report to the Security Council on the U.N. operations in Cyprus (S/5950), p. 51 of 10 Sept. 1964, reproduced in APPENDIX 18.
(44) See, *Human Rights and Cyprus*, Parts I and II published by the Turkish Cypriot Human Rights Committee, Turkish Federated State of Cyprus, January 1977.
Lord Home (former Prime Minister of the United Kingdom) in *The Way The Wind Blows*, at p. 242 stated: "I was early convinced of the view that..... Archbishop Makarios, unless he could bring himself to treat the Turkish Minority (!) as human beings, was inviting the invasion and partition of the island....."

(45) The U.N. Police Inspector Grosa's statement which appeared in "Neu Österriech" of the 5th May, 1964 in Vienna illustrates this. Inspector Grosa, who served in Cyprus with an Austrian Police unit attached to the U.N. Command during a comparatively calm period said, "When we determine the identity of a Greek culprit and inform the Greek police we hear the police praise the culprit. When, at our request, the culprit is arrested, he is set free the next day and every one who witnesses these incidents makes fun of us. These are the reasons why we no longer wish to continue our duties in Cyprus". One of the specific incidents which caused Inspector Grosa to make this statement was the case of a 9-year-old Turkish boy who was shot dead with "dum dum" bullets by the so-called Greek Cypriot "security Forces of the State" on 23rd April, 1964, on Turkish Children's Festival Day, while playing outside his house in Nicosia.

Greek and Turkish Cypriots in its composition. The law introduces compulsory military service. However, Article 129(2) of the Constitution stipulates that compulsory military service shall not be instituted except by common agreement of the President and Vice-President of the Republic.

(2) The Police (Amendment) Law, 1964 (Law 21 of 1964) abolished the proportion of Greeks and Turks in the police and gendarmerie forces and altered the structure of these forces contrary to Article 130 of the 1960 Constitution.

(3) The 1960 Constitution endowed the Republic with two superior courts. — the Supreme Constitutional Court and the High Court of Justice. But the Administration of Justice (Miscellaneous Provisions) Law, 1964 (Law 33 of 1964) provides that the jurisdiction and functions of these two superior courts shall vest in, and be exercised by, the Supreme Court established under this law. However, in *Attorney-General v. Ibrahim* (1964) C.L.R. 195, the Supreme Court of Cyprus held that the doctrine of necessity should be read into the provisions of the written Constitution of Cyprus. It should be pointed out in this connection that in *Madzimbamuto v. Lardner - Burke and Another* (1968) 3 All E R 561, the Privy Council ruled that the doctrine of necessity or implied mandate cannot give effect to the laws of a usurper Government such as that of Rhodesia. In Cyprus, the Greek Cypriot administration was (and is) in far worse position because, in addition to defying the letter and spirit of the European Convention on Human Rights, it has defied International Agreements from December 1963 to July 1974 and has passed itself off as "the Government of Cyprus" whereas in law and in fact its writ did not run over 1/4 of the population who defied its rule at great human sacrifice.

(4) The Municipal Corporations Law 1964 (Law 64 of 1964) in contravention of Article 173 of the Constitution provides for the establishment of unified municipal corporations instead of the separate municipalities.

(5) On 23 July 1965, the Greek members of the House of Representatives passed two laws, one prolonging the term of office of the President of the Republic and of the Greek members of the House and the other amending the electoral law. These are : The President of the Republic and Members of the House of Representatives (Extension of Term of Office) Law, 1965 (Law 38 of 1965) and the Electoral (Transitional Provisions) Law, 1965 (Law 39 of 1965), respectively.

According to Article 78 of the Constitution, separate majorities of the representatives from each Community taking part in the vote were required for any modification of the electoral law. The Electoral

(Transitional Provisions) Law, 1965 purported to amend the existing electoral law, with a view to abolishing separate Greek and Turkish Cypriot electoral rolls. Articles 1 and 32 of the Constitution require that the President of the Republic and the Greek members of the House of Representatives be elected by the Greek Community and the Vice-President of the Republic, and the Turkish members of the House be elected by the Turkish Community.

The Electoral (Transitional Provisions) Law, 1965 which is in breach particularly of Article 62 of the Constitution, has been the subject of protest notes of two of the three Guarantor Powers — i.e. Great Britain and Turkey. (46)

(6) The Greek Communal Chamber (Transfer of Functions) and the Ministry of Education Law 1965 (Law 12 of 1965) provides that the Greek Communal Chamber (which was established by virtue of the 1960 Constitution) shall be deemed to have ceased functioning. This Law further provides for the creation of a Ministry of Education for Cyprus to exercise administrative power in all educational, teaching and cultural matters whereas Education is within the sphere of each Community. Article 46 of the 1960 Constitution provides for a Council of Ministers composed only of seven Greek and three Turkish Ministers.

(7) The Public Service Law 1967 (Law 33 of 1967) provides that the Public Service Commission shall be composed of a Chairman and four other members. This law violates Article 124 of the 1960 Constitution which declares that the Public Service Commission shall be composed of seven Greek Cypriot and three Turkish Cypriot members.

It will be deduced from the above list that the changes brought about by statutes passed by the Greek Cypriot House of Representatives, are in line with the 13-point proposals of Archbishop Makarios. (47)

During a meeting in London in February 1976 with members of the Parliamentary Select Committee on Cyprus, the then British Foreign Secretary Mr. James Callaghan who, according to political observers, had been very critical of the Turkish position at the Geneva talks in August 1974, himself admitted, rather belatedly, that the 1960 Constitution had not been observed. (48)

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(46) See U.N. Document S/6569 of 5 August 1965.

(47) It is also noteworthy that, on his investiture before the Greek Cypriot House of Representatives on 28 February 1973 Archbishop Makarios did not affirm faith to, and respect for, the *Constitution* as required by Article 42 of the 1960 Constitution, but he affirmed "faith to, and respect for, the laws of the Republic for the time being in force..." This is also, evidenced by the United Nations Secretary-General's Report S/10940 of 31 May, 1973, paragraph 22.

(48) See, *The Times*, February 25, 1976.

Finally it is relevant to record the Resolution which was taken unanimously by the Greek Cypriot House of Representatives on 26 June 1967 which runs as follows : "Interpreting the age-long aspirations of the Greeks of Cyprus, the House declares that despite any adverse circumstances it would not suspend the struggle being conducted with the support of all Greeks, until this struggle ends in success through the union of the whole and undivided Cyprus with the motherland, without any intermediary stage."

Reverting to the establishment of the Provisional Cyprus Turkish Administration, the Basic Provisions (Basic Law) of this Administration consisted of 19 sections (49). Section I provided that until all the provisions of the August 16, 1960 Constitution of the Republic of Cyprus were applied, all Turks living in Turkish areas of Cyprus were to be attached to this Administration. Section 2 provided for the setting up of a Legislature to enact the necessary legislation for Turkish areas. The Legislative House was to be composed of the Turkish Cypriot members of the House of Representatives and members of the Communal Chamber. Section 7 provided that the Executive power in Turkish areas was to vest in the Executive Council of the Administration.

The above constitutional arrangements, which constitute evolutionary organic developments in the field of Cyprus constitutional law, demonstrate how the Turkish Administration took over or assumed its share of functions under the 1960 Constitution thus showing its intention to give a constructive hand in reshaping the1960 bi-communal partnership.

VI Intercommunal negotiations

Until the Kofinou (Geçitkale) - Ayios Theodoros (Boğaziçi) crisis of November - December 1967 the Greek Cypriot side adamantly refused to negotiate with the Turkish Cypriots whom they called "rebels". The attacks at the above named villages by an army of about 20 000 men from mainland Greece, under the command of General Grivas and Greek army officers, assumed the dimensions of genocide of Turkish Cypriot populations of these villages, thus necessitating intervention by Turkey. Turkey accused Greece and insisted on the withdrawal of Greek armed forces from Cyprus. Greece had to comply with this demand and Greek Cypriots seemed to be inclined to negotiate with Turkish Cypriots.

Intercommunal talks which aimed at restructuring the constitution of Cyprus began in 1968 between the representatives of the Greek and Turkish Communities respectively, under the aegis of the Special Representative of the Secretary-General of the United Nations. These talks were later expanded by the participation of constitutional experts from Greece and Turkey. According to a Greek Cypriot author, Polyvios G. Polyviou, as a result of 6 years of arduous intercommunal talks, differences of the two sides on the Executive and the Judiciary were narrowed, complete agreement was reached on the Legislature and that even on the thorny problem of Local Government substantial progress was

(49) See APPENDIX 19.

made. (50) It was also reported in the Cyprus Mail of 8 August 1976 that "The former Greek Cypriot negotiator, Mr. Glafcos Clerides, has given details of what he called a 'near agreement' during the inter-communal talks in 1971/72 which the Council of Ministers did not approve. He himself had recommended acceptance of the agreement he had then reached with Mr. Denktash, but the Council did not take the same view." The reason for this negative stand can be found in the statements of Archbishop Makarios and of Greece that they are not prepared to sign an agreement which bars *Enosis* (51). The Greek Cypriot leaders did not want to compromise their position. They thought they had achieved (by ousting from the administration the Turkish Cypriot partner by force of arms) the nearest thing to *Enosis* and establishing a new bi-communal Republic would be treason for leaders like Archbishop Makarios who had taken the holy oath to unite Cyprus to Greece in 1950 (52) and who, in 1970 publicly declared that all through these years he had not deviated from his oath. (53)

Political agitation within the Greek Cypriot Community — all resting as to who would unite Cyprus with Greece and how — impeded the continuation of the talks which were eventually overtaken by events, mainly the *coup* of 15 July 1974. It is submitted that the allegation of Mr. C. Tornaritis in his *Cyprus and its Constitutional and other Legal Problems* (Nicosia, 1977) that Turkey intervened while the talks were going on (at p. 73), is a travesty of the factual situation at the time. Non-intervention by Turkey would have amounted to a wilful condonation of the massacre of thousands of Greek Cypriots (54) and the total

(50) *Cyprus in Search of a Constitution*, Nicosia 1976, particularly Part II, Chapter VI.

(51) Note e.g. the speech at Yialousa of Archbishop Makarios on 14 March 1971: "Cyprus is Greek, Cyprus was Greek since the dawn of its history, and will remain Greek. Greek and undivided we have taken it over. Greek and undivided we shall preserve it. Greek and undivided we shall deliver it to Greece."

Again, in a statement to a French Magazine *"Le Point"* on 19 February 1973, Archbishop Makarios said: "I have struggled for union of Cyprus with Greece, and *Enosis* will always be my deep national aspiration, as it is the aspiration of all Greek Cypriots. My national creed has never changed and my career as a national leader has shown no inconsistency or contradiction....."

Recently, the Archbishop in an interview given to the Norwegian Newspaper *"Dagbladet"* which was published on 12 March 1977 confessed that "It is in the name of *Enosis* that Cyprus has been destroyed."

(52) "I take the holy oath that I shall work for the birth of our national freedom and shall never waiver from our policy of annexing Cyprus to Mother Greece." (On his election as Archbishop on 20th October, 1950).

(53) In an interview with "Eleftheros Kosmos" and "Ta Simerina", Athens, 19 August 1970 Archbishop Makarios said ".....I shall never violate my oath, and I shall never deviate from my goal. I have desired *Enosis*, and I have never struggled for anything else other than its achievement."

(54) Reports in the local and foreign press put the Greek Cypriot death toll during the few days of the *coup* to 2000. Mrs. Lyssarides told the British press in London that she herself had knowledge that hundreds of Makarios supporters were shot dead by the coupists.

In his address to the Security Council on 19 July 1974, following his deportation from the Presidency as a result of the *coup* of 15 July 1974, Archbishop Makarios himself informed the UN Security Council that "the *coup* has cost much blood and many lives and our attention must be given to ending this tragedy."

elimination of the Turkish population. (55) Turkish intervention saved the independence of Cyprus and with it the co-partner Turkish Cypriot Community.

After the Turkish intervention authentic documents have been discovered which reveal Greek plans for the extermination of Turkish Cypriots in 1974. One of these plans known as the SEA INFESTOS 74 was prepared by the Second High Tactical Command in Morphou. These documents are reproduced by off-set technique in a publication entitled *Cyprus Question and Greek Extermination Plans,* published in 1977 by the Public Information Office of the Turkish Federated State of Cyprus.

VII Turkish intervention and its aftermath

As *Ethnarch* (National Leader), Archbishop Makarios had frequently declared that *Enosis* had always been and would remain his ultimate objective, but that it should be carefully timed to avoid Turkey's intervention. Other fervent *Enotists,* notably Grivas and the Junta in Greece (although not always) thought that the Archbishop had betrayed the cause of *Enosis.* It was this dispute between the Archbishop and the Junta over the method of achieving *Enosis* that culminated in the *coup* of July 15, 1974.

The *coup* was engineered and staged by the military Junta then ruling Greece. The aim of the *coup* was to overthrow Archbishop Makarios and set up a government that would unite the island with Greece. Archbishop Makarios fled the island and former *Eoka* gunman Nicos Sampson took over for eight days before the Turkish intervention.

Turkey, acting under the Treaty of Guarantee (56) intervened militarily in Cyprus on July 20, 1974 when Great Britain refused to act in concert. As a first result of the Turkish intervention in Cyprus, Greek Cypriot National Guard forces and Greek forces from Greece launched an all-out attack against Turkish Cypriot areas in order to thwart Turkey's intervention. (57)

Turkey had a Treaty obligation to intervene. Turkish intervention saved the independence of Cyprus, but this was not done in order to divide the island. Turkish intervention not only toppled down the *coup d'etat* "government" of

(55) For further information on this point see APPENDIX 20.
Archbishop Makarios revealed to the Italian journalist Oriana Falaci in New York in December 1974 as follows: "One day he (Brig. Ioannides) came to see me with Sampson, to suggest a project that would have settled for ever the problem of Cyprus. He kissed my hand respectfully and said: 'Your Beatitude, here is my project. To attack the Turkish Cypriots suddenly everywhere on the island and eliminate them to the last one'. I was astonished, I told him that I could not agree with him."
The above statement shows the predisposition of Mr. Nicos Sampson, who later found himself at the helm of the *coup d'etat* government, towards the Turkish Cypriot Community.
Also, Brig. Ioannides, perhaps the more ruthless of the Greek Junta leaders, would have no compunction in planning the extermination of the Turkish Cypriot Community.

(56) See APPENDIX 6.

(57) Mehmet A. Birand's "30 Hot Days" as abridged and serialised in the *Cyprus News.*

Mr. Nicos Sampson in Cyprus, but it also caused the restoration of democracy in Greece by the overthrow of the military junta.

On the Greek side of Cyprus Mr. G. Clerides took over from Mr. Nicos Sampson when the latter realized that his continuance at the helm was giving a very ugly image to the Greek Cypriots as a whole. Mr. Clerides took the oath of this office before the "renegade" and defrocked Bishop whom Archbishop Makarios had dismissed. Moreover, in his Cabinet he retained most of Mr. Sampson's men. Though under the 1960 Constitution Mr. Clerides could only act for Archbishop Makarios during the latter's temporary absence, he signed as "President" and when it was realized that Archbishop Makarios would be returning he assumed the title of "Acting President". Archbishop Makarios stayed in exile after the coup for a period that could not be temporary; indeed it could not be known that he would be returning at all. No elections for the Presidency took place on the Greek side and on his return Archbishop Makarios re-assumed the Presidency.

Mr. C. Tornaritis in his publication referred to earlier, asserts at pp. 58-59 that the obligation of the Treaty of Guarantee "to keep unalterable in perpetuity the constitutional structure and order" purports to deprive Cyprus of one of the "fundamental requirements of a state as an integral person, that of internal independence and territorial supremacy." (58) It is difficult to understand this proposition because the Treaty of Guarantee guarantees the bi-communal independence of Cyprus and has nothing to do with restricting such independence or territorial supremacy except where any of the two Communities attempts to abrogate the independence of Cyprus. It is only then that the Treaty of Guarantee may be invoked. In this connection reference may be made to *Oppenheim's International Law,* vol. I, *Peace* (7th Edition), as follows (p. 305) :

> "A State that has guaranteed by treaty the form of government of another State, or the reign of a certain dynasty over the same, has a right to intervene in case of a change in the form of government or of the dynasty, provided that the treaty of guarantee was concluded between the respective States and not between their monarchs personally."

Again, at p. 307 it is stated thus :

> "If a State which is restricted by an international treaty in its external independence or its territorial or personal supremacy does not comply with the restrictions concerned, the other party or parties have a right to intervene. Thus the United States of America, in 1906, intervened in Cuba in conformity with Article 3 of the Treaty of Hava-

(58) Greek Cypriot leaders have always maintained that what they do to the Turkish Cypriots in Cyprus is an "internal matter" and thus Turkey can claim no right to intervene and save the Turkish Cypriots. They forget that the Treaty of Guarantee was formulated and signed just for the prevention of such an occurrence!

na of 1903 (now virtually abrogated) for the purpose of re-establishing order, and in 1904 in Panama in conformity with Article 7 of the Treaty of 1903 (reiterated in Article 10 of the Treaty of 1936). Great Britain, France, and Russia, the guarantors of the independence of Greece, intervened in Greece during the First World War in 1916 and 1917 for the purpose of re-establishing constitutional government in conformity with Article 3 of the Treaty of London 1863. King Constantine had to abdicate, and his second son, Alexander, was installed as King of the Hellenes."

It is not conceivable that the right to "self-determination" which the two Communities exercised in 1960 and set up the bi-communal independence, can be utilised by one of the Communities to restrict or abrogate the bi-communal independence by uniting it with another state, that is, union with Greece. Those who put forward the view that the Treaty of Guarantee is invalid or unenforceable, contradict themselves by criticising Britain's abstenance from intervention, as one of the Guarantor Powers, soon after the events of 1974. Moreover, as indicated earlier, from December 1963 to 27 March 1964, the truce force operated in the island under British command, when also a "Green Line" was drawn between the Greek and Turkish sectors of Nicosia.

In compliance with Resolution No. 353 of the Security Council of the United Nations, adopted on July 20, 1974, which *inter alia* called upon Greece, Turkey and the United Kingdom "to enter into negotiations without delay for the restoration of peace in the area and Constitutional Government in Cyprus", and "having regard to the International Agreements signed at Nicosia on August 16, 1960", the Foreign Ministers of Greece, Turkey and the United Kingdom held discussions in Geneva from July 25 - 30, 1974. The three Foreign Ministers declared that, in order to stabilize the situation, the areas controlled by opposing armed forces should not be extended, and a security zone should be set up "to secure (a) the restoration of peace in the area and (b) the re-establishment of Constitutional Government in Cyprus". As a final observation the Ministers noted the existence in practice of two autonomous administrations on the island, that of the Greek Cypriot Community and that of the Turkish Cypriot Community. (59)

The second Geneva Conference was convened on August 9, 1974. In the meantime Turkish areas were being attacked and hundreds of Turkish Cypriots were taken prisoner. Turks had to vacate another 33 villages and all Turks in the south were put under an inhuman siege while atrocities were committed against Turkish villages particularly at Maratha, Aloda, Sandallari, Tokhni, Mari and Zygi. (60) Almost the whole population of the villages of Maratha, Sandallari

(59) The Geneva Declaration of July 30, 1974, s 5. See APPENDIX 21.

(60) For extracts from the foreign press on the Maratha, Alaminos, Sandallari and Tochni atrocities, see APPENDIX 22.

and Aloda were wiped out and the dead buried in mass graves which were discovered later by U.N. Forces. Inspite of the Turkish intervention all Turkish Cypriots outside the protective umbrella of the Turkish Peace Force stood in imminent danger of annihilation. (61) Turkey had therefore to move in order to save the Turkish Community. (62) The second round of military operations which were carried out as from August 14, 1974, brought about 36% of territory in the north under the control of the Cyprus Turkish Administration which by now was no longer a provisional one.

Greek Cypriot propaganda has been busy telling the world that Turkey has "occupied" the richest area of Cyprus. (63) In fact the region under the control of the Turkish Federated State of Cyprus, apart from its rich tourist potential, is poor in underground water resources, forests and minerals.

VIII Proclamation of the Turkish Federated State of Cyprus

The Turkish Federated State of Cyprus was proclaimed in Nicosia on February 13, 1975. This was declared at the end of a joint meeting of the Council of Ministers and the Legislative Assembly of the Autonomous Turkish Cypriot Administration. (64) The Resolution adopted at that meeting noted *inter alia* the determination of the Council of Ministers and the Legislative Assembly of the Autonomous Turkish Cypriot Administration "to oppose resolutely all attempts against the independence of Cyprus, and its partition or union with any other State"; affirmed its belief "in the necessity of the non-aligned status of the Republic of Cyprus"; and being mindful "of the necessity of creating in their own region the legal basis of an order leading to the establishment of the future independent, Federal Republic of Cyprus"; resolved that "the Autonomous Turkish Cypriot Administration should be re-structured and organized on the basis of a secular federated State, until such time as the 1960 Constitution of the Republic, the basic articles of which were determined by international agreements in compliance with international law, is amended in a similar manner, to become the Constitution of the Federal Republic of Cyprus." With this object in mind it was resolved that a 50 member Constituent Assembly would be set up to draft the Constitution of the Turkish Federated State of Cyprus which state would

(61) At Geneva Mr. Denktaş spoke to Mr. Clerides on 11 August 1974 in the following terms: "The situation is very critical. Take immediate steps to normalize the lives of Turks under your control. If I were you I would now phone to Nicosia and order the National Guard to withdraw from Turkish areas... I want you to know that as far as you have prisoners at your hand the Turkish army will move any moment. Under the circumstances you and I have a duty to prevent any further bloodshed."

Mr. Clerides said that he gave orders for withdrawal of the National Guard from around Turkish areas. He added that in a short time the lives of 60 thousand Turks would return to normal (Private interview with Mr. Denktaş).

(62) 10,000 Turks had taken refuge in the walled city of Famagusta and 4,000 Turks in Knodhara. From 20 July 1974 to 14 August 1974 these refugees lived virtually on water. Greek Cypriot Forces encircling these areas would not allow any food to be taken to them while they called for immediate surrender of the Turks.

(63) See e.g. Tornaritis *op. cit.* p. 84.

(64) See APPENDIX 23.

constitute one of the component States of the proposed Federal Republic of Cyprus. The Constituent Assembly completed its work on the Constitution on April 25, 1975. This Constitution was approved by a referendum held on June 8, 1975 and was published in the Official Gazette on June 17, 1975 and thus became the Constitution of the Turkish Federated State of Cyprus. (65)

The Constitution of the Turkish Federated State is in fact an interim constitution. It is the Constitution of a Federated State that is drafted in such a way as to leave the door open to amendment if and when the proposed Federal Republic of Cyprus, of which the Turkish Federated State will be a component State, is set up.

IX Bi-communal nature of the Republic, its implications

The Greek Cypriot community, by its policy of ENOSIS intended to destroy the independence of Cyprus. The leaders of the Greek Cypriot community attempted since 1963 by attacks directed against the Turkish Community to put an end to the bi-communal nature of the State and take the authority of the State in their hands. In order to secure its continued existence the Turkish community was forced to withdraw into a number of scattered enclaves where it set up its own administration. The existence in practice in the Republic of Cyprus of two autonomous administrations, that of the Greek Cypriot community and that of the Turkish Cypriot community has been recognised by the three guaranteeing powers (Greece, United Kingdom and Turkey) in the Geneva Declaration of 30 July, 1974 (66) and by the General Assembly of the United Nations in its Resolution 3212 (XXIX) of 1 November 1974. (67) By this Resolution (endorsed by the Security Council by its resolution 365/1974) the United Nations General Assembly commended the contacts and negotiations taking place on an equal footing, with the good offices of the Secretary - General between the representatives of the two communities and called for their continuation with a view to reaching freely a mutually acceptable political settlement based on their fundamental and legitimate rights. The existence in Cyprus of two autonomous administrations has also been proved by the mission of the United Nations force in Cyprus since 1964 and the negotiations held since 1968 between the two administrations. The bi-communal nature of the Republic was also respected by the Consultative Assembly of the Council of Europe which since 1964 refused to admit a Cypriot delegation without Turkish Cypriot members. The E.E.C. - Cyprus Agreement concluded in 1972 was also approved by the Turkish Cypriot Administration. However, in 1977 two protocols extending the 1972 Agreement have been signed only by the Greek Cypriot Administration.

(65) An English translation of the Constitution can be obtained from the Public Information Office of the Turkish Federated State of Cyprus.
A treatise on this Constitution by Zaim Nedjati and Geraint Leathes appeared in the January - March 1976 issue of the *Anglo - American Law Review*, vol. 5, No. 1, pp. 67 - 92.
(66) See APPENDIX 21.
(67) See APPENDIX 24.

The general rule that a government which has been recognised (maybe for political reasons) by a number of other states and international organisations can be considered as a lawful government, is not applicable in the case of the "Greek Cypriot government" because it has not respected its international status. Since 1963 there are two governments in Cyprus, each controlling only a part of the territory and no "law of necessity" can justify the usurpation of State powers by one of them. In *Madzimbamuto v. Lardner - Burke and Another* (1968) 3 All E R 561, the Privy Council ruled, for instance, that the doctrine of necessity or implied mandate cannot be invoked to give effect to the laws of a usurper government such as that of Rhodesia. The Greek Cypriots, by the *coup* which they carried out against the Constitution in December 1963 had usurped the machinery of the Government of Cyprus.

The present British Foreign Secretary, Dr. David Owen is himself reported as having said in December 1976 : "We must bring the Turkish and Greek Cypriot communities together and forge again a proper Government of Cyprus, capable of speaking for all the people...." He was referring to the "Government of Cyprus" which impliedly is not a proper government capable of speaking for both of the communities. (68)

The non-existence of a lawful government of Cyprus prevented Turkey from raising the sufferings of the Turkish Cypriots before the European Commission of Human Rights during the years 1963 - 1974.

X The case for federalism

The 1960 attempt to run the affairs of the government of Cyprus on a partnership basis of the two communities failed. Now we must take our lesson from the past and turn our attention to geographical federation.

Lord Radcliffe, the British Constitutional Commissioner who had been appointed by the British Government to report on the Cyprus question, in his proposals of 1956 thought that Cyprus could not then be organised as a federation because there was no pattern territorial separation between the communities. Again, the U.N. Mediator, Dr. G. Plaza, in his Report to the Secretary-General of the United Nations in 1965 pointed out that the establishment of a federal regime requires a territorial basis. The basis, according to the Mediator, did not exist in Cyprus in 1965.

The question now to be asked is whether this prerequisite exists in Cyprus today. The answer is quite simple because in the north under the sovereignty of the Turkish Federated State of Cyprus, the Turkish community has, since 1974, its own cohesive and homogeneous geographical area. Territorial separation between the two communities is a solid fact of Cyprus today. Greek Cypriot government in the south has no control over, or say in, the affairs of the north under the control of the Turkish Federated State. On 20 June 1976

(68) Hansard, 22 December 1976, column 658.

general elections were held in the north. The south held its own general elections separately. The Legislatures and other governmental organs in the north and those in the south, represent only their own respective communities. Furthermore, at the third Vienna talks held between 31 July and 2 August 1975, the two sides agreed for an exchange of population which has been fully and effectively implemented. 65,000 Turkish Cypriots have moved from south to the north. (68b)

The historical as well as constitutional developments in Cyprus which have been recounted above, and the realities of Cyprus today prove that the so-called "Government of Cyprus" is not in law and in fact the government of the whole of Cyprus territory, but only of part of it. The claim of Greek Cypriots that they are the government of the whole of Cyprus is merely a myth. Moreover, the Greek Cypriot leaders have themselves realised these facts and accepted the geographical separation of the two communities into their cohesive respective areas as stated above. This has been doubly confirmed by the production of a bi-zonal map as basis for discussion at the sixth Vienna round.

There exist at present separate and distinct Turkish Cypriot and Greek Cypriot Administrations, irrespective of what name they may be known by, with effective control over two separate and distinct regions of the Republic of Cyprus. These two separate, distinct and equal Administrations exercise in Cyprus today, in their respective regions, the full authorities of the Republic. The Turkish Cypriot members of the Expert Committee set up by the First Vienna Conference on 28 April 1975, proposed therefore that this fact must be the starting point in considering what powers and functions should be yielded by the existing Administrations to the Federal Government. (69) "That is to say", continue the Turkish Cypriot members of this Committee, "we are not starting off with one Central Government exercising full powers and functions and considering which of these powers and functions should be given to the States, but on the contrary, we are starting off with two separate and distinct Administrations exercising full powers and functions in their respective regions. We must, therefore, consider what powers and functions the already existing separate and distinct Administrations, i.e. the States of the proposed Federal Republic, should yield to the Federal Government."

The Turkish Cypriot members of the Committee therefore proposed "the establishment of a Federation composed of two Federated States .....with all

(68b) In the wake of the Turkish intervention about 10,000 Turkish Cypriots living around Limassol crowded into the British base at Akrotiri for safety from Greek Cypriot attacks. They became refugees living under canvas. On January 14, 1975 Britain eventually accepted Turkish requests to transfer these refugees to Turkish mainland and from there to the north of Cyprus. This action of the British government which was prompted for purely humanitarian reasons, brought angry reactions in the Greek Cypriot Community who manifested themselves in riots and demonstrations against Britain.

(69) See APPENDIX 25.
See also *Inter-Communal Talks and the Cyprus Problem* by N.M. Ertekün (Nicosia 1977).

residual powers and functions being left to the States and only such limited powers and functions being yielded to the Federal Government which are absolutely necessary for the carrying out of common services of a Federal State without detriment to the security of life and property in the respective regions."

The Turkish Cypriot members of the Committee expressed the view that the proposed Federal Republic should be composed of two equal units. This principle of equality between the two member units of the Federation has been put as the principle of *"Condominium"*. If in the course of time it is proved that mutual trust and confidence can be built upon the limited links existing between the Federal Government and the two member States, it will be possible to strengthen such links by building upon them by the gradual giving up by member States of additional powers and functions to the Federal Government.

The events between the years 1963 - 1974 which have been recounted above show that one should be very cautious and realistic while endeavouring to secure co-operation at state level within the framework of a Federal Republic between the two communities who regard each other as enemies. Therefore, the Turkish Federated State of Cyprus holds the view that there is need for a transitional period for bringing about a realization of the idea of respect for man in order to check, as far as possible, past bitter experiences. But in time when it is seen that a change has come about in the attitude of the Greek Community, more powers may gradually be given to the Federal Government. That is to say, a Federal State in a modern sense will progressively be established in time. In fact, evolutions of this nature have taken place in other countries. (70)

Thus, the 13 colonies which originally formed the United States of America looked for ways of constituting one state after declaring their independence in 1776 from Britain. Regions which were under the old colonial administration, two of which were semi-independent, could not merge completely, as they were suspicious of each other and, therefore, formed a confederation. The Constitution of this confederation was proclaimed in 1781. As the confederal administration continued it was realized on the one hand that this type of administration was inadequate, on the other, that confederated Sates with larger population and richer in wealth did not constitute any danger for the smaller Confederated States. They, therefore, with a view to attaining a more effective result and establishing a better administration together formed a federation. It was only after fostering mutual confidence in this way that the 1787 Federal Constitution was introduced. As is known, this type of administration continued until the outbreak of civil war. After the civil war the powers of the central government increased gradually and became more dynamic following the removal of the dispute which led to the civil war between the parties.

Another example of this is the Swiss Federation. This Federation too, due to a lack of full confidence amongst member states (i.e. the cantons) and other

(70) See Ertekün's *op. cit.* (above)

reasons emerged as a confederation as from 1815. Later this confederation was gradually turned into a federation but the original name of the Constitution, i.e. "The Swiss Confederation" which was given in 1846 after a civil war was still maintained. When the cantons started having confidence amongst themselves and realised that a central administration would be more beneficial in some fields, gradually and especially in 1866 and 1874 and on later dates, they made changes as and when it was found necessary and they turned the Central Government into a federal government which was becoming stronger and stronger. As is known, the State of Switzerland is now a federation in spite of the title "Cofederation" which still appears as the heading of the Constitution. This shows that at times when there is no confidence between the parties concerned and it has not been possible to establish confidence, less power is given to the central authority, but as confidence between the parties grows the powers of the Federal Government are increased by stages.

On the intitiative of Mr. Denktaş, President of the Turkish Federated State of Cyprus, a meeting was held between him and Archbishop Makarios on 27 January 1977, followed by a second meeting on 12th February 1977 at which the Secretary-General of the United Nations was also present. At the meeting of 12 February the following four guide-lines were agreed upon by the two leaders on the basis of which the negotiations between the representatives of the two Communities would be resumed:

"1. We are seeking an independent, non-aligned, bi-communal, Federal Republic.

2. The territory under the administration of each community should be discussed in the light of economic viability or productivity and land ownership.

3. Questions of principle like freedom of movement, freedom of settlement, the right of property and other specific matters, are open for discussion taking into consideration the fundamental basis of a bi-communal federal system and certain practical difficulties which may arise for the Turkish Cypriot community.

4. The powers and functions of the central federal government will be such as to safeguard the unity of the country, having regard to the bi-communal character of the State."

It seems that Archbishop Makarios retracted from the above stated principles soon after they were formulated. (71)

(71) An article by Mr. Likavgi in Greek Cypriot daily "Fileleftheros" on August 6, 1977 said: "On Sunday at the end of last June Archbishop Makarios received us. He spoke very clearly, he said: 'The signature in red ink, will never be put under an agreement that will give even a piece of stone to the Turks.' Having said this, he stood up, walked to the window, held out his hand and said: 'Even if I wanted to, he does not allow me to put my signature in red ink.' Makarios was pointing at the statue of national hero Archbishop Kyprianou."
As the head of the Autocephalous Greek Cypriot Orthodox Church Archbishop Makarios used to sign in red ink.

Following the second meeting of the two leaders on 12 February 1977 it was eventually agreed that the intercommunal talks should be resumed in Vienna on 31 March 1977 under the auspices of the Secretary - General of the United Nations, Dr. Kurt Waldheim, and should continue till 7 April 1977. The sixth round of the Vienna talks were held as scheduled above. The constitutional proposals submitted by the Turkish side are based on the existing realities of Cyprus and are designed to ensure that the Federation will survive and form a basis on which the proposed Federation would develop and gain strength with the growth of mutual trust and confidence. (72). The concept contained in the Turkish Cypriot proposals is for the Federation to develop by evolution. It is submitted that this concept, which may be termed a kind of "Federation by evolution" is, the kind of Federation which is best suited to the present realities of Cyprus and the past history of hostilities between the two partner communities of the Federation, particularly during the past two decades.

The Greek Cypriot side at the sixth Vienna talks unfortunately, in complete disregard of the present realities and of the fact that there exist at present two separate and distinct administrations in control of two separate and distinct regions of Cyprus, submitted constitutional proposals (73) as if the bitter events of 1963 - 1974 had not taken place, as if the Turkish intervention which had saved the independence of Cyprus from Enosis and had saved the Turkish Cypriot Community from annihilation had not taken place and as if a unitary "Government of Cyprus" still exists at present and that the Greek Cypriot Administration is that unitary "Government of the Republic of Cyprus", which as explained above, is a myth. These were the same proposals which were rejected out of hand by President Denktaş as being totally unacceptable at the third round of the Vienna talks. The above proposals of the Greek Cypriot and the Turkish Cypriot side are now contained in the Report of the Secretary-General of the United Nations made pursuant to paragraph 6 of the Security Council Resolution 401 (1976). The Report bears reference : S/12323 and is dated 30 April 1977. The Greek Cypriot side are now submitting a proposal which involves that a defined area of northern Cyprus should remain in Turkish Cypriot hands as one part of the proposed bi-communal Federal State, namely, the Federal Republic of Cyprus.

XI The present legal status of the Turkish Federated State of Cyprus

By way of introduction to this topic it is convenient to recapitulate historical facts and developments since 1960 :

(1) The 1960 Constitution was in effect, from and after December 1963, unilaterally abrogated by the actions of Greek Cypriots in Cyprus.

(2) The Geneva Declaration of 30 July 1974 issued jointly on behalf of the Governments of Greece, Turkey and the United Kingdom noted

(72) APPENDIX 26.
(73) APPENDIX 27.

the existence in practice in the Republic of Cyprus of two autonomous administrations, that of the Greek Cypriot Community and that of the Turkish Cypriot Community.

(3) There is at present a boundary line dividing the north and south regions of Cyprus.

(4) Discussions have been taking place in Vienna since 1975 between the leaders of the two aforementioned administrations.

(5) At the Third Round of Cyprus Inter-communal talks held at Vienna between 31st July and 2nd August 1975, both sides agreed that the Turkish Cypriots then in the south of the island would be allowed, if they wanted to do so to proceed to the north with their belongings under an organised programme and with the assistance of UNFICYP. Similarly, it was agreed that the Greek Cypriots then in the north who wished to move to the south, would be permitted to do so.

The aforesaid agreement for voluntary movement of populations has now been fully implemented. The Turkish Cypriot population that has voluntarily moved from the south to the north comprise about ¼ of the whole Turkish Cypriot population. Only 113 Turkish Cypriots have remained in the south. The number of Greek Cypriots who have remained in the north is approximately 1850.

(5) The administration of the Turkish Cypriot Community, which has adopted the style and title of the Turkish Federated State of Cyprus, is an administration which at present exercises de facto and effective administrative control over the northern part of Cyprus.

(6) The aforesaid administration of the Turkish Cypriot Community is not de facto subordinate in respect of the northern part of Cyprus to any other administration in Cyprus.

(7) Both sides have now declared that they seek to establish through negotiations, an independent, non-aligned, bi-communal Federal Republic.

The Turkish Federated State of Cyprus does not claim to be a fully sovereign and independent State. It has not claimed recognition by other States as such. Its Constitution, accepted in 1975, is an interim constitution and looks forward to the establishment of a Federal Republic of Cyprus of which the said Federated State will form one of the constituent regions.

In *Luther v. Sagor* (1921) 1 K.B. 456, the English courts had to deal with a claim to certain timber which had been the property of the plaintiff company in Russia. It had been confiscated by legislation of the Soviet Government, sold by them and subsequently brought to England by the purchaser. At the time when

the case was heard by Roche,J., the British Government had not recognized the Soviet Government and he accordingly gave judgment for the plaintiff. But before the case was heard by the Court of Appeal the Soviet Government had been recognized with retrospective effect as a *de facto* government, and the Court of Appeal reversed the decision of Roche J. holding that Soviet legislation in question had been effective to pass the title in the timber. In this case Roche J. had accepted the law as stated by the United States Supreme Court in 1818: "No doctrine is better established than that it belongs exclusively to governments to recognize new states". There is also authority to the effect that both the unrecognized government and its acts are nullities, the doctrine being stated to have been based on the need for the executive and the courts to speak with one voice. (74) But there are those who do not subscribe to this view. They say that there is no need for the executive and the judiciary to speak in unison. The executive is concerned with the external consequences of recognition *vis-à-vis* other States. The courts are concerned with the internal consequences of it, *vis-à-vis* private individuals.

The courts have repeatedly received evidence of the status of various administrations in a country, the most authoritative statement being that of Lord Wilberforce in the House of Lords in *Carl Zeiss Stiftung v. Rayner & Keeler Ltd.* (1967) 1 A.C. 853, 954 : "Where private rights, or acts of everyday occurrence or perfunctory acts of administration are concerned ..... the courts may, in the interests of justice and common sense, where no consideration of public policy to the contrary has to prevail, give recognition to the actual facts or realities found to exist in the territory in question."

That view is supported by an article by Professor Lipstein which he concludes by saying : "The regulations of foreign authorities which have not been recognised may be applied as the law of the foreign country if they are in fact enforced in that country, notwithstanding that the authorities have not been recognised by Great Britain." (75)

Thus, in *Hesperides Hotels Ltd. and Another v. Aegean Turkish Holidays Ltd. and Another* (Times Law Report, May 23, 1977) the English Court of Appeal considered the effect of the relevant laws and administrative acts of the Turkish Federated State of Cyprus. (76) Lord Denning M.R. reviewed the history of Cyprus since 1960 and concluded that since 1974 the evidence pointed clearly to there being two autonomous administrations in Cyprus. His Lordship observed that negotiations were in process for a bi-communal federal state. His Lordship also considered the question whether the English courts might differ from the executive in relation to a particular regime in a particular territory at a particular time. In this case the Foreign Office had issued a certificate to the court below

(74) See e.g. late Sir Hersch Lauterpacht's *Recognition of Government.*
(75) (1950) 35 *Transactions of the Grotius Society*, 157
(76) The report of this case as it appeared in the Times Law Report of May 23, 1977, is reproduced in APPENDIX 28.

that her Majesty's Government did not recognize the Turkish Federated State of Cyprus as being the government of an independent *de facto* or *de jure* sovereign state. It is submitted that wrong questions had been asked by the court below and therefore wrong answers had been given by her Majesty's Government as the Turkish Federated State itself does not claim to be a fully independent sovereign State. Lord Denning M.R. stated that there was now an effective administration in north Cyprus, that is the Turkish Federated State of Cyprus, which had made laws governing the day-to-day lives of the people.

XII Epilogue

The question to be asked is, how we see the future from the position we have reached?

While the Greek Cypriot leadership speaks of a "long struggle" the Turkish Cypriots say that they will not once again go through what they have experienced during the years 1963 - 1974. There are many deep-rooted matters of contention on both sides. No Turkish Cypriot wants to go back, or in other words, to put the clock back. The events have shown that the two Communities cannot live intermingled any longer but must live side-by-side in their own regions in a federal government. Reaching an agreement is a matter of time, patience and quiet diplomacy. If we look at the press of both sides, we realize that these elements are absent. Language gap, enmity, separation and the realization that they can do well without the other are facts which will make an understanding all the more difficult with the passing of time. Turkish Cypriot and Greek Cypriot youth under 15 years of age have not had the chance to meet one another and talk to one another. Nor is the present campaign aiming at economic and political isolation of Turkish Cypriots, in any way conducive to peace and understanding. In fact it widens further the rift between the two Communities. Furthermore, the unjustified pretence of the Greek Cypriot Administration to be the "Government of Cyprus" which tends to rob the Turkish Community of its equality and right of say before international forums, pushes the Turkish Community towards complete separation and to the threshold of declaring a completely independent sovereign state in its own region.

The best way to reach a settlement of the Cyprus conflict is through the inter-communal talks on the basis of equality of the two negotiating sides, rather than internationalizing the conflict or taking the matter to the United Nations every now and then. There are two separate administrations in Cyprus and the method to bring these together are laid down in the 1959 Agreements and the consequential U.N. Resolutions which have underlined the "interested parties" in Cyprus. The Turkish side looks upon such attempts to internationalizing the issue as an interference in its internal affairs.

On the other hand, the American embargo of U.S. arms to Turkey, indulged in as a result of congressional practice of meddling in foreign affairs under pressure from the so-called "Greek lobby", has not helped at all towards the settlement of the Cyprus conflict, because Turkey will not submit to such coercion. Turkey looks upon the Cyprus conflict as an issue which should not have any bearing on the Turco-American relations. In fact it seems that the American embargo contributes to a delay of the settlement of the Cyprus dispute. Greece is tempted to believe that if America continues its aid embargo against Turkey long enough, Turkey will be substantially weakened and Greece will be able to dictate its terms regarding the Aegean and the Cyprus problems. It must not be forgotten that the Greek Cypriot leadership is handling the Cyprus problem in collaboration with Greece.

The reasonable approach may be to let things be as they are in Cyprus, that is to say, not to take any action or encourage the taking of any action which will force one of the sides to take more extreme measures in the direction of further separation, and to encourage them to meet on common services. In the field of trade, tourism, issue of passports, and even some public services essential for the island's welfare as a whole, there could be contact and limited co-operation. This could even pave the way for an interim government.

While this book was in the press, the death has occurred of Archbishop Makarios on August 3rd, 1977 which creates a sudden vacuum in the Greek Cypriot leadership. Mr. Spyros Kyprianou, the speaker of the Greek Cypriot House of Representatives has assumed the office of "Acting President." At their public declarations, both Mr. Kyprianou as well as the *locum tenens* bishop Chrysostomos of Paphos have vowed to follow faithfully the footsteps of Archbishop Makarios.

The Greek side is now faced with the prospect of two elections: One within 45 days to choose an interim President till February 1978 (77) and a second in February when the term of office expires. There are also possibilities of power struggle for the leadership within various factions and between parties on the Greek Cypriot side.

Under the circumstances, the inter-communal talks seem bound to be stalled until the Greek Cypriots can elect a new leader in February 1978. Beyond that any serious negotiations may have to wait until such a leader can consolidate his position sufficiently to enter into meaningful negotiations.

The Turkish side has declared that it will not recognise the Archbishop's successor as President of all Cyprus. This attitude is justified because there exist in Cyprus now two autonomous administrations with their geographical regions. The 1960 Constitution of Cyprus has been in a state of flux and many of its provisions have been abrogated by the Greek side since 1963. These issues have already been discussed in this treatise and there is no room for repetition. However, one point needs further emphasis. Elections will take place on the Greek side of Cyprus under an Electoral Law which was enacted by the Greek Cypriot House

(77) Mr. Kyprianou has now been returned unopposed as "President" till February 1978.

of Representatives in breach of basic articles of the 1960 Constitution, particularly Article 62 and Article 78(2). This Law was then the subject of protest by two of the three Guarantor Powers. (78) Since such an election is not in accordance with the 1960 Constitution the Turkish Cypriot argument that the person to be elected cannot be the President of the Republic as envisaged under the Constitution, gains ground.

Ill-timed endorsement by foreign governments, such as Britain and the U.S.A., of the Greek Cypriot leader-to-be as the President of all Cyprus can do more harm to Cyprus than good. This attitude is pro-Greek and refuses to take the realities and the legal situation into account. The fact that the British Bases happen to be within the Greek Cypriot region may make it more convenient for the British Government to take such an attitude, but it does not contribute towards a Cyprus settlement.

In view of the foregoing, it may be said that there is now, more than ever, a need for foreign governments and international organisations, to look at the facts and the constitutional developments and make a re-appraisal of the whole situation.

(78) See p. 19.

APPENDIX I

SUMMARY OF
LORD RADCLIFFE'S
CONSTITUTIONAL PROPOSALS
FOR CYPRUS

Note : This is an unofficial summary, it is not the text of Lord Radcliffe's report.

INTRODUCTORY

The proposals should not be considered in a setting for which they are not intended. In the first place, they have not been framed for introduction in Cyprus as it is today. They contemplate a Cyprus in which, on the one hand, men can once more express their views without fear of terrorist intimidation, and in which, on the other hand, emergency measures, distorting ordinary life, have come to an end.

Secondly, it is not within the province of a constitution for a territory under the sovereignty of H.M. the Queen either to provide for, or to provide against, the possibility of a change in its international status. Furthermore, the terms of reference communicated by the Secretary of State on the 12th September, 1956 specifically directed that the constitution should be consistent with the requirement —

> "that during the period of the constitution Cyprus is to remain under British sovereignty".

Thirdly, the terms of reference further required —

> "that all matters relating to external affairs, defence, and internal security are retained in the hands of H. M. G. or the Governor",

and that while it should be "based on the principles of liberal democracy" and should confer "a wide measure of responsible self-government" the constitution was to contain —

> "such reservations, provisions and guarantees as may be necessary to give a just protection to the special interests of the various communities".

A Precise Framework Preferable

While recognising that a written constitution is no more than a legal framework for a political body in which there is inherent the capacity of growth and development, in the special conditions of Cyprus, governed for the last 25 years without political institutions, advantage lies in constructing as precise a framework as is reasonably possible, particularly as regards the guarantees to preserve communal rights and the independence of intercommunal services. Consequently safeguards are recommended which virtually preclude any variation on a matter of substance which affects the special interests of the different communities.

The Diarchy

A form of constitution has been preferred which recognises explicitly the existence of the diarchy implicit in the terms of reference. Accordingly it is pro-

posed to invest the Governor with full law-making and executive power for his reserved field and to leave the local legislature correspondingly full master in its own field. This last is no hollow phrase. No provision is made for control of the Assembly by official representation or by making the introduction of bills subject to the Governor's consent. Furthermore it is not proposed to delay the release of departments to the self-governing side by any scheme of "phasing". A generous interpretation of the terms of reference in this respect is a fair exchange for the considerable reduction of the full possible scope of responsible self-government which results from the reservation of Defence and Internal Security.

Regarding the problem of determining to which of the two fields of government a particular piece of legislation or executive act belongs, no good would be done by trying to provide exhaustive lists and definitions. What is important is to provide a means of resolving by reasonable discussion any doubts or difficulties which may arise. It is therefore proposed to constitute a Joint Council, a consultative body in which representatives of the reserved side and the self-governing side will keep each other informed as to what they are doing or proposing to do. But since defence and internal security involve matters which cannot reasonably be exposed in public proceedings, the Governor himself must finally decide whether or not his projected actions are properly within his reserved field, and also whether or not the Assembly's legislation encroaches on it. On the other hand, the Governor is to have the power to delegate to the Legislative Assembly any piece of lawmaking which though within his reserved field can conveniently be committed to the self-governing side.

Self-Government and Protection of Minorities

The chief problem is to find a framework which will ensure that self-government will reflect truly the will of the people without becoming an instrument by which a majority drawn from one community overrides the legitimate claims of a minority. The claim that the Turkish Cypriot community should be accorded political representation equal to that of the Greek Cypriot community, that 18% of a population should share power equally with 80%, has not been accepted. But this was not through any lack of respect for the misgivings that lay behind it, and the fact is that the constitution can be equipped with other effective means of securing the Turkish Cypriot and other smaller communities in the possession of their essential special interests.

The means here recommended include the placing of those interests under the protection of independent tribunals as well as direct political devices, which will secure to the Turkish Cypriots virtual autonomy in matters which exclusively concern them. As regards the tribunals, great importance is attached to the contribution that the judicial power can make to the resolution of intercommunal disputes and, thereby, to the removal of a large part of the political difficulties of self-government in Cyprus.

THE CONSTITUTIONAL PROPOSALS.

Note : Certain of Lord Radcliffe's explanatory notes from the covering report have been included in the following summary.

THE PURPOSE OF THE CONSTITUTION

1. The purpose is to regulate the exercise of political power in Cyprus as a territory under the sovereignty of Her Majesty the Queen.

GOVERNOR AND LEGISLATIVE ASSEMBLY

2. There will be a Governor, appointed by Her Majesty. There will be a Deputy Governor, appointed by the Governor. There will be a Legislative Assembly and a Cabinet of Ministers responsible to that Assembly.

DISTRIBUTION OF POWERS

Self-governing matters

3. With the exception of matters reserved to the Governor and certain inter-communal matters, the general power to make laws for the good government of Cyprus will be exercised by the Legislative Assembly. Laws will be subject to the assent of the Governor as constitutional "head" on Her Majesty's behalf, but his assent can only be withheld in certain specific cases detailed below. The law-making powers of the Assembly will be subject to the safeguards (detailed below) protecting the interests of the various communities and to the provisions in the constitution for the making of Emergency Laws during a period of Public Emergency.

4. Subject to the same exceptions, so far as relevant, the administration of Government and the executive power will be exercised through Ministers chosen from the Legislative Assembly. It will be the Governor's duty to act on their advice. The general conception is that the Governor should withdraw from active intervention in the work of the self-governing side, assuming instead the status of the constitutional "head" on Her Majesty's behalf. He will not take part in meetings of the Cabinet or of the Legislative Assembly.

Governor's matters

5. The Governor will retain power to make ordinances and conduct executive administration in respect of -

(a) external affairs,
(b) defence, including the fulfilment by H.M.G. of their international obligations,
(c) internal security.

Intercommunal matters

6. In the interest of the different communities the constitution accords special treatment to the subjects of broadcasting and intercommunal education.

THE LEGISLATIVE ASSEMBLY

A single Chamber

7. It is proposed that the Legislature of Cyprus should consist of a single Chamber. No sufficient advantage would be gained by a bicameral structure, having regard to the importance of simplicity, of facing a single Chamber squarely with the responsibility of its own decisions, of avoiding the distracting controversies which can result from two Chambers, and lastly of bringing all the available political talent into a single responsible Assembly. Furthermore, as a means of protecting minority rights a second Chamber would be unlikely to prove a better instrument than the system here recommended which allows resort to a competent and independent tribunal.

Composition

8. The Assembly will consist of a Speaker, a Deputy Speaker and 36 other

members. 24 members will be elected by voters on a general roll, from which Turkish Cypriots alone will be excluded, and 6 by voters on a separate Turkish Cypriot roll. The remaining 6 will be nominated by the Governor and will include nominees who will represent the smaller minorities without the formalities of separate communal rolls. There are to be no official members in the Assembly.

Electoral matters

9. The franchise will be extended to women and the minimum age for voters will be 21. Adherence to the old rule of male franchise would hardly conform with liberal or progressive ideas.

10. *Candidates for election as Members* must be over 25. Civil Servants and persons under any acknowledgement of allegiance to a Foreign Power are excluded.

11. *Constituencies.* The 24 constituencies filled by voters on the general roll will be allocated to the 6 districts as follows: Nicosia town, 2 urban constituencies; Nicosia district and Kyrenia town and district combined, 7 rural constituencies; Larnaca, Limassol and Famagusta, 1 urban constituency each and respectively 2, 3 and 4 rural constituencies; Paphos town and district combined, 3 constituencies.

12. Of the 6 constituencies filled by Turkish Cypriot voters, 2 will be allocated to Nicosia and Kyrenia combined and 1 each to the other 4 districts.

13. *Frequency of elections.* The Assembly shall be automatically dissolved on the expiration of four years from the date of the preceding general election.

14. *Electoral Laws.* The Assembly will have the power to alter by law the provisions of the constitution regulating the electoral matters referred to in this section, provided that no such alterations affecting Turkish Cypriot voters, members, or constituencies shall be operative unless supported by at least two-thirds of the Turkish Cypriot members.

The Speaker and Deputy Speaker

15. These will be appointed at the beginning of the Assembly by majority vote of the members. If either is a member his seat will be declared vacant and a by-election held to replace him. If the Speaker is a Greek Cypriot the Deputy Speaker must be a Turkish Cypriot and vice versa. But no Turkish Cypriot may be chosen unless he is approved by at least two-thirds of the Turkish Cypriot members.

Language

16. A member may address the Assembly in English, Greek or Turkish, provided that an immediate oral translation of his speech into either or both the other languages is made available if any member so requests and the Speaker so directs. There is to be a printed record of speeches which, like all bills and other records, will be printed in all three languages.

Standing Orders

17. Prior to the first meeting of the Assembly the Governor will cause to be prepared a set of standing orders, which will govern the proceedings of the Assembly until any part of them is amended by resolution of the Assembly. Such amendments shall be effective only if a majority of the Turkish Cypriot and nominated members combined votes in favour.

Sessions

18. Sessions must be held at least once a year. The Governor shall have the power to prorogue or dissolve the Assembly but not without consultation with the Chief Minister.

Quorum

19. Ten members shall constitute a quorum and decisions shall be by majority vote.

Salaries and Allowances

20. Members will be paid salaries and allowances which in the first instance will be fixed by the Governor.

The Clerk of the Assembly

21. This officer will prepare and circulate Daily Orders, etc., have custody of records, count votes and have charge of the administrative work of the Assembly. He will be a member of the Public Service and be appointed by the Speaker after consultation with the Chairman of the Public Service Commission.

22. There shall be a Deputy Clerk, who shall be a Turkish Cypriot if the Clerk is a Greek Cypriot, and vice versa.

Publication of Bills

23. Before being brought before the Assembly, all bills shall be published in an official "Government Gazette".

Assent to Legislation

24. Upon the Governor signifying his consent, a Bill passed by the Legislative Assembly shall become law. The Governor may only withhold his assent if:

(i) A Bill deals, in his opinion, with any Governor's matter (as listed in paragraph 5 above), in which case he may return the Bill intimating that he can only signify assent if specified alterations are made taking it outside the range of Governor's matters.

(ii) If a Bill appears to conflict with the guarantees or other provisions of the constitution, in which case he may refer the Bill to the Supreme Court for decision.

This latter function, to decide upon the validity of legislative acts, has been discharged acceptably, by the courts of many countries under many systems.

25. *Reservation of Assent.* The Governor will await instructions from Her Majesty before giving assent to Bills affecting the following:

(i) the constitution and procedure of the Legislative Assembly;
(ii) the currency of Cyprus or exchange control;
(iii) the Royal Prerogative;
(iv) the trustee status of Cyprus Government Stock;

but only in this last case is the power of disallowance retained, and this for purely technical reasons.

26. *Turkish Cypriot Affairs.* Bills presented for assent shall be accompanied by a certificate by the Attorney-General to the effect that it does not af-

fect any matter exclusively of Turkish Cypriot concern, or if it does do so that it was passed with the concurrence of the necessary two-thirds of the Turkish Cypriot members.

27. *Public Officers.* Bills affecting the position of a public officer shall be accompanied by a certificate, signed by the Attorney-General and the Chairman of the Public Services Commission that they satisfy the obligations of a good employer or involve no breach of contract where one is involved.

28. Subject to the foregoing the Governor will signify assent to any Bill duly presented to him.

THE EXECUTIVE

The Chief Minister

29. The Chief Minister will act as Head of the Government in self-governing matters. He will be appointed by the Governor, whose duty it will be to select the person who appears to him to command the support of the majority of members of the Assembly.

The Minister for Turkish Cypriot Affairs

30. This Minister will be appointed by the Governor at his discretion from among the members of the Assembly elected by Turkish Cypriot voters. He will be responsible for an office dealing with Turkish Cypriot affairs.

Other Ministers

31. The other Ministers will be appointed by the Governor from among the members of the Assembly on the recommendation of the Chief Minister, to take charge of the Ministries specified below.

The Cabinet

32. The Cabinet will consist of the Chief Minister, the Minister for Turkish Cypriot Affairs and the other Ministers. The Chief Minister will keep the Governor informed regarding the policies of the Cabinet. There will be a secretary of the Cabinet.

The Ministries

33. In addition to the Chief Minister's Office, it is proposed that in the first government the Chief Minister will also have charge of a separate Ministry for Development. The following will be the other Ministries, apart from the Office for Turkish Cypriot Affairs:

The Ministry for the Interior and Local Government.
The Ministry for Finance.
The Ministry for Communications and Works.
The Ministry for Social Services.
The Ministry for Natural Resources.

34. A simple test of the reality of self-government under the constitution is to list the departments and branches of government existing in Cyprus today which may be expected to pass into the control of these Ministries, responsible through their Ministers to the elected Assembly. The Administration in Cyprus has accordingly drawn up a provisional list showing an appropriate distribution of existing departments and branches among the proposed Ministries.

35. It will be within the power of the Legislative Assembly to amend by Law the number and functions of the above Ministries.

36. A Permanent Secretary, who will be a public officer, will exercise supervision over each Ministry subject to the general direction of the Minister.

Change of Government

37. If he is satisfied that the Chief Minister no longer enjoys the support of the majority of members, the Governor may relieve him of his office. The latter will be entitled to request the Governor to dissolve the Assembly in order to test the views of the electorate, and in the absence of any special reason in the public interest the Governor will accordingly dissolve the Assembly.

RESRICTIONS AND GUARANTEES

38. No law or executive action shall conflict with the rights detailed in the following paragraphs, which constitute fundamental restrictions on the powers of self-government granted by the constitution.

Religion

39. All persons will be entitled to the free exercise of any creed or religion.

Institutions and Schools

40. Persons acting individually, in association or as a community will be entitled to maintain, at their own expense, schools and charitable, religious and cultural institutions.

Language

41. All persons will be entitled to the free use of any language.

Non-discrimination

42. There shall be no discrimination against any person on account of birth, nationality, language, race or religion.

Expropriation

43. No person shall be deprived of property by compulsory power unless it be for public purposes and unless just compensation is provided.

Access to Courts

44. There shall be equality of access to Courts of Law for all persons.

Turkish Cypriot Affairs

45. Unless two-thirds of the Turkish Cypriot members support it, the Legislative Assembly may not make any law which deals with any matter exclusively of Turkish Cypriot concern.

Tribunals

46. The independent tribunals to whom complaints about violation of the above rights can be preferred will be the Supreme Court, in the case of legislative acts, and the Tribunal of Guarantees, in the case of executive actions. A grave responsibility is placed on these Tribunals, but not one that can be considered too heavy for the Cyprus judiciary, which enjoys a high reputation for conscientious performance of its duties. On the other hand, given presidents who by virtue of

their origin are uncommitted to either community in the eyes of the public, and an equal number of Greek Cypriot and Turkish Cypriot members, there is no reason for misgivings as to the confidence that will be placed in the judges' impartiality.

GOVERNOR'S MATTERS

47. As a consequence of the reservation of powers detailed above (paragraph 5) the Governor will retain in his hands all matters clearly related to External Affairs, Defence and Internal Security, such as the control of the Armed Forces, Police, Prisons and relations with foreign states. In addition the following are other matters which will generally fall within his control:

(a) The importation of goods.
(b) Immigration, naturalisation and issue of passports.
(c) Shipping, air and wireless services between Cyprus and other countries.

48. There may also be matters normally falling within the self-governing field with which, at some places and on some occasions, the Governor may have to deal as affecting the reserved subjects. But is would be a distortion to suggest that in most places or on most occasions the self-governing field will be invaded in this way. Furthermore, the Governor is to have the power to invite the Assembly to take over from him any particular piece of law-making which, though formally within his reserved field, he can conveniently commit to the self-governing side. It is Lord Radcliffe's hope that, as confidence grows, this power might be increasingly used.

Ordinances

49. The Governor will have power to make such Ordinances as he considers necessary for the purposes of the matters reserved to him. Such ordinances will be prefaced by a declaration that they are necessary for external affairs, defence and internal security. His ordinances may be disallowed by Her Majesty, in which case they cease to have effect.

50. The Governor will have a Legal Secretary to give him legal advice in the exercise of his reserved powers. He will have no power to raise money by taxation.

The Defence Committee

51. This Committee, under the presidency of the Governor, will advise him with regard to Governor's matters. Members will include the Deputy Governor, the Legal Secretary and representatives of the Armed Forces in Cyprus.

Restrictions and Guarantees

52. In making any Ordinances or authorising any executive act in respect of Governor's matters, the Governor must have regard to the restrictions and guarantees set out above (paragraphs 38 to 46). The jurisdiction of the Tribunal of Guarantees will extend to executive acts in respect of Governor's matters.

JOINT COUNCIL OF CYPRUS

53. The function of this consultative body will be to harmonise the relations between the two sides of government and to discuss matters of common concern. Apart from the Governor, who will preside, the following will be members:

Self-governing side	Governor's side
The Chief Minister.	Deputy Governor.
The Minister for Turkish Cypriot Affairs.	The Legal Secretary.
Another Minister recommended by the Chief Minister.	A Service member of the Defence Committee.
The Attorney-General.	

The Legal Sub-Committee

54. This Standing Committee of the Joint Council, consisting of the Legal Secretary and the Attorney-General, will decide which prosecutions for criminal offences are to be conducted by the Legal Secretary (as affecting Governor's matters) and which by the Attorney-General (as affecting self-governing matters). To act as a channel between the Police and the Sub-Committee a Director of Public Prosecutions may be appointed.

THE SUPREME COURT

Jurisdiction

55. The Supreme Court will adjudicate in all proceedings in which the validity of any Law of the Assembly is called in question as being contrary to the provisions of the constitution. It will have a similar responsibility to that accorded to the judicial power in many other countries, including the United States and Australia, namely that of deciding whether particular legislative acts which are called in question are valid or invalid under the constitution.

56. Appeal from a decision of the Supreme Court may be made to the Judicial Committee of the Privy Council.

Composition

57. The Supreme Court will consist of the Chief Justice, the President, and two other judges, one Greek Cypriot and the other Turkish Cypriot. The Chief Justice will be appointed by the Governor after consultation with the Chief Minister and must be neither a native of Cyprus nor resident there at the time of his appointment. The present composition of the Supreme Court will thus be retained.

THE TRIBUNAL OF GUARANTEES

Function

58. The Tribunal will investigate any complaints in respect of Government acts (other than Laws of the Assembly) alleged to violate fundamental rights guaranteed by the constitution. There will be no appeal from its decisions. Complaints may be preferred to the Tribunal by individuals, associations, or corporations. The jurisdiction of the tribunal will extend to acts of Government relating to Governor's matters except where investigations would prejudice interests of defence or public security. If the Tribunal finds a complaint well-founded it will have the power either to make a declaration of right, or to annul the act of Government complained of or make recommendations for remedial action by the Department concerned. The Tribunal will have the power to award compensation out of public funds.

Composition

59. Members of the Tribunal will be appointed by the Governor after consultation with the Chief Minister and the Chief Justice. The membership shall be arranged so that it includes an equal number of Greek and Turkish Cypriots

and that the Chairman is neither Greek Cypriot nor Turkish Cypriot. No Minister and no Public Servant outside the judicature can be appointed to the Tribunal.

SPECIAL TURKISH LAWS

60. If at any time two-thirds or more of the Turkish Cypriot members of the Assembly and two-thirds or more of the members of the Evcaf Council petition the Governor for amendment of the Turkish Family Law, Family Courts Law, Mufti Law and Evcaf and Vakf Law, the Governor may make a Regulation enacting such amendments, provided he is satisfied that a Bill to enact such amendments is unlikely to be passed by the Assembly.

INTERCOMMUNAL MATTERS

61. There are two activities with which the Government of Cyprus is at present directly concerned but which it is not possible to fit into the general scheme of self-government without imperilling its basis of equitable protection for each community.

Broadcasting

62. Information and Public Relations in general will pass to the self-governing side, and the Governor may set up an independent information service relating to his reserved field. Broadcasting does not fit into this scheme of division. On the other hand, broadcasting should be kept secure from the impact of party or political controversies, and from any tendency to favour one community at the expense of another. A chartered public institution, on the lines of the B.B.C., is called for to hold a fair balance between the interests and claims of the different communities and to ensure that this public service is genuinely free from outside control, whether by the Governor or any other political authority.

63. *A Cyprus Broadcasting Corporation* should have charge of broadcasting by sound or television for reception by the public in Cyprus. It would operate as a public monopoly service under a charter defining its duty to conduct its transmissions with impartial attention to the interests and susceptibilities of the different communities. The control of the corporation and the ownership of its assets would be vested in a Board of five Trustees, two Greek Cypriots, two Turks and a chairman who must be neither Greek Cypriot nor Turkish Cypriot. Trustees will be appointed by the Governor after consultation with the Chief Minister.

64. These arrangements for the future of broadcasting, providing equal representation of the two main communities on the controlling body, are an essential feature of the distribution of powers under the constitution and are as much a guarantee of minority rights as other more obvious provisions.

65. *Finance of C.B.C.* The Corporation would enjoy the revenue arising from wireless licences and may accept advertisements for broadcasting if the Trustees so decide. The Corporation's expenditure would be charged against receipts from these sources. Since this is a service for the people of Cyprus in the full sense, the resulting deficit (if any) should be a charge on Cyprus revenues, as is the cost of the C.B.S. at present.

66. The Corporation would submit to the Governor estimates of revenue and expenditure for each year, which he would consider in consultation with the Minister of Finance and the Minister for Turkish Cypriot Affairs. After approving

them he would, when a deficit is involved, send a precept to the Minister of Finance certifying the amount required.

Intercommunal Education

67. This is the second existing Government activity requiring special treatment and it concerns only those institutions, such as the English School for boys at Nicosia, the American Academy for boys at Larnaca and the Teachers Training Colleges, which do not cater exclusively for any one community. The education offered by intercommunal schools is at present much sought after by parents, yet it cannot honestly be regarded as a challenge to the separate systems followed in the numerous Greek and Turkish Cypriot secondary schools. It remains a hopeful path towards a mitigation of the social separations which are at the bottom of the problem of Cyprus, and those who enter on it enter by their parents' free choice. This branch of education does provide a valuable supplement to the other separate systems, but it does not fit the pattern envisaged in the handing over of the rest of education to a Greek Cypriot department of education, on the one hand, and to the Office for Turkish Cypriot Affairs on the other. The solution lies in placing the instruments of intercommunal education under an independent board.

68. An *Inter-communal Education Board* will maintain and develop education facilities on the basis that they are available to the different communities without distinction. It will take over responsibility for the English School, the Cyprus Technical Institute and the Teachers Training Colleges and assist other schools which, though not maintained by the Board, provide intercommunal education. It will also promote schemes of assistance for higher education outside Cyprus. The Board will consist of a Greek Cypriot, a Turkish Cypriot and a chairman who is neither Greek Cypriot nor Turkish Cypriot.

69. *Financing of Intercommunal Education.* Although this is a service for the benefit of Cypriots it is a supplementary rather than an essential service. Furthermore, it will be outside the control of the Assembly and the Cabinet. It is recommended that the whole of the necessary funds for it should be found from United Kingdom resources as a supplement to what has already been provided or promised for the economic development of Cyprus.

THE PUBLIC SERVICE

The Public Service Commission

70. Appointments, promotions, terminations of appointment, etc., of officers in the Public Service (other than members of H. M. Forces, the Police and the Prison Service) will be vested in the Governor acting in accordance with the recommendations of a Public Service Commission. The members of the Commission will be appointed by the Governor after consultation with the Chief Minister and the Governor in his discretion will nominate which member shall be chairman. No member of the Assembly and no Public Officer may be a member of the Commission.

71. *Regulations* may be made by the Governor in consultation with the Chief Minister and the Chairman of the Commission regarding the exercise of the Commission's functions provided that:

(a) The Commission shall at all times hold a fair balance between the claims of members of different communities to opportunities of public service so far as the needs of the service allow.

(b) Other things being equal, a candidate of local origin shall be preferred when recruitment is being considered.

72. *Special Posts.* The Secretary of the Cabinet, the Permanent Secretaries to the Ministries and certain other posts of comparable importance will be appointed by the Governor after consultation with the Chief Minister and the Chairman of the Commission.

The Auditor-General

73. The Auditor-General will be appointed by the Governor after consultation with the Chief Minister. He will audit the accounts of all departments and offices of Government except those concerned with Governor's matters, and will report annually to the Assembly.

The Attorney-General

74. The Attorney-General, who may be a member of the Assembly, will be appointed by the Governor on the recommendation of the Chief Minister. He will be responsible for advising the Cabinet and the Ministers on legal questions relating to self-governing matters, and for the conduct of legal proceedings relating to them. He shall also advise the Governor if requested.

Obligations to Public Officers

75. The financial provisions detailed below include the safeguard that contractual obligations to Public Officers (except those employed on the Governor's side) to pay salaries, allowances and pensions, will be an obligatory charge on the Cyprus revenues.

THE JUDICIAL SERVICE

The Judicial Service Commission

76. Appointments, promotion, termination of appointments, etc., of judges (except judges of the Supreme Court) and judicial officers will be vested in the Governor acting in accordance with the recommendations of a Judicial Service Commission consisting of:

(i) The Chief Justice;
(ii) The Attorney-General;
(iii) The Chairman of the Public Service Commission;
(iv) Two persons appointed by the Governor.

77. The Commission shall at all times hold a fair balance between the claims of members of the different communities to opportunities of judicial service so far as the needs of the Service allow.

78. When recruitment is being considered the Commission shall give preference to candidates of local origin, other things being equal.

Administration of the Court

79. The Chief Justice will have responsibility for the conduct of judicial business and for transfers of judges and judicial officers.

FINANCE

The Cyprus Consolidated Fund

80. The diarchy resulting from the reservation of powers over defence and

internal security requires that there should be two separate public funds for Cyprus. The first, being the produce of the Cyprus revenues available to be raised and appropriated according to decisions of the self-governing Assembly and Ministers, will be known as the Cyprus Consolidated Fund. The Minister of Finance will prepare annual estimates of revenue and expenditure which on approval by the Cabinet, are to be laid before the Assembly.

81. *Permanent Charges* on the Fund will include the following (a contribution to cover the deficit, if any, in the Broadcasting budget has already been mentioned):

(a) The salaries and remunerations of the Chief Justice and other judges, the Attorney-General, the Auditor-General and certain other officers appointed by the Governor under the constitution.
(b) The sums required to pay the salaries of the Governor and the Deputy Governor and the expenses of their official establishments.
(c) A contribution of £10,000 to Imperial Defence (the same token amount as at present).
(d) The sums required to meet contractual obligations to Public Officers (excluding Police and other officers employed in the Governor's reserved field).

82. Internal Security Contribution. In addition, there will be paid from the Fund a contribution of £750,000 towards the cost of the Police Force and the Prison Service, which sum is the equivalent of the expenditure on these services in 1954. The balance of the future annual cost of these services, which will be met from the Governor's side, is estimated at some £2,250,000, disregarding special expenditure which will not recur when the emergency is over, and excluding capital expenditure on accommodation which may require another £5,000,000 in the next five years. The amount of the contribution has been fixed having regard, on the one hand, to the fact that the control of the Police and the Prison Service is not on the self-governing side.

83. *Finance of Turkish Cypriot Affairs.* An annual sum will be charged on the Cyprus Consolidated Fund to provide for the establishment of the Office of Turkish Cypriot Affairs and the discharge of its functions. The sum to be provided shall be discussed in the first instance by the Chief Minister and the Minister for Turkish Cypriot Affairs. If they fail to agree the matter will be referred to the Governor whose decision will be final.

84. It is further specifically provided that the sum to be provided for Turkish Cypriot elementary education in any year shall not be less than a sum proportionate to the provision for Greek Cypriot elementary education having regard to the number of pupils in the two communities. Furthermore, the sum provided for Turkish Cypriot secondary education must not be less than in the last year before the coming into force of the constitution.

The Defence Fund

85. This second Public Fund required by the diarchy system will be controlled by the Governor and will serve the purposes of the reserved functions of defence and internal security. The Governor will prepare estimates of expenditure from the Defence Fund and submit them for approval to the Secretary of State. Apart from the contributions of £10,000 for defence and £750,000 for the Police and Prisons to be made by the self-governing side, the whole expenditure from the Defence Fund will be covered, it is presumed by contributions from

United Kingdom funds, which, as previously recommended, will also bear the whole cost of intercommunal education.

EMERGENCY LAWS

86. Her Majesty will be entitled by Order-in-Council to declare that a public emergency exists in Cyprus and to provide for the security of public order, supplies and services during the emergency. Such an Order-in-Council may suspend all or any provisions of the constitution and may grant the Governor legislative and executive power in the self-governing field.

APPENDIX 2

THE MACMILLAN PLAN

(As explained by Mr. Harold Macmillan, the then Prime Minister of Great Britain, to Parliament — Hansard, 19 June 1958)

Cyprus should enjoy the advantages of association not only with the United Kingdom, and, therefore, with the British Commonweatlh, but also with Greece and Turkey.

Since the three Governments of the United Kingdom, Greece and Turkey all have an interest in Cyprus, Her Majesty's Government will welcome the co-operation and participation of the two other Governments in a joint effort to achieve the peace, progress and prosperity of the island.

The Greek and Turkish Governments will each be invited to appoint a representative to co-operate with the Governor in carrying out this policy.

The island will have a system of representative Government with each Community exercising autonomy in its own communal affairs.

In order to satisfy the desire of the Greek and Turkish Cypriots to be recognised as Greeks and Turks, Her Majesty's Government will welcome an arrangement which gives them Greek or Turkish nationality while enabling them to retain British nationality.

To allow time for the new principle of partnership to be fully worked out and brought into operation under this plan in the necessary atmosphere of stability, the international status of the island will remain unchanged for seven years.

A system of representative government and communal autonomy will be worked out by consultation with representatives of the two communities and with the representatives of the Greek and Turkish Governments.

The essential provisions of the new constitution will be :

(a) There will be a separate House of Representatives for each of the two communities, and these Houses will have final legislative authority in communal affairs.

(b) Authority for internal administration, other than communal and internal security, will be undertaken by a Council presided over by the Governor and including the representatives of the Greek and Turkish Governments and six elected Ministers drawn from the House of Representatives, four being Greek Cypriots and two Turkish Cypriots.

(c) The Governor, acting after consultation with the representatives of the Greek and Turkish Governments, will have reserve powers to ensure that the interests of both communities are protected.

(d) External affairs, defence and internal security will be matters specifically reserved to the Governor acting after consultation with the representatives of the Greek and Turkish Governments.

(e) The representatives of the Greek and Turkish Governments will have the right to require any legislation which they consider to be discriminatory to be reserved for consideration by an impartial tribunal.

APPENDIX 3

Conference on Cyprus

Documents signed and initialled at Lancaster House on February 19, 1959

I

MEMORANDUM SETTING OUT THE AGREED FOUNDATION FOR THE FINAL SETTLEMENT OF THE PROBLEM OF CYPRUS

The Prime Minister of the United-Kingdom of Great Britain and Northern Ireland, the Prime Minister of the Kingdom of Greece and the Prime Minister of the Turkish Republic,

Taking note of the Decleration by the Representative of the Greek-Cypriot Community and the Representative of the Turkish-Cypriot Community that they accept the documents annexed to this Memorandum as the agreed foundation for the final settlement of the problem of Cyprus,

Hereby adopt, on behalf of their respective Governments, the documents annexed to this Memorandum and listed below, as the agreed foundation for the final settlement of the problem of Cyprus.

On behalf of the Government of the United Kingdom of Great Britain and Northern Ireland	On behalf of the Government of the Kingdom of Greece	On behalf of the Government of the Turkish Republic
HAROLD MACMILLAN	C. KARAMANLIS	A. MENDERES

London,

February 19, 1959.

List of Documents Annexed

A.— Basic Structure of the Republic of Cyprus.

B.— Treaty of Guarantee between the Republic of Cyprus and Greece, the United Kingdom and Turkey.

C.— Treaty of Alliance between the Republic of Cyprus, Greece and Turkey.

D.— Declaration made by the Government of the United Kingdom on February 17, 1959.

E.— Additional Article to be inserted in the Treaty of Guarantee.

F.— Declaration made by the Greek and Turkish Foreign Ministers on February 17, 1959.

G.— Declaration made by the Representative of the Greek-Cypriot Community on February 19, 1959.

H.— Declaration made by the Representative of the Turkish-Cypriot Community on February 19, 1959.

I.— Agreed Measures to prepare for the new arrangements in Cyprus.

II

ENGLISH TRANSLATION OF THE DOCUMENTS AGREED IN THE FRENCH TEXTS AND INITIALLED BY THE GREEK AND TURKISH PRIME MINISTERS AT ZURICH ON FEBRUARY 11, 1959.

(a)

Basic Structure of the Republic of Cyprus

1. The State of Cyprus shall be a Republic with a presidential régime, the President being Greek and the Vice-President Turkish elected by universal suffrage by the Greek and Turkish communities of the Island respectively.

2. The official languages of the Republic of Cyprus shall be Greek and Turkish. Legislative and administrative instruments and documents shall be drawn up and promulgated in the two official languages.

3. The Republic of Cyprus shall have its own flag of neutral design and colour, chosen jointly by the President and the Vice-President of the Republic.

Authorities and communities shall have the right to fly the Greek and Turkish flags on holidays at the same time as the flag of Cyprus.

The Greek and Turkish communities shall have the right to celebrate Greek and Turkish national holidays.

4. The President and the Vice-President shall be elected for a period of five years.

In the event of absence, impediment or vacancy of their posts, the President and the Vice-President shall be replaced by the President and the Vice-President of the House of Representatives respectively.

In the event of a vacancy in either post, the election of new incumbents shall take place within a period of not more than 45 days.

The President and the Vice-President shall be invested by the House of Representatives, before which they shall take an oath of loyalty and respect for the Constitution. For this purpose, the House of Representatives shall meet within 24 hours after its constitution.

5. Executive authority shall be vested in the President and the Vice-President. For this purpose they shall have a Council of Ministers composed of seven Greek Ministers and three Turkish Ministers. The Ministers shall be designated respectively by the President and the Vice-President who shall appoint them by an instrument signed by them both.

The Ministers may be chosen from outside the House of Representatives.

Decisions of the Council of Ministers shall be taken by an absolute majority.

Decisions so taken shall be promulgated immediately by the President and the Vice-President by publication in the official gazette.

However, the President and the Vice-President shall have the right of final veto and the right to return the decision of the Council of Ministers under the same conditions as those laid down for laws and decisions of the House of Representatives.

6. Legislative authority shall be vested in a House of Representatives elected for a period of five years by universal suffrage of each community separately in the proportion of 70 per cent. for the Greek community and 30 per cent. for the Turkish community, this proportion being fixed independently of statistical data. (*N.B.*— The number of Representatives shall be fixed by mutual agreement between the communities.)

The House of Representatives shall exercise authority in all matters other than those expressly reserved to the Communal Chambers. In the event of a conflict of authority, such conflict shall be decided by the Supreme Constitutional Court which shall be composed of one Greek, one Turk and one neutral, appointed jointly by the President and the Vice-President. The neutral judge shall be president of the Court.

7. Laws and decisions of the House of Representatives shall be adopted by a simple majority of the members present. They shall be promulgated within 15 days if neither the President nor the Vice-President returns them for reconsideration as provided in Point 9 below.

The Constitutional Law, with the exception of its basic articles, may be modified by a majority comprising two-thirds of the Greek members and two-thirds of the Turkish members of the House of Representatives.

Any modification of the electoral law and the adoption of any law relating to the municipalities and of any law imposing duties or taxes shall require a simple majority of the Greek and Turkish members of the House of Representatives taking part in the vote and considered separately.

On the adoption of the budget, the President and the Vice-President may exercise their right to return it to the House of Representatives, if in their judgement any question of discrimination arises. If the House maintains its decisions, the President and the Vice-President shall have the right of appeal to the Supreme Constitutional Court.

8. The President and the Vice-President, separately and conjointly, shall have the right of final veto on any law or decision concerning foreign affairs, except the participation of the Republic of Cyprus in international organisations and pacts of alliance in which Greece and Turkey both participate or concerning defence and security as defined in Annex I.

9. The President and the Vice-President of the Republic shall have, separately and conjointly, the right to return all laws and decisions, which may be returned to the House of Representatives within a period of not more than 15 days for reconsideration.

The House of Representatives shall pronounce within 15 days on any matter so returned. If the House of Representatives maintains its decisions, the President and the Vice-President shall promulgate the law or decision in question within the time-limits fixed for the promulgation of laws and decisions.

Laws and decisions, which are considered by the President or the Vice-President to discriminate against either to the two communities, shall be submitted to the Supreme Constitutional Court which may annul or confirm the law or decision, or return it to the House of Representatives for reconsideration, in whole or in part. The law or decision shall not become effective until the Supreme Constitutional Court or, where it has been returned the House of Representatives has taken a decision on it.

10. Each community shall have its Communal Chamber composed of a number of representatives which it shall itself determine.

The Communual Chambers shall have the right to impose taxes and levies on members of their community to provide for their needs and for the needs of bodies and institutions under their supervision.

The Communal Chambers shall exercise authority in all religious, educational, cultural and teaching questions and questions of personal status. They shall exercise authority in questions where the interests and institutions are of a

purely communal nature, such as sporting and charitable foundations, bodies and associations, producers' and consumers, co-operatives and credit establishment, created for the purpose of promoting the welfare of one of the communities. (N.B. —It is understood that the provisions of the present paragraph cannot be interpreted in such a way as to prevent the creation of mixed and communual institutions where the inhabitants desire them.)

These producers' and consumers' co-operatives and credit establishments, which shall be administered under the laws of the Republic, shall be subject to the supervision of the Communal Chambers. The Communal Chambers shall also exercise authority in matters initiated by municipalities which are composed of one community only. These municipalities, to which the laws of the Republic shall apply, shall be supervised in their functions by the Communal Chambers.

Where the central administration is obliged to take over the supervision of the institutions, establishments, or municipalities mentioned in the two preceding paragraphs by virtue of legislation in force, this supervision shall be exercised by officials belonging to the same community as the institution, establishment or municipality in question.

11. The Civil Service shall be composed as to 70 per cent. of Greeks and as to 30 per cent. of Turks.

It is understood that this quantitative division will be applied as far as practicable in all grades of the Civil Service.

In regions or localities where one of the two communities is in a majority approaching 100 per cent., the organs of the local administration shall be composed solely of officials belonging to that community.

12. The deputies of the Attorney-General of the Republic, the Inspector-General, the Treasurer and the Governor of the Issuing Bank may not belong to the same community as their principals. The holders of these posts shall be appointed by the President and the Vice-President of the Republic acting in agreement.

13. The heads and deputy heads of the Armed Forces, the Gendarmerie and the Police shall be appointed by the President and the Vice-President of the Republic acting in agreement. One of these heads shall be Turkish and where the head belongs to one of the communities, the deputy head shall belong to the other.

14. Compulsory military service may only be instituted with the agreement of the President and the Vice-President of the Republic of Cyprus.

Cyprus shall have an army of 2,000 men, of whom 60 per cent. shall be Greek and 40 per cent. Turkish.

The security forces (gendarmerie and police) shall have a complement of 2,000 men, which may be reduced or increased with the agreement of both the President and the Vice-President. The security forces shall be composed as to 70 per cent. of Greeks and as to 30 per cent. of Turks. However, for an initial period this percentage may be raised to a maximum of 40 per cent. of Turks (and consequently reduced to 60 per cent. of Greeks) in order not to discharge those Turks now serving in the police, apart from the auxiliary police.

15. Forces, which are stationed in parts of the territory of the Republic inhabited, in a proportion approaching 100 per cent., by members of a single community, shall belong to that community.

16. A High Court of Justice shall be established, which shall consist of two Greeks, one Turk and one neutral, nominated jointly by the President and the Vice-President of the Republic.

The President of the Court shall be the neutral judge, who shall have two votes.

This Court shall constitute the highest organ of the judicature (appointments, promotions of judges, & c.).

17. Civil disputes, where the plaintiff and the defendant belong to the same community, shall be tried by a tribunal composed of judges belonging to that community. If the plaintiff and defendant belong to different communities, the composition of the tribunal shall be mixed and shall be determined by the High Court of Justice.

Tribunals dealing with civil disputes relating to questions of personal status and to religious matters, which are reserved to the competence of the Communal Chambers under Point 10, shall be composed solely of judges belonging to the community concerned. The composition and status of these tribunals shall be determined according to the law drawn up by the Communal Chamber and they shall apply the law drawn up by the Communal Chamber.

In criminal cases, the tribunal shall consist of judges belonging to the same community as the accused. If the injured party belongs to another community, the composition of the tribunal shall be mixed and shall be determined by the High Court of Justice.

18. The President and the Vice-President of the Republic shall each have the right to exercise the prerogative of mercy to persons from their respective communities who are condemned to death. In cases where the plaintiffs and the convicted persons are members of different communities the prerogative of mercy shall be exercised by agreement between the President and the Vice-President. In the event of disagreement the vote for clemency shall prevail. When mercy is accorded the death penalty shall be commuted to life imprisonment.

19. In the event of agricultural reform, lands shall be redistributed only to persons who are members of the same community as the expropriated owners.

Expropriations by the State or the Municipalities shall only be carried out on payment of a just and equitable indemnity fixed, in disputed cases, by the tribunals. An appeal to the tribunals shall have the effect of suspending action.

Expropriated property shall only be used for the purpose for which the expropriation was made. Otherwise the property shall be restored to the owners.

20. Separate municipalities shall be created in the five largest towns of Cyprus by the Turkish inhabitants of these towns. However :—

(*a*) In each of the towns a co-ordinating body shall be set up which shall supervise work which needs to be carried out jointly and shall concern itself with matters which require a degree of co-operation. These bodies shall each be composed of two members chosen by the Greek municipalities, two members chosen by the Turkish municipalities and a President chosen by agreement between the two municipalities.

(*b*) The President and the Vice-President shall examine within four years the question whether or not this separation of municipalities in the five largest towns shall continue.

With regard to the localities, special arrangements shall be made for the constitution of municipal bodies, following, as far as possible, the rule of proportional representation for the two communities.

21. A Treaty guaranteeing the independence, territorial integrity and constitution of the new State of Cyprus shall be concluded between the Republic of Cyprus, Greece, the United Kingdom and Turkey. A Treaty of military alliance shall also be concluded between the Republic of Cyprus, Greece and Turkey.

These two instruments shall have constitutional force. (This last paragraph shall be inserted in the Constitution as a basic article.)

22. It shall be recognised that the total or partial union of Cyprus with any other State, or a separatist independence for Cyprus (*i.e.*, the partition of Cyprus into two independent States), shall be excluded.

23. The Republic of Cyprus shall accord most-favoured- nation treatment to Great Britain, Greece and Turkey for all agreements whatever their nature.

This provision shall not apply to the Treaties between the Republic of Cyprus and the United Kingdom concerning the bases and military facilities accorded to the United Kingdom.

24. The Greek and Turkish Governments shall have the right to subsidise institutions for education, culture, athletics and charity belonging to their respective communities.

Equally, where either community considers that it has not the necessary number of schoolmasters, professors or priests for the working of its institutions, the Greek and Turkish Governments may provide them to the extent strictly necessary to meet their needs.

25. One of the following Ministries—the Ministry of Foreign Affairs, the Ministry of Defence or the Ministry of Finance—shall be entrusted to a Turk. If the President and the Vice-President agree they may replace this system by a system of rotation.

26. The new State which is to come into being with the signature of the Treaties shall be established as quickly as possible and within a period of not more than three months from the signature of the Treaties.

27. All the above Points shall be considered to be basic articles of the Constitution of Cyprus.

E. A.-T. F. R. Z.

S. L.

† A. M. F. K.

ANNEX I

A

The defence questions subject to veto under Point 8 of the Basic Structure are as follows :—

(*a*) Composition and size of the armed forces and credits for them.
(*b*) Appointments and promotions.
(*c*) Imports of warlike stores and of all kinds of explosives.
(*d*) Granting of bases and other facilities to allied countries.

The security questions subject to veto are as follows :—

(*a*) Appointments and promotions.
(*b*) Allocation and stationing of forces.
(*c*) Emergency measures and martial law.
(*d*) Police laws.

It is provided that the right of veto shall cover all emergency measures or decisions, but not those which concern the normal functioning of the police and gendarmerie.)

(B)

TREATY OF GUARANTEE

The Republic of Cyprus of the one part, and Greece, the United Kingdom and Turkey of the other part :—

I. Considering that the recognition and maintenance of the independence, territorial integrity and security of the Republic of Cyprus, as establishhed and regulated by the basic articles of its Constitution, are in their common interest;

II. Desiring to co-operate to ensure that the provisions of the aforesaid Constitution shall be respected;

HAVE AGREED AS FOLLOWS :—

ARTICLE 1

The Republic of Cyprus undertakes to ensure the maintenance of its independence, territorial integrity and security, as well as respect for its Constitution.

It undertakes not to participate, in whole or in part, in any political or economic union with any State whatsoever. With this intent it prohibits all activity tending to promote directly or indirectly either union or partition of the Island.

ARTICLE 2

Greece, the United Kingdom and Turkey, taking note of the undertakings by the Republic of Cyprus embodied in Article 1, recognise and guarantee the independence, territorial integrity and security of the Republic of Cyprus, and also the provisions of the basic articles of its Constitution.

They likewise undertake to prohibit, as far as lies within their power, all activity having the object of promoting directly or indirectly either the union of the Republic of Cyprus with any other State, or the partition of the Island.

ARTICLE 3

In the event of any breach of the provisions of the present Treaty, Greece, the United Kingdom, and Turkey undertake to consult together, with a view to making representations, or taking the necessary steps to ensure observance of those provisions.

In so far as common or concerted action may prove impossible, each of the three guaranteeing Powers reserves the right to take action with the sole aim of re-establishing the state of affairs established by the present Treaty.

ARTICLE 4

The present Treaty shall enter into force on signature.

The High Contracting Parties undertake to register the present Treaty at the earliest possible date with the Secretariat of the United Nations, in accordance with the provisions of Article 102 of the Charter. (1)

E. A.-T.

F. R. Z.

S. L.

† A. M.

F. K.

(1) "Treaty Series No. 67 (1946)," Cmd. 7015, page 21.

(C)

TREATY OF ALLIANCE BETWEEN THE REPUBLIC OF CYPRUS, GREECE AND TURKEY

1. The Republic of Cyprus, Greece and Turkey shall co-operate for their common defence and undertake by this Treaty to consult togther on the problems raised by this defence.

2. The High Contracting Parties undertake to resist any attack or aggression, direct or indirect, directed against the independence and territorial integrity of the Republic of Cyprus.

3. In the spirit of this alliance and in order to fulfil the above purpose a tripartite Headquarters shall be established on the territory of the Republic of Cyprus.

4. Greece shall take part in the Headquarters mentioned in the preceding article with a contingent of 950 officers, non-commissioned officers and soldiers and Turkey with a contingent of 650 officers, non-commissioned officers and soldiers. The President and the Vice-President of the Republic of Cyprus, acting in agreement, may ask the Greek and Turkish Governments to increase or reduce the Greek and Turkish contingents.

5. The Greek and Turkish officers mentioned above shall be responsible for the training of the Army of the Republic of Cyprus.

6. The command of the tripartite Headquarters shall be assumed in rotation and for a period of one year each by a Cypriot, Greek and Turkish General Officer, who shall be nominated by the Governments of Greece and Turkey and by the President and the Vice-President of the Republic of Cyprus.

E. A.-T.

F. R. Z.

S. L.

† A. M.

F. K.

III

DECLARATION BY THE GOVERNMENT OF THE UNITED KINGDOM

The Government of the United Kingdom of Great Britain and Northern Ireland, having examined the documents concerning the establishment of the Republic of Cyprus, comprising the Basic Structure for the Republic of Cyprus, the Treaty of Guarantee and the Treaty of Alliance, drawn up and approved by the Heads of the Governments of Greece and Turkey in Zurich on February 11, 1959, and taking into account the consultations in London,

from February 11 to 16, 1959, between the Foreign Ministers of Greece, Turkey and the United Kingdom

Declare :—

A. That, subject to the acceptance of their requirements as set out in Section B below, they accept the documents approved by the Heads of the Governments of Greece and Turkey as the agreed foundation for the final settlement of the problem of Cyprus.

B. That, with the exception of two areas at

(*a*) Akrotiri — Episkopi — Paramali, and

(*b*) Dhekelia — Pergamos — Ayios Nikolaos — Xylophagou, which will be retained under full British sovereignty, they are willing to transfer sovereignty over the Island of Cyprus to the Republic of Cyprus subject to the following conditions :—

(1) that such rights are secured to the United Kingdom Government as are necessary to enable the two areas as aforesaid to be used effectively as military bases, including among others those rights indicated in the Annex attached, and that satisfactory guarantees are given by Greece, Turkey and the Republic of Cyprus for the integrity of the areas retained under British sovereignty and the use and enjoyment by the United Kingdom of the rights referred to above;

(2) that provision shall be made by agreement for :—

(i) the protection of the fundamental human rights of the various communities in Cyprus;

(ii) the protection of the interests of the members of the public services in Cyprus;

(iii) determining the nationality of persons affected by the settlement;

(iv) the assumption by the Republic of Cyprus of the appropriate obligations of the present Government of Cyprus, including the settlement of claims.

C. That the Government of the United Kingdom welcome the draft Treaty of Alliance between the Republic of Cyprus, the Kingdom of Greece and the Republic of Turkey and will co-operate with the Parties thereto in the common defence of Cyprus.

D. That the Constitution of the Republic of Cyprus shall come into force and the formal signature of the necessary instruments by the parties concerned shall take place at the earliest practicable date and on that date sovereignty will be transferred to the Republic of Cyprus.

SELWYN LLOYD
ALAN LENNOX-BOYD

E. A.-T.

F. R. Z.

† A. M.

F. K.

ANNEX

The following rights will be necessary in connection with the areas to be retained under British sovereignty :—

(*a*) to continue to use, without restriction or interference, the existing small sites containing military and other installations and to exercise complete control within these sites, including the right to guard and defend them and to exclude from them all persons not authorised by the United Kingdom Government;

(*b*) to use roads, ports and other facilities freely for the movement of personnel and stores of all kinds to and from and between the above-mentioned areas and sites;

(*c*) to continue to have the use of specified port facilities at Famagusta;

(*d*) to use public services (such as water, telephone, telegraph, electric power, &c.);

(e) to use from time to time certain localities; which would be specified, for troop training;

(*f*) to use the airfield at Nicosia, together with any necessary buildings and facilities on or connected with the airfield to whatever extent is considered necessary by the British authorities for the operation of British military aircraft in peace and war, including the exercise of any necessary operational control of air traffic;

(*g*) to overfly the territory of the Republic of Cyprus without restriction;

(*h*) to exercise jurisdiction over British forces to an extent comparable with that provided in Article VII of the Agreement regarding the Status of Forces of Parties to the North Atlantic Treaty, (2) in respect of certain offences committed within the territory of the Republic of Cyprus;

(*i*) to employ freely in the areas and sites labour from other parts of Cyprus;

(*j*) to obtain, after consultation with the Government of the Republic of Cyprus, the use of such additional small sites and such additional rights as the United Kingdom may, from time to time, consider technically necessary for the efficient use of its base areas and installations in Cyprus.

IV

ADDITIONAL ARTICLE TO BE INSERTED IN THE TREATY OF GUARANTEE

The Kingdom of Greece, the Republic of Turkey and the Republic of Cyprus undertake to respect the integrity of the areas to be retained under the sovereignty of the United Kingdom upon the establishment of the Republic of Cyprus, and guarantee the use and enjoyment by the United Kingdom of the rights to be secured to the United Kingdom by the Republic of Cyprus in accordance with the declaration by the Government of the United Kingdom.

S. L.

E. A. - T.

F. R. Z.

† A. M.

F. K.

(2) "Treaty Series No. 3 (1955)," Cmd. 9363.

V

DECLARATION MADE BY GREEK AND TURKISH FOREIGN MINISTERS ON FEBRUARY 17, 1959

The Foreign Ministers of Greece and Turkey, having considered the declaration made by the Government of the United Kingdom on February 17, 1959, accept that declaration, together with the document approved by the Heads of the Greek and Turkish Governments in Zurich on February 11, 1959, as providing the agreed foundation for the final settlement of the problem of Cyprus.

E. AVEROFF - TOSSIZZA FATIN R. ZORLU

S. L.

† A. M. F. K.

VI

DECLARATION MADE BY THE REPRESENTATIVE OF THE GREEK - CYPRIOT COMMUNITY ON FEBRUARY 19, 1959

Archbishop Makarios, representing the Greek Cypriot Community, having examined the document concerning the establishment of the Republic of Cyprus drawn up and approved by the Heads of the Governments of Greece and Turkey in Zurich on February 11, 1959, and the declarations made by the Government of the United Kingdom, and by the Foreign Ministers of Greece and Turkey on February 17, 1959, declares that he accepts the documents and declarations as the agreed foundation for the final settlement of the problem of Cyprus.

† ARCHBISHOP MAKARIOS.

S. L. E. A. - T. F. R. Z.

F. K.

VII

DECLARATION MADE BY THE REPRESENTATIVE OF THE TURKISH - CYPRIOT COMMUNITY ON FEBRURARY 19, 1959

Dr. Kutchuk, representing the Turkish Cypriot Community, having examined the documents concerning the establishment of the Republic of Cyprus drawn up and approved by the Heads of the Governments of Greece and Turkey in Zurich on February 11, 1959, and the declarations made by the Government of the United Kingdom, and by the Foreign Ministers of Greece and Turkey on February 17, 1959, declares that he accepts the documents and declarations as the agreed foundation for the final settlement of the problem of Cyprus.

F. KUTCHUK

S.L. E.A.-T. F.R.Z.

† A. M.

VIII

AGREED MEASURES TO PREPARE FOR THE NEW ARRANGEMENTS IN CYPRUS

1. All parties to the Conference firmly endorse the aim of bringing the constitution (including the elections of President, Vice-President, and the three Assemblies) and the Treaties into full effect as soon as practicable and in any case not later than twelve months from to-day's date (the 19th of February, 1959). Measures leading to the transfer of sovereignty in Cyprus will begin at once.

2. The first of these measures will be the immediate establishment of :—

(a) a Joint Commission in Cyprus with the duty of completing a draft constitution for the independent Republic of Cyprus, incorporating the basic structure agreed at the Zurich Conference. This Commission shall be composed of one representative each of the Greek-Cypriot and the Turkish-Cypriot community and one representative nominated by the Government of Greece and one representative nominated by the Government of Turkey, together with a legal adviser nominated by the Foreign Ministers of Greece and Turkey, and shall in its work have regard to and shall scrupulously observe the points contained in the documents of the Zurich Conference and shall fulfil its task in accordance with the principles there laid down;

(b) a Transitional Committee in Cyprus, with responsibility for drawing up plans for adapting and reorganising the Governmental machinery in Cyprus in preparation for the transfer of authority to the independent Republic of Cyprus. This Committee shall be composed of the Governor of Cyprus, the leading representative of the Greek community and the leading representative of the Turkish community and other Greek and Turkish Cypriots nominated by the Governor after consultation with the two leading representatives in such a way as not to conflict with paragraph 5 of the Basic Sructure;

(c) a Joint Committee in London composed of a representative of each of the Governments of Greece, Turkey and the United Kingdom, and one representative each of the Greek Cypriot and Turkish Cypriot communities, with the duty of preparing the final treaties giving effect to the conclusions of the London Conference. This Committee will prepare drafts for submission to Governments covering *inter alia* matters arising from the retention of areas in Cyprus under British sovereignty, the provision to the United Kingdom Government of certain ancillary rights and facilities in the independent Republic of Cyprus, questions of nationality, the treatment of the liabilities of the present Government of Cyprus, and the financial and economic problems arising from the creation of an independent Republic of Cyprus.

3. The Governor will, after consultation with the two leading representatives, invite individual members of the Transitional Committee to assume special responsibilities for particular departments and functions of Government. This process will be started as soon as possible and will be progresively extended.

4. The headquarters mentioned in Article 4 of the Treaty of Alliance between the Republic of Cyprus, the Kingdom of Greece and the Republic of Turkey will be established three months after the completion of the work of the Commission referred to in paragraph 2 *(a)* above and will be composed of a restricted number of officers who will immediately undertake the training of the armed forces of the Republic of Cyprus. The Greek and Turkish contingents will enter the territory of the Republic of Cyprus on the date when the sovereignty will be transferred to the Republic.

S.L. E.A.-T. F.R.Z.

APPENDIX 4

DRAFT TREATY CONCERNING THE ESTABLISHMENT OF THE REPUBLIC OF CYPRUS

The United Kingdom of Great Britain and Northern Ireland, the Kingdom of Greece and the Republic of Turkey of the one part and the Republic of Cyprus of the other part;

Desiring to make provisions to give effect to the Declaration made by the Government of the United Kingdom on the 17th of February, 1959, during the Conference at London, in accordance with the subsequent Declarations made at the Conference by the Foreign Ministers of Greece and Turkey, by the Representative of the Greek Cypriot Community and by the Representative of the Turkish Cypriot Community;

Taking note of the terms of the Treaty of Guarantee signed to-day by the Parties to this Treaty;

Have agreed as follows :—

ARTICLE 1

The territory of the Republic of Cyprus shall comprise the Island of Cyprus, together with the islands lying off its coast, with the exception of the two areas defined in Annex A to this Treaty, which areas shall remain under the sovereignty of the United Kingdom. These areas are in this Treaty and its Annexes referred to as the Akrotiri Sovereign Base Area and the Dhekelia sovereign Base Area.

ARTICLE 2

(1) The Republic of Cyprus shall accord to the United Kingdom the rights set forth in Annex B to this Treaty.

(2) The Republic of Cyprus shall co-operate fully with the United Kingdom to ensure the security and effective operation of the military bases situated in the Akrotiri Sovereign Base Area and the Dhekelia Sovereign Base Area, and the full enjoyment by the United Kingdom of the rights conferred by this Treaty.

ARTICLE 3

The Republic of Cyprus, Greece, Turkey and the United Kingdom undertake to consult and co-operate in the common defence of Cyprus.

ARTICLE 4

The arrangements concerning the status of forces in the Island of Cyprus shall be those contained in Annex C to this Treaty.

ARTICLE 5

The Republic of Cyprus shall secure to everyone within its jurisdiction human rights and fundamental freedoms comparable to those set out in section I of the European Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on the 4th of November, 1950, and the Protocol to that Convention signed at Paris on the 20th of March.

ARTICLE 6

The arrangements concerning the nationality of persons affected by the establishment of the Republic of Cyprus shall be those contained in Annex D to this Treaty.

ARTICLE 7

The Republic of Cyprus and the United Kingdom accept and undertake to carry out the necessary financial and administrative arrangements to settle questions arising out of the termination of British administration in the territory of the Republic of Cyprus. These arrangements are set forth in Annex E to this Treaty.

ARTICLE 8

(1) All international obligations and responsibilities of the Government of the United Kingdom shall henceforth, in so far as they may be held to have application to the Republic of Cyprus, be assumed by the Government of the Republic of Cyprus.

(2) The international rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of their application to the territory of the Republic of Cyprus shall henceforth be enjoyed by the Government of the Republic of Cyprus.

ARTICLE 9

The Parties to this Treaty accept and undertake to carry out the arrangements concerning trade, commerce and other matters set forth in Annex F to this Treaty.

ARTICLE 10

Any question or difficulty as to the interpretation of the provisions of this Treaty shall be settled as follows :—

(a) Any question or difficulty that may arise over the operation of the military requirements of the United Kingdom, or concerning the provisions of this Treaty in so far as they affect the status, rights and obligations of United Kingdom forces or any other forces associated with them under the terms of this Treaty, or of Greek, Turkish and Cypriot forces, shall ordinarily be settled by negotiation between the tripartite Headquarters of the Republic of Cyprus, Greece and Turkey and the authorities of the armed forces of the United Kingdom.

(b) Any question or difficulty as to the interpretation of the provisions of this Treaty on which agreement cannot be reached by negotiation between the military authorities in the cases described above, or, in other cases, by negotiation between the Parties concerned through the diplomatic channel, shall be referred for final decision to a tribunal appointed for the purpose, which shall be composed of four representatives, one each to be nominated by the Government of the United Kingdom, the Government of Greece, the Government of Turkey and the Government of the Republic of Cyprus, together with an independent chairman nominated by the President of the International Court of Justice. If the President is a citizen of the United Kingdom and Colonies or of the Republic of Cyprus of Greece or of Turkey, the Vice-President shall be requested to act; and, if he also is such a citizen, the next senior Judge of the Court.

ARTICLE 11

The Annexes to this Treaty shall have force and effect as integral parts of this Treaty.

ARTICLE 12

This Treaty shall enter into force on signature by all the Parties to it.

APPENDIX 5

TREATY OF ALLIANCE

The Republic of Cyprus, Greece and Turkey,

I. In their common desire to uphold peace and to preserve the security of each of them,

II. Considering that their efforts for the preservation of peace and security are in conformity with the purposes and principles of the United Nations Charter,

Have agreed as follows:—

ARTICLE I

The High Contracting Parties undertake to co-operate for their common defence and to consult together on the problems raised by that defence.

ARTICLE II

The High Contracting Parties undertake to resist any attack or aggression, direct or indirect, directed against the independence or the territorial integrity of the Republic of Cyprus.

ARTICLE III

For the purpose of this alliance, and in order to achieve the object mentioned above, a Tripartite Headquarters shall be established on the territory of the Republic of Cyprus.

ARTICLE IV

Greece and Turkey shall participate in the Tripartite Headquarters so established with the military contingents laid down in Additional Protocol No. I annexed to the present Treaty.

The said contingents shall provide for the training of the army of the Republic of Cyprus.

ARTICLE V

The Command of the Tripartite Headquarters shall be assumed in rotation, for a period of one year each, by a Cypriot, Greek and Turkish General Officer, who shall be appointed respectively by the Governments of Greece and Turkey and by the President and the Vice-President of the Republic of Cyprus.

ARTICLE VI

The present Treaty shall enter into force on the date of signature.

The High Contracting Parties shall conclude additional agreements if the application of the present Treaty renders them necessary.

The High Contracting Parties shall proceed as soon as possible with the registration of the present Treaty with the Secretariat of the United Nations, in conformity with Article 102 of the United Nations Charter.

No. I

I. The Greek and Turkish contingents which are to participate in the Tripartite Headquarters shall comprise respectively 950 Greek officers, non-commissioned officers and men, and 650 Turkish officers, non-commissioned officers and men.

II. The President and the Vice-President of the Republic of Cyprus, acting in agreement, may request the Greek and Turkish Governments to increase or reduce the Greek and Turkish contingents.

III. It is agreed that the sites of the cantonments for the Greek and Turkish contingents participating in the Tripartite Headquarters, their juridical status, facilities and exemptions in respect of customs and taxes, as well as other immunities and privileges and any other military and technical questions concerning the organisation and operation of the Headquarters mentioned above shall be determined by a Special Convention which shall come into force not later than the Treaty of Alliance.

IV. It is likewise agreed that the Tripartite Headquarters shall be set up not later than three months after the completion of the tasks of the Mixed Commission for the Cyprus Constitution and shall consist, in the initial period, of a limited number of officers charged with the training of the armed forces of the Republic of Cyprus. The Greek and Turkish contingents mentioned above will arrive in Cyprus on the date of signature of the Treaty of Alliance.

ADDITIONAL PROTOCOL

No. II

ARTICLE I

A Committee shall be set up consisting of the Foreign Ministers of Cyprus, Greece and Turkey. It shall constitute the supreme political body of the Tripartite Alliance and may take cognisance of any question concerning the Alliance which the Governments of the three Allied countries shall agree to submit to it.

ARTICLE II

The Committee of Ministers shall meet in ordinary session once a year. In a matter or urgency the Committee of Ministers can be convened in special session by its Chairman at the request of one of the members of the Alliance.

Decisions of the Committee of Ministers shall be unanimous.

ARTICLE III

The Committee of Ministers shall be presided over in rotation and for a period of one year, by each of the three Foreign Ministers. It will hold its ordinary sessions, unless it is decided otherwise, in the capital of the Chairman's country. The Chairman shall, during the year in which he holds office, preside over sessions of the Committee of Ministers, both ordinary and special.

The Committee may set up subsidiary bodies whenever it shall judge it to be necessary for the fulfilment of its task.

ARTICLE IV

The Tripartite Headquarters established by the Treaty of Alliance shall be responsible to the Committee of Ministers in the performance of its functions. It shall submit to it, during the Committee's ordinary session, an annual report comprising a detailed account of the Headquarter's activities.

APPENDIX 6

TREATY OF GUARANTEE

The Republic of Cyprus of the one part, and Greece, Turkey and the United Kingdom of Great Britain and Northern Ireland of the other part,

I. Considering that the recognition and maintenance of the independence, territorial integrity and security of the Republic of Cyprus, as established and regulated by the Basic Articles of its Constitution, are in their common interest,

II. Desiring to co-operate to ensure respect for the state of affairs created by that Constitution,

Have agreed as follows :-

ARTICLE I

The Republic of Cyprus undertakes to ensure the maintenance of its independence, territorial integrity and security, as well as respect for its Constitution.

It undertakes not to participate, in whole or in part, in any political or economic union with any State whatsoever. It accordingly declares prohibited any activity likely to promote, directly or indirectly, either union with any other State or partition of the Island.

ARTICLE II

Greece, Turkey and the United Kingdom, taking note of the undertakings of the Republic of Cyprus set out in Article I of the present Treaty, recognise and guarantee the independence, territorial integrity and security of the Republic of Cyprus, and also the state of affairs established by the Basic Articles of its Constitution.

Greece, Turkey and the United Kingdom likewise undertake to prohibit, so far as concerns them, any activity aimed at promoting, directly or indirectly, either union of Cyprus with any other State or partition of the Island.

ARTICLE III

The Republic of Cyprus, Greece and Turkey undertake to respect the integrity of the areas retained under United Kingdom sovereignty at the time of the establishment of the Republic of Cyprus, and guarantee the use and enjoyment by the United Kingdom of the rights to be secured to it by the Republic of Cyprus in accordance with the Treaty concerning the Establishment of the Republic of Cyprus signed at Nicosia on to-day's date.

ARTICLE IV

In the event of a breach of the provisions of the present Treaty, Greece, Turkey and the United Kingdom undertake to consult together with respect to the representations or measures necessary to ensure observance of those provisions.

In so far as common or concerted action may not prove possible, each of the three guaranteeing Powers reserves the right to take action with the sole aim of re-establishing the state of affairs created by the present Treaty.

ARTICLE V

The present Treaty shall enter into force on the date of signature. The original texts of the present Treaty shall be deposited at Nicosia.

The High Contracting Parties shall proceed as soon as possible to the registration of the present Treaty with the Secretariat of the United Nations, in accordance with Article 102 of the Charter of the United Nations.

APPENDIX 7

STATEMENTS BY PROFESSOR ERNST FORSTHOFF, FORMER PRESIDENT OF THE SUPREME CONSTITUTIONAL COURT OF CYPRUS

Speaking to a U.P.I. correspondent in Heidelberg, Germany, on the 30th December, 1963, Professor Forsthoff said :

"All this has happened because Makarios wanted to remove all Constitutional rights from Turkish Cypriots.

"From the moment Makarios started openly to deprive Turkish Cypriots of their rights - the present events were inevitable.

"These bloody incidents are the result of a succession of events. I thought there would be trouble, but I never imagined it would be so frightful".

The replies given by Professor Forsthoff to questions put to him by a correspondent of the Associated Press on the 5th January, 1964, are as follows:-

Q. In the light of the recent events and having regard to the framework of the Cyprus Constitution how do you view the intervention of the Turkish Government under the existing agreements? In your opinion, is it correct to regard this intervention as an act of aggression as stated by Makarios? In this connection what do you say about the assertions that the independence of Cyprus has been violated as a result of this Turkish intervention?

A. At the outset I want to point out that I consider it wrong to regard Cyprus under the present agreements and constitution as an independent State capable of ruling itself. These assertions do not accord with the correct position. The true fact is that these Agreements provide for the performance of certain guarantee functions by Britain, Turkey and Greece and these include also a right of actual intervention. There can be no guarantee without the right of intervention. Certainly intervention when necessary amounts to nothing more than the effective implementation of the guarantee. What I understand from the newspapers of the last few days is that Britain, Turkey and Greece are unanimous on the joint intervention.

Q. The line followed by Makarios that the Cyprus Constitution cannot work is not something new which he has now discovered. It must be a plan to wreck the constitution which has been arranged long ago. In this connection, was there any direct or indirect interference during your term of office? Were you pressed to make any official statement to the effect that the Constitution could not function?

A. Yes, from the moment I commenced my duties I noticed that there were allegations to the effect that the Constitution was not capable of being implemented, that revision was necessary and the like. I faced these allegations with the following thought.

Every Constitution can have its peculiar problems. There is no constitution in the world which has not got its particular difficulties and problems. This is primarily a question of goodwill. If there is goodwill a constitution can be implemented and this Constitution is capable of being implemented.

Q. Can you briefly state the last incident in the chain of events which led to your resignation?

A. These criticisms against the Constitution increased as time went on and when the question of establishing separate municipalities in the five main towns was brought before the Court it was insisted that the establishment of such separate municipalities was not practicable. The Court formulated its decision with utmost care in order to make it possible for a compromise solution.

I must add that a state does not cease to exist on account of any defect in local administration.

Q. Has the Makarios Government complied with the decision of the Constitutional Court dated 25th April 1963 on the subject of Municipalities? Was the non-implementation of this decision expected before?

A. The fact that the decision of the Constitutional Court was not to be implemented was made quite clear to me and as it turned out it was not in fact implemented.

Non-implementation of the decision of a Constitutional Court is sufficient reason to compel the resignation of its President.

Q. Were you confronted with any other events in the nature of interference or pressure? For instance, it has been said that your assistant was threatened and shadowed and that there were unfounded allegations that he associated with Turks, accepted bribes and the like from them. Is this correct?

A. It is correct that unfounded allegations were made against my assistant, that he closely associated with Mr. Rauf Denktash and that he even received bribes.

It is also correct that he was threatened and shadowed. I am sure that all these allegations are unfounded.

Q. Do you think that it would be possible for the Turkish and Greek Communities to live together in peace after the events of the last few days?

A. I tell you sincerely that it is not possible for me to give an answer to this question because it is difficult to see the true position in Cyprus today.

WHAT IS AKRITAS PLAN?

It is the plan of a conspiracy to dissolve the Republic of Cyprus, in pre-determined stages and methods, and to bring about the union of Cyprus with Greece. — i.e. Enosis.

The plan was drawn up by the Greek Cypriot leadership in collusion with Greek Army officers in 1963. It provides, among other things, for the creation of an underground army which, as explained in the 'Plan' would suppress any resistance by the Turks, most forcefully, and in the shortest possible time, and make the Greek Cypriots masters of the situation **'within a day or two, before outside intervention would be possible, probable, or justifiable.'** The Plan was signed by 'the Chief, Akritas'. It also explains the object of the 13-point proposal put forward by Archbishop Makarios for the revision of the Constitution.

This **top secret** document was first published by a local Greek newspaper —Patris— on 21 April, 1966, with professed intention of exposing the mishandling of the Greek Cypriot "national cause" by Archbishop Makarios. In a series of articles published subsequently by the same paper, it was disclosed that Archbishop Makarios had assumed the responsibility for the implementation of the Plan, and that he had appointed Mr. Polycarpos Yorgadjis, who was the Minister of the Interior at the time, to be "the Chief Akritas," together with other top ranking Greek members of the Government as officers of the secret organization.

Certain parts of the English translation of the Plan presented here have been set in heavy type in order to underline those salient points which clearly show the relationship between the Plan and the various stages of the Cyprus crisis. This relationship is also very important from the point of view of the United Nations because it shows how the Greek Cypriot leaders, while paying lip service to the U.N. Charter and to its principles, were deviously trying to use the World Organization as a tool to attain their objectives.

AKRITAS PLAN

TOP SECRET **HEADQUARTERS**

Recent public statements by Archbishop Makarios have shown the course which our national problem will take in the near future. As we have stressed in the past, national struggles cannot be concluded overnight; nor is it possible to fix definite chronological limits for the conclusion of the various stages of development in national causes. Our national problem must be viewed in the light of developments which take place and conditions that arise from time to time, and the measures to be taken, as well as their implementation and timing, must be in keeping with the internal and external political conditions. The whole process is diffucult and must go through various stages because factors which will affect the final conclusion are numerous and different. It is sufficient for everyone to know, however, that every step taken constitutes the result of a study and that at the same time it forms the basis of future measures. Also, it is sufficient to know that **every measure now contemplated is a first step** and **only constitutes a stage towards the final and unalterable national objective** which is the full and unconditional application of the right of self-determination.

As the final objective remains unchanged, what must be dwelt upon is the method to be employed towards attaining that objective. This must, of necessity, be divided into internal and external (international) tactics because the methods of the presentation and the handling of our case within and outside the country are different.

A. METHOD TO BE USED OUTSIDE

In the closing stages of the (EOKA) struggle, the Cyprus problem had been presented to world public opinion and to diplomatic circles as a demand of the people of Cyprus to exercise the right of self-determination. But the question of the Turkish minority had been introduced in circumstances that are known, inter-communal clashes had taken place and it had been tried to make it accepted that it was impossible for the two communities to live together under a united administration. Finally the problem was solved, in the eyes of many international circles, by the London and Zurich Agreements, which were shown as solving the problem following negotiations and agreements between the contending parties.

(a) Consequently **our first aim has been to create the impression in the international field that the Cyprus problem has not been solved** and that it has to be reviewed.

(b) The creation of the following impressions has been accepted as the primary objective:

(i) that the solution which has been found is not satisfactory and just;

(ii) that the agreement which has been reached is not the result of the free will of the contending parties;

(iii) that the demand for the revision of the agreements is not because of any desire on the part of the Greeks to dishonour their signature, but an imperative necessity of survival for them;

(iv) that the co-existence of the two communities is possible, and

(v) that the Greek majority, and not the Turks, constitute the strong element on which foreigners must rely.

(c) Although it was most difficult to attain the above objectives, satisfactory results have been achieved. Many diplomatic missions have already come to believe strongly that the Agreements are neither just nor satisfactory, that they were signed as a result of pressures and intimidations without real negotiations, and that they were imposed after many threats. **It has been an important trump card in our hands that the solution brought by the Agreements was not submitted to the approval of the people; acting wisely in this respect our leadership avoided holding a referendum. Otherwise, the people would have definitely approved the Agreements in the atmosphere that prevailed in 1959.** Generally speaking, it has been shown that so far the administration of Cyprus has been carried out by the Greeks and that the Turks played only a negative part acting as a brake.

(d) Having completed the first stage of our activities and objectives we must materialise the second stage on an international level. Our objective in this second stage is to show :

(i) that the aim of the Greeks is not to oppress the Turks but only to remove the unreasonable and unjust provisions of the administrative mechanism;

(ii) that it is necessary to remove these provisions right away because tomorrow may be too late;

(iii) (Omitted)

(iv) that this question of revision is a domestic issue for Cypriots and does not therefore give the right of intervention to anyone by force or otherwise, and

(v) that the proposed amendments are reasonable and just and safeguard the reasonable rights of the minority.

(e) Generally speaking, it is obvious that today the international opinion is against any form of oppression, and especially against oppression of minorities. The Turks have so far been able to convince world public opinion that the union of Cyprus with Greece will amount to their enslavement. **Under these cirmustances we stand a good chance of success in influencing world public opinion if we base our struggle not on ENOSIS but on self-determination.** But in order to be able to exercise the right of self-determination fully and without hindrance we must first get rid of the Agreements (e.g. the Treaty of Guarantee, the Treaty of Alliance etc.) and of those provisions of the Constitution which inhibit the free and unbridled expression of the will of the people and which carry dangers of external intervention. For this reason our first target has been the Treaty of Guarantee, which is the first Agreement to be cited as not being recognised by the Greek Cypriots.

When the Treaty of Guarantee is removed no legal or moral force will remain to obstruct us in determining our future through a plebiscite.

It will be understood from the above explanations that it is necessary to follow a chain of efforts and developments in order to ensure the success of our Plan. If these efforts and developments failed to materialise, our future actions would be legally unjustified and politically unattainable and we would be exposing Cyprus and its people to grave consequences. Actions to be taken are as follows:

(a) The amendment of the negative elements of the Agreements and the consequent *de facto* nullification of the Treaties of Guarantee and Alliance. This step is essential because the necessity of amending the negative aspects of any Agreement is generally acceptable internationally and is considered reasonable *(passage omitted)* whereas an external intervention to prevent the amendment of such negative provisions is held unjustified and inapplicable.

(b) Once this is achieved the Treaty of Guarantee (the right of intervention) will become legally and substantially inapplicable.

(c) Once those provisions of the Treaties of Guarantee and Alliance which restrict the exercise of the right of self-determination are removed, the people of Cyprus will be able, freely, to express and apply its will.

(d) It will be possible for the Force of the State (the Police Force) and in addition, friendly military Forces, to resist legitimately any intervention internally or from outside, because we will then be completely independent.

It will be seen that it is necessary for actions from (a) to (d) to be carried out in the order indicated.

It is consequently evident that if we ever hope to have any chance of success in the international field, we cannot and should not reveal or proclaim any stage of the struggle before the previous stage is completed. For instance, it is accepted that the above four stages constitute the necessary course to be taken, then it is obvious that **it would be senseless for us to speak of amendment (a) if stage (d) is revealed, because it would then be ridiculous for us to seek the amendment of the negative points with the excuse that these amendments are necessary for the functioning of the State and of the Agreements.**

The above are the points regarding our targets and aims, and the procedure to be followed in the international field.

B. THE INTERNAL ASPECT

Our activities in the internal field will be regulated according to their repercussions and to interpretations to be given to them in the world and according to the effect of our actions on our national cause.

1. The only danger that can be described as insurmountable is the possibility of a forceful external intervention. This danger, which could be met partly or wholly by our forces is important because of the political damage that it could do rather than the material losses that it could entail. If intervention took place before stage (c), then such intervention would be legally tenable at least, if not entirely justifiable. This would be very much against us both internationally and at the United Nations. The history of many similar incidents in recent times shows us that in no case of intervention, even if legally inexcusable, has the attacker been removed by either the United Nations or the other powers without significant concessions to the detriment of the attacked party. Even in the case of the attack on Suez by Israel, which was condemned by almost all members of the United Nations and for which Russia threatened intervention, the Israelis were removed but, as a concession, they continued to keep the port of Eliat in the Red Sea. There are, however, more serious dangers in the case of Cyprus.

   If we do our work well and justify the attempt we shall make under stage (a) above, we will see, on the one hand, that intervention will not be justified and, on the other hand, we will have every support since, by the Treaty of Guarantee, intervention cannot take place before negotiations take place between the Guarantor Powers, that is Britain, Greece and Turkey. It is at this stage, i.e., at the stage of contacts (before intervention) that we shall need international support. **We shall obtain this support if the amendments proposed by us seem reasonable and justified. Therefore, we have to be extremely careful in selecting the amendments that we shall propose.**

   The first step, therefore, would be to get rid of intervention by proposing amendments in the first stage. Tactic to be followed: (Omitted)

2. It is evident that for intervention to be justified there must be a more serious reason and a more immediate danger than simple Constitutional amendments. Such reasons can be:

   (a) The declaration of ENOSIS before actions (a) to (c).

   (b) Serious intercommunal unrest which may be shown as a massacre of Turks.

   The first reason is removed as a result of the Plan drawn up for the first stage and consequently what remains, is the danger of intercommunal strife. We do not intend to engage, without provocation, in massacre or attack against the Turks. Therefore, *(section omitted)* the Turks can react strongly and incite incidents and strife, or falsely stage massacres, clashes or bomb explosions in order to create the impression that the Greeks attacked the Turks and that intervention is imperative for their protection. Tactic to be employed: Our actions for amending the Constitution will not be secret; **we would always appear to be ready for peaceful talks** and our actions would not take any provocative and violent form. Any incidents that may take place will be met, at the beginning, **in a legal fashion by the legal Security Forces, according to a plan.** Our actions will have a legal form.

3. (Omitted)

4. It is, however, naive to believe that it is possible for us to proceed **to substantial actions for amending the Constitution, as a first step towards our more general Plan as described above,** without expecting the Turks to create or stage incidents and clashes. For this reason the existence and the strengthening of our Organisation is imperative because: (a) if, in case of spontaneous resistance by the Turks, our counter attack is not immediate, we run the risk of having a panic created among Greeks, in towns in particular. We will then be in danger of losing vast areas of vital importance to the Turks, while if we show our strength to the Turks immediately and forcefully, then they will probably be brought to their senses and restrict their activities to insignificant, isolated incidents.

   (b) in case of a planned or unplanned attack by the Turks, whether this be staged or not, it is necessary to suppress this forcefully in the shortest possible time, since, if we manage to become the masters of the situation within a day or two, outside intervention would not be possible, probable or justifiable.

   (c) The forceful and decisive suppressing of any Turkish effort will greatly facilitate our subsequent actions for further Constitutional amendments, and it should then be possible to apply these without the Turks being able to show any reaction. Because they will learn that it is impossible for them to show any reaction **without serious consequences for their Community.**

   (d) in case of the clashes becoming widespread, **we must be ready to proceed immediately through actions (a) to (d), including the immediate declaration of ENOSIS, because, then, there will be no need to wait or to engage in diplomatic activity.**

5. In all these stages we must not overlook the factor of enlightening, and of facing the propaganda of those who do not know or cannot be expected to know our plans, as well as of the reactionary

elements. It has been shown that our struggle must go through at least four stages and that we are obliged not to reveal our plans and intentions prematurely. It is therefore more than a national duty for everyone to observe full secrecy in the matter. **Secrecy is vitally essential for our success and survival.**

This, however, does not prevent the reactionaries and irresponsible demagogues from indulging in false patriotic manifestations and provocations. Our Plan would provide them with the possibility of putting forward accusations to the effect that the aims of our leadership are not national and that only the amendment of the Constitution is envisaged. The need for carrying out Constitutional amendments in stages and in accordance with the prevailing conditions, makes our job even more difficult. All this must not, however, be allowed to drag us to irresponsible demagogy, street politics and a race of nationalism. Our deeds will be our undeniable justification. In any case owing to the fact that, for well-known reasons, the above Plan must have been carried out and borne fruit long before the next elections, we must distinguish ourselves with self-restraint and moderation in the short time that we have. Parallel with this, we should not only maintain but reinforce the present unity and discipline of our patriotic forces. We can succeed in this only by properly enlightening our members so that they in turn enlighten the public.

Before anything else we must expose the true identity of the reactionaries. These are petty and irresponsible demagogues and opportunists. Their recent history shows this. They are unsuccessful, negative and anti-progressive elements who attack our leadership like mad dogs but who are unable to put forward any substantive and practical solution of their own. In order to succeed in all our activities we need a strong and stable government, **up to the last minute.** They are known as clamorous slogan-creators who are good for nothing but speech-making. When it comes to taking definite actions or making sacrifices they are soon shown to be unwilling weaklings. **A typical example of this is that even at the present stage they have no better proposal to make than to suggest that we should have recourse to the United Nations.** It is therefore necessary that they should be isolated and kept at a distance.

We must enlighten our members about our plans and objectives ONLY VERBALLY. Meetings must be held at the sub-headquarters of the Organisation to enlighten leaders and members so that they are properly equipped to enlighten others. NO WRITTEN EXPLANATION OF ANY SORT IS ALLOWED. LOSS OR LEAKAGE OF ANY DOCUMENT PERTAINING TO THE ABOVE IS EQUIVALENT TO HIGH TREASON. **There can be no action that would inflict a heavier blow to our struggle than any revealing of the contents of the present document or the publication of this by the opposition.**

Outside the verbal enlightenment of our members, all our activities, and our publications in the press in particular, must be most restrained and must not divulge any of the above. Only responsible persons will be allowed to make public speeches and statements and will refer to this Plan only generally under their personal responsibility and under the personal responsibility of the Chief of sub-headquarters concerned. Also, any reference to the written Plan should be done only after the formal approval of the Chief of the sub-headquarters who will control the speech or statement. But in any case such speech or statement MUST NEVER BE ALLOWED TO APPEAR IN THE PRESS OR ANY OTHER PUBLICATION.

The tactic to be followed: Great effort must be made to enlighten our members and the public VERBALLY. **Every effort must be made to show ourselves as moderates.** Any reference to our plans in writing, or any reference in the press or in any document is **strictly prohibited.** Responsible officials and other responsible persons will continue to enlighten the public and to increase its morale and fighting spirit without ever divulging any of our plans through the press or otherwise.

NOTE : The present document should be destroyed by burning under the personal responsibility of the Chief of the sub-headquarters and in the presence of all members of the staff within 10 days of its being received. **It is strictly prohibited to make copies of the whole or any part of this document.** Staff members of sub-headquarters may have it in their possession only under the personal responsibility of the Chief of sub-headquarters, but in no case is anyone allowed to take it out of the office of sub-headquarters.

The Chief
AKRITAS

APPENDIX 9

HEADNOTE OF THE DECISION OF THE SUPREME CONSTITUTIONAL COURT IN *The Communal Chamber v. The Council of Ministers*, 5 R.R.C.C. 59.

(FORSTHOFF, P., TRIANTAFYLLIDES and MUNIR, JJ.)

(February 16, 20, March 1, 6, 8, 13, April 25, 1963)

April 25, 1963 *(Case No. 10/63)*

"Conflict or contest of power or competence" in the sense of Art. 139 — Mode of deciding a — Mere disagreement between organs or authorities over an action constitutes a — To be clearly distinguished from a "violation" of power or competences — Art. 139, a constitutional provision for a procedure for the determination of such disagreement.

Arts. 78, 87, 89 & 173 to 177 — Do not depend in their validity on the prior creation of any specific type of municipal administration — Meaning of "towns" in relation to "town" in Art. 173.1 — Intention thereof — Competence of Communal Chambers under Arts. 87 and 89 recognised — Existence of a basic law of the House of Representatives a condition precedent to the exercise of such competence.

Arts. 173 to 177 contain a binding order of constitutional force.

Organs of the Republic — Constitutional competence of, cannot, in case of necessity, be overriden by an implied power of other organs outside the express provisions of the Constitution.

Communal Chambers — Competence under Arts. 87 & 89 recognised — Subject to existence of a basic law by the House of Representatives — Social and Municipal Affairs office — Competence thereof, not independent to that of the Communal Chambers.

Council of Ministers — Effect of orders not properly promulgated under Art. 57.2 — President and Vice-President have no right to refuse promulgation.

Order No. 4 of the Council of Ministers, dated 2.1.63 — Being void ab initio owing to lack of promulgation no actual encroachment upon the power or competence of the Turkish Communal Chamber was effected — Council of Ministers had no power to make it — "Necessity" not based on the express provisions of Art. 183 — Unconstitutional, as contrary to Arts. 173.2.3. & 174 to 177 — Acts made thereunder pronounced to be valid — May be challenged before this Court upon a proper recourse.

The Villages (Administration and Improvement) Law, Cap. 243 — Does not apply to towns.

Words & phrases — "Conflict or contest of power or competence" in Art. 139.1, interpretation of — "and between any organs of, authorities in, the Republic" in Art. 139.1, meaning of — "municipalities" in Arts. 78, 87, 89 and 173 to 177, meaning of — "town" in Art. 173.1, meaning of.

The Council of Ministers at its meeting of the 2nd January, 1963, decided to make an order under s.4 of the Villages (Administration and Improvement) Law, Cap. 243, whereby the provisions of the said Law were made applicable,

inter alia, to the towns of Nicosia, Limassol, Famagusta, Larnaca and Paphos.

As a result of a return made by the Vice-President under Art. 57.2, the Council reconsidered the said decision on the 10th January, 1963, and having persisted in it, it was published, by direction of the President of the Republic, in the official Gazette, the Vice-President having in the meantime informed the Joint Secretariat of the Council that he was not prepared to give the necessary direction for the promulgation of the decision in question.

The Applicant's motions for relief as well as the Respondent's opposition are fully set out in the Decision that follows :—

Held, by majority : (a) in deciding whether or not a recourse related to a "conflict or contest of power or competence" in the sense of Art. 139, it would be sufficient for the Court to come to the conclusion that, assuming the Applicant's submissions in relation to the substantive issues to be correct, the action forming the subject-matter of such recourse would constitute a violation of powers or competences, without the Court reaching a conclusion as to the correctness of such submissions in support of the recourse;

(b) a mere disagreement between organs or authorities concerned with an action already done or about to be done, would constitute a conflict or contest of power or competence between such organs or authorities —to be clearly distinguished from a violation of powers or competence which might not co-exist — the object of Art. 139 being to provide a procedure for the determination of such disagreement ;

(c) the subject-matter of the present recourse constituted both a "conflict" and a "contest" of "power or competence" in the sense of Art. 139, because—

(i) it related to a "conflict or contest" of power or competence, in that it implied the allegation that the said order had actually encroached upon the realm of power or competence of another organ, whilst its purported making, assuming the Order was non-existent for lack of proper promulgation in accordance with Art. 57, was an indication of the contention of the Council of Ministers that it had the power or competence to make it;

(ii) it was a conflict and contest of "power or competence" between "organs of, or authorities in, the Republic" in the sense of Art. 139.1 inasmuch as the expression "and between any organs of, or authorities in, the Republic", included the Communal Chambers or either of them in their legislative or executive power ;

(d) the Applicants were involved in the said conflict or contest of power and competence, because —

(i) the expression "municipalities" in Arts. 78, 87, 89 and 173 to 177, did not refer to certain existing administrative bodies or organisations, as created and governed by any specific type of administrative legislation, but, it referred to any kind of administrative bodies or organisations which were or would be established for the administration of the factually existing "towns", the word "town" being understood in its natural meaning as describing, like the word "town" in Art. 173.1, certain places of condensed human habitation, which by their very existence required certain specific administrative functions and provi-

sions. Nor could the said Articles depend in their validity on the prior creation of any specific type of municipal administration ;

(ii) the intention of the provisions of Arts. 78, 87, 89 and 173 to 177 was to reserve the regulation of the administration of towns to the legislative bodies of the Republic, any interference or transgression into any one of such competences necessarily being regarded as constituting, at the same time, a violation of all the other competences as well ;

(e) the competence of the Communal Chambers, as envisaged by Arts. 87 and 89, should be recognised and respected, irrespective of whether or not there existed a basic law of the House of Representatives regulating the administration of towns, a condition precedent to the exercise of such competence, and could be defended before the S.C.C. against infringements by other organs ;

(f) the Social and Municipal Affairs Office of the Turkish Communal Chamber did not have any competence which could possibly be involved in the present conflict or contest of power independently of the Chamber itself because it ony exercised certain duties, functions and competences of, and on behalf of, the Chamber;

(g) the Order of the Council of Ministers was, *ab initio,* void because it was not properly promulgated in accordance with Art. 57.2, the Vice-President having refused to take part in such promulgation by refusing to sign it ;

(h) the President or the Vice-President of the Republic had no right to refuse participation in the promulgation of a decision taken by the Council of Ministers, as provided in Art. 57, even if he had made use of his right of return or considered the decision unconstitutional ;

(i) the Order of the Council of Ministers being *ab initio* void, no actual encroachment of powers or competences of other organs could have taken place;

(j) the Council of Ministers was not empowered to make the said Order, because —

(i) It contained a regulation for the administration of towns contrary to *(d) (ii) supra,*

(ii) Cap. 243 did not, by the very wording of s. 59 thereof, apply to towns. Even on the assumption that Cap. 243 was applicable to any of the areas of the towns affected by the said Order, and which were subject to legislation concerning municipal administration as envisaged, *inter alia,* by Art. 78, Cap. 243, did not provide a sufficient legal basis for the making of the Order, as it would, to this extent, constitute a "law relating to Municipalities", as in Art. 188.2, and would, thus, have ceased to be in force six months after the coming into operation of the Constitution ;

(k) the said Order was not based on the express provisions of Art. 183, which provides for certain extraordinary powers and competences of the Council of Ministers in a case of emergency, because no prior formal "Proclamation of Emergency" had been issued. Nor could it be said to have been made on an implied legal basis outside the express constitutional provisions of Art. 183, because no organ of the Republic could have an implied power, outside such express constitutional provisions, to override, in a case of "necessity", competences of other organs and to step beyond the limits of its own competences or to act without the basis of a law, although such legal basis would normally be required for its actions ;

(l) the said Order was not constitutional, because it was contrary to the

provisions of Arts. 173 to 177, which contained a binding order of constitutional force directed, by virtue of Art. 179, to all organs of the Republic, no action of any organ of the Republic which was contrary to the said provisions being regarded as constitutional ;

(m) all acts, including administrative acts, made under the said Order prior to the publication of this Decision should be presumed to be valid until the contrary was proved upon a proper recourse to this Court.

TRIANTAFYLLIDES, J., dissenting, was of the opinion that there did not actually exist a conflict or contest of power to be adjudicated upon by this Court under Art. 139 and that, therefore, the present recourse should have been dismissed for the following reasons :—

(a) The competence of a Communal Chamber, even in relation to Municipalities composed solely of members of its own Community, was not an exclusive competence, nor could it become effective, independently of legislation enacted by the Republic, especially as —

(i) by virtue of Art. 87.1 (g) it was dependent on the enabling provisions of laws relating to Municipalities,

(ii) by virtue of Art. 87.1 (h) it could not directly or indirectly be contrary to, or inconsistent with, any laws to which the Municipalities were subject, and

(iii) by virtue of Art. 89.1 (c) was, also, subject to the legislation of the Republic under which the central administration might proceed to control Municipalities;

(b) Municipalities were not organs or authorities of a particular Communal Chamber, but were authorities of local Government under the Republic, to be created and endowed with power to function only after appropriate legislation of the Republic, Communal Chambers having only a limited, specific and ancillary competence to promote their aims and to supervise their functions, after such legislation was enacted; in this respect it had to be borne in mind that the implementation of the programmatic provisions of Arts. 173 - 177 which would inevitably entail the imposition of certain restrictions and limitations on fundamental rights and liberties was a matter within the exclusive province of the House of Representatives, the Communal Chambers not being participants in such implementation in the exercise of their competence under Art. 87;

(c) the Communal Chambers, in view of the nature of their competence under Arts. 87 & 89 in relation to Municipalities, could not be said to be directly involved in the "administration of towns", because such competence,

(i) fell short of the exercise of the power of administrative *potestas,*

(ii) did not include power of interference with human rights which was inevitably involved in such administration of towns,

(iii) was restricted in its exercise only over persons and was not of territorial application, towns being geographical areas;

(d) the respective competences of the House of Representatives and of the Communal Chambers in relation to Municipalities were not interwoven with one another but, were and should, according to Arts. 61 & 87.1 (h) (ii), be kept distinctly separate;

(e) at the time of the making of the Order of the Council of Ministers there did not exist, nor does it exist now, any legislation relating to Municipalities

enabling the Communal Chambers, in exercise of their competence under Art. 87.1 (g), to make subsidiary legislation in relation to such Municipalities, because,

(i) the Municipal Corporations Law, Cap. 240 and the Turkish Municipal Committees (Temporary Provisions) Law, No. 33 of 1959, expired by virtue of Art. 188.2, six months after the coming into force of the Constitution, whilst Arts. 173 to 177, being programmatic provisions requiring implementation *(vide The Mayor etc. of Famagusta and Nearchos Petrides & others,* 4 R.S.C.C., p. 71) could not be construed as constituting the legislation necessary for the creation and functioning of separate municipalities;

(ii) the Municipalities Laws (Continuation) Law, No. 10 of 1961, which re-enacted the provisions of Cap. 240 together with other legislation relating to municipalities, *(vide The Mayor etc. of Famagusta, ibid),* was an enactment under Art. 78.2 of an, *ab inito,* express temporary duration finally coming to an end on the 31st December, 1962, and could not be treated as continuing in force after that date;

(f) no separate municipalities composed solely of members of either Community existed at the time of the making of the said Order, enabling the Communal Chambers to exercise their competence under Arts. 87.1(h) and 89.1(c), because,

(i) Cap. 240, originally enacted in June, 1930, did not provide for separate but for unified municipalities;

(ii) the Municipal Corporations (Temporary Provisions) Law, No. 15 of 1959 enacted to extend the term of office of the lawfully existing, under Cap. 240, Municipal Councils did not take cognizance of the then existing, without lawful authority, Turkish Municipal Committees,

(iii) the Turkish Municipal Committees (Temporary Provisions) Law, No. 33 of 1959 did not create separate Turkish Municipalities, particularly in view of s.5 thereof.

(iv) separate Municipalities were not created by the provisions of Arts. 173 to 177, Art. 173.1 being merely part of a legislative programme *(vide* para. (e) (i) *supra), a fortiori,* when read in conjunction with the provisions of Art. 188.2,

(v) no legislation of permanent duration has so far been enacted by the House of Representatives towards the implementation of the provisions of Arts. 173 to 177 except the *pro tempore* Municipal Corporations (Continuation) Law, No. 10 of 1961, which in any case, expired on the 31st December, 1962;

(g) actually no conflict or contest of power or competence existed to be adjudicated upon by this Court under Art. 179, because—

(i) the power or competence of the Applicant was not involved in the alleged conflict or contest as provided in Art. 139.3.4.

(ii) though the formal validity of the subject-matter of a recourse under Art. 139 did fall to be examined by this Court under the said Article, as being relevant to the question of the existence of a conflict or a contest, this Court had no competence to adjudicate on the substance of the subject-matter of a recourse under Art. 139 on grounds not arising out of the alleged conflict or contest of power or competence which, however, might have formed the subject of a recourse to this Court under other Articles of the Constitution such as Arts. 144 and 146;

(h) the order of the Council of Ministers did not conflict with, or contest, the competence of the Applicant in relation to Municipalities, nor could the Applicant contest in this respect the competence of the Council of Ministers, because, it neither disputed, nor interfered with, the competence of the Applicant under Arts. 87 and 89, whilst the non-existence of separate municipalities did not allow the Applicant to exercise such competence.

1. The Order was *ab initio* void.

2. The making of the Order was not within the power or competence of the Council of Ministers.

3. Anything done thereunder presumed to be valid.

R.R. Denktash and H. Ali Riza for the Applicants.

Cr. Tornaritis, Attorney-General of the Republic, for the Council of Ministers.

Cur. adv. vult.

APPENDIX 10

LETTER OF RESIGNATION OF PROFESSOR E. FORSTHOFF

Heidelberg,
21st May, 1963.

Your Excellency,

To my great regret circumstances which came to my knowledge only after my return to Germany force me to resign from the office of the President of the Supreme Constitutional Court.

Your Excellency will remember that during the conference on the internal difficulties of the Court I mentioned some rumours which I had heard about my assistant Regierungsrat Dr. Heinze.

Not until my return to Germany I learned that for several weeks Dr. Heinze had been shadowed by detectives everywhere;
that it is maintained he was bribed by the Turkish side and relevant documents were available;
that, in addition, it is asserted Dr. Heinze led a luxurious life and made purchases which were out of all proportion to his remuneration.

I am shocked by the steps which were taken against Dr. Heinze all the more as the offensive insinuations could have been unmarked immediately as lies and defamations if I had been frankly informed.

The incident which is without precedent and whose originators I know does not only affect Dr. Heinze but also myself for reasons that need no explanation. It has definitely destroyed the possibility of further cooperation in the Court and after mature consideration I have decided to take the consequences. I very much regret that I have to make this decision in a critical phase of the political situation in Cyprus but I have no other choice.

In order to keep the Court functioning for the present I should like to fix the date of my resignation de facto from today and de jure from the 15th of July, 1963. Thus it will be possible until that date to make use of paragraph 9 of Article 133 of the Constitution.

You may rest assured that I have tried with great pleasure and with all my might to contribute a modest share towards the internal consolidation of the Republic of Cyprus whose development I shall follow also in the future with great sympathy.

I do not want to conclude without expressing Your Excellency my respectful and sincere thanks for the confidence you bestowed on me at all times. I am sending you my best wishes for your personal well-being.

I am, Your Excellency,
Yours faithfully,
(Sgd) Ernst Forsthoff

His Excellency,
the Vice-President of the Republic of Cyprus, Dr. Kuchuk.
NICOSIA - Cyprus

APPENDIX 11

REPORT OF THE SECRETARY-GENERAL TO THE SECURITY COUNCIL ON THE UNITED NATIONS OPERATIONS IN CYPRUS

(Document S/5950 of 10 September 1964)

29. Following the events in December 1963, the Turkish Cypriot fighting elements gathered in areas inhabited by their community and fortified them against possible attacks. Map II in addendum I to the present report gives an indication of the areas now so occupied, the most important of which include a part of the city of Nicosia and its northern suburbs; a narrow area astride the Kyrenia road extending from the northern suburbs of Nicosia up to the southern edge of the town of Kyrenia; the town of Louroujina; an enclave in the Lefka region and two beacheads of Kokkina and Limnitis.

30. In the defence of the areas they control, the Turkish Cypriots have set up road-blocks, trenches, fortified posts and sandbagged emplacements either on the ground or behind windows or on the roofs of buildings. Around those positions the Government forces have erected their own fortifications and road-blocks. The opposing military positions, manned by determined and well-armed men, and sometimes separated by less than fifty yards, create a situation fraught with constant danger.

APPENDIX 12

REPORT OF THE SECRETARY-GENERAL TO THE SECURITY COUNCIL ON THE UNITED NATIONS OPERATIONS IN CYPRUS

(Document S/5950 of 10 September 1964)

177. As indicated in my report of 15 June 1964, the disturbances of December 1963 had resulted in the total or partial destruction of many dwellings, a high proportion of them simple homes whose owners would be but slightly able to fend for themselve. In many localities this tended to create or to aggravate a refugee problem, as the owners of these houses and their families fled to safer areas, where many of them lived in temporary camps in precarious conditions.

178. Serious efforts were made by UNFICYP to induce refugees from the Omorphita suburb of Nicosia to return from camps a few miles away to houses which could be at least partially occupied. About half of these refugees would have been ready to do this had they not feared for their personal safety.

179. In refugee camps near Nicosia many hundreds of children living in crowded temporary quarters and exposed during the great heat of the summer months to the risk of dehydration survived without serious illness partly because an UNFICYP architect and military engineers planned and, with local help, built provisional matting roofs to give shelter from the sun, as well as open-air showers.

180. The United Nations Force carried out a detailed survey of all damage to properties throughout the island during the disturbances, including the Tylliria fighting. The survey shows that in 109 villages, most of them Turkish Cypriot or mixed villages, 527 houses were destroyed while 2,000 others suffered damage from looting. In Ktima 38 houses and shops were destroyed totally and 122 partially. In the Omorphita suburb of Nicosia 50 houses were totally destroyed while a further 240 were partially destroyed there and in adjacent suburbs.

APPENDIX 13

U.N. SECURITY COUNCIL RESOLUTION 186 (S/5575 of 4 March, 1964)

The Security Council,

Noting that the present situation with regard to Cyprus is likely to threaten international peace and security and may further deteriorate unless measures are promptly taken to maintain peace and to seek out a durable solution;

Considering the positions taken by the parties in relation to the treaties signed at Nicosia on 16 August 1960;

Having in mind the relevant provisions of the Charter and its Article 2 paragraph 4 which reads:

"All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations,"

1 — *Calls upon* all Member States, in conformity with their obligations under the Charter of the United Nations, to refrain from any action or threat of action likely to worsen the situation in the sovereign Republic of Cyprus or to endanger international peace;

2 — *Asks* the Government of Cyprus, which has the responsibility for the maintenance and restoration of law and order, to take all additional measures necessary to stop violence and bloodshed in Cyprus;

3 — *Calls upon* the communities in Cyprus and their leaders to act with the utmost restraint;

4 — *Recommends* the creation with the consent of the Government of Cyprus of a United Nations Peace Force in Cyprus. The composition and size of the force shall be established by the Secretary General in consultation with the Governments of Cyprus, Greece, Turkey and the United Kingdom. The commander of the force shall be appointed by the Secretary General and report to him. The Secretary General shall keep the governments providing the force fully informed and shall report periodically to the Security Council on its operation;

5 — *Recommends* that the function of the force should be, in the interest of preserving international peace and security, to use its best efforts to prevent a recurrence of fighting and, as necessary to contribute to the maintenance and restoration of law and order and a return to normal conditions;

6 — *Recommends* that the stationing of the force shall be for a period of three months, all costs pertaining to it being met, in a manner to be agreed upon by them, by the governments providing the contingents and by the Government of Cyprus. The Secretary General may accept voluntary contributions for that purpose;

7 — *Recommends further* that the Secretary General designate, in agreement with the Government of Cyprus and the Governments of Greece, Turkey and United Kingdom, a mediator, who shall use his (best endeavours) with the representatives of the communities and also with the aforesaid four governments for the purpose of promoting a peaceful solution and an agreed settlement of the problem confronting Cyprus, in accordance with the Charter of the United

Nations, having in mind the well-being of the people of Cyprus as a whole and the preservation of international peace and security. The mediator shall report periodically to the Secretary General on his efforts;

8 — *Requests* the Secretary General to provide, from funds of the United Nations, as appropriate, for the remuneration and expenses of the mediator and his staff.

APPENDIX 13 A

GALO PLAZA REPORT

(Paragraphs 130 - 171)

C. *Analysis of the parties' positions*

130. It will be understood that my own view of the positions taken by the parties to the Cyprus dispute must necessarily be governed by certain criteria. Foremost among these are those which emerge explicitly or implicitly from the Security Council's resolution of 4 March 1964. Others are imposed by the actual circumstances of Cyprus, and I have felt bound to take these into account to the extent that they are not inconsistent with the resolution of the Security Council. According to these criteria, I have concluded that any settlement of the problem must take account of the following considerations :

— it must recognize, as the Security Council did by recommending the appointment of a Mediator, that the problem of Cyprus cannot be resolved by attempting to restore the situation which existed before December 1963, but that a new solution must be found;

— it must, in order to become an "agreed settlement", be capable of securing the support of all the interested parties identified by the Security Council in its resolution of 4 March 1964: namely, the Governments of Cyprus, Greece, Turkey and the United Kingdom and the representatives of the Cyprus communities;

— it must be consistent with the provisions of the United Nations Charter, of which the following in particular seem revelant: the purposes, principles and obligations relating to the maintenance of international peace and security, the peaceful settlement of disputes, respect for the principle of equal rights and self-determination of peoples, respect for human rights and fundamental freedoms, recognition of the sovereign equality of the Member States, abstention from the threat or use of force against the territorial integrity or political independence of any State, and respect for treaty obligations not in conflict with those of the Member States under the Charter;

— it must be in the interest of the well-being of the people of Cyprus as a whole, and to this effect it must be capable of satisfying the wishes of the majority of the population and at the same time of providing for the adequate protection of the legitimate rights of all of the people;

— it should also, in order truly to serve the interests of international peace and security and the well-being of the people of Cyprus, be a settlement capable of lasting.

131. I have examined the positions of the parties with all these considerations in mind. I find it convenient to group my observations under three main headings: (a) independence, self-determination and international peace; (b) the structure of the State; and (c) the protection of individual and minority rights.

(a) *Independence, self-determination and international peace*

132. The Republic of Cyprus is a sovereign, independent State: it was admitted as such into the membership of the United Nations, it continues to be a Member State, and the Security Council resolution of 4 March 1964 refers to it explicitly as "the Sovereign Republic of Cyprus".

133. But the burden of the complaint of the Greek-Cypriot leadership and the basis of their political claims — in which they have the support of the Government of Greece — is that the independence and sovereignty of the Republic, and therefore its "sovereign equality" with the other Members of the United Nations and its "right of self-determination", were impaired by the Treaties of 16 August 1960 which formed an integral part and governed the nature of the Constitution of the same date. The effect of these Treaties was indisputably to forbid the people of Cyprus from amending their own Constitution, or at any rate the basic articles which determined the structure of the State; to prohibit the union of Cyprus with any other State and to forbid the partitioning of the country. The Greek-Cypriot leadership claims to have accepted these restrictions under duress, in that the only alternative at the time would have been to suffer an attempt to partition the country. The political objective of the Greek-Cypriots has therefore been to secure for Cyprus an "unfettered independence" which would allow the population freely to determine its own future according to the principle of majority rule and minority protection (including some special transitional measures and to have the right to set aside the treaty restrictions on both the internal institutions of the State and its external relationships.

134. For their part, the Turkish-Cypriot leaders and the Government of Turkey do not dispute the restrictive nature of the conditions under which Cyprus acceded to independence. From their standpoint, however, these limitations were deliberate and essential: to secure for the Turkish-Cypriots their treatment not as a minority but as a community with distinct political rights, and to secure for Turkey the maintenance of an equilibrium in the eastern Mediterranean which, in the Turkish Government's view, would be especially seriously disturbed should Cyprus become Greek territory. These two basic purposes complement each other, and help to explain the solidarity of the attitude of the Turkish-Cypriots and the successive Turkish Governments towards the settlement of the problem. They contend that any acceptable alternative to the 1960 settlement must serve exactly the same purposes. For them, therefore, any formula envisaging Cyprus continuing as an independent State must contain a guarantee against union with Greece and iron-clad protection of the safety and rights of the Turkish-Cypriots as a community: hence their proposal for the geographical separation of the two Cyprus communities under a federal government bound by treaty obligations against union with any other country and also — as their own *quid pro quo* — against the partitioning of Cyprus. Likewise, they contend that any "right of self-determination" accorded to the Greek-Cypriots could only be accorded as an equal but separate right to the Turkish-Cypriot community; if the Greek-Cypriots chose to exercise it in favour of union with Greece, the Turkish-Cypriots would be free to exercise it in favour of union with Turkey, insisting therefore on the partitioning of the country.

135. Different though these approaches may be, it is still possible to read into the positions of the two sides an objective which, so long as it is stated in very broad terms, would seem acceptable to them both: namely, an independent Cyprus with adequate safeguards for the safety and the rights of all its people. I have found it useful, in my own examination of their positions, to trace the paths back from that apparent common objective to determine where and why they diverge, and to consider the alternative routes that appear open.

136. If the independence of Cyprus is to be considered as the first and most important basic principle on which the parties could agree, it will be necessary

for all the parties to understand and agree on what it means in the context of the circumstances of Cyprus. And it is here that the most difficult aspect of the whole problem arises. The Greek - Cypriots have coupled their aspiration for "unfettered independence" with the demand for the right of self - determination. Many of them have not concealed their hope and belief — and the Turkish - Cypriot leadership has not concealed its suspicion and fear — that the purpose and result of the exercise of this right would be to realize the long-cherished aspiration for union (*Enosis*) with Greece. These hopes on the one hand, and fears on the other, have been encouraged by the knowledge that the necessary consent of the Greek Government would be forthcoming. As far as the positions of the other parties are concerned, there has been a tendency by the Greek-Cypriots to disregard them on the assumption that "unfettered independence" and the removal of the treaty limitations would already have been achieved, leaving self-determination in this sense a matter between Cyprus and Greece exclusively.

137. I am certain in my own mind that the question of *Enosis* is the most decisive and potentially the most explosive aspect of the Cyprus problem. I have been assured by the Turkish-Cypriot leadership and by the successive Governments of Turkey that any attempt to bring it about against their will would provoke active and vigorous resistance. And I judge this to be true, short of a change in attitudes which only a long passage of time could bring about. I feel bound, therefore, to examine this question with the greatest care.

138. The question of *Enosis* itself has several aspects. If its imposition in present circumstances would be judged from the Turkish side as tantamount to an attempt at annexation to be resisted by force, it is also a question which, to the best of my understanding, does not enjoy unqualified support among the Greek-Cypriots as a whole. It is true that among them, as among many people in Greece, the word and the thought of *Enosis* have a highly emotional quality: it serves to some as a symbol of Pan-Hellenistic ideals, to others as the battle-cry of the resistance against colonial rule, and in the worst times of the present crisis it seemed like a banner under which the Greek-Cypriot community as a whole found their rallying-point. But as a practical step in the political evolution of Cyprus it has struck me, in discussions with a wide range of Greek-Cypriot opinion as having a much less united and imperative driving force behind it.

139. This may be in part because there have been few precise indications of the form which *Enosis* should take and of the economic, social and political consequences which would flow from it. I understand *Enosis* to mean in its literal sense the complete absorption of Cyprus into Greece, but I would hesitate to say that this is what every Greek-Cypriot favouring it intends it to mean.

140. The Greek-Cypriot leaders in the Government of Cyprus — maintaining the position that *Enosis* would be a matter purely for Cyprus and Greece to decide — could tell me nothing about the form in which they envisaged it taking place except that this would be determined by the Cyprus Government in agreement with Greece before the Cypriot people were consulted on the subject. I had sought clarification of this question not only because of the existing Turkish opposition to the idea but also because I had no doubt that the implementation of *Enosis*, even should it be accepted as an element of the settlement of the Cyprus problem, would entail many complex problems, political, economic, financial and other. For example, Cyprus and Greece have not different bases for their systems of law and administration of

justice; Cyprus, which produces essentially the same sorts of agricultural commodities as Greece, now exports most of its products to the United Kingdom under conditions of commonwealth preferences; it has a higher standard of living and a higher wage level, a different tax structure and a more comprehensive social security system; it also has a different currency system and, being a member of the sterling bloc, its pound is maintained on a parity with the pound sterling and under present arrangements is freely convertible into any other sterling bloc currency and relatively freely convertible for dollars.

141. All such matters would require adequate adjustment should *Enosis* be brought about. Their effects would vary widely depending upon whether *Enosis* would take the form of a complete union with Greece, in the sense that Cyprus would become one or more provinces of Greece, or whether Cyprus would be given some privileged status within the Kingdom of Greece. In either case, a number of complex problems would arise and require urgent solutions and it seemed to me indispensable that the Cypriot people should be fully informed of them if they were to be called upon to make their choice. To the best of my knowledge, there is no common understanding on either the Greek-Cypriot or the Turkish-Cypriot side, nor between the Cyprus and Greek Governments, of what form *Enosis* would take and what its effects and implications would be.

142. I have stated the foregoing as matters of fact and of impression. I do not wish it to appear that I have any opinion on the merits or otherwise of *Enosis*. Moreover, I must also make it clear that neither the President nor the Government of Cyprus, in their discussions with me as the Mediator, actually advocated *Enosis* as the final solution of the Cyprus problem. Archbishop Makarios and members of the Government acknowledged that *Enosis* had been the original aim of the uprising against British rule that it remained a strong aspiration among the Greek-Cypriot community. They went so far as to express the opinion that if the choice between independence and *Enosis* were to be put to the people there would probably be a majority in favour of the latter. Some of the Ministers and other high officials of the Government have openly advocated it in public statements; but for the Government as a whole the formal objective is limited to unfettered independence; including the right of self-determination. I understood this position, of course, not to preclude the possibility of *Enosis*, which would obviously be implied in the right of the people of Cyprus, once "fully independent", to choose whatever future course they wished

143. It is far from me, in any event, to dispute the principle that the people of an independent country possess the right to determine their own future, including their relationship with any other State. This right follows naturally from the fact of sovereign independence. If Cyprus should become "fully independent" by being freed from the 1960 treaty limitations, it would automatically acquire at the same time the right of self-determination; and if it were an independent State based on democratic principles, it would be entitled to insist that the right should be exercised by the people as a whole, acting directly by such means as a referendum or indirectly through their Government.

144. This brings me to what I regard as the most crucial aspect of the question of *Enosis*. What are the considerations by which a modern sovereign State exercises its right of self-determination? I suggest that just as the enjoyment by the citizen of his fundamental rights is not an absolute matter but is governed by consideration for the rights and legitimate interests of his fellow-

citizens, so also is the exercise by the State of its right of self-determination governed by its obligations as a State. These obligations relate both to the well-being of all its citizens and, especially in the case of a State which has undertaken the solemn commitments laid down in the United Nations Charter, they relate also to the cause of international peace and security.

145. I believe that the Government of Cyprus, which has professed its desire for a peaceful solution to its country's problem, can be expected to follow this general rule. I am confident that in informing, influencing and responding to public opinion on the future status of the country, the Government will recognize that it has a most serious duty to satisfy itself that all of its obligations are being met, towards both the well-being of its own citizens and the peace and security of the region which it shares with other nations. It will wish to be satisfied that any action which it may take, in the name of the right of self-determination, will help to heal rather than jeopardize international peace and security.

146. I must state here in all frankness how I myself see the *Enosis* question in the light of the above considerations. My observations of the situation in Cyprus over a period of many months, my discussions with many of its citizens, and my consultations with representatives of all the parties concerned have made it difficult for me to see how any proposed settlement which leaves open the possibility of *Enosis* being brought about against the will of the Turkish-Cypriot minority can secure agreement at present or in the foreseeable future. Serious warnings have been given that an attempt to impose such a solution would be likely to precipitate not only a new outbreak of violence on Cyprus itself but also a grave deterioration in relations between Turkey on the one hand and Cyprus and Greece on the other, possibly provoking actual hostilities and in any case jeopardizing the peace of the eastern Mediterranean region. The question can be raised, consequently, whether it would not be an act of enlightened statesmanship — as well as a sovereign act of self-determination in the highest sense — if the Government of Cyprus were in the superior interests of the security of the State and the peace of the region to undertake to maintain the independence of the Republic. This would imply, of course, a decision on the part of the Government to refrain, for as long as the same risks persisted, from placing before the population the opportunity to opt for *Enosis*. Should the Government of Cyprus undertake such a course of action, I am confident that the Government of Greece, in the same spirit, would be prepared to respect it. I must emphasize again that in view of the sovereign prerogatives which the Cyprus Government would enjoy, this decision would naturally take the form of a voluntary act on its part. To maintain the independence of Cyprus would have to be a free undertaking on the part of the Government and people of Cyprus and not a condition to be imposed upon them. It would remain open to the Government, if it wished the population as a whole to share directly in this exercise of the right of self-determination, to seek through some such means as a referendum its approval of the proposed terms of settlement including the undertaking to maintain the independence of Cyprus. I should like to emphasize here my view that the *whole* of any proposed settlement based on continued independence, and not the question of independence alone, should in that case be put to the people. My reasons for this will become obvious from the rest of my report. At this point, I need only add that I am convinced that the present leaders would be in a strong position to explain such proposals to the people and to gain the understanding and acceptance of the majority. It

would also be open to the Government, if it wished to use this further means of encouraging the whole population to vote freely, to invite the United Nations to observe the referendum.

147. Assuming a course of action such as I have described, the common objective would now be considerably more precise: a "fully independent" state which would undertake to remain independent and to refrain from any action leading to union with any other State. I should regard this clarification as not only satisfying the principle of self-determination but also as going a long way towards meeting another essential requirement of a settlement: namely, that it should contribute to the maintenance of international peace and security. I should mention here another useful action in that direction which the Government of Cyprus has already indicated its willingness to take. The President, Archbishop Makarios, has declared his readiness to bring about the demilitarization of Cyprus, as a contribution to the peace and security of the region. He has reacted favourably to the idea that international assistance, through the United Nations, should be invited for this task. Moreover, he has indicated his desire to see Cyprus refrain from aligning itself with any grouping of nations for military purposes. For its part, the Government of Turkey indicated to me when I first raised this question with it last November, that the demilitarization of an independent Cyprus, but only if effectively carried out, and only within the context of a settlement which guaranteed the independence of Cyprus, would serve the interest of Turkey's considerations of security.

148. The suggested demilitarization of Cyprus has inevitably raised the question of the future of the two British sovereign base areas. The position of the United Kingdom Government is that, since those areas lie outside the territory of the Republic, they do not form part of the present dispute. I am encouraged to believe, however, that this question could, if it were to become a vital aspect of the settlement as a whole, be constructively discussed among the parties to the Treaty of Establishment by which the base areas were reserved from the territory of the Republic.

(b) The structure of the State

149. The next important point of divergence between the parties concerns the structure of the independent State. On the one hand, the Greek-Cypriot leadership insists upon a unitary form of government based on the principle of majority rule with protection for the minority. On the other hand, the Turkish-Cypriots envisage a federal system within which there would exist autonomous Turkish-Cypriot and Greek-Cypriot States, the conditions for whose existence would be created by the geographical separation, which they insistently demand, of the two communities.

150. It is essential to be clear what this proposal implies. To refer to it simply as "federation" is to oversimplify the matter. What is involved is not merely to establish a federal form of government but also to secure the geographical separations of the two communities. The establishment of a federal regime requires a territorial basis, and this basis does not exist. In an earlier part of this report, I explained the island-wide intermingling in normal times of the Greek-Cypriot and Turkish-Cypriot populations. The events since December 1963 have not basically altered this characteristic; even the enclaves where numbers of Turkish-Cypriots concentrated following the troubles are widely scattered over the island, while thousands of other Turkish-Cypriots have remained in mixed villages.

151. The reason why the Turkish-Cypriot leadership seeks a geographical separation, which does not now exist, of the two communities should also be understood. If the fear of *Enosis* being imposed upon them is the major obstacle to a settlement as seen from the Turkish-Cypriot side, one reason for it is their purported dread of Greek rule. Their leaders claim also, however, that even within the context of an independent Cypriot State, events have proved that the two communities, intermingled as they are now, cannot live peacefully together. They would meet this problem by the drastic means of shifting parts of both communities in order to create two distinct geographical regions, one predominantly of Turkish-Cypriot inhabitants and the other of Greek-Cypriot. They claim that this would now be merely an extension of the process that has been forced on them by events: the greater concentration than usual of their people in certain parts of the island, notably around Nicosia and in the north-west.

152. But the opposition of the Greek-Cypriots to this idea of geographical separation is hardly less strong than the opposition of the Turkish-Cypriots to the imposition of *Enosis*, and I have felt bound to examine the proposal with as much care as in the case of *Enosis*. Much has been written and argued on both sides in Cyprus about the economic and social feasibility (or lack of it) of bringing about through the movement of the populations concerned the only possible basis for a federal state. I have studied these arguments and I find it difficult to see how the practical objections to the proposal can be overcome.

153. In the first place, the separation of the communities is utterly unacceptable to the majority community of Cyprus and on present indications could not be imposed except by force. The opposition to it is in part political: Greek-Cypriots see in the proposal a first step towards the partitioning of the island, although this is vigorously denied by the Turkish-Cypriot leadership as well as by the Turkish Government. But to my mind the objections raised also on economic, social and moral grounds are in themselves serious obstacles to the proposition. It would seem to require a compulsory movement of the people concerned — many thousands on both sides — contrary to all the enlightened principles of the present time, including those set forth in the Universal Declaration of Human Rights. Moreover, this would be a compulsory movement of a kind that would seem likely to impose severe hardship on the families involved as it would be impossible for all of them, or perhaps even the majority of them, to obtain an exchange of land or occupation suited to their needs or experience; it would entail also an economic and social disruption which could be such as to render neither part of the country viable. Such a state of affairs would constitute a lasting, if not permanent, cause of discontent and unrest.

154. Moreover, the proposed federated States would be separated by an artificial line cutting through interdependent parts of homogeneous areas including according to the Turkish-Cypriot proposals, the cities of Nicosia and Famagusta. Would not such a line of division inevitably create many administrative difficulties and constitute a constant cause of friction between two mutually suspicious populations? In fact, the arguments for the geographical separation of the two communities under a federal system of government have not convinced me that it would not inevitably lead to partition and thus risk creating a new national frontier between Greece and Turkey, a frontier of a highly provocative nature, through highly volatile peoples who would not hesitate to allow their local differences to risk involving the two home countries in conflict and consequently endangering international peace and security.

155. Again, if the purpose of a settlement of the Cyprus question is to be the preservation rather than the destruction of the State, and if it is to foster rather than to militate against the development of a peacefully united people, I cannot help wondering whether the physical division of the minority from the majority should not be considered a desperate step in the wrong direction. I am reluctant to believe, as the Turkish-Cypriot leadership claims, in the "impossibility" of Greek-Cypriots and Turkish Cypriots learning to live together again in peace. In those parts of the country where movement controls have been relaxed and tensions reduced, they are already proving otherwise.

156. It is essential, I think, to reconsider the objective intended to be served by the geographical separation of the two communities and to look for other ways to achieve that objective. I am inclined to regard separation not as, in itself, a basic principle in the proposals of the Turkish Government and the Turkish Cypriot leadership, but rather as the only means which they consider workable of ensuring respect for the real principle at stake: namely, that the Turkish-Cypriot community must be protected and protected adequately. I fully support that principle. I feel strongly that the protection of the Turkish-Cypriot community is one of the most important aspects of the Cyprus problem and that everything possible must be done to ensure it, including safeguards of an exceptional kind. But I would think it essential for the Turkish Government and the Turkish-Cypriot leadership to reconsider their contention that nothing short of the geographical separation of the two communities can ensure adequate protection.

157. I have found agreement on all sides that there must be practicable and effective safeguards for the security and the rights of all the citizens of Cyprus, as well as the legitimate rights of the Turkish-Cypriots as a community. To be practicable, it is difficult to see how they can take the drastic form of geographical separation of the communities. To be effective, as well as practicable, they could conceivably include certain special measures of a different kind, as discussed below.

(c) The protection of individual and minority rights

158. One of the principles of the Charter which I regard as having the highest relevance to any settlement of the Cyprus problem is that of respect for human rights and fundamental freedoms, without discrimination. The fact that the population of the island continues to consist of two principal ethnic communities, the further fact that they are unequal in numbers and finally the gravity of the conflict which has developed between them - all these elements have given and must continue to give rise to serious difficulties in applying this principle, and must be made the subject of special attention.

159. From the moment a settlement is in sight, the Charter's insistence on respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion, will assume a capital importance in Cyprus. It will be an indispensable condition for the progressive rebirth of confidence and the re-establishment of social peace. The obstacles against the full application of the principle cannot be over-estimated; and they are no less psychological than political. The violent sharpening of "national" sentiments over the months of crisis will for some time make it extremely difficult for officials at all levels to impose or even exercise strict impartiality and understanding towards all the citizens of the country, and without that impartiality and understanding there will be a constant risk of acts of discrimination, even if laws are respected in the formal sense. Furthermore, there are personal hatreds which will last beyond any political settlement. Again, not all of the too many weapons which are in too many hands are likely to be surrendered readily. These factors will, for a period whose duration can only be guessed at, create problems of personal security on a serious scale.

160. For all these reasons there is no doubt in my mind — and on this point all parties are in agreement — that there must be established in Cyprus the most rigorous possible guarantees of human rights and safeguards against discrimination. For some time, in order to help the two communities to find their way out of the vicious circle of deep distrust between them, I am convinced, indeed, that certain international guarantees must be provided.

161. It is hardly necessary for me to say that while the safeguards would apply to all the people of both communities, in practice it is the Turkish-Cypriot minority which will stand most in need of them. The safeguards are justified not only by the need to re-establish a durable peace in the life of the island, nor only by the need to ensure that the settlement accords with the Charter of the United Nations. Simple equity also demands that these safeguards should be provided. It will need not to be forgotten that the Turkish-Cypriot community obtained from the Zurich and London Agreements a series of rights greatly superior to those which can realistically be contemplated for it in the future. In addition, it would be just and fair to recognize that however effective the safeguards that can be devised, any Turkish-Cypriot who fails to find in them a basis for reasonable confidence in the new order of things, would have the right to resettle in Turkey, and should be assisted to do so, with adequate compensation and help in starting a new life. Appropriate assistance should also be provided, without discrimination, to rehabilitate all those whose property has been destroyed or seriously damaged as a result of the disorders. This will be a task of reconstruction for which, I am confident, external assistance, including that of the United Nations family of organizations, would be forthcoming at the Government's request.

162. I must point out also that the fact that the population of Cyprus consists, even without geographical separation, of two main communities gives rise to another special problem in regard to the application of the United Nations principles of human rights. Each of the two communities is profoundly attached to the "national" traditions which were bequeathed to it by history, and each has always enjoyed a large degree of autonomy in what it has regarded as the essential fields of religion, education and personal status. In the light of widespread modern conceptions of the need for the integration and assimilation of differing peoples in the interests of national unity, it may be a matter for regret that little was done under any of the previous regimes, ancient or recent, to bridge the separateness of the Greek-Cypriot and Turkish-Cypriot communities. Recent events have, however, made these distinctions more rather than less acute, and to try to eliminate them now by drastic measures could only mean taking a distinctly backward step in the field of the protection of human rights as far as the minority community particularly is concerned. Since independence the Greek-Cypriot community - being in the majority not only in terms of numbers but also in the governing institutions of the State - has been in a position to deal freely with its own affairs of religion, education and personal status within the framework of the State: should it have the same powers in respect of the Turkish-Cypriot community, the latter would feel itself deprived of some of the most fundamental of human rights.

163. I have shown earlier in this report that the 1960 Constitution went to unusual lengths in trying to meet this situation by conferring on the Turkish Cypriot community, as much, a number of political rights designed to allow it to protect itself from being completely subjugated by the majority community. It is, however, this feature of the constitutional system which has been most severely criticized and which has given rise to the most serious difficulties of implementation. It seems impossible to obtain agreement on maintaining such a constitutional oddity in the future against the will of the majority. Yet the problem behind it cannot be ignored, and that problem — the hard fact of the distinctive character of the two communities, sharpened by the recent events — requires that some special measures should be applied in order to ensure to the members of the minority community a proper voice in their traditionally communal affairs and also, without weakening the unity of the State, an equitable part in the public life of the country as a whole. Such measures will be a necessary condition for any settlement that must take account, as the Security Council's resolution requires, of the "well-being of the people of Cyprus as a whole". They need only be transitional: indeed they should be clearly understood by all sides to be so; but they seem to me in fact the only practical way to ensure in the longer run, the political unity of the country. Failure to provide a transitional means of ensuring a share by the Turkish-Cypriot community in the political life of the State could only, I am convinced, have the opposite effect from accelerating their integration. It would only perpetuate their separateness, because it is in the general nature of things that the larger community tends to dominate and that the smaller to be dominated; and it is in the present nature of things in Cyprus that this could prolong the ferment of hostility between them and the risk of endless acts of violence. I cannot emphasize this matter too strongly. It is not a question of denying the right of a political majority to rule, but a question of the need to avoid the excessive dominance of one presently distinct community over another, to an extend and in a manner likely to delay indefinitely the unity of the population.

164. I have therefore been pleased to be able to record the assurances which Archbishop Makarios has given of his concern for these aspects of the problem and the specific measures which he has expressed his willingness to apply. As regards individual rights, these measures include, on the one hand, a number of permanent provisions: the incorporation in the Constitution of human rights and fundamental freedoms conforming with those set forth in the Universal Declaration on Human Rights adopted by the United Nations; judicial procedures for their application, and vigilance to ensure equal treatment in appointments and promotions in the public services. They include, on the other hand, certain exceptional and transitional provisions: of foremost importance among these, in my opinion, an invitation to the United Nations to appoint a commissioner, with a staff of observers and advisers, to be present in Cyprus for as long as necessary; and also the granting of a general amnesty and provision for the resettlement of Turkish-Cypriots who wished to leave the island and for the rehabilitation of those who would remain. The need for such measures having been conceded in principle, I feel confident that their improvement and extension are, if need be, matters susceptible of negotiation between the parties. I attach particular importance to the presence and role of a United Nations commissioner, a unique and extraordinary safeguard whose very existence would, I believe, engender confidence in all Cypriots.

165. In regard to the second aspect — the matter of the position of the Turkish Cypriots as a community — I have been pleased also to find some

measure of sympathetic understanding in the attitude of the President. He has already offered them a continuation of their previous autonomy in certain fields of religion, education and personal status. Moreover, he conceded to me the desirability of finding some means, for a transitional period at least, of ensuring representation of the Turkish-Cypriots in the governmental institutions. This might be done by a system of proportional representation or reservation of seats in the parliament, and also, perhaps by the appointment of a Turkish-Cypriot Minister responsible for the affairs of his community - without prejudice, of course, to other Turkish-Cypriots being elected or appointed on merit. In this field, too, I am therefore confident that negotiations between the parties could be fruitful. Another question that will need to be examined and agreed between them is that of the official languages of the State, for use in the administration, the courts and other institutions. It may be that besides Greek and Turkish it will be necessary to give English the transitional status of an official language to serve as a bridge between the other two. The control and staffing of the police force is another matter for careful and sympathetic study. So also is the possibility that municipal and other forms of local government could be so organized as to give the greatest possible measure of local autonomy so that in areas where one community or the other predominates it would feel that it is playing an effective and equitable part in the management of local affairs.

D. The question of guarantees

166. In any progress made towards a settlement the question of the means of guaranteeing its provisions will inevitably arise. It would, of course, be open to the parties to embody the terms of the settlement in treaty arrangements; but my impression is that, for very different reasons, both sides to the dispute would approach such a course with misgivings.

167. On the one hand, the conception of treaty arrangements which would affect the internal affairs of the Republic is anathema to many Greek-Cypriots. It conjures up the restrictions and impositions which they claim to have suffered by reason of the Treaties of 1960. Even if — and this is essential — the terms of the new settlement are in every respect freely and consciously agreed to by the people of Cyprus, it is conceivable that the old stigma would remain. On the other hand, the Turkish-Cypriots feel also that they have had a painful experience in placing excessive faith in treaties, having seen many of their treaty rights forcibly suspended and the Guarantor Powers fail to act in the crisis as the Turkish-Cypriots expected them to.

168. It may be that a different form of guarantee will have to be devised. In this regard I see an opportunity for the United Nations, to play an invaluable role, if it so agreed. The possibility could be explored, I believe, of the United Nations itself acting as the guarantor of the terms of the settlement. It might prove feasible, for example, for the parties to agree to lay before the United Nations the precise terms of the settlement and ask it not only to take note of them but also to spell them out in a resolution, formally accept them as the agreed basis of the settlement, and request that any complaint of violation or difficulty in implementation be brought immediately before it. Such a role for the United Nations would, I believe, be in full accordance with the letter and the spirit of the Charter.

E. Concluding remarks

169. For the reasons stated at the beginning of this chapter I have not felt it appropriate at this stage to set forth precise recommendations or even sug-

gestions of a formal kind for a solution to the problem of Cyprus. I have tried instead, by analysing the positions of the parties and defining their objectives as I see them, to make apparent certain directions which they themselves should explore in the search for a peaceful solution and an agreed settlement. I have done so because it became clear to me that the purpose of mediation could not be further served by my continuing to hold separate consultations with the parties under the exising circumstances.

170. If I have any formal recommendation to make, it is that the parties concerned should try, in the light of the observations I have made in this report, to see their way clear to meet together — with or without presence, according to their wishes — at a suitable place on the earliest possible occasion. In my view the procedure most likely to produce fruitful results would be for such a meeting or series of meetings to take place in the first instance between representatives of the two principal parties who belong to Cyprus: the Greek Cypriot and Turkish-Cypriot communities. I have explained earlier (see paras. 126 and 127) my reasons for holding this view. However, my suggestion by no means precludes other alternatives that may prove acceptable - whether initial meetings between all of the parties concerned, or a series of meetings, consecutive or even simultaneous, at different levels and among different groups of the parties. Moreover if, as I believe, the most useful beginning can be made at the level of the Cyprus communities, this does not alter the fact that, as I have stated earlier, an "agreed settlement" in the context of the Security Council resolution of 4 March 1964 must have the adherence of all the parties mentioned in the resolution. Any agreement arrived at between the Cyprus communities would therefore require endorsement by the other parties concerned.

171. I do not suggest a formal agenda for these meetings, nor do I expect that at present it would be feasible for the parties concerned to provide one. They may be agreeable, in the first instance, simply to take the observations in my present report as the basis for an exchange of views - all the more so should they agree to accept the report, as I intend it, as a document for which I alone am responsible.

172. Should this procedure lead the way eventually to an agreement on all major issues at the leadership and governmental level, and should it then be found necessary to refer the terms of settlement to the people of Cyprus directly, I consider that it would be essential to put to the people the basic settlement as a whole. They should be asked to accept or reject it as a single package, and not in its various parts. This is because any settlement which might be arrived at will necessarily be in the nature of a compromise involving concessions to be made by both sides from their original positions. It seems to me inevitable that it will have to be a carefully balanced series of agreements, each relying on the other and all of them on the whole. It will also be accepted, I believe, that should there be a majority vote against the terms of the settlement, this should not be construed as a vote in favour of any other particular solution. Instead, it would only signify that the process of seeking an acceptable form of settlement would have to begin anew.

173. I reiterate and emphasize my conviction that every endeavour must continue to be made to bring about a peaceful solution and agreed settlement of the Cyprus problem. By any and all appropriate means, the search must go on, with patience, tolerance and good faith. The well-being of the Cypriot people demands it; so does the cause of international peace and security.

APPENDIX 14

ARMED ATTACKS AND MASSACRES

AYIOS VASSILIOS MASSACRE

On 26 December 1963 the Turkish inhabitants of the mixed village of Ayios Vassilios were brutally murdered and wiped out *en masse*. The bodies of these Turkish Cypriots were exhumed from a mass grave by the soldiers of the Joint Peace Force in the presence of the representatives of the Red Cross and St. John's Ambulance Association. The bodies exhumed indicated that the arms of the victims had been tied behind their legs and that hand grenades had exploded in their laps.

This is how the Ayios Vassilios massacre was reported by the "DAILY TELEGRAPH" of 14 January 1964 :

"Silent crowds gathered to-night outside the Red Crescent hospital in the Turkish sector of Nicosia, as the bodies of nine Turks found crudely burried outside the village of Ayios Vassilios. 13 miles away, were brought to the hospital under an escort of the Parachute Regiment. Three more bodies, including one of a woman, were discovered nearby but they could not be moved.

"Turks guarded by paratroops are still trying to locate the bodies of 20 more believed to have been buried on the same site. All are believed to have been killed during fighting around the village at Christmas.

Family of Seven

"It is thought that a family of seven Turks who disappeared from the village may be buried there. Their house was found burnt, and grenades had been dropped through the roof.

"Shallow graves had aparently been hurriedly scooped by a bulldozer. The bodies appeared to have been piled in two or three deep. All had been shot.

"One man had his arms still tied behind his legs in a crouching position and had been shot through the head. A stomach injury indicated that a grenade may have been thrown into his lap..."

FOREIGN PRESS ON LIMASSOL FIGHTING

"DAILY SKETCH" reporting the fighting in Limassol in its issue of 14 February 1964 stated *inter alia* that the Greek Cypriot terrorists had with their armed attack murdered the Turkish Cypriot inhabitants of Limassol and had altogether complicated the situation. The paper said Makarios turned a blind eye to the bloodshed and, by disregarding this state of affairs flagrantly, tried to strike a bargain on the conditions of the truce and insisted that the international force should be attached to the Security Council. This was nothing else than a pretext. The paper claimed that Makarios was turning the island into a province of Greece by using the United Nations as a means and that he knew that the utterly complicated composition of a U.N. Force would provide an opportunity to this end easily.

"DAILY SKETCH" stated that Cyprus was in flames and that it had been turned into a blood-bath. It inquired what Makarios was doing *vis-à-vis* this situation. It said that he was imprudently turning down the Anglo-American plan con-

cerning the maintenance of peace and that he was engaging himself in disputes over matters of prestige and protocol. Never in the history of mankind had a man of religion been so indifferent to destitution and suffering. Makarios had not only proved to be a wicked and tactless statesman but, at the same time, he had stained his robe, added the paper.

"THE OBSERVER" reporting also on the situation in Limassol in its issue of 16 February 1964 said that the atmosphere was quiet but tense and that the Greek Cypriots were, as always, claiming that the fighting had been started by the Turks. But this claim was improbable as it was illogical for six thousand Turks, surrounded by a force ten times greater than their (Turks') numerical strength, to have knowingly provoked the Greeks.

Nevertheless, the Greek Cypriot attack had been very heavy. Even though the cease-fire agreement had become operative as from Wednesday, the Greek Cypriots were not permitting the British troops to patrol the town.....

"THE OBSERVER" said that according to General Young, the Greek Cypriot onslaught of the previous morning had taken place contrary to the assurances that no attack of any sort would be launched. According to the statement by a high-ranking British officer the attack had been pre-planned and launched at dawn, the paper stated.

GREEK ONSLAUGHT ON GAZIVERAN

Greek Cypriot terrorists numbering about 1000 and armed with bazookas, mortars and heavy machine-guns launched an attack on the Turkish village of Gaziveran at 07.15 hrs. on 19 March 1964 on the pretext of a non-existent road-block. The village had been under their siege since a week.

The initial phase of this unjustified attack, which had been launched without any provocaton, lasted for five hours and during the intense fighting one Turkish Cypriot was killed, three others were wounded and many houses were destroyed.

At about 15.20 hrs. on the same day the Greek Cypriot gunmen, in violation of the cease-fire agreement which had been reached at lunch time, renewed their attacks with even heavier arms killing four more Turkish Cypriots and injuring many women and children. The assailants even fired at about 500 women and children who had taken refuge in the small village school premises and threatened them with the words: "You either surrender or else we kill you *en masse*."

ATTACK ON KTIMA TURKS

In spite of the cease-fire agreement, the Greek Cypriot gunmen launched, an attack on Ktima Turks on 9 March 1964. The Greek Cypriots who were equipped with heavy arms, prevented the British military Fire Brigade from entering the Turkish sector of Ktima in order to put out fires at Turkish houses and shops. During the fighting 15 Turks were killed, 22 others were wounded and the minaret of Buyuk Cami (the great mosque) was blown up by mortar shelling. Damage to Turkish property was estimated at £2 million. The Greeks also opened fire on British armoured vehicles and prevented them from entering the Turkish sector of the town for the evacuation of Turkish women and children to areas of safety.

APPENDIX 15

EXTRACT FROM THE U.N. SECRETARY-GENERAL'S REPORT (S/6569 OF 29 JULY 1965) TO THE SECURITY COUNCIL

"7. The Turkish Cypriot members requested UNFICYP to extend its good offices to enable them to receive information about the time of meeting of the House, and to make arrangements for the Turkish Cypriot members to attend such meetings in safety. They specified that, if officially invited and notified about matters to be considered, as required by the Constitution, they would be prepared to attend Parliament on all questions, not only on the two bills now pending.

8. The special Representative conveyed this position to Mr. Clerides, the President of the House of Representatives, who stated that the Turkish Cypriot members could attend provided agreements were reached beforehand on the following points :

(a) The Turkish Cypriot members would resume their seats permanently rather than only for the purpose of the present debate ;

(b) The Turkish Cypriot members would accept that the laws enacted by the House of Representatives would be applied to the whole of Cyprus, including the Turkish areas, by the Government using the normal authorised administrative organs ;

(c) While the Greek Cypriot members would regard attendance at the House by the Turkish Cypriot members as implying recognition by them of the present Cyprus Government, the Turkish Cypriot members would not be called upon to make a statement to that effect, and the Greek Cypriots would likewise refrain from making any such statement on the record of the House ;

(d) It must be understood that the provision in article 78 of the constitution concerning separate majorities had been abolished and every member of the House would have one vote for all decisions.

9. Mr. Clerides informed UNFICYP that he was prepared to discuss the situation during the afternoon of 22 July with a group of Turkish Cypriot members of the House. He subsequently indicated, however, that he would not receive this delegation if they came escorted by UNFICYP soldiers, though he would not object to their being brought to his office in an UNFICYP automobile driven by an UNFICYP employee. Finally, Mr. Clerides stated that unless the Turkish Cypriot members accepted the conditions laid down by him, he found it pointless to supply to them copies of the pending bills.

10. The special Representative transmitted the position of the President of the House to Vice-President Kuchuk and to certain Turkish Cypriot members of the House. The Turkish Cypriots considered that the conditions laid down by Mr. Clerides would eliminate the constitutional rights of the Turkish Cypriot members and of their community. They emphasized in particular that, under the constitution, only the President and Vice-President jointly could challenge the constitutionality of a law (article 140). In the case of legislation deemed contrary to the interests of his community, the Vice-President was entitled to institute action (article 141). However, since the Government had stated that it no longer recognised Dr. Kuchuk in his capacity as Vice-President, this latter provision of the constitution was inapplicable in practice.

11. During the afternoon, the Turkish Cypriot members visited the President of the House who reiterated the substance of the points set forth in paragraph 8 above. He made it plain that, unless agreement was reached on these matters, he would not permit the Turkish Cypriot members to attend the House. Mr. Clerides also stated that the constitutional provisions concerning promulgation of the laws by the President and the Vice-President were no longer applicable. He subsequently stated that in his opinion the Turkish Cypriot members had no legal standing any more in the House.

APPENDIX 16

EXTRACTS FROM U.N. SECRETARY - GENERAL'S REPORTS RELATING TO TURKISH CYPRIOT MISSING PERSONS

(a) "142. In my report of 15 June 1964, I indicated that as of 8 June, a total of 483 Turkish Cypriots and 52 Greek Cypriots were reported as missing. As a result of intensive searches effected since then, carried out with the assistance of UNFICYP and the International Committee of the Red Cross, 251 Turkish Cypriots and 9 Greek Cypriots have been found. It may be noted that among these persons a number had never been abducted, but had simply left their normal places of residence to live with relatives or friends elsewhere. Among those who remain missing are many persons who disappeared during the December 1963 events and there seems little hope of finding them alive. The same may be said of all those who were abducted after the Famagusta incident of 11 May 1964."

(S/5950 of 10 September 1964)

(b) "93. In the report of 10 September, it was indicated that as of 1 September 232 Turkish Cypriots were missing, according to the list compiled by the Turkish Cypriot Missing Persons Bureau. Since that date, UNFICYP was informed that twenty-three Turkish Cypriots have been accounted for and their names have been deleted from the list of missing persons; this leaves 209 Turkish Cypriots still missing. Efforts to trace those missing will be continued by ICRC and UNFICYP, but there seem to be little prospect of finding them alive."

(S/6102 of 12 December 1964)

(c) "117. Figures supplied by the Turkish Cypriot Missing Persons Bureau as at 1 March 1965 show that 209 Turkish Cypriots are still missing. This figure is the same as that given in the last report (S/6102, para. 93 - 94). Efforts to trace these persons have been continued by ICRC and UNFICYP without result and there is little prospect of finding them alive."

(S/6228 of 11 March 1965)

(d) "76. In addition to co-operating with the Cyprus Police in investigations contributing to a normal state of affairs in matters affecting law and order, a continuing concern for UNCIVPOL has been the tracing of persons missing since the turbulent first months of 1964. Only one case of 212 Turkish Cypriots listed as missing has been closed since my last report, a man now found to have been killed in April 1964."

(S/37350 of June 1966)

APPENDIX 17

EXTRACT FROM THE U.N. SECRETARY-GENERAL'S REPORT S/5950 OF 10 SEPTEMBER, 1964

"Re-employment of Turkish Cypriot Civil Servants"

106. UNFICYP authorities from the beginnig of the mandate on Cyprus gave serious consideration of this question and on several occasions they raised it with the Cyprus Government. All negotiations on the possible re-employment of the Turkish Cypriot Government civil servants in Nicosia and their financial compensation from January 1964 have ended in a deadlock up to now, as it is considered by the Government to be a highly political matter linked closely with the final settlement of the Cyprus question. On the other side, the Turkish Cypriot political leaders preferred to deal with the matter on a global basis, unwilling to accept any sort of gradual solution which might accord with conditions in various Government Departments and Public Services.

APPENDIX 18

EXTRACT FROM SECRETARY GENERAL'S REPORT TO THE SECURITY COUNCIL ON THE U.N. OPERATIONS IN CYPRUS (S/5950, PAGE 51 OF 10 SEPTEMBER, 1964).

ECONOMIC RESTRICTIONS

Situation until mid-July 1964

189. Ever since the outbreak of violence on 21 December 1963, a variety of restrictions which were described in my report of 15 June have been imposed upon the Turkish Cypriots. The isolation of the Turkish Cypriot community, due to the restrictions placed on their movement on the roads, brought hardship on the members of the community as well as serious disruptions on their economic activities. As indicated earlier in this report, UNFICYP made determined efforts to alleviate those difficulties in various fields.

190. In addition to losses incurred in agriculture and in industry during the first part of the year, the Turkish community had lost other sources of its income including the salaries of over 4,000 persons who were employed by the Cyprus Government and by public and private concerns located in the Greek Cypriot zones. The trade of the Turkish community had considerably declined during the period, due to the existing situation, and unemployment reached very high level as approximately 25,000 Turkish Cypriots had become refugees. Expenditure of the Turkish Communal Chamber on development and other projects, as well as other expenditure, had dropped considerably as a yearly subsidy formerly received from the Government had ceased to be granted in 1964. Furthermore, a large part of its remaining resources had to be used for unemployment, relief and other forms of compensation, as approximately half of the population came to be on relief. In accordance with figures published by the Turkish Cypriot Communal Chamber, the number of persons receiving some kind of assistance from the Red Crescent relief amounted to about 56,000, including 25,000 displaced persons, 23,500 unemployed and 7,500 dependents of missing persons, disabled and others.

191. Around the middle of July, at the time of the Temblos incident, described earlier in this report, the Government took two steps which served to impose further hardship on the Turkish Cypriot Community. On 17 July, UNFICYP was officially informed that some twenty-five articles were considered as strategic materials, the purchase of which by Turkish Cypriots was forbidden without special authorization from the Ministry of the Interior. These articles included building materials, cement, iron in bulk, iron rods, wire netting, electrical equipment, transistorized and other batteries, timber, large bags, automobile, accessories and parts, tyres, sulphur and other chemical, as well as fuel in large quantities. Secondly, it imposed restrictions on the importation of Red Crescent supplies for the relief of the population.

192. Since December 1963, six shipments of emergency and relief supplies had been sent from Turkey through the Red Crescent for distribution by the Turkish Communal Chamber. They consisted mostly of medical supplies, flour and other food-stuffs. The first five ships arrived in July 1964 and the supplies they brought in were unloaded and distributed without difficulty. But when the sixth one arrived on 15 July, obstructions were placed on its unloading by the

Government. Only after a series of negotiations initiated by UNFICYP did the Government authorize the free importation of some of the supplies brought in, while duty had to be paid on others, and the remaining items were not allowed to enter the country at all, because they were considered as strategic materials, or were items produced in the country under subsidy. The Government also insisted on control over the distribution of the relief supplies. Persistent representations made to the Government by UNFICYP and the International Committee of the Red Cross were unsuccessful. In spite of UNFICYP's efforts to escort Red Crescent convoys carrying relief supplies throughout the country, obstructions were frequently placed on the movement of those convoys.

195. Aware of the serious consequences that the Government measures could bring about, UNFICYP drew the Government's attention to the dangers which might result from the imposition of additional restrictions. At the same time, in close collaboration with the International Committee of the Red Cross, it worked out arrangements with the Government for the distribution of the already limited supplies. However, all its efforts came to naught as fighting broke out in Tylliria on 5-10 August and relief to the Turkish Cypriot community was stopped. The shortage of food and other essentials became particularly critical in this area and in the entire Paphos zone, and it was necessary for UNFICYP and the ICRC, on humanitarian grounds, to make renewed representations to the Government to allow emergency shipments of relief supplies to Lefka and Kokkina.

196. Immediately after the Tylliria fighting and the Turkish air strike, the Government announced that it would cut all movement of supplies into the areas controlled by Turkish Cypriots in Nicosia, Lefka, Kokkina and Limnitis. Following this announcement, convoys of food and other essential supplies were prevented from reaching their places of destination. If such severe measures had been maintained, the situation of the beleaguered Turkish Cypriots would have become untenable, and probably led them to resort to desperate and violent action.

197. In view of the foregoing, my Special Representative and the Force Command expressed their serious misgivings to the Government and warned that any increase in economic restrictions would only lead to severe trouble. Urgent discussions were held both with the Government and the Turkish Cypriot leadership in a further effort to find a solution to this vital problem. The Turkish Cypriots claimed that they were being starved and the Greek Cypriots contended that the Turkish Cypriots had enough food in store for many months to come, and that much of it was going to Turkish fighters. In view of the controversy, UNFICYP carried out on 16 August a preliminary survey of the situation concerning food and other essential supplies, covering 142 villages and five cities of the Turkish Cypriot population. The survey showed at the time, that more than 40 per cent of the villages had no flour, that some had bread for only a few days, that about 25 per cent of the villages had flour for only one or two weeks, and that in any event the flour would only last up to a month in the best of circumstances. The survey also showed that the need for milk and dairy products, rice and salt, was acute, while kerosene was in extremely limited supply. Furthermore, medical attention in villages was notably low. In the cities, the survey showed that, although the situation was better than in the villages, it was deteriorating rapidly. One additional factor brought out by UNFICYP's survey was that the restrictions had brought about a shortage of currency and that this was causing unemployment and other hardships. UNFICYP also ascertained that the stock of relief supplies on hand was extremely limited. The restrictions imposed on

Turkish Cypriots, therefore, would bring severe hardship to them despite the agricultural products they could obtain from the resources of their own areas.

200. Meanwhile, UNFICYP, on the basis of the assurance given by the Government regarding the lifting of restrictions concerning the Turkish Cypriot areas other than Nicosia, Lefka and Kokkina, took steps to facilitate the transport of essential goods to those areas. Unfortunately, obstructions were still encountered at the local level. On 27 August a Red Crescent convoy carrying thirtynine tons of assorted foodstuffs from Famagusta to the non-restricted area of Ktima was held up by Cypriot military authorities. Part of it was allowed to proceed only after strong protests on the part of UNFICYP. Also a much-needed car-load of Red Crescent supplies was kept from moving into Lefka on the same date.

202. My Special Representative protested to the Government about the obstructions, still made by its officials in violation of the understanding reached. The Government expressed its regret at any violation that might have been taking place before all members of its security forces had been fully briefed. UNFICYP notified the Government that any breach of the understanding after 1 September would be fully reported.

205. UNFICYP has welcomed the decision by the Government to eliminate the Turkish - Cypriot sectors of Famagusta and Larnaca from the restricted areas as well as the implementation of the Government's decisions concerning movement of supplies. These are important steps in the right direction and it is hoped that they will open the way to further easing of the economic restrictions still in force. Although no cases of starvation have been noted in the Turkish-Cypriot areas, serious inconveniences have been caused to the people subjected to these restrictions and in some cases conditions have reached the hardship stage. UNFICYP will continue to exert its best efforts to achieve a further relaxation of the economic restrictions, not only for humanitarian reasons, but also with a view to lessen tension and to help preserve law and order.

APPENDIX 19

BASIC PROVISIONS OF THE CYPRUS TURKISH ADMINISTRATION

SECTION 1 : Until all provisions of the 16th August, 1960 Constitution of the Republic of Cyprus are applied, all Turks living in Turkish areas shall be attached to the Provisional Turkish Administration.

LEGISLATIVE MATTERS

SECTION 2: The necessary legislation for Turkish areas shall be made by the House of the Provisional Turkish Administration which shall be composed of the Turkish members of the House of Representatives and members of the Turkish Communal Chamber. The Vice-President of the House of Representatives shall be the President of the House.

SECTION 3: The members of the House shall continue to possess all the powers embodied in the Constitution dated 16th August, 1960.

SECTION 4: The House shall function in accordance with those provisions of the Rules and Regulations of the House of Representatives and of the Turkish Communal Chamber which are capable of being applied.

SECTION 5: The Laws enacted in accordance with the 16th August, 1960 Constitution before the 21st December, 1963 shall be in full force and operation.

SECTION 6: The House may empower the Executive Council to make any rules and regulations for application within the Turkish Areas.

EXECUTIVE MATTERS

SECTION 7 : The executive power in Turkish Areas shall be exercised by the Executive Council of the Provisional Turkish Administration.

SECTION 8: The Executive Council shall be composed of the three Ministers envisaged in Article 46 of the 16th August, 1960 Constitution, and of six other members. The Vice-President of the Republic shall be the President, and the President of the Turkish Communal Chamber shall be the Vice-President of the Executive Council.

SECTION 9: The Executive Council shall be composed of members responsible for Defence Matters (including internal and external relations); Agriculture and Natural Resources; Health Services; Educational, Cultural and Teaching matters; Social Services, Municipalities, Vakfs and Co-operative matters; Judicial Matters; Financial and Budgetary matters; Works and Communications; and Economic matters.

SECTION 10: Vacancies occurring in the Executive Council through the resignation of members or through other reasons, shall be filled by appointments made by the President on the recommendation of the Vice-President.

SECTION 11: The President, the Vice-President and the Members of the Executive Council shall not be engaged in any private work incompatible with their official duties.

SECTION 12: The Executive Council shall have power to effect any changes in the Administrative System and to define the function of the System.

SECTION 13: The Defence and Security Services of the Provisional Turkish Administration shall be ensured by an Organization to be established for the purpose by the Executive Council.

SECTION 14: All kinds of assistance from Turkey shall be utilized in accordance with the conditions upon which the assistance has been given.

SECTION 15: The functions of the Public Service Commission as envisaged in the 16th August, 1960, Constitution shall be exercised in respect of all public officers of the Provisional Turkish Administration by a commission composed of three members. The members of the Turkish Public Service Commission shall be appointed by the President upon the recommendation of the Vice-President of the Executive Council.

COURT MATTERS

SECTION 16: The Court matters in the Provisional Turkish Administration shall be dealt with by independent Turkish Courts.

SECTION 17: Turkish Judges shall be appointed by the President upon the recommendation of the Vice-President of the Executive Council of the Provisional Turkish Administration.

SECTION 18: Matters concerning the establishment of Turkish Courts, their jurisdiction and duties and the status of the Judges shall be regulated by the introduction of temporary rules and regulations.

SECTION 19: The above provisions which have been accepted for application in Turkish Areas shall remain in force until the provisions of the 16th August, 1960 Constitution are applied".

APPENDIX 20

PRESS REPORTS AND OTHER INFORMATION ABOUT THE EFFECTS OF THE COUP OF 15 JULY 1974

EXTRACTS FROM THE ADDRESS BY ARCHBISHOP MAKARIOS TO THE SECURITY COUNCIL

on 19 July, 1974, following his deportation from the Presidency as a result of the coup on 15 July 1974.

"The *coup* has cost much bloodshed and many lives."

"The *coup*... is clearly an invasion from outside, in flagrant violation of the independence and sovereignty of the Republic of Cyprus".

PAPATSESTOS'S DISCLOSURE

Extracts from an interview granted by Papatsestos, the priest in charge of the Nicosia Greek cemetery, to 'Ta Nea' of Athens which was reproduced in the local Greek newspapers on 28 February 1976 under the heading, "SENSATIONAL DISCLOSURES."

"Two days after the coup, on 17 July, I witnessed something which has perhaps never been witnessed by any mortal before: I saw a young Greek Cypriot buried alive! That was when two Junta officers came to my house and ordered me to accompany them to the cemetery. I thought they were going to kill me, but they said they only wanted me for burying some dead people.

"In the cemetery there were two open graves and two bodies lying beside them. I went to see if I could recognize them. One was dead. But the other, a curly haired, fair complexioned 18-year-old youth was moving. Startled, I turned back and shouted : But officer, this man is alive!

'Shut up you dirty priest, or I will shut you up for good', the officer retorted. Then the youth was pushed into the open grave which was filled with earth. I swear to God that they buried this youth while he was still alive.

Pointing at the cemetery, Papatsestos said : "Here people were buried like dogs by the Junta. There were also bodies which had been dumped outside the cemetery. They were not identified, and not claimed. As a priest my conscience is troubled, but they were holding a pistol to my head at the time.

"I remember the day they first came to me. They said : 'Father , we have some dead bodies which we want you to bury'. 'With pleasure', I replied and asked how many bodies they had. 77 they said. An hour later a lorry arrived and I heard someone order: 'Dump them outside'. They were the dead bodies; they were all put in one common grave, without waiting for identification by their relatives. The Junta men produced some small crosses, (seven only!) wrote some names on them and put them on the grave.

"The Junta men scornfully called 'Muskos' supporters', persons loyal to Makarios, and wanted to bury them 'like dogs', in a sheep-fold outside the cemetery. And that is what they did in the end. They dug two graves with excavators - one inside and the other outside the cemetery. They buried their own dead (27) inside the cemetery and others (50) outside."

TA NEA : Father, could you swear that you have not secretly buried dead Turks in the cemetery?

PAPATSESTOS : Only about 10. We did not know who they were and where they were found.

TA NEA : How many bodies did you bury during the coup?
PAPATSESTOS : 127. Fifty of them were collected from the streets and they were buried outside the cemetery; the other 77 were buried inside.
TA NEA : If the Turkish invasion had not taken place, would more Greek Cypriots have been killed in the coup?

PAPATSESTOS : Oh yes, many more. They wanted to kill me too. It is rather a hard thing to say, but it is true that the Turkish intervention saved us from a merciless internecine war. They had prepared a list of all Makarios' supporters and they would have slaughtered them all.
TA NEA : Now, father tell me sincerely, were people brutally killed in those days?

PAPATSESTOS : Yes, my son. Massacres were committed outside Kykko Monastery and in Limassol. I heard with my own ears the order. 'All of them, to the last man, must be killed tonight'.

Those who have witnessed these crimes are afraid to speak. As a matter of fact most of them are Grivas supporters and they will never speak.

Finally, Papatsestos is reported to have declared that he would tell his story and worries to the Greek Premier, Mr. Constantine Karamanlis, because Makarios has done nothing about them.

THE GENEVA DECLARATION OF THE 30TH JULY, 1974

1. The Foreign Ministers of Greece, Turkey and the United Kingdom of Great Britain and Northern Ireland held negotiations in Geneva from 25 - 30 July 1974. They recognized the importance of setting in train, as a matter of urgency, measures to adjust and to regularise within a reasonable period of time the situation in the Republic of Cyprus on a lasting basis, having regard to the international agreements signed at Nicosia on 16 August 1960 and to Resolution 353 of the Security Council of the United Nations. They were, however, agreed on the need to decide first on certain immediate measures.

2. The three Foreign Ministers declared that in order to stabilise the situation, the areas in the Republic of Cyprus controlled by opposing armed forces on 30 July 1974 at 22.00 hours Geneva time should not be extended. They called on all forces including irregular forces, to desist from all offensive or hostile activities.

3. The three Foreign Ministers also concluded that the following measures should be put into immediate effect:

a) A security zone of sizes to be determined by Representatives of Greece, Turkey and the United Kingdom in consultation with the United Nations Peace-Keeping Force in Cyprus (UNFICYP) should be established at the limit of the areas occupied by the Turkish Armed Forces at the time specified in paragraph 2 above. This zone should be entered by no forces other than those of UNFICYP, which should supervise the prohibition of entry.

Pending the determination of the size and character of the security zone, the existing area between the two forces should be entered by no forces.

b) All the Turkish enclaves occupied by Greek or Greek Cypriot Forces should be immediately evacuated. These enclaves will continue to be protected by UNFICYP and to have their previous security arrangements.

Other Turkish enclaves outside the area controlled by the Turkish Armed Forces shall continue to be protected by an UNFICYP security zone and may, as before, maintain their own police and security forces.

c) In mixed villages the functions of security and police will be carried out by UNFICYP.

d) Military personnel and civilians detained as a result of the recent hostilities shall be either exchanged or released under the supervision of the International Committee of the Red Cross within the shortest time possible.

4. The three Foreign Ministers, reaffirming that Resolution 353 of the Security Council should be implemented in the shortest possible time, agreed that within the framework of a just and lasting solution acceptable to all the parties concerned and as peace, security and mutual confidence are established in the Republic of Cyprus, measures should be elaborated which will lead to the timely and phased reduction of the number of armed forces and the amounts of armaments, munitions and other war material in the Republic of Cyprus.

5. Deeply conscious of their responsibilities as regards the maintenance of the independence, territorial integrity and security of the Republic of Cyprus, the three Foreign Ministers agreed that negotiations, as provided for in Resolution

353 of the Security Council, should be carried on with the least possible delay to secure (a) the restoration of peace in the area and (b) the re-establishment of constitutional government in Cyprus. To this end they agreed that further talks should begin on 8 August 1974 at Geneva. They also agreed that representatives of the Greek Cypriot and Turkish Cypriot Communities should at an early stage, participate in the talks relating to the constitution. Among the constitutional questions to be discussed should be that of an immediate return to constitutional legitimacy, the Vice-President assuming the functions provided for under the 1960 Constitution. The Ministers noted the existence in practice in the Republic of Cyprus of two autonomous administrations that of the Greek Cypriot Community and that of the Turkish Cypriot Community. Without any prejudice to the conclusions to be drawn from this situation the Ministers agreed to consider at their next meeting the problems raised by their existence.

6. The three Foreign Ministers agreed to convey the contents of this declaration to the Secretary General of the United Nations and to invite him to take appropriate action in the light of it. They also expressed their conviction of the necessity that the fullest cooperation should be extended by all concerned in the Republic of Cyprus in carrying out its terms.

THE TEXT OF THE BRIEF STATEMENT ALSO SIGNED BY THE BRITISH, GREEK AND TURKISH FOREIGN MINISTERS CONCERNING THE 1960 CYPRUS INDEPENDENCE TREATY

The Foreign Ministers of Greece, Turkey and the United Kingdom of Great Britain and Northern Ireland made it clear that the adherence of their Governments to the declaration of today's date in no way prejudiced their respective views on the interpretation or application of the 1960 Treaty of Guarantee or their rights and obligations under that Treaty.

APPENDIX 22

EXTRACTS FROM FOREIGN PRESS ON MARATHA, SANDALLARIS ALAMINOS AND TOCHNI MASSACRES

EXTRACTS FROM FOREIGN PRESS ON 1974 MARATHA AND SANDALLARIS MASSACRES

30 July, 1974: The Voice of Germany reports an interview given by a German tourist, Mrs. Ingrid Hebil, to a newspaper: "The human mind cannot comprehend the Greeks' butchery. In the villages around the Famagusta region the Greek National Guard have displayed unsurpassed examples of savagery. Entering Turkish homes, they ruthlessly rained bullets on women, and children. They cut the throats of many Turks. Rounding up Turkish women, they raped them all. The defenceless Turkish women and young girls frantically tried to run away. These horrifying attacks are still continuing in Famagusta and its environs. In a Turkish village the Greeks rounded up Turkish men, women and children in a sports field and made them dig their own graves. Then they executed them all and dumped them in their graves. According to my estimate there were 100 such victims."

Voice of Germany : "The corpses discovered in the Turkish village of Muratağa reveal the biggest crime committed in Cyprus this summer."

Die Zeit : "The massacres of Turks in Paphos and Famagusta are the proof of how justified the Turks are with their second intervention."

Associated Press - David Lancashire : "This is one of the greatest atrocities committed against the civilians on Cyprus since the war has ended."

UPI : "Every hour new ditches and numerous corpses are being discovered; it is very difficult to endure the job."

The B.B.C. TV while projecting the opening of mass graves of Turkish Cypriots at Maratha and Sandallaris in the presence of foreign press and members of UNFICYP commented as follows :

"You will see some terrifying photographs."

EXCERPTS FROM "DAILY EXPRESS" OF 30TH JULY, 1974 ON THE ALAMINOS MASSACRE

John Harrison
NEW YORK Monday

UNO PROBES MASSACRE OF CYPRIOT VILLAGERS

The massacre of Alaminos is to be investigated by the United Nations.
Already it is being labelled the bloodiest incident of the Cyprus war.
The Turks claim that 15 men were lined up against a wall and shot.
The bullet-riddled bodies of 15 Turkish Cypriots were found at the weekend buried in a mass grave in the mixed Greek-Turkish village.

Today the Turkish mission to the United Nations sent a letter of protest to UNO Secretary-General Kurt Waldheim accusing the Greeks of murder.

Turkish deputy UNO Ambassador Kamiran Tuzel said : "This was more than one of the many violations since the cease-fire calls... this was a murderous violation."

Greek and Turkish versions predictably differ over what happened at Alaminos—a tiny village off the main road linking Larnaca and Limassol.

When fighting broke out on the island on July 20, Greek Cypriot guardsmen apparently over-ran the Turkish half of the village.

After two hours of shooting, about 60 Turks were forced to surrender but 15 held out and kept fighting.

CAPTURED

The Greeks claim that the 15 died in continued fighting.

The Turks claim —with the support of some Greeks from Alaminos— that the 15 were captured, lined up against a stable wall and gunned down.

According to one Turkish report a group of six Greeks with automatic weapons shot down 14 of the Turkish Cypriots from 20ft. away. The 15th tried to escape and was shot in the back.

The victims were buried in a mass grave in the Turkish sector. The brown stone wall of the stable was pitted with bullet holes.

The United Nations in Nicosia and New York have asked for an on-the-spot investigation.

THE ACCOUNT OF THE 15th AUGUST, 1974, MASSACRE AT TOKHNI RELATED BY SUAT HUSEYIN, AN EYE WITNESS AND THE SOLE SURVIVOR, WHO GOT AWAY MIRACULOUSLY.

"On August 14, 1974, some 20 Greek gunmen entered our village, Tokhni, and gathered 69 Turkish Cypriot men between the ages of 13 and 74. These gunmen had been patrolling the town daily. The following day, the 15th August 1974, they brought to our village 15 more Turkish Cypriot men they had rounded up from the villages of Mari and Zyyi. They divided us into two groups I was one of the 50 who boarded a bus guarded by four Greeks armed with automatic weapons.

We passed Limassol, arriving at the Ayia Phyla-Palodhia road junction. Our captors ordered us down and told us to walk towards the isolated countryside. When we were told to stop, I noticed that the earth had been dug in places. These, I grasped then, were to be our graves. The four gunmen offered each Turkish Cypriot a cigarette. It was, I think at the third puff that the bullets came. I felt, I was shot in the belly and legs. I fell with the others, pretending to be dead. My face was covered with blood and the spattered brain of another victim. I then heard the four gunmen speak in the mainland Greek accent: 'That is the end of them, let's now go and bring a bulldozer and bury them.'

When they were safely away I gathered all my strength and crawled to the trees nearby. No one else appeared to have survived. Later I watched the common grave of my fellow-villagers bulldozed over.

I hid in the hills for six days, managing in the end to get to the village of Moutayiaka. Gradually my wounds were getting worse. I was then taken by a U.N. ambulance to the Episkopi British base."

CYPRUS WIDOWS WITH NO PROOF THAT THEIR HUSBANDS ARE DEAD

by Robert Fisk

Every few months, the Turkish Cypriot widows of Voni receive anonymous letters in Greek from Greek Cypriot towns in the South of the island. Their husbands are still alive, the letters claim.

One woman has been informed that her husband is still in a detention camp near Larnaca. Another has received 10 Cyprus pounds (about £14) from a Greek Cypriot clerk near the town who said her husband had passed on the money to give her a year after he disappeared.

Of the 45 widows who live in Voni, a former Greek village that snuggles on the hot mountain side north-east of Nicosia, few really believe that their husbands — and in some cases, their brothers or sons as well — could still be alive.

On August 14, 1974, their menfolk, 73 of them in all, were taken from the southern Cypriot village of Tokhni by soldiers of the Greek Cypriot National Guard and imprisoned in a local school. Next day — while the Turkish Army was storming across northern Cyprus — the men were loaded into two buses under Greek military escort and driven away. Their wives have not seen them since.

There are no memorials to those missing Turkish Cypriots, although the village of Voni is in itself a kind of sad monument to them. The survivors of Tokhni were transplanted at their own wish to Voni in 1975, and almost every house contains a widow or an orphan or a mother without sons.

Mrs. Vahide Turgut is only aged 43, although with her grey hair and strained, tired face you might think she was nearer 60. "Do you think my husband could be alive" she asks.

It would be a terrible insensitivity to mention the rumours of a still-undiscovered mass grave near Larnaca where the Turkish Cypriot administration claims the bodies might be found.

Mrs. Turgut saw her husband taken away by the Greek Cypriot soldiers in 1974. "We had heard on the television that the Turkish Army was moving across Cyprus and we expected trouble", she says. "We all gathered in the house of Suleiman Mehmet, because we thought we would be safer if we were all together. But the soldiers, came and took all the men to the school. The soldiers said they would only keep them for two hours.

"That night we took the men food. My husband asked me if I had been molested, and I told him I had not been hurt. He told me not to do anything which might make the Greeks angry.

"Next morning they put some of our men in a bus and drove them from the town. They said there was going to be a 'roll-call'. Then the rest of the men went in a second bus. My neighbours told me my husband was in that second bus which left at about four in the afternoon. I did not see it go."

Other wives keep their memories fresh in different ways, Mrs. Nuriye Hussein saw her husband taken away from Tokhni on the first day and her brother taken away on the second day. She kept a diary from August 14, recording her grief and her sense of panic when she thought the Greeks might kill her. She gave birth to a child on the afternoon that her husband disappeared.

There are few young men in Voni, but one of them, a tractor drived called Suat Hussein, claims to have survived the round-up 3 years ago. He was among the men sent out of Tokhni on the first bus. About a day later he turned up at the British sovereign base at Episkopi suffering from gunshot wounds.

He said he had been made to stand on the edge of a pit while 17 men had been killed with machine guns next to him. He had survived by pretending to be dead. There had been a bulldozer in a field, waiting to shovel earth over the corpses.

The women of Voni, prefer, for obvious reasons, not to dwell too closely on Mr. Hussein's story. Mrs. Turgut says Mr. Hussein did not see her husband die. The old men in the village believe the missing men are dead, although they say they resent the occasional German and Turkish tourists who come to Voni for a visit. The Turkish Cypriot authorities are happy to arrange for foreign journalists to go to the widows homes, although three of the women there said they did not believe they were being used for propaganda purposes.

Some of them have carried on a tradition of making delicate and beautiful lace table-cloths. Tokhni was once famous for its lace and the women of Voni — the Turks call both villages Tashkent — have continued the custom in their transplanted village.

Mrs. Turgut's aging mother regularly shows visitors a pile of lovingly embroidered sheets, pillow cases and table linen. There are no tourists to buy the lace now, she says but it helps to occupy the mind.

(From the Times, 20.6.1977)

APPENDIX 23

TEXT OF THE JOINT RESOLUTION OF THE COUNCIL OF MINISTERS AND THE LEGISLATIVE ASSEMBLY ON THE PROCLAMATION OF THE TURKISH FEDERATED STATE OF CYPRUS

"The Council of Ministers and the Legislative Assembly of the Autonomous Turkish Cypriot Administration having met in a joint session in Nicosia this 13th day of February, 1975, and

Having taken into consideration the fact

That the Turkish Cypriot Community has been continuously obstructed by the Greek Cypriots from exercising its rights under the Constitution ;

That the Turkish Cypriot Community was forced to live for years under unbearable conditions, deprived of all their economic rights and means under threats and oppression, in areas where they had gathered for self-preservation and for ensuring their security of life and property; and

That, as a result of the Greek Cypriot attempts and threats in the years 1963, 1967 and 1974, to end the independence of the Republic of Cyprus, the Turkish Community, which is one of the founders of the Republic, was forced to resist such attempts at the expense of grave sacrifices, have come to the conclusion that there is no possibility of their living together with the Greek Cypriot co-founders of the Republic of Cyprus;
and

Having come to the conclusion that the only way for bringing tranquility, security and permanent peace to the Island is for the two Communities to live side by side in their respective region, developing their own internal structure; and

Having noted the fact that the Greek Cypriot Community has not made any constructive response to the proposals for the establishment of an independent Federal Republic of Cyprus on the above reasonable basis;
and

Having taken into consideration the necessity of putting the Turkish Cypriot Community's social and economic life into a new healthy order; and

Having confirmed their belief and determination to oppose resolutely all attempts against the independence of Cyprus, and its partition or union with any other State; and

Believing in the necessity of the non-aligned status of the Republic of Cyprus and expressing their determination not to allow the island to become subservient to any foreign interest; and

Mindful of the necessity of creating in their own region the legal basis of an order leading to the establishment of the future independent, Federal Republic of Cyprus; and

Reaffirming that their final objective is to unite with the Greek Cypriot Community within the framework of a bi-regional federation;

HAVE RESOLVED that the Autonomous Turkish Cypriot Administration should be re-structured and organized on the basis of a secular and federated

State, until such time as the 1960 Constitution of the Republic, the basic articles of which were determined by international agreements in compliance with international law, is amended in a similar manner to become the Constitution of the Federal Republic of Cyprus, and until the said Federal Republic is established.

With this object in view, a fifty-member Constituent Assembly will be set up under the Chairmanship of the President of the Autonomous Turkish Cypriot Administration."

APPENDIX 24

UNITED NATIONS GENERAL ASSEMLY RESOLUTION 3212

of 1 November 1974

"The General Assembly,

Having considered the question of Cyprus,

Gravely concerned about the continuation of the Cyprus crisis, which constitutes a threat to international peace and security,

Mindful of the need to solve this crisis without delay by peaceful means, in accordance with the purposes and principles of the United Nations,

Having heard the statements in the debate and taking note of the Report of the Special Political Committee on the question of Cyprus.

1. *Calls* upon all states to respect the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus and to refrain from all acts and interventions directed against it;

2. *Urges* the speedy withdrawal of all foreign armed forces and foreign military presence and personnel from the Republic of Cyprus, and the cessation of all foreign interference in its affairs;

4. *Commends* the contact and negotiations taking place on an equal footing, with the good offices of the Secretary-General, between the representatives of the two communities, and calls for their continuation with a view to reaching freely a mutually acceptable political settlement, based on their fundamental and legitimate rights ;

5. *Considers* that all the refugees should return to their homes in safety and calls upon the parties concerned to undertake urgent measures to that end;

6. *Expresses* the hope that, if necessary, further efforts including negotiations can take place, within the framework of the United Nations, for the purpose of implementing the provisions of the present resolution, thus ensuring to the Republic of Cyprus its fundamental right to independence, sovereignty and territorial integrity;

7. *Requests* the Secretary-General to continue to provide United Nations humanitarian assistance to all parts of the population of Cyprus and calls upon all states to contribute to that effort,

8. *Calls* upon all parties to continue to cooperate fully with the United Nations Peace-Keeping Force in Cyprus, which may be strengthened if necessary;

9. *Requests* the Secretary-General to continue to lend his good offices to the parties concerned;

10. *Further requests* the Secretary-General to bring the present resolution to the attention of the Security Council."

APPENDIX 25

PROPOSALS ON THE POWERS AND FUNCTIONS OF THE FEDERAL GOVERNMENT OF THE FEDERAL REPUBLIC OF CYPRUS MADE BY THE TURKISH CYPRIOT MEMBERS OF THE EXPERT COMMITTEE SET UP BY THE FIRST VIENNA CONFERENCE ON THE 28TH APRIL, 1975

1. The Turkish Cypriot members of the Expert Committee, having examined this important subject in consultation with their legal expert Professor Orhan Aldıkaçtı, are of the opinion that the limited and specified powers and functions (enumerated in paragraph 2 below), which it is proposed should be given to the Federal Government of the Federal Republic of Cyprus (hereinafter referred to as "the Federal Government"), should be determined by, and should be exercised in the light of, and subject to, the following principles and conditions :—

(1) There exist at present two separate and distinct Turkish Cypriot and Greek Cypriot Administrations, irrespective of what name they may be known by, with effective control over two separate and distinct regions of the Republic of Cyprus. These two separate, distinct and equal Administrations exercise in Cyprus today, in their respective regions, the full authorities of the Republic. This fact must be the starting point in considering what powers and functions should be yielded by the existing Administrations to the Federal Government. That is to say, we are not starting off with one Central Government exercising full powers and functions and considering which of these powers and functions should be given to the States, but on the contrary, we are starting off with two separate and distinct Administrations exercising full powers and functions in their respective regions. We must, therefore, consider what powers and functions the already existing separate and distinct Administrations, i.e. the States of the proposed Federal Republic, should yield to the Federal Government.

The Turkish Cypriot members of the Committee, therefore, propose the establishment of a Federation composed of two Federated States (hereinafter referred to as "the States") with all residual powers and functions being left to the States and only such limited powers and functions being yielded to the Federal Government which are absolutely necessary for the carrying out of common services of a Federal State without detriment to the security of life and property in the respective regions.

(2) In view of the fact that the proposed Federal Republic will be composed of two equal units, namely the two member States which will make up the Federation, it is essential that, as is the case in most Federations, the member States of the Federation, irrespective of the size of its geographical area and irrespective of the size of its population, should in all respects be equal members of the Federation. This principle of equality of member units is not only observed in most Federations but is also a fundamental and democratic principle observed by the Charter of the United Nations itself. This principle of equality between the two member units of the Federation may be referred to as the principle of "Condominium".

(3) In view of past experience, it is considered imperative that the officials of the Federal Government exercising federal powers and functions in a member State should belong to the same Community as the State concerned. For example, a Federal Officer exercising federal powers in the Turkish Federated State of Cyprus, must be a member of the Turkish Community and vice-versa. (In this connection please see the principle embodied in Article 132 of the 1960 Cyprus Constitution).

2. The Federal Government shall, subject to the above principles and conditions, exercise powers and functions only with regard to the following matters:—

(1) Foreign Affairs :

(a) The field of foreign affairs, which should be clearly defined to embrace the normal and accepted sense of the term, is one which may properly be given to the Federal Government.

(b) Each State shall be entitled to enter into any agreement with its respective mother country, Turkey or Greece.

(c) The Federal Republic of Cyprus shall accord most-favoured-nation treatment to Turkey and Greece.

(d) In the light of past experience, the principle of equality or "Condominium" referred to above assumes an even greater degree of importance in the field of foreign affairs. It is for this reason that it is proposed that the more important posts in the Foreign Service, should be equally allocated between the two Communities.

(2) External Defence (excluding internal security of States) :

(a) In the opinion of the Turkish Cypriot side only external defence is a subject which may properly be given to the Federal Government. In the light of past experience, it is considered that internal security should be the responsibility of the respective member States.

(b) The defence force of the Federal Republic could be composed of separate and equal Turkish Cypriot and Greek Cypriot units, the Turkish Cypriot unit being based within the territory of the Turkish Cypriot State and the Greek Cypriot unit within the territory of the Greek Cypriot State. The Tripartite Headquarters established under the Treaty of Alliance shall resume its functions.

(c) In view of the existence of the Treaty of Guarantee and the Treaty of Alliance, which will effectively guarantee the independence, sovereignty and territorial integrity of the Federal Republic, it would not be necessary for the Federal Government to employ a large force for the purpose of external defence.

(3) Federal Banking, Stock Exchanges and Monetary Affairs :

It is considered that the subjects of Federal Banking, stock exchanges and monetary affairs are matters which could well be given to the Federal Government.

(4) Federal Budget :

(a) The Federal Government shall have its own Federal Budget for

the purpose of meeting the expenditure necessary for carrying out the powers and functions of the Federal Government.

(b) The Federal Budget shall be financed from the charges and fees derived from services rendered by organs of the Federal Government or from any aid or grant given to the Federal Government from outside.

(c) Any deficit in the Federal Budget in any particular year may be met by such Federal taxation or by such other means as may be agreed between the States.

(d) Each State shall also have its own Budget and will be responsible for its own financial arrangements, with the right to receive aid or grants from outside, and shall be responsible for the general economic development of its State.

(e) Financial and economic matters are, of course, spheres in which the two States could co-operate with each other for their mutual benefit.

(5) Federal Courts:

It is proposed that Federal Courts should be established for the purpose of dealing with matters arising under the Federal Constitution and violations of, or matters falling under, Federal laws. The establishment of a Federal Constitutional Court to interpret the Federal Constitution is envisaged.

(6) Federal Communications (including Federal Postal and Telecommunication Services):

(a) Federal Communications, such as external postal and telecommunication services and such services between the two States, the operation and maintenance of the Nicosia International Airport subject to mutually agreed arrangements, are matters which could properly and conveniently be given to the Federal Government.

(b) This should not preclude each State from having its own air and sea communications with its respective mother country or internal postal and telecommunication services.

(7) Federal Medical Services:

(a) Policy matters relating to medical and health services would come within the sphere of the Federal Government.

(b) Each State shall have, and be responsible for, its own medical and health services

(8) Standard of Weights and Measures (as well as computation of time):

The subjects of standardization of weights and measures and computation of time are matters which could well be given to the Federal Government.

(9) Patents, Trade Marks and Copyrights:

Regulation of matters relating to patents, trade marks and copyrights would also come within the sphere of the Federal Government.

(10) Federal Meteorological Services:

Subject to the rights of each State to have its own meteorological services, the Federal Government would be responsible for meteorological services at Federal level.

3. In the light of the observation made in sub-paragraph (1) of paragraph 1 above, its is proposed that all *residual powers and functions* of the Federal Republic, which are not included in those expressly given to, and vested in, the Federal Government, as enumerated in paragraph 2 above, shall be vested in, and exercised by, the States.

4. Although it is proposed that the powers and functions to be given to the Federal Government shall be confined to the 10 specific heads enumerated in paragraph 2 above, this would not mean that the two member States of the Federation would not be able to co-operate, in a spirit of reciprocity, very closely in those fields which, though coming within the powers and functions of the States are such(e.g. town planning, etc. of border towns like Nicosia, antiquities, trade and industry, labour and social welfare, etc.) that co-operation in those fields would be to the mutual benefit of the two States of the Federation and of their respective Communities.

5. It will be seen from what has ben stated that the above proposals with regard to the powers and functions of the Federal Government have been made in the light of the existing realities and of the lessons learned as the result of past experience and it is, therefore, proposed that the two existing separate Administrations should give up to the Federal Government only those limited powers and functions which are considered necessary and feasible for the purpose of maintaining common services and without security risks to the life and property of the inhabitants of the member States. If, in the course of time, it is proved, by the conduct of all concerned, that mutual trust and confidence can be built upon the limited links existing between the Federal Government and the two member States, then it is to be hoped that, with the growth of such confidence and with the elimination of mistrust and suspicion, it will be possible to strengthen such links by building upon them by the gradual giving up by member States of additional powers and functions to the Federal Government. It is the sincere belief of the Turkish Cypriot members of the Committee that the proposed Federation can only work and hope to survive, in the present circumstances, by starting cautiously from the bottom and then to build upon, and strengthen, the existing links with the growth of mutual confidence.

Prof. Orhan Aldıkaçtı,
Legal Expert of the Turkish
Members of the Committee.

(M. Necati Münir)
(Ümit Süleyman)
(Zaim M. Necati)

21st July, 1975.

APPENDIX 26

CONSTITUTIONAL PROPOSALS OF THE TURKISH CYPRIOT SIDE AT THE SIXTH VIENNA TALKS

I— PREAMBLE

The Turkish Federated State of Cyprus, representing the Turkish Cypriot Community, which is fully conscious and proud of its achievement in preserving the independence of the Republic of Cyprus, is desirous to establish with the Greek Cypriot Administration an independent, bi-zonal, federal, non-aligned Republic;

Do ordain to propose in good faith the founding of a partnership based on equality between the two existing Administrations;

With the object of serving the welfare of the two Communities, enabling them to live in peace and security side by side, enjoying the benefits and blessings of a democratic system of Government and to enhance their social and economic development;

The Turkish Federated State therefore submits the outlines of the Constitution of such a federal Republic which should be examined in the true spirit of federalism that has guided its authors.

II— INTRODUCTION

When the human experience in the system of federal government is objectively examined we see that such a system is established among various political entities either for defence, economic welfare or for social and political consideratoins. Furthermore, such experiences show us that the success of a federal system of government depends to a very large extent on maintaining an equilibrium between its component political entities and creating a common sense of values.

The Turkish Federated State of Cyprus, bearing in mind the experiences and total inadequacy and failure of the 1960 Constitution does hereby propose a system of federalism which, it sincerely believes is not only suitable to the existing realities of the Island, but is also flexible enough to generate its own national growth, free from cumbersome legalistic barriers. No legal system, however perfect, can ensure the success of a system of government unless its citizens sincerely believe in the system. This belief and determination of the two Communities can only be enhanced by a system of equality which will engender not fear of domination, but a spirit of co-operation for the common interest. In this sense federalism is more than a system of government embodied in legalistic formulas, but a way of life open to trial and error.

As it will be understood from the above explanations, under the federal system proposed by the Turkish Federated State of Cyprus, this partnership in power can only be envisaged between two equal political entities joining their resources in a central federal administration on a basis of equality working together at first in a comparatively limited field, but at the same time cooperating in many spheres of administration. Thus, those functions of the Federal Government proposed to be of a purely advisory nature initially, may grow into exclusive federal powers as confidence and spirit of co-operation between the two Communities are established.

III— GENERAL PRINCIPLES CONCERNING THE ESTABLISHMENT OF A FEDERAL REPUBLIC IN CYPRUS

1. Cyprus shall be an independent, non-aligned, sovereign, bi-zonal Greco-Turkish (Cypriot) Federal Republic composed of two Federated States one in the North for the Turkish national community and one in the South for the Greek national community.

2. The sovereignty shall continue to be shared equally by the two national communities as co-founders of the Republic.

3. The powers and functions of the Federal Government shall be those conferred by the Turkish Cypriot Federated State and the Greek Cypriot Administration by agreement between them.

4. The Federal Republic shall be secular. Religion shall be kept strictly out of politics in Federal and Federated affairs.

5. Each Federated State shall have its own Constitution and shall have the right to take all such measures relating to its administration as may be necessary.

6. Under no circumstances shall Cyprus, in whole or in part, be united with any other State. Unilateral declaration of independence by any of the Federated States shall be prohibited.

7. The Federal Republic of Cyprus shall henceforth follow a policy of friendship with Turkey and Greece in addition to promoting good neighbourly relations with countries in the region and shall pursue a policy of non-alignment.

8. All necessary measures shall be taken to prevent the Island of Cyprus from becoming involved, directly or indirectly, in any activity endangering the peace and security of the region.

9. Each Federated State shall ensure respect for Human Rights within its respective territory subject to the fundamental requirement of a bi-zonal federation and the viability and security of each Federated State.

10. Laws and all other measures, such as administrative, economic, social etc, of the Federal Government shall not discriminate against either of the two national communities.

11. All kinds of hostile activities of the two States against each other in both the internal and international spheres shall be excluded, while every effort shall be made to enhance peaceful coexistence, reconciliation and co-operation between the two national communities. Likewise, any activity tending to foment enmity, hatred and ill-feelings between the two national communities shall be prohibited.

12. Concurrently with the building up of mutual confidence and trust and subject to security needs of the Federated States, the overall effort of the two States shall be directed towards normalization of the relations between the two national communities in all respects.

13. The question of property rights and claims arising therefrom or relating thereto, as well as any other claims, shall be settled by mutual agreement between the Federated States, in conjunction with the question of compensation and other related matter, in such a manner as not to obstruct the setting up of the proposed bi-zonal Federal Republic.

IV— POWERS AND FUNCTIONS OF THE FEDERAL GOVERNMENT OF THE REPUBLIC OF CYPRUS

The Federal Government shall exercise powers and functions with regard to the following matters :

1) Foreign Affairs :

The field of Foreign Affairs in the normal and accepted sense of the term shall, subject to certain requirements, be given to the Federal Government.

2) External Defence :

The external defence force of the Federal Republic shall be composed of separate land forces of each Federated State.

3) Banking, Foreign Exchange and Monetary Affairs :

Each Federated State shall have a Bank performing the functions of a Reserve Bank. The Federal Republic shall have a uniform currency. Coordination shall be ensured by a Federal Reserve Board composed of an equal number of representatives from each Federated State.

4) Federal Budget :

a) The Federal Government shall have its own Federal Budget for the purpose of meeting the expenditure necessary for carrying out its powers and functions.

b) The charges and fees derived from services rendered by organs of the Federal Government shall accrue to the Federal Budget.

c) Deficits in the Federal Budget shall be met by contributions from the budgets of the Federated States.

5) Customs :

Customs duties to be levied on imports and Customs tariffs shall be determined after taking fully into account the economic structure of each Federated State and the principle of balanced economic development of the two Federated States.

6) Federal Communications :

The coordination of external postal and telecommunications services as well as the joint operation and maintenance of the Nicosia International Airport by the two communities on the basis of equality shall be ensured by the Federal Government.

7) Passports and Citizenship

Legislation concerning citizenship shall be made at the Federal level and issuing of passports shall be the responsibility of the Federated States.

8) Federal Medical Services :

The Federal Government may take measures relating to public health and general sanitary protection. The coordination of such measures between the Federated States shall be ensured by a Co-ordination Committee to be set up on the basis of equality.

9) Standards of Weights and Measures, Patents, Trade Marks and Copyrights and Meteorological Services :

There shall be effective coordination on these matters carried out by federal institutions in which the two communities shall participate on the basis of equality.

10) Federal Advisory Organizations .

Federal organizations of an advisory nature may be established in various fields in which the cooperation of the two communities may be useful, such as :

a) Stock Exchange

b) Water, Energy and Road Planning

c) Natural Resources

d) Environmental Protection

e) Plant Protection (Agriculture)

f) Tourism and Information

g) Marketing

h) Natural Disasters.

V— CIVIL SERVANTS AND EMPLOYEES OF THE FEDERAL GOVERNMENT :

The civil servants and employees of the Federal Republic performing federal functions in the Federated States shall belong to the same Community as that of the State concerned. Civil servants and employees working at the central administration of the Federal Government shall have equal rights.

VI— STRUCTURE OF THE FEDERAL REPUBLIC AND THE FEDERATED STATES :

1) Federal Presidency :

The Federal President shall have solely representational powers and the Presidency shall rotate between the two Communities.

2) The Executive, Legislative and Judical Organs of the Federal Republic :

a) Executive Organ of the Federal Republic :

The executive powers of the Federal Republic shall vest jointly in the two Presidents of the Federated States. In carrying out these functions Executive Secretaries shall assist the two Presidents. Executive Secretaries shall not have decision making authority of their own.

b) Legislative Organ of the Federal Republic :

Residual legislative power shall vest in the Federated States. The legislative organ of the Federal Republic can only legislate on those limited and well-defined matters enumerated in these proposals. The Federal Legislature shall consist of members elected separately by the two communities. On important matters such as : Foreign Affairs including the ratification of International agreements and External defence, separate absolute majorities of the Turkish and Greek members of Federal legislature shall be required.

c) Judicial Organ of the Federal Republic :

(i) Judicial organ of the Federal Republic shall be composed of 3 Turkish and 3 Greek judges.

(ii) The Presidency of the judicial organ shall be by rotation between the two communities.

(iii) The judicial organ of the Federal Republic shall deal with matters arising under the Federal Constitution and violations of, or matters falling under, Federal Laws.

3) Federated States :

The Turkish and Greek Communities establish their Federated States within their respective zones.

VII— IMPLEMENTATION OF FUNDAMENTAL RIGTHS AND LIBERTIES WITHIN THE FEDERATED STATES :

All fundamental rights and liberties shall be observed in principle with the condition that such observance shall be subject to the Laws and regulations of the Federated State concerned and shall not upset the territorial integrity and population homogeneity of the Turkish Federated State of Cyprus.

APPENDIX 27

PROPOSALS OF THE GREEK CYPRIOT SIDE AT THE SIXTH VIENNA TALKS

PRINCIPLES SUBJECT TO WHICH THE PROPOSALS OF THE GREEK CYPRIOT SIDE FOR THE SOLUTION OF THE CYPRUS PROBLEM ARE MADE

In presenting its proposals on the various aspects of the Cyprus problem the Greek Cypriot side wishes to state that such proposals -

(a) are inter-related and inter-dependent and should be taken together as a whole with a view to reaching a solution to the Cyprus problem on a "package deal" basis, and

(b) are subject to the following general principles.

GENERAL PRINCIPLES

1. The Constitution of the Republic of Cyprus shall provide for the establishment of a bi-communal federal State, the Federal Republic of Cyprus, which shall be a federation, and not a confederation, and shall -

(a) preserve the sovereignty, independence and territorial integrity of the Republic of Cyprus;

(b) ensure that the Federal Republic of Cyprus shall be the sole subject of international law, to the exclusion of its constituent parts;

(c) preserve the unity of the country.

2. In the Federal Republic of Cyprus and its constituent parts the fundamental human rights and liberties, as set out in International Conventions ratified by the Republic, shall be safeguarded.

3. Particularly, and without prejudice to the generality of the above. for every citizen of the Republic -

(a) there shall be a right of free movement throughout the territory of the Republic and freedom of residence in any place in which he may choose to reside;

(b) his life, security and liberty shall be safeguarded and his private and family life shall be respected and his home shall be inviolable;

(c) his right to property shall be respected and safeguarded;

(d) his right to work, practice his profession or carry on his business in any place he chooses shall be assured.

31st March, 1977.

BASIC PRINCIPLES WHICH SHOULD GOVERN THE CONSTITUTIONAL STRUCTURE OF THE FEDERAL REPUBLIC OF CYPRUS

1. The Federal Republic of Cyprus (hereinafter referred to as "the Federal Republic") shall be an independent, sovereign, non-aligned, bi-communal federal republic consisting of the Greek Cypriot Region and the Turkish Cypriot Region (hereinafter referred to as "the Regions").

2. The territory of the Federal Republic constitutes a single and indivisible whole and shall consist of the territories of the Regions. The state power of the Federal Republic shall be exercised throughout this territory on all persons therein.

3. (1) The people of the Federal Republic shall comprise the people of the Regions. There shall be one sole citizenship for the whole of the Federal Republic.

(2) Every citizen shall enjoy and exercise his political rights, insofar as the federal government is concerned, irrespective of his place of residence in the Republic. The exercise by a citizen of political rights with respect to the administration of the Region in which he resides shall be regulated by constitutional arrangements.

4. The Federal Republic shall be the sole subject of international law, to the exclusion of the Regions.

5. The Federal Republic shall form a single economic unity.

6. The constitutional order in the Regions shall conform with the Federal Constitution and the principles of republican and democratic government based on the rule of law.

7. In the Federal Republic, and throughout its territory, the fundamental rights and liberties safeguarded by Part II of the Constitution of the Republic of Cyprus of 1960, by the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, and by the United Nations International Convenants on Human Rights shall continue to apply, including freedom of movement, freedom of settlement, and right of property.

8. The general rules of public international law are an integral part of the Federal law. They shall take presidence over the domestic law and shall directly create rights and duties for the inhabitants of the territory of the Federal Republic.

9. The form of government of the Federal Republic shall be presidential with a President and a Vice-President, elected by universal suffrage in such a way as may be provided in the Constitution or in a Law made thereunder. If a Greek Cypriot is elected as President then the Vice-President shall be a Turkish Cypriot and vice versa.

10. (1) The President of the Federal Republic shall be the Head, and the Vice-President of the Republic the Deputy Head, of the Federal Republic.

(2) In case of absence or inability of the President his powers shall be exercised by the Vice-President.

11. (1) The legislative power of the Federal Republic shall be exercised by two legislative bodies, the one called "the Federal Council", representing the Regions, and the other called "the House of Representatives", representing the people.

(2) The members of the Federal Council shall be elected in each Region by universal suffrage and the members of the House of Representatives shall be elected by universal suffrage by the people as a whole.

(3) The representation of the Regions in the Federal Council and the representation of the people in the House of Representatives shall, subject to paragraph 18, be regulated by the Constitution.

(4) The fundamental principles of parliamentary procedure and especially the delaying powers of the Federal Council, of the Electoral Law and of any Law relating to the federal courts shall be provided in the Constitution.

(5) Any amendment of the Federal Constitution shall require a special majority of the members representing the two Regions in the Federal Council.

12. (1) The legislative power of the Federal Republic shall be contained in the Federal List and that of the Regions in the Regional List.

(2) The residual power shall vest in the Federal Republic.

(3) In case of any conflict between a federal law and a regional law the federal law shall prevail.

13. (1) The executive power of the Federal Republic shall be exercised by the President of the Republic, who for this purpose shall have a council of ministers.

(2) The composition of the council of ministers and its functions shall be provided by the Constitution.

14. (1) The judicial power of the Federal Republic shall be exercised by the Federal Supreme Court and the federal courts subordinate thereto.

(2) The Federal Supreme Court shall be the Constitutional Court of the Republic and the final appellate court in the Republic.

(3) The composition and jurisdiction of the Federal Courts shall be regulated by the Constitution and by a Law made thereunder.

15. The Federal Independent Officers of the Republic, namely the Federal Attorney - General, the Federal Auditor - General, the Governor of the Issuing Bank and the Federal Accountant - General, and their deputies, as well as their respective functions, shall be provided for in the Constitution.

16. Every citizen of the Republic shall be equally eligible to be appointed to any federal public office.

17. There shall be a Federal Public Service Commission the composition and functions of which shall be regulated by the Constitution.

18. The participation of the two Communities in the Federal Council, in the House of Representatives, in the Council of Ministers, in the Federal Supreme Court, in the Public Service Commission, in the highest federal organs and in the public service shall be proportionate to the ratio of the population, subject to equitable safeguards on certain specific matters.

6th April, 1977.

POWERS OF THE FEDERAL GOVERNMENT AND OF REGIONAL ADMINISTRATION

The powers of the federal government and of regional administration in the Federal Republic of Cyprus are enumerated in the Lists set out hereinbelow.

A. FEDERAL LIST

The Republic (Federal Government) shall exercise power on all matters other than those specifically and expressly assigned to its constituent members (Regions). Such power comprises all subjects hereinafter enumerated for the purpose of illustration only and not exhaustively.

1. **Foreign Affairs.**

Foreign affairs includes all matters which bring the Republic or its citizens into relation with any foreign state or any other subject of international law.

There shall be deemed to be included therein, inter alia, the recognition of states, diplomatic, consular, commercial and other relations, the conclusion and implementation of treaties and of any other international obligations, the declaration of war and the conclusion of peace, and the participation in any international organization and conference.

2. **Defence.**

Defence includes all matters relating to the protection and defence of the Republic and any part thereof against any threat either from outside or from within or against any calamity.

3. **Administration of Justice.**

This heading includes, inter alia, all matters relating to the administration of justice, the constitution, organization and jurisdiction of the Supreme Court (which shall include original jurisdiction to hear disputes between the regions themselves and between the regions and the federal government and appellate jurisdiction from the federal and regional courts) and of such other federal courts and tribunals as may be necessary for the administration of justice, the persons entitled to practise before the courts, and the composition and mode of enforcement of the judgements and decisions of courts and tribunals.

4. **Citizenship, Aliens, Immigration, Emigration and Extradition (including passports and visas).**

This heading includes, inter alia, all matters relating to citizenship of the Republic (and the acquisition of any foreign citizenship), to aliens, their naturalisation and their control, such as the entry and stay in the Republic and the acquisition of property by them, the movement of persons in and out of the Republic and the conditions of such movement, passports and visas, and extradition.

5. **Trade, commerce and industry.**

This heading includes, inter alia, all matters relating to the regulation of trade and commerce in their international or inter-regional aspects or

insofar as they concern or affect the interests of the Republic as a whole, the formation, registration, regulation and winding up of companies, partnerships and economic associations, the regulation of industry, including tourism, and industrial undertakings.

6. **Shipping, navigation (including air navigation), ports and transport.**

This heading includes, inter alia, all matters relating to shipping, navigation (including air navigation and air traffic), the delimitation of territorial waters, ports and airports, transport.

Transport also includes the construction, maintenance and control of highways, mechanically propelled vehicles, regulation of traffic, carriage of passengers and goods by land, sea and air, except carriage of passengers and goods by land solely within the limits of a Region.

7. **Federal works and power (including public works, electricity , water and other public utility undertakings.)**

This heading includes, inter alia, all matters relating to any works, even though situated wholly within the limits of a Region, which are aimed at serving the interests of the inhabitants of the Republic as a whole, and any works relating to nuclear energy atomic power plants.

8. **Mines, forests, fisheries and other natural resources and environment.**

This heading includes, inter alia, all matters relating to mines, quarries, mineral and quarry materials, gas and oil, water (whether surface water or not) and generally all kinds of natural resources (including the resources of the continental shelf), forests and forest materials, fishing and fisheries, and the protection and preservation of the environment.

9. **Antiquities.**

10. **Currency, legal tender and coinage, weights and measures, as well as computation of time, money, banking, exchange control and stock exchanges.**

11. **Postal and telecommunication services.**

This heading includes, inter alia, all matters relating to posts and telecommunications and to wireless, broadcasting and television.

12. **Customs (including customs and excise duties).**

This heading includes, inter alia, all matters relating to customs, and customs and excise duties, the unity of the customs and commercial territory, the freedom of movement of goods, the exchange of goods and payments with foreign countries.

13. **Industrial property (including patents, trade marks, business names, copyrights.)**

14. **Bankruptcy and Insurance.**

This heading includes, inter alia, all matters relating to bankruptcy and insolvency and insurance of any kind.

15. **Finance.**

This heading includes, inter alia, all matters relating to the economic policy and the administration of the finance of the Republic, to the preparation and administration of the federal budget, to the raising of money by any mode or system of taxation direct (such as income tax, estate duty, cor-

poration tax, capital tax, property tax) or indirect (such as customs and excise duties already referred to under heading 12, and stamp duties), the regulation of taxation for the whole of the Republic, and the regulation of the raising of money by borrowing, the making of grants and loans to the regions, and the taking of all measures to ensure the uniformity of taxation throughout the Republic.

16. Labour and Social Welfare.

This heading includes, inter alia, all matters relating to the registration, operation and dissolution of trade unions, the promotion of employment, wage, trade and productivity standards and the advancement of good labour relations; institutions and machinery for the solution of labour disputes in the federal service or in fields affecting the supply of services and the well-being of the inhabitants of the Republic as a whole, the establishment of institutions for, and the regulation of, training of labour, the safety of employees, the establishment, operation, regulation and financing of federal schemes of social insurance, pension schemes and the setting of standards and control of provident fund schemes.

17. Professions and professional associations.

This heading includes, inter alia, all matters concerning formalities, conditions or restrictions relating to the qualifications required for the exercise of any profession or the participation in any professional associations, and standards required for the obtaining of qualifications from institutions of higher learning in the Republic.

18. Movable and immovable property (including non-privately owned properties).

This heading includes, inter alia, all matters relating to ownership, tenure, registration and valuation, town and country planning, as well as compulsory acquisition and requisition of property.

19. Prisons.

This heading includes, inter alia, all matters relating to the establishment, maintenance and regulation of penitentiaries, prisons and other correctional institutions.

20. Establishment of federal authorities and other federal agencies.

This heading includes, inter alia, all matters relating to the establishment and maintenance of such federal authorities and agencies as may be necessary, including the establishment and regulation of the federal public service and the qualifications and duties of persons to be admitted to such service.

21. Public Health.

This heading includes, inter alia, all matters relating to the protection of public health in the Republic, exclusive of local sanitation and first aid services, to the regulation of standards for hospitals, nursing homes and other similar institutions, to drugs and poisons, foodstuffs, diseases and quarantine.

22. Agriculture.

This heading includes, inter alia, agricultural policy in the interests of the Republic as a whole, agricultural reasearch, protection against pests and prevention of plant and animal diseases.

23. Matters incidental or supplemental to the execution of any power vested in the Federation.

24. Any other matter not explicitly assigned to the Regions.

The abstinence of the Federal Government from legislating to the full limits of its powers shall not have the effect of transferring to any regional legislature any power which has been assigned to the Federal Government by the Federal List.

B. REGIONAL LIST

The powers of a regional administration shall extend to all matters expressly and specifically provided hereinafter.

1. Organization and Administration.
This heading relates to all matters concerning the structure and organization of the government of the Region and the administration therein.

2. Implementation of federal legislation.
This heading relates to the implementation of all federal legislation insofar as it applies to the Region, where such implementation is expressly entrusted to the Region by such federal legislation.

3. Local Government.
This heading relates to the structure and organization of local government and its functioning within the Region.

4. Public Order.
This heading relates to such matters concerning the maintenance of public order and security as are of a purely local and regional nature.

5. Offences under regional laws.
This heading relates to the making of provision for the creation of offences for contraventions of regional laws and the imposition of punishment therefor.

6. Police
This heading relates to the organization and maintenance of local police for the enforcement of regional laws in the Region.

7. Administration of Justice.
This heading relates to the constitution, organization and jurisdiction of all regional courts of criminal and civil jurisdiction, including the practice and procedure in proceedings before such courts, provided that a final appeal shall always lie from the judgement or decisions of such courts to the Federal Supreme Court.

8. Trade, Commerce and Industry.
This heading relates to all matters concerning the regulation of trade, commerce and industry within the Region, of a purely local and regional nature.

9. Transportation.
This heading relates to the carriage of passengers and goods by land solely within the limits of the Region, the construction of regional roads within the Region and the control of traffic therein.

10. Regional Works.
This heading relates to all matters concerning any works of a purely local and regional nature other than works which, though situated within the Region, are carried out by the Federal Government.

11. Forests.
This heading relates to matters concerning forests assigned to the Region, and their control, conservation, protection and development.

12. Producers' and Consumers' Co-operatives and Credit Establishments.
This heading relates to the structure and organization of co-operatives and credit establishments, their functioning and supervision.

13. Charitable and Sporting Organizations.
This heading relates to the structure and organization of charitable and sporting organizations, their functioning and supervision within the Region.

14. Cultural and Educational Affairs.
This heading relates to all matters concerning cultural, teaching and educational affairs in the Region, provided that the minority community within the Region shall be at liberty to establish and operate its own schools, which shall be of a standard not below the minimum standard required for public schools in the Region.

15. Finance.
This heading relates to matters concerning the raising of money by way of rates, tolls, licensing fees, loans locally contracted and lotteries, and the receiving of grants and loans from the Federal Government. Such mode of receiving money should not be of a destructive or prohibitive nature and should not exceed a ceiling which may be fixed by a federal law.

16. Labour and Social Welfare.
This heading relates to the inspection of places of work and to regional programmes of public and social welfare.

17. Professions and Trades.
This heading relates to the matters concerning the raising of revenue by licensing of persons possessing the qualifications required under federal law for carrying on, exercising, and practising any business, trade, calling or profession within the Region other than the licensing of a corporate body incorporated under federal law.

18. Correctional Institutions.
This heading relates to reform schools and other quasi-educational correctional institutions for young persons.

19. Public Health.
This heading relates to all matters concerning the protection of public health and sanitation within the Region and the running of hospitals and nursing homes and other similar institutions.

20. Agriculture.
This heading relates to all matters concerning agriculture within the Region of a purely local and regional nature.

21. Compulsory acquisition and requisition of property.
This heading relates to all matters concerning the compulsory acquisition and requisition of property within the Region, for such purposes of

public benefit of a purely local and regional nature on such terms and in accordance with such provisions, as provided by federal law.

22. Services of a local character.
This heading relates to services of a purely local and regional nature, such as fire brigades, except in the capital of the Republic, inspection of boarding houses and lodging houses, burial and cremation grounds, pounds and cattle trespass, markets and fairs, and licensing of theatres, cinemas and other places of public entertainment.

23. Matters incidental or supplemental to the execution of any power vested in the Region.

24. Matters assigned by the Federal Government to the Regions.
This heading relates to matters which may be assigned specifically by federal law to the Regions, though not expressly enumerated in this List. If a Region purports to exercise competence on a matter not specifically and expressly vested in the Region the exercise of such competence shall be void.

There shall be deemed to be included therein, inter alia, the raising, training and maintaining of the necessary armed or other forces, the establishment and maintenance of bases and any defence works, the control of weapons, explosives, munitions and war materials, the taking of all measures necessary for the prosecution of war, the restoration of peace, the meeting of any calamity, and the securing of the essentials for the well-being of the community and the readjustment of its economic life.

It should be noted, however, that the Greek Cypriot side supports the full demilitarization of Cyprus.

25. Security.
Security includes all matters relating to peace, order and good government throughout the Republic.
There shall be deemed to be included therein, inter alia, the raising, maintenance and distribution of the necessary security forces, any matters pertaining to weapons, ammunitions and explosives, the declaration of a state of emergency throughout the Republic or in any part thereof, and the regulation of any matter relating thereto.

26. Criminal, public and civil law and procedure.
This heading includes, inter alia, all matters relating to the determination of the scope and content of the criminal, public and civil law of the Republic and the rules of evidence and of practice and procedure applicable in criminal, public and civil law proceedings.

APPENDIX 28

Law Report May 23 1977 Court of Appeal

NO INJUNCTION OVER CYPRUS HOLIDAY HOTELS

Hesperides Hotels Ltd and Another v Aegean Turkish Holidays Ltd. and Another
Before Lord Denning, Master of the Rolls, Lord Justice Roskill and Lord Justice Scarman

The English courts have no jurisdiction to entertain an action for the right to possession of land out of England or the recovery of damages for trespass to such land.

The Court of Appeal affirmed that long established principle in allowing an interlocutory appeal, in reserved judgements, by Mr. Omer Faik Muftizade, the London representative of a body called the Turkish Federated State of Cyprus, from Mr. Justice May in chambers on April 6, when on the application of Hesperides Hotels Ltd and Catsellis Hotels Ltd, companies incorporated according to the law of the Republic of Cyprus and presently situated in Limassol, he granted them an interlocutory injunction restraining Mr. Muftizade from conspiring or acting in any way whatever to procure, encourage or assist a trespass to two hotels owned by the companies in Kyrenia in the area now occupied by the Turkish regime.

The writ (which the judge refused to set aside) alleged that Mr. Muftizade had conspired with an English travel agent company, Aegean Turkish Holidays Ltd, to obtain advantage for themselves by the unauthorized use of the companies' hotels, the Hesperides (now known as Kyrenia Rocks), and the Dome, in Kyrenia.

Lord Denning, though concurring in the result, also considered the question whether, where her Majesty's Government had stated that it did not recognize the constituent parts of the community in Cyprus, the English courts might differ from the executive in relation to a particular regime in a particular territory at a particular time.

Mr. Patrick Neill, QC, and Mr. Gerald Davies for Mr. Muftizade; Mr. David Kemp, QC, Mr. George Newman and Mr. Kenneth Parker for the companies.

The MASTER OF THE ROLLS said that Kyrenia, in the north of Cyprus, attracted many visitors. Before 1974 the Hesperides and the Dome were owned by Greek Cypriots. The owner families ran them and lived there.

In July, 1974, the Turkish armed forces took possession of Kyrenia. The two hotel families fled to Limassol, where they still were. They could not return to the north, for it was sealed off by the Turkish forces.

In mid-1976 the families got to know that their hotels were occupied by Turkish Cypriots and were advertising in England for visitors. Brochures were issued by a body calling itself the "Turkish Federated State of Cyprus". In London a travel agency, Aegean Turkish Holidays Ltd, accepted bookings for the two hotels (among others). The families went to English solicitors, who found that the "Turkish Federated State of Cyprus" had a London representative, Mr. Omer Faik Muftizade, a man of distinction who held the Queen's Medal for Gallantry. The solicitors assumed that he had been a party to the issue of the brochures.

The solicitors decided to take action in England. They issued a writ against the travel agents and Mr. Muftizade, asserting that since August, 1974, the hotels had been illegally occupied by trespassers and to obtain advantage for themselves by the unauthorized use of the hotels. They applied to Mr. Justice May for an injunction. The travel agents submitted to a perpetual injunction, but Mr. Muftizade applied to set aside the writ against him. The judge upheld the writ and granted an injunction against Mr. Muftizade. Mr. Muftizade appealed.

His Lordship would summarize the rival contentions. Mr. Kemp, for the companies, said that the only lawful constitution of Cyprus known to English law was that established in 1960; pursuant to the Cyprus Act, 1960; that the only lawful sovereign was the Republic of Cyprus established by that Act; that the companies were the legal owners of the two hotels and had the right to possession of them; and that having served Mr. Muftizade in England, they could sue him personally for the personal wrong done by him; that he was guilty of a personal wrong because he conspired with the travel agents and others to obtain bookings for the hotels and thus procured, encouraged and assisted trespasses to the hotels, such trespasses being unlawful by the laws of the Republic of Cyprus.

Mr. Neill suggested that the original constitution of Cyprus had been supplanted in fact by two autonomous administrations, one a Turkish Cypriot administration in the north, the other a Greek Cypriot administration in the south. He said that the Turkish Cypriot administration had requisitioned properties in the north which formerly belonged to Greek Cypriots there; that the Greek Cypriot Administration had requisitioned property in the south formerly belonging to Turkish Cypriots there; that it was open to argument at least that those requisitions were lawful; and that the courts of England could not and should not pronounce them unlawful or issue any injunction on that footing.

The Foreign Office had issued a certificate that Her Majesty's Government did not recognize the administration —the "Turkish Federated State of Cyprus" — as being the government of an independent *de facto* sovereign state; nor did the Government "recognize or accord to Mr. Muftizade... any privilege and/or immunity under the Diplomatic Immunities Act, 1964".

Mr. Kemp submitted that the effect in law of the certificate was that the English courts could not recognize or give effect to any of the acts or laws of the so-called state. They were all nullities, and our courts could not even receive evidence of such acts and laws.

Mr. Kemp supported his submission by reference to authorities, including *Luther v. Sagor* ([1921] 1 KB 456), where Mr. Justice Roche accepted the law as stated by the United States Supreme Court in 1818 : "No doctrine is better established than that it belongs exclusively to governments to recognize new states in the revolutions which may occur in the world: and until such recognition, either by our own government or the government to which the new state belonged courts of justice are bound to consider the ancient state of things as remaining unaltered" and other judicial statements by Lords Justice Diplock.

Mr. Kemp added most persuasively citations from the late Sir Hersch Lauterpacht's Recognition of Government, when he said that the correct rule was that both an unrecognized government and its act were a nullity. The doctrine there stated was said to be based on the need for the executive and the courts to speak with one voice. If the executive did not recognize the usurping government, courts should not. But others said that there was no need for the executive and the judiciary to speak in unison. The executive were concerned with the external consequences of recognition *vis-à-vis* private individuals.

The Courts had repeatedly received evidence of the status of various administrations in a country, the most authoritative statement being that of Lord Wilberforce in the House of Lords in *Carl Zeiss* ([1967] 1 AC 853, 954): "Where private rights, or acts of everyday occurrence or perfunctory acts of administration are concerned... the courts may, in the interests of justice and common sense, where no consideration of public policy to the contrary has to prevail, give recognition to the actual facts or realities found to exist in the territory in question."

His Lordship had been ready to apply the principle in *In re James (An insolvent) Attorney General intervening)* The Times, October 23, 1976; [1977] 2 WLR 1, 11) about Rhodesia. If it were necessary to make a choice between the conflicting doctrines, his Lordship would unhesitatingly hope that our courts could recognize the laws or acts of a body in effective control of a territory, even though it had not been recognized *de jure* or *de facto* by our Government; at any rate in regard to the law which regulated the day-to-day affairs of the people, such as their leases, their occupations and so forth; and furthermore that the courts could receive evidence of their state of affairs so as to see whether or not the body was in control.

His Lordship reviewed the history of Cyprus since 1960. Since 1974 the evidence pointed clearly to there being two autonomous administrations in Cyprus. Negotiations were in process for a bi-communal federal state. If they succeeded provision would no doubt be made for the properties to be restored to their former owners or compensation paid. Meanwhile, however, under laws purported to be made by the respective administrations, the properties had been let or occupied by persons authorized by the relevant administration.

There was now an effective administration in north Cyprus which had made laws governing the day-to-day lives of the people. According to those laws the people who had occupied the hotels in Kyrenia were not trespassers. They were not asserting their ownership. They were occupying them by virtue of a lease granted to them under the existing laws or requisitions made by the existing administration. If an action were brought in the courts of northern Cyprus alleging trespass to land or to goods it would be bound to fail.

It followed inexorably that their conduct could not be made the subject of a suit in England. Even if one of the present occupiers himself came to England and was sued here, the courts would be bound to reject the claim. In order to be actionable in England it would have to satisfy the second condition in *Philiph v Eyre* ([1870] LR 1 29): "The act must have been justiciable by the law of the place where it was done."

His Lordship thought that the case should be disposed of on broad grounds of public policy. There was a divergence of view between two autonomous administrations in Cyprus. It was not the province of the English courts to resolve such a dispute. It was a dispute which should be settled by negotiations, aided one hoped. It was, indeed, his Lordship hoped, being settled at this very moment by negotiations in Vienna. If a settlement was reached it should deal with all questions relating to the taking of properties, compensation and so forth.

The dispute was not justiciable. The action should be struck out as unsustainable and the appeal allowed.

LORD JUSTICE ROSKILL said that Mr. Justice May had not only granted the injunction against Mr. Muftizade but also dismissed his application to set aside the plaintiff's writ for want of jurisdiction. Since no recognition was accorded to the Turkish Federated State of Cyprus as the *de jure* government

of any part of Cyprus or as the government of an independent *de facto* sovereign state, it followed that Mr. Muftizade was sued as a private individual; indeed he could not be sued otherwise or in any relevant representative capacity. He did not posses, and before their Lordships did not claim to posses, any diplomatic privilege or immunity. Nor had he any official status. Accordingly if the plaintiff companies were to succeed in their claim against him they must prove that claim just as any claim for damages for conspiracy to trespass must be proved by any plaintiff against any other defendant, and if that claim fell within a class which the courts of this country had no jurisdiction to entertain not only ought the interlocutory injunction to be discharged, but the writ should itself be set aside.

Mr. Muftizade said that however the claim might be dressed up it offended against the principle of English law summarized in rule 79 of Dicey's Conflict of Laws: "Subject to the exceptions hereinafter mentioned, the court has no jurisdiction to entertain an action for (1) the determination of the title to, or the right to possession of, any immovable situate out of England (foreign land), or (2) the recovery of damages for trespass to such immovable."

That rule was founded on the House of Lords decision in *British South Africa Co v Companhia de Mocambique* ([1893] AC 602). If the submission were right both the writ should be set aside and the injunction ought not to have been granted. Had the judge had before him the evidence from Mr. Muftizade adduced before their Lordships we would not, his Lordship thought, have held as unhesitatingly as he did that the evidence showed an unlawful conspiracy between the travel agency and Mr. Muftizade to procure a trespass to the plaintiff's property. There was little evidence of the conspiracy alleged either against Mr. Muftizade personally and or of any tortious act by anyone for whom he could reasonably by said to be vicariously responsible.

But Mr. Neill was concerned to succeed on principle, submitting that however the claim might be disguised as one for damages for conspiracy to trespass, it offended against the *Mocambique* principle. The judge appeared to have thought that the principle, which was correctly stated in Dicey's rule 79, was limited to cases where title to land was in dispute and should not be applied where the title was not in dispute and the cause of action was "in truth the recovery of damages for trespass."

But where the plaintiff's title to their hotels was not in dispute, their right to immediate possession was strongly disputed by Mr. Muftizade, and as a matter of English law, it must be an essential prerequisite of their right to recover damages for the alleged conspiracy to trespass that they showed that the acts relied on as constituting the alleged conspiracy and as causing the alleged trespass were actionable.

Mr. Kemp's main submission was that that was not a matter which the court could investigate because the only ground on which the claim to immediate possession could be defeated depended on alleged laws and actions of the so-called Turkish Federated State of Cyprus, and since no recognition had been accorded by Her Majesty to that body, those laws and actions were nullities to which no effect must be given in our courts.

Mr. Kemp appeared to accept that if the plaintiffs' action was limited to damages for trespass to their properties in Cyprus the court could not entertain that claim; but he contended that because the action was founded in conspiracy

to trespass the position was different, at least where the overtacts of the conspiracy took place in this country, even though the alleged damage might have been suffered abroad.

Mr. Newman, in addition, contended that there was sufficient evidence of damage suffered in this country by the plaintiffs by the mere making of a booking at the hotels which they had not authorized. Both counsel for the plaintiffs had argued that, assuming sufficient evidence of the relevant tortious acts by Mr. Muftizade within the jurisdiction, there was no reason in principle why English courts should not exercise jurisdiction against him *in personam* and thus prevent the continuance of the alleged conspiracy to trespass against their property. It was said that nothing in the *Mocambique* principle prevented the court from so acting and that the policy underlying the decision was simply that the English court would not make orders which they could not enforce —*the brutum fulmen* principle; here it was said that the relevant order could be enforced against Mr. Muftizade.

In his Lordship's view that was the very argument which had failed in the House of Lords in *Mocambique:* see Lord Chancellor Herschell at pp 624/625. His Lordship found it impossible to see how, if our courts had no jurisdiction to entertain an action in respect of a trespass committed against land abroad, jurisdiction was suddenly acquired by dressing the claim up as an agreement between two or more people in this country to commit that trespass abroad.

It followed that the *Mocambique* principle presented a complete bar to the plaintiffs' claim and that their claim for damages for conspiracy to trespass could not be entertained in our court. His Lordship would allow the appeal on that ground alone, discharge the injunction and set aside the writ.

His Lordship would add that Mr. Neill had read to the court evidence giving one version of events in Cyprus. The plaintiffs had not had an opportunity to answer, and if they had had, no doubt much could have been said on the other side. History, especially recent controversial political history, was not one-sided. So far as the new evidence went it showed the profound wisdom of the *Mocambique* principle. The position in Cyprus, both on the Greek and on the Turkish side, was at present evolutionary and continued ot evolve and develop. Delicate international negotiations had taken place and were about to continue. In those circumstances for an English court to arrogate to itself the right at the present juncture to determine questions of the right to possession of land in Cyprus by entertaining an action for conspiracy to trespass was something which the court ought not to do.

His Lordship considered that in the light of observations in the *Carl Zeiss* case in the House of Lords, in particular Lord Reid and Lord Wilberforce, it was clear that at some future date difficult questions might well arise as to the extent to which, notwithstanding the absence of recognition, the English courts would or might recognize and give effect to the laws or acts of a body which was in effective control of a particular area or place; but they did not arise for decision in the present case.

LORD JUSTICE SCARMAN, agreeing with the judgement of Lord Justice Roskill, said that any interlocutory injunction granted in the circumstances of the present case could well do more harm than good. An English court might sometimes have to make an order which to some would appear to be an unwarrantable intrusion by a municipal court into the world of international

relations between sovereign states; but if it were asked to intrude its order into that world it should be very slow to grant interlocutory relief by way of injunction, bearing in mind the limitations of evidence and argument necessarily imposed by law on interlocutory proceedings.

Leave to appeal was refused.

Solicitors : Theodore Goddard & Co; Lovell, White & King.

(from 'The Times' of 24 May 1977)