



COLONIAL OFFICE

REPORT OF THE MALTA CONSTITUTIONAL COMMISSION, 1960

*Presented to Parliament by the Secretary of State for the Colonies
by Command of Her Majesty
February 1961*

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Office of the Malta
Constitutional Commission,
The Palace,
Valletta.

5th December, 1960.

The Rt. Hon. IAIN MACLEOD, M.P.,
Secretary of State for the Colonies,
London, S.W.1.

SIR,

On the 22nd August, 1960, you formally invited me to accept appointment as Chairman of the Malta Constitutional Commission, the establishment of which you had announced in the House of Commons on the 27th July.

I now have pleasure in submitting the Report of the Commission. The constitutional recommendations are unanimous.

I should like to say how greatly I appreciate the hard and intensive work which has been put in by my colleagues on the Commission and by the staff with which you were kind enough to provide us from the Colonial Office. I am most grateful to them all. Their industry has made possible the completion of our Report a little in advance of the estimated date.

I have the honour to be,

Sir,

Your obedient servant,

(Signed) HILARY BLOOD,
Chairman.

Malta Constitutional Commission.

TERMS OF REFERENCE

In the light of the expressed desire of Her Majesty's Government to restore representative government in Malta, to formulate detailed proposals, after consultation with representatives of the Maltese people and interests, on the most appropriate means of implementing the statement regarding constitutional changes in Malta, made by the Secretary of State for the Colonies in the House of Commons on 27th July, 1960.

Statement by the Secretary of State for the Colonies

As I have repeatedly made clear, Her Majesty's Government are anxious to restore representative government in Malta. During the fifteen months that the present constitution has been in operation, important progress has been made in diversifying the economy, but it was never intended that this constitution should remain in force any longer than was necessary. Her Majesty's Government have decided that the time has now come to work out a new constitution under which elections may be held as soon as it has been introduced.

Last December I myself visited Malta, and during his recent visit my Rt. Hon. and Noble Friend, the Minister of State for Colonial Affairs, has had valuable informal consultations with the representatives of a wide range of Maltese opinion and many professional associations and interests on how to restore representative government while at the same time not abandoning our responsibilities to the people of Malta.

Her Majesty's Government have come to the conclusion that the quickest and most satisfactory way of moving to early elections lies in the appointment of a small Constitutional Commission, including a member from another Commonwealth country, whose task will be to formulate detailed constitutional proposals, after due consultation with representatives of the Maltese people and local interests. The method of consultation will be for the Commission itself to decide.

The Commission will have to take account of Her Majesty's Government's intention that the Maltese people should be given the widest measure of self-government consistent with Her Majesty's Government's responsibility for defence and foreign affairs and their undertakings in respect of the public service, the police and human rights generally. Within this framework, the Commission will be free to make such recommendations as it sees fit.

I am glad to be able to announce that Sir Hilary Blood has accepted appointment as Chairman of the Commission, and that Sir Alfred Roberts has agreed to serve as a Member. As I have said, I also hope to add a Member from another Commonwealth country.

The Commission will go out to Malta as soon as possible. When its report has been received Her Majesty's Government intend that elections shall be held on the basis of a new constitution, in the drawing up of which the people of Malta, the Commission and the United Kingdom Government will all have played their part.

MEMBERS OF THE COMMISSION¹

Sir Hilary Blood, G.B.E., K.C.M.G., K.St.J., Hon.LL.D.

Sir Alfred Roberts, C.B.E., Trade Union Congress.

Mr. Edward St. John, Q.C., Commonwealth of Australia.

Mr. Fred Hayday, Trade Union Congress.

¹ See Chapter I, paragraphs 1 to 3.

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CHAPTER I

INTRODUCTION

1. We arrived in Malta by air on the 7th October, 1960. Prior to our arrival those who wished to submit written memoranda had been asked to do so by the 11th October and those who wished to discuss matters with us to inform the Secretary to the Commission. The date was later extended and many people took advantage of the invitation. Our first three weeks were spent in Malta, with a brief visit to Gozo, examining the written evidence and listening to the views of various members of the public. On the 29th October Mr. St. John and the Chairman travelled to England for deliberation and consultation in London.

2. The Commission suffered a serious loss when Sir Alfred Roberts had to return to England under doctor's orders on the 15th October. Although suffering considerable discomfort and pain almost from the day of his arrival in Malta Sir Alfred's knowledge and experience was of great help to us. Through his trade union connexions he made contact with a number of people whose views, since they had refused to see us officially, could not otherwise have been available to the Commission. Sir Alfred's place was taken by Mr. Fred Hayday.

3. The Chairman returned to Malta from the United Kingdom on the 8th November with Mr. Hayday, and Mr. St. John returned on the 9th. The remainder of our time in Malta has been spent in hearing further evidence and preparing our Report.

4. In Appendix A will be found a list of those who came to see us and a record of our movements during our stay. In addition to those named in the appendix we had numerous informal discussions with persons interested in our work. Written memoranda submitted by political parties or organized bodies are reproduced, with the authors' permission, in Appendix B.

5. We are deeply in debt for great kindness and much help to many people in Malta: to His Excellency the Governor and Lady Grantham for most kindly hospitality; to many new friends inside and outside the government service who have greatly added to the pleasure of our visit; to His Excellency for the use of spacious rooms in the Palace which has enabled us to work with great comfort in pleasant and dignified surroundings; to the Chief Secretary and many of his officers who have given us liberally of their time and supplied us with essential information on official matters; to the Commissioner for Gozo for his arrangements for our visit to that Island; and to many organizations and individuals in the Islands who have discussed with us their political aims and desires. Finally we are most grateful to our liaison officer, Major E. J. Axisa, R.M.A., who placed his time generously at our disposal; to Miss M. Parry for her speed and skill with drafts and stencils; and to our secretary, Mr. P. R. Forsyth Thompson, whose energetic assistance has been invaluable.

CHAPTER II

OUTLINE OF PROPOSALS

6. Proposals made to us for the future constitution of Malta² were many and various. It is interesting to record that integration was hardly mentioned, although no constitutional proposal for a dependent territory was ever more influentially supported in the United Kingdom. In fairness however it must be said that one of those who did refer regretfully to the abandonment of the integration proposals was a witness for whose political wisdom and shrewdness we have the greatest respect.

7. The basic situation with which the Commission has been confronted is not identical with the problem set by the terms of reference. It is not difficult to devise a constitution with a wide measure of self-government for Malta; it does not require vast ingenuity to find ways whereby Her Majesty's Government may discharge their obligations to Commonwealth and allied countries outside Malta, and also fulfil undertakings given to certain persons or groups of persons within Malta. The 1947 Constitution was by no means illiberal and a means could have been found to honour such obligations and undertakings within its bounds.

8. We found ourselves engaged on an exercise of a more fundamental nature. Our quest was for a basis of partnership between two nations, one large and one small, each of which still has need of the other, bound together for over 150 years by ties—sentimental, personal, strategic and economic—which nonetheless are found to fret and frustrate the smaller dependent territory as it develops politically and a national consciousness is awakened. Since 1921 the United Kingdom and Malta have sought mutual accommodation by the erection of a dyarchical edifice. From 1921 to 1930 and again from 1947 to 1958 there were two distinct and separate Governments in the islands, the Maltese Imperial Government and the Maltese Government,³ each with its own sphere of action, with its own responsibilities and powers carefully listed and tabulated in the hope that thus confusion between their respective functions might be avoided. Both Governments had the same Head, representing in one sphere the imposed metropolitan power, and in the other the local sovereignty derived through centuries of inheritance and succession: on the one hand the guardian of the fortress, on the other the traditional head of the community, the embodiment of the Maltese State.

9. With the best will in the world on both sides dyarchy must, in such circumstances, prove a difficult basis of government unless those on whom it is imposed are preoccupied rather with material things than with the growth and development of a nation.

10. Certainly dyarchy is the easiest form of government to disrupt: it has in fact been suspended on several occasions since its introduction in 1921. The most careful planning has not avoided head-on collisions where

² For the purpose of this Report "Malta" means the islands of Malta, Gozo, Comino and Filfla unless otherwise specified.

³ Hereafter in the Report the phrase "The Government of Malta" means the present Government of Malta, set up by The Malta (Constitution) Order in Council 1959: the phrase "The Maltese Government" means the government to be set up following on our recommendations.

local and metropolitan interests conflicted, and this will always be so unless the will to work such a constitution exists. We believe that such will is not generally to be found in Malta today. We believe that the Malta form of dyarchy should now be abandoned: it will die unlamented, and we make no attempt at resuscitation.

11. We believe that Her Majesty's Government in the United Kingdom and the Maltese Government should be not separated as in a dyarchical form of government, but brought closer together, their work linked and harmonized—surely not too difficult a task in a country where many people listen regularly to the British Broadcasting Corporation and where English newspapers can normally be obtained on the day of publication. In this way United Kingdom needs and requirements in Malta may be set alongside the needs and requirements of the Maltese. Thus a joint approach, based on free and full exchange of information and mutual acknowledgement of interests, may be made to the day-to-day work of government in what has been since 1802 and long before that, a fortress in the front line of the defence of the western world.

12. To this end we recommend that there should no longer be "reserved matters" over which the Maltese Legislature has no power to legislate. Instead, using the phrase employed in many federal constitutions, there should be "concurrent powers", relating to subjects in respect of which both Her Majesty's Government in the United Kingdom and the Maltese Government would have power to legislate, the United Kingdom legislation prevailing only if conflict arises. In this way Her Majesty's Government in the United Kingdom may leave with, or delegate to, the Maltese Legislature and Maltese Ministers many of the powers and duties which in the areas of defence and foreign affairs have hitherto been exercised and discharged only by the Imperial Government of Malta. Thus the constitution which we recommend will extend the operations of the Government of Malta well beyond the normal area of internal self-government.

13. We consider that instead of the Queen's representative having to play the double role of guardian of the United Kingdom's interest in a fortress and Head of the Maltese State, the United Kingdom's interests should be in the care of a United Kingdom Commissioner stationed in Malta, thus leaving the Governor free to function as the embodiment of the Maltese people, a constitutional Head of State so far as that is practicable in the present circumstances of Malta.

14. We believe that this new approach to old problems will appeal at least to those who accept the fact that, at this stage of the cold war and of Malta's development, the metropolitan power must in the end have the final word in matters of defence and foreign affairs.

15. Opportunities for co-operation between Her Majesty's Government and the Maltese Government can be fostered by provision which we propose for consultation between the two Governments, and for the mutual supply of information, so that they may be able, by an exchange of views, to appreciate each other's requirements and difficulties, and so seek to avoid the head-on collisions which have been a feature of the past.

16. We have sought to ensure that human rights may be widely known, generally honoured and speedily vindicated, and we have recommended measures to secure the public service from victimization and political interference.

17. Finally, we seek by recommending the protection of various vital ordinances, to bequeath to the new Government a firm basis of operations from which it can function, and, by pressing for a clear and unequivocal statement of the financial intentions of Her Majesty's Government, to remove the economic future of the Islands from the poker-table to the counting-house.

18. Thus our proposals, discussed and set out in the following chapters, envisage the creation of the State of Malta under a representative of the Crown, approximating as far as possible in the special circumstances of Malta to a constitutional Head of State, who may well in due course be a Maltese. We envisage a Maltese legislature empowered to make laws for the peace, order and good government of Malta including defence and foreign affairs but which as "concurrent subjects" come under the overriding authority of the United Kingdom Government exercised through a United Kingdom Commissioner. From this legislature will be drawn a cabinet with the necessary executive power, and with the full knowledge of what financial aid, no more no less, can be expected over a reasonable period of time from the United Kingdom. Finally, we have tried to keep to the minimum limitations on the internal powers of the new Government.

19. We believe that these recommendations will provide for Malta a constitutional status affording recognition of Maltese personality, and a form of government which will reconcile, so far as in the circumstances of the Islands is humanly possible, Maltese desires and ambitions with Her Majesty's Government's responsibilities and undertakings. It will be seen that what we recommend is not just a reproduction in a disguised form of the 1947 Constitution, nor of similar constitutions in force elsewhere in the Commonwealth, nor of the Singapore Constitution, though what we have in mind is similar in some respects. Our proposals represent a very real attempt to find something new and appropriate to the particular circumstances of Malta: we hope they may be recognized as such.

20. We have adopted the unusual course of prefacing our Report with this summary of our recommendations because we believe that if the fundamental problem to which we have referred above and the way in which we attempt to solve it are appreciated at the outset, the constitutional proposals which follow will be more readily understood.⁴

CHAPTER III

BACKGROUND

(i) United Kingdom

21. It is perhaps well to place on record, lest there should be any misunderstanding on the subject in Malta, the United Kingdom attitude to the constitutional development of the dependent territories as indicated in basic statements of Her Majesty's Government's policy. The National

⁴ For detailed proposals see Chapter IX and Appendix J.

Government in 1943, and the Labour Government in 1948, made it plain that the United Kingdom regards it as a duty to guide the territories for which it is responsible "to responsible self-government within the Commonwealth in conditions which ensure to the peoples concerned both a fair standard of living and freedom from oppression from any quarter."⁵ Recent events illustrate the application of that policy to large dependent territories where considerations of defence are of secondary importance.

22. No basic statement of policy has been made regarding territories which by reason of limitations arising from size, or from economic or strategic considerations, may not be able to follow the now well-charted road from Crown Colony government to sovereignty which has been used so frequently and with such success in the larger countries. But there has been general acceptance in the United Kingdom of the idea that where territories because of these limitations find it difficult, if not impossible, to assume the full responsibilities of such sovereign states, as for example, Ceylon or Australia or Nigeria, they should nevertheless be able to attain full internal self-government. What is to be the final constitution for Malta we do not know and cannot predict. In any event this is a matter for decision in the light of many factors which can only properly be assessed by Her Majesty's Government in the United Kingdom. But the immediate aim of Her Majesty's Government is quite clear: that is to give effect to their expressed desire to restore representative government in Malta on as wide a basis as possible, consistent with Her Majesty's Government's external responsibilities and internal undertakings.

23. Nor should that task be one of great difficulty. Malta has had considerable experience of constitutions appropriate to various stages of political development, and the recently created internally self-governing State of Singapore is an example of how by patience and ingenuity—if, and this is of supreme importance, both sides are prepared to try to make the constitution work—it is possible for Her Majesty's Government to divest themselves of a very large amount of their power, even in a small area where considerations of defence remain of paramount importance.

(ii) **Malta**

24. The political history of Malta is well documented. We do not therefore think it necessary to recapitulate in detail the earlier attempts by Her Majesty's Government and by the Maltese people to find a method of government for a country at the same time satisfactory from the point of view of Malta as a defence base and also acceptable to the Maltese people. A table showing the more important dates is reproduced for convenience at Appendix C.

25. The following paragraphs refer to the events which led to the suspension in 1958 of the constitution established in 1947 and subsequent developments. They provide the local background against which our terms of reference have to be discharged.

26. The 1947 Constitution commenced operations in favourable conditions: popular enthusiasm, a stable parliamentary majority, and substantial United Kingdom financial aid towards war damage reconstruction. The stable majority soon disappeared and during the eleven years of this

⁵ Secretary of State's Annual Report to Parliament, 1948.

constitution's existence there were five general elections. By 1955 general dissatisfaction with the constitution had developed, and in the course of the year Her Majesty's Government announced that a round table conference would be convened to consider constitutional questions arising from the proposals of the Maltese Prime Minister for closer association between Malta and the United Kingdom. In March, 1956, Her Majesty's Government accepted in principle the recommendations of the conference,⁶ that Malta should be integrated with the United Kingdom under suitable arrangements. There followed protracted negotiations between the two Governments and, though at one stage agreement appeared to be just round the corner, in the end the proposal came to nothing. As the prospects of integration began to fade in 1958 they were replaced by a demand by Mr. Dom Mintoff, the Prime Minister of the day, for complete independence. For this proposal he appears to have had no mandate from the Maltese people since he had been elected on the integration platform, although it should be recorded that he had coupled his campaign for integration with a claim, but only in the alternative, for independence.

27. An account of the final breakdown of the 1947 Constitution, Mr. Mintoff's resignation, and the reversion to Crown Colony government, is given in the statement made by the Secretary of State for the Colonies to the House of Commons on the 2nd February, 1959. The relevant portion is reproduced in Appendix D.

28. After further fruitless discussion with Maltese political leaders it became obvious that an impasse had been reached and that provision must be made to carry on the government of Malta on a more permanent basis than that provided by emergency powers. By the Malta (Letters Patent) Act, 1959, Parliament restored the prerogative power of the Crown to revoke the Constitution. Pursuant thereto, the Malta (Constitution) Order in Council, 1959, revoked the 1947 Constitution, and made provision for a system of government by a Governor, who was obliged in the exercise of his power to consult an Executive Council thereby constituted, consisting of three *ex officio* members and such nominated members, of whom not less than three should be persons holding a public office, as may be appointed by the Governor. Seven nominated members were appointed by the Governor. We are informed that the Executive Council has met regularly ever since, on an average of more than once a week.

29. It was however never the intention of Her Majesty's Government that this constitution should remain in force any longer than was necessary. For about a year it was the task of the new Government to restore public confidence and to progress with the implementation of the Five-Year Plan, which is closely related to the success of any new constitution. Then on the 27th July, 1960, the Secretary of State for the Colonies, in a statement in the House of Commons, which is set out in full at the commencement of this Report, indicated Her Majesty's Government's intention to restore representative government in Malta, and to appoint this Constitutional Commission, entrusted with the responsibility of formulating detailed constitutional proposals, after due consultation with representatives of the Maltese people and local interests.

⁶ Cmd. 9657—Report of the Malta Round Table Conference 1955.

CHAPTER IV

GENERAL CONSIDERATIONS

30. Attention should next be drawn to certain general considerations which in our opinion affect the nature and extent of the constitutional development which we recommend.

(i) **The Nature of the Electorate**

31. It is of importance in determining the proper shape of a constitution for Malta to understand the nature of the electorate. The people of Malta are uniformly industrious, thrifty, courteous and law-abiding, still deeply religious, with strong family ties, and respect for authority. Despite constant criticism directed at the Commission and its members in somewhat offensive terms by "Il Helsien" and "The Voice of Malta", the organs of the Malta Labour Party, and in roadside posters, during the whole period of our stay in Malta never once did we find this reflected in the attitude adopted towards us by the people themselves. On the contrary, we met nothing but the utmost friendliness from people in all walks of life with whom we came in contact.

32. Malta is a Roman Catholic country, and the Church is still a potent, if imponderable factor in Maltese life. It remains to be seen whether its influence will be decisive in shaping Malta's future.

33. As well as Maltese the English language is, of course, widely spoken, and the cultural link with the United Kingdom is very strong. Many people also speak Italian, and the Italian language and culture make a vigorous contribution to the cultural pattern. Italian television, which at present provides the only available television programmes, projects the Italian way of life into many Maltese homes.⁷

34. A long history of foreign rule, economic dependence on the British defence services, and reliance on British guidance and assistance, have tended to produce a nation somewhat lacking in leadership and self-reliance. On two occasions in the past, when liberal self-governing constitutions have broken down, a vein of irresponsibility, financial and otherwise, has manifested itself as a major cause of the breakdown.⁸ It was frequently emphasized to us, in our consultations with Maltese leaders, that the success of any new constitution would depend very largely on the economic situation, and particularly on the amount of financial assistance to be provided in one way or another by the United Kingdom. Whilst accepting the accuracy of this observation, we feel that it is equally true to say that it will depend also on the degree of responsibility and self-reliance displayed by the leaders of the Maltese people, who by custom look automatically to the United Kingdom for help and complain when financial assistance to the extent which they think necessary has not been forthcoming.

⁷ There are about 9,000 licensed television receiving sets in Malta.

⁸ See official announcement in Malta Government Gazette No. 7824, 2nd November, 1933, and statement made in the House of Commons by the Secretary of State for the Colonies on the 2nd February, 1959, Hansard, Vol. 599, No. 48, Col. 37 onwards, the relevant portions of which are reproduced in Appendix D.

35. It must not be forgotten that a significant proportion of the electorate is illiterate, or semi-illiterate; some put it as high as thirty per cent of the adult population. As might be expected, such people are easily led, not always perhaps in the right direction, and inclined rather to put their trust in persons than to puzzle about policies which they do not fully understand. No doubt this will right itself in time with the improvement in educational services which is now taking place, but meantime it remains an important matter to be borne in mind in attempting to lay the foundations of a democratic form of government which will reflect the wisdom and the popular voice of the Maltese people.

36. At the other extreme there will be found a proportion of highly educated, cultured people with a legitimate pride in their long history as a civilized and Christian people of the Mediterranean Sea, with its own richly woven cultural pattern. Unfortunately such members of the community tend to take but little direct part in the political life of the country. The people as a whole are typically western and European in their speech, dress, and habit of thought, well able to take their part as efficient members of a modern society.

(ii) Danger of the Creation of a Police State

37. We now come to a matter which we conceive to be of the greatest importance in attempting to devise a new constitution for Malta—that is the very widespread anxiety that power given into the hands of Maltese Ministers may be misused for party purposes. Many of our informants went so far as to describe Malta under Mr. Mintoff, the present leader of the Labour Party, as a “police state”, in which those who opposed his policies or incurred his disfavour were victimized, humiliated or branded as “traitors”, while certain members of the police and civil service were used as instruments for the purpose of spying and exerting pressure. We are not in a position to sit as judges on this kind of allegation; no doubt there is a degree of exaggeration, or sectional bias in part of what was said to us, and Mr. Mintoff by his boycott of the Commission deprived us of the opportunity to hear his answer. Nonetheless, these allegations emanated in some cases from persons whose honesty we would not doubt. To put the proposition at its lowest, there is such a degree of mistrust as to render it imperative that every possible step should be taken in framing a new constitution, to ensure a renewal of confidence that power will not be misused, and that the ordinary processes of democracy may operate in a proper way.

38. We deal elsewhere in this Report with the veiled or overt threats⁹, which were made, and are still being made, by the Malta Labour Party, its leaders and its organ “Il Helsien”, against the police, civil service, and members of the public who are co-operating with the present regime, or otherwise incur the disapproval of the Malta Labour Party. The nature of these threats and the language in which they are couched is such as to cause disquiet, not only to those who have been threatened, but to all who desire to see a democratic system flourishing in Malta.

39. Again we must deplore the lack of leadership and moral courage displayed by many of those persons opposed to the Malta Labour Party,

⁹ See Appendix G.

who by reason of their position, education and experience should provide the worthwhile and effective opposition which is equally necessary to a healthy working of a democratic system. Some of these people, afraid to speak out in public what they really believe, choose to remain silent and would actually prefer to see the present system of government by the Governor continue indefinitely rather than take the risks associated with popular government. And even many of those whose national pride impels them to seek a return to self-government are very anxious that every endeavour should be made to establish protection against misuse of power.

(iii) Impact of events elsewhere in the Mediterranean.

40. Public opinion in Malta is being considerably influenced by political and economic developments in neighbouring countries on both shores of the Mediterranean Sea. But Malta is, on the one hand, so small¹⁰ and, on the other, her position of importance in the defence organization of NATO and the western powers is so great, that political or constitutional developments which are reasonable and normal, and can be assimilated with ease in countries on the Mediterranean littoral cannot be automatically accepted as the normal path of development in Malta itself. The measure of many of the demands now being made, is based on such developments elsewhere rather than on a sober appraisal of what further responsibility Malta can assume in the present conditions. Our recommendations obviously cannot be dictated by a desire to achieve uniformity. It is our task to make recommendations in the light of conditions as they exist there and now in the Maltese Islands.

(iv) Finance

41. In the course of a debate on Malta affairs in the House of Commons a Member said that "for hundreds, perhaps thousands, of years Malta has earned its living by assisting some greater power to prevent hostile forces from penetrating from the eastern end of the Mediterranean to what in the narrower sense is the western world".¹¹ This remains part of Malta's ancient and historical function: it has been rightly described as being in the thick of the cold war. But for a number of reasons holding the east-west passage may not prove so fruitful a source of revenue as it has done in the past. We made it plain from the start that ours was not an economic commission nor were we chosen with economic ends in view. But of necessity the economics of the Islands have been referred to by many of those who have given written or oral evidence to the Commission.

42. On the 26th April, 1957, the Minister of Defence, who was visiting Malta, stated in the course of a conference that "large reductions in the manpower of the Navy, Army and Air Force would inevitably curtail the volume of civilian employment in the naval dockyards and other ancillary establishments, both at home and in Malta. Malta could not, any more than the United Kingdom, be insulated against the effects of these cuts". This statement gave the Maltese people a very severe shock. It is difficult to illustrate in United Kingdom terms its nature and extent. A possible parallel would be the effect on the Welsh people of a warning from the United Kingdom Government that the coal mining industry in Wales was

¹⁰ About two-thirds the size of the Isle of Wight.

¹¹ Sir Kenneth Pickthorn, Hansard, 2nd February, 1959, Vol. 599, No. 48, Col. 65.

to be gradually closed down. We believe that much, though not all, of the political ferment in Malta flows from a feeling of insecurity and apprehension about future employment prospects in the Islands, and this feeling has been exploited politically.

43. Nor has the transfer of the dockyard to Bailey (Malta) Ltd. helped to encourage confidence in the future. Indeed the gloomy fears generated in 1957 have intensified and grown as the conversion of the yard has been delayed and some industrial equipment has been removed. We know that the imperative need for conversion to an efficient and prosperous civil dockyard is already fully realized by Her Majesty's Government in the United Kingdom. But since the whole matter is closely bound up with local politics we feel that we should be failing in our duty if we did not record our view that prior to the inauguration of a new constitution it is necessary that the general position vis-a-vis Bailey (Malta) Ltd. should be clarified and that it is highly desirable that the conversion should be visibly progressing.

44. We have been interested to learn of the development of the tourist trade and of the new industries which are being attracted to Malta by the operation of the Malta Aid to Industries Ordinance. A remarkable measure of success has been achieved in a comparatively short time and the more publicity which can be given to what has been, and is being done the better. We hope that the Government which comes into office after the next election will realize that for these new industries, many financed with local capital, to strike deep and healthy roots into Malta soil and to encourage other new undertakings to follow, a period of stable government is essential. We also hope that nothing more will be heard of the threats¹² made by the Malta Labour Party to disrupt the economy of the Islands. The diversification of the economy is essential for only thus can the national wealth be maintained and increased and the local revenue enlarged.

45. Finally we must refer to the assistance given to Malta by Her Majesty's Government in the United Kingdom. It is clear from what we have heard that there is extensive ignorance, and by no means invariably wilful ignorance, in many circles in Malta regarding the extent to which the British Government has assisted and is today assisting the economy of the Islands, both by helping to pay the monthly bills for certain specific services under recurrent expenditure, and also by providing capital funds to an extent unheard of in other small territories for the purposes of long-term development.¹³ We emphasize this point not with the idea of exciting gratitude for what the British taxpayer, already hard pressed, has provided but in order that the facts may be known and the magnitude of Her Majesty's Government's assistance to Malta compared with assistance to other needy territories.¹⁴

46. One of our witnesses said in effect that "we hoped that when the United Kingdom took over direct government in Malta it would be as generous as it had been in the time of the Maltese Labour Government so that the uneducated might know that it was the British taxpayer and

¹² See Appendix G.

¹³ See Appendix E. (a)

¹⁴ See Appendix E. (b)

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not Mr. Mintoff who was finding the money. We were disappointed that it was not so”.

47. It is not for us to attempt to suggest what the measure of Her Majesty's Government's financial assistance should be. But we are firmly of the opinion that it is not fair to expect any Maltese Government to take office without it being made perfectly plain just what help, for a period of years, can be expected from Her Majesty's Government in the United Kingdom. Such a definite statement will assist the Maltese Government in drawing up its budget and if it is made, as we believe it should be, when the new constitution is inaugurated, the possibilities of friction between the Maltese Government and Her Majesty's Government may be reduced and the undignified bargaining of the years 1955 to 1958 may be avoided.

CHAPTER V

TWO STAGE APPROACH TO A NEW CONSTITUTION

48. A number of individuals who came to see us expressed themselves as being in favour of a staged approach to a new constitution. In fact they envisaged a short period, perhaps three years or so, of advanced Crown Colony government prior to the setting up of a liberal constitution on the lines envisaged by the Secretary of State.

49. This idea is in accordance with the normal British method of political advance by staged development. It could be achieved more quickly than can the elaborate constitution needed to fulfil the requirements of our terms of reference. Further, it would give time for the development, under what should be reasonably stable conditions of government, of a number of newly created organizations or projects, and would allow them to strike their roots more deeply and become established as integral parts of the life of Malta. In particular we have in mind the newly created Public Service Commission, the development of the dockyard and other industries, and a rational approach to recurrent expenditure in the budget. Finally, elections held at an intermediate stage would provide an indication of the present strength of the various political parties and throw up popularly elected politicians with whom the second stage constitutional proposals could be discussed. The practical arguments in favour of a two stage scheme are cogent.

50. The political arguments however appear more cogent in the other direction. Malta has had considerable experience of internal self-government. It is, or should be, politically mature; it does not need to elect as its political leaders those who will create a feeling of economic or political instability; to be more positive, it can in fact register its votes in favour of leaders who will give it stable government. Further, an extended period of Crown Colony government might well be regarded as insulting to a proud country, and not in consonance with the general tenor of official pronouncements on constitutional development. In this connexion we have particularly in mind Lord Perth's statement in Malta on the 5th July, 1960, that he hoped that the new constitution would be more liberal in all respects than the 1947 Constitution.

51. We have endeavoured to balance the arguments based on practical advantage with those based on political expediency. After much thought and discussion we agree to recommend that Malta should proceed at one step to the constitution set out in Chapter IX. If this course is adopted, Her Majesty's Government, having in mind their present obligations and undertakings, will have gone as far as they can to satisfy local desires, to take account of national pride, and to canalize the political energy of Malta into swift flowing channels with a minimum of constriction. The responsibility will then lie with the people of Malta and not with Her Majesty's Government to make a success of the new constitution which we recommend.

CHAPTER VI

THE LEGISLATURE

52. We have now to consider what should be the nature of the legislature under the new constitution.

A Senate

53. Among the various suggestions which have been made to us there have frequently been proposals for an Upper House, or Senate. The arguments in favour of creating such a chamber are familiar. First, the fact that many people in Malta are well equipped by experience, by education and by practice in the exercise of authority and in carrying responsibility to take a greater part in the government of the country than is at present provided by membership of various boards and committees, but are not prepared to offer themselves as candidates for election by popular vote to the legislature. There is thus a waste of valuable material which could be well used in guiding the destinies of the country and providing political stability. Secondly, an Upper House could fulfil the three functions for which in most countries it is specifically designed: to act as a brake on hasty legislation; to revise and tidy up enactments which have been passed by the Lower House; and to provide a forum in which matters of interest to the country as a whole can be debated by persons possessing specialized knowledge and experience, thus helping to create a wise and sound atmosphere of public opinion.

54. We are aware that a second chamber has in the past been included as part of Malta's constitutional equipment, that it was found unsatisfactory, and that Sir Harold MacMichael, after being faced with conflicting advice as to its desirability or otherwise, finally recommended that there should be no second chamber in the 1947 Constitution.¹⁵ This constitution made it possible for a Senate to be established after ten years. But parliamentary government ended shortly after the expiration of this ten-year period.

55. We believe that the operation of an Upper House as part of the constitution has proved unsatisfactory in the past for two main reasons: first, because the relationships between the two Houses were not from the

¹⁵ Report of Constitutional Commissioner, Colonial No. 207, 1947.

start regulated in the same way as similar relationships in the United Kingdom ; and secondly, because the Senate tended, in view of its constitution, to be regarded very much as an esoteric branch of the constitution, designed either to facilitate the passage of legislative measures emanating from one party or to block those emanating from the other. The first reason for dissatisfaction, the ill-regulated relationships between the two Houses, could be avoided in the future.

56. The second reason stems from the method adopted for constituting the Senate. In 1921 it consisted of seven members elected on a special suffrage basis, and ten members elected by various organizations and groups in the community. From this two results flowed: the membership of the Senate tended to be drawn largely, though not entirely, from a particular class of the community, and certain persons were able to exercise more than one vote. We believe that it would be possible to construct an Upper House which would not be subject to this criticism by adopting a more modern method of selection of its members.

57. In the absence of official representations to the Commission by the two larger political parties we can only judge from various statements of policy made by them from time to time what their reaction to proposals for an Upper House would be. We believe that the Labour Party would be actively opposed to such an addition to the legislative framework and that the Nationalist Party has divided views on the matter but is certainly not unanimously enthusiastic in its favour. We have further in mind the fact that the addition of a senate to the legislative structure would involve additional expenditure and would create what we cannot but regard as a top-heavy structure, an outsize apparatus for the government of a small country, thickly populated indeed, but not in fact containing a very large number of people. Having these considerations in view we are not prepared to recommend that the legislature should be bicameral.

Nominated Members in the House of Assembly

58. Suggestions were also made to us that we might consider the inclusion of certain specially elected members in the Lower House, the argument in favour of this arrangement being that set out in the early part of paragraph 53 above. Many legislatures in Commonwealth countries which have reached a very advanced status, indeed in some cases even sovereign status, find it useful to include in their popularly elected house a number of specialist members who can make their own particular contribution to the work of such an assembly. We believe that a similar contribution could be made in Malta. But so far as we can judge the addition of members to the House of Assembly selected on any other basis than that of universal suffrage would not meet with the approval of the majority of the inhabitants of the Islands. And for that reason we feel compelled to disregard the representations which have been made to us in this connexion.

House of Assembly

59. We recommend that in the new constitution membership of the House of Assembly should be constituted on similar lines to that adopted in the 1947 Constitution, that is to say, election by universal suffrage on the basis of the form of proportional representation to which Malta is accustomed.

60. There are three directions in which we consider modification of the 1947 Constitution may be required: in respect of electoral divisions, of disqualifications suffered under the 1947 Constitution by various sections of the community, and of the election of the Speaker. Specific recommendations covering these points will be found in paragraphs 92, 93 and 94 below.

Effect of dependence on a purely elective legislature

61. We realize that the decision neither to set up an upper chamber nor to provide for specially selected members in the House of Assembly will be a disappointment to a number of responsible and thoughtful members of the community. They may well feel that if certain safeguards which they consider desirable are not included in the constitution, then in the present state of education in the Islands, Malta will be deprived of the benefit of experienced and knowledgeable members who might have made a valuable contribution to the government of the country.

62. We realize that this argument has some cogency but we feel that it is not in the long-term interests of the country to extend political protection to persons or sections of the community who should be well able to protect themselves. We think that those who by reason of their training, experience and education feel that they, or persons of their standing, should take a share in the government of the country must do so through the ordinary democratic process; that is they must be prepared to find suitable leaders and fight their battles on the hustings. The sooner they realize that this is their duty, and that they must face squarely the political facts of life in the Islands, the better it will be for Malta, and the more solidly and soundly will democracy in the Islands be based.

CHAPTER VII

INTERNAL SECURITY AND THE MALTA POLICE FORCE

Internal Security

63. A complicated problem which the Commission has had to consider is the maintenance under a new constitution of internal security. Internal security may be defined as all matters pertaining to public order and the security of the Islands, including the administration, use and operational control of the police.

64. The legal basis for maintaining public order and the security of Malta must of course be the maintenance on the statute book of appropriate legislation. For this the legislature must be responsible, and though certain aspects of internal security may relate so closely to defence matters as on occasion to make internal security *pro tanto* a concurrent subject, we do not propose that internal security as such should be so designated. Nevertheless, to prevent thoughtless or hasty legislation which might derogate from the Maltese Government's powers to maintain internal security we recommend that all bills relating to internal security matters should be reserved for the signification of Her Majesty's pleasure.

The Malta Police Force

65. We conceive it an important part of our task to try to ensure that the Police Force is an efficient and impartial instrument of the state, free from any fear of victimization as a consequence of its lawful actions, undisturbed by political or other similar influences, and accepted both by future Maltese Governments and by the people of the country as the guardian of the peace, the protector of individuals, and the main deterrent against crime.

66. The problem falls under two heads. First, the prevention of victimization and the exclusion of political and other undesirable influences. In paragraph 38 reference has been made to threats expressed by responsible members or organs of the Labour Party of action which would be taken against individual members of the Force who have incurred the Party's displeasure on various occasions including that of the incidents in 1958. Since these threats were made the Public Service Commission has been created and a new Police Ordinance has been published. We believe that so long as the more senior members of the Force come within the ambit of the Public Service Commission for purposes of appointment, promotion and discipline they need have no fear of victimization; and that, if the Commissioner of Police is in sole charge of the Force as regards command, direction and superintendence, which of course includes the recruitment of members of the Force of grades lower than those which are dealt with by the Public Service Commission, equal protection can be afforded to junior officers and to rank and file.

67. The second and most difficult part of the problem is the use and operational control of the police. We have evidence that over a considerable period there have been attempts by Maltese Ministers to use the Police Force not as a state instrument, but as a party tool. This has been done positively by recruiting party members into the Force and by using it for what in fact amounts to spying on political opponents, and negatively by encouraging, or actively instructing, the Force to take no action to preserve the peace at public meetings hostile to the party in power or as on the occasion of the disturbances in 1958.

68. Though the measure of control exercised by the Home Secretary in the United Kingdom over all police forces, save the Metropolitan Police, is indirect and non-operational, we realize fully the strength of the argument that, since the first duty of any Government is to maintain law and order, the Maltese Government should have a measure of control over the power necessary for this purpose. Indeed if a Government cannot be trusted with that power it can be argued that it cannot be trusted with the power of government at all. On the other hand political power so far as the Police Force is concerned has been misused in Malta in the past, and a substantial section of public opinion fears that it may be misused again in the future. We feel that in some measure Her Majesty's Government in the United Kingdom and the past Maltese Governments may perhaps be to blame for this in allowing, over a long period of years, a wrong conception to grow up of the status and functions of the Commissioner and of the Force. Finally, in a country so small as Malta where important defence interests are concerned, internal security is at times almost inextricably mixed up with defence matters. If defence arrangements are to be

adequate internal security arrangements must also be satisfactory. We are thus faced with the distasteful need to recommend that Maltese Ministers should not for the present be given the ultimate responsibility for the use and operational control of the Force. Only so in our opinion can political and other undesirable influences be excluded. We regard this as an interim arrangement only and we hope that circumstances will soon justify the delegation of this further responsibility to Ministers.

69. We have considered various other possible arrangements. They would appear to be ultimate responsibility with the Governor, or with the United Kingdom Commissioner, or with a specially appointed internal security commission. We are well aware that none of these arrangements will be generally accepted as entirely satisfactory. But since an alternative to ministerial responsibility has to be found we recommend that the Commissioner of Police should, as a temporary measure, be directly responsible to the Governor in his capacity as the Head of the Maltese State for the control of the Police which includes the provision, maintenance and administration of the Force as well as its use and operational control.

70. Consistently with our recommendation that the Governor shall have the ultimate responsibility for the control of the Police, we see no reason why Maltese Ministers, if they so desire, should not, during the interim period, share responsibility in relation to the provision, maintenance and administration of the Force. The manner in which this is to be achieved should be worked out locally, but it seems to us that a Police Council on which Ministers would be represented could usefully advise the Governor on such matters. While such a Council would not touch on the use and operational control of the Police, nevertheless it would link the Force with the Government of the day, in relation to its provision, maintenance and administration, in anticipation of the return of full responsibility to Maltese Ministers.

71. There is one other problem connected with the Police Force which has been raised with us and has given us some concern; that is the question whether the cost of a police force for which the ultimate responsibility lies, as we have recommended, with the Governor, should or should not continue to be a charge on the local revenues.

72. Obviously a good argument could be advanced for either point of view: on the one hand, it could be said that a police force is necessary to Malta, and that, even if the Governor as Head of State has the ultimate responsibility, it is still operated for the benefit of the Maltese people, and is outside the responsibility of its Ministers not because Her Majesty's Government wishes it so, but because of the misuse of the Force by past Maltese governments. On the other hand, it could be said from the point of view of the Maltese people that if their Ministers are to be denied the ultimate responsibility for the police, Maltese funds should not be called upon to bear the cost. Whether or not one accepts the latter view, one can readily understand that resentment may arise if the Maltese people are called upon to pay the cost of a Force for which their elected representatives will not have the ultimate responsibility. Acceptance of the obligation to pay for the Force by Her Majesty's Government during the period of interim control, involving a subvention to the Maltese budget

at the rate of over £600,000 a year until responsibility should be restored to Maltese Ministers, would undoubtedly be of great assistance to Malta at this stage of development. Since 1958 the administration, with reduced assistance from Her Majesty's Government towards the recurrent budget, has barely been able to make ends meet. It has been unable to undertake any substantial expansion of government services however desirable. We are given to understand that despite the rapidly increasing overseas investments of the Maltese peoples it would not be practicable or wise, at this stage, to impose any substantial increase in taxation which would tend to damp down economic development. New taxes were recently imposed which will bring in increased revenue, but a few years must elapse before Malta will be able easily to get along on her own resources, maintaining adequate reserves. Again, we recall that during the integration talks, it had been tentatively agreed that generous assistance should be given to Malta, on account of social services; those talks broke down, as we know, so that no agreement for such assistance exists. But we hope that the generous spirit towards Malta then evidenced will continue to actuate in large measure the attitude to Malta of the British people and of Her Majesty's Government. It would be unfortunate, however, if any additional assistance were to be given, that it should be cut off the moment the Force passed back to Maltese hands.

73. The Commission is not of one mind in this matter, and in paragraph 47 we have recorded our view that it is not for us to attempt to suggest what the measure of assistance to Malta's expenditure should be. In the circumstances we do not propose to make any recommendations on this point. Nevertheless certain of us feel that, having regard to all the circumstances adverted to above, Her Majesty's Government might favourably consider the suggestion that they should pay for the maintenance of the Force during the interim period, and that when full responsibility is delegated to Maltese Ministers the grant should be gradually reduced thereafter over a period, which may be short or long, depending on Malta's then financial needs. It seems to us that such a grant would serve several purposes: it would be a further demonstration of generosity to Malta despite the breakdown of the integration talks; it would help to meet a real need of the Maltese people at this stage of the Island's development; and it might serve in some measure to alleviate a sense of grievance which, rightly or wrongly, may arise from the situation in which the Maltese people are asked to pay the whole cost of a Force for which their Ministers have no responsibility.

CHAPTER VIII

TERMS OF REFERENCE

74. Our terms of reference, together with the statement made by the Secretary of State for the Colonies in the House of Commons on the 27th July, 1960, to which they refer are reproduced on page iv. We have interpreted our instructions as being: to formulate detailed proposals after consultation with representatives of the Maltese people and interests on the most appropriate means of giving the widest measure of self-government

to Malta which is consistent with (i) Her Majesty's Government's responsibility for Defence and Foreign Affairs, with (ii) the undertakings given in respect of the public service and the police, and with (iii) human rights generally.

75. The most appropriate means of giving the widest measure of self-government to Malta would be to create a Maltese State with the representative of the Crown as its head, functioning as a constitutional ruler and acting on the advice of Ministers forming a cabinet, the cabinet being drawn from a popularly elected legislature which is empowered to pass laws for the peace, order and good government of the Islands.

76. Fundamentally this is what we propose but it is our task to discover to what extent and how this constitutional structure must be modified having regard to the responsibilities to Commonwealth and allied countries carried by Her Majesty's Government in the United Kingdom, to the undertakings given by Her Majesty's Government to individuals or groups of individuals in Malta, and to circumstances in Malta generally.

(i) Her Majesty's Government's Responsibilities for Defence

77. The definition of Defence in Malta has always been a difficulty and the well-meaning attempt to specify detailed items under that heading in the 1947 Constitution has not in practice proved satisfactory. The nature of Her Majesty's Government's defence interests in the Islands, the way in which defence requirements "impinge on the domestic concerns of the Maltese people",¹⁶ and the difficulty of securing an identity of views between the United Kingdom and the Maltese on defence matters, coupled with the fact that the Islands are so small that no division into defence and non-defence areas is feasible, make a precise definition impossible. We can only suggest that Defence should mean the defence of Malta, and all matters deemed by the United Kingdom Government to be necessary to enable the United Kingdom to fulfil its defence responsibilities in Malta and towards its allies and associates.

78. Most people in Malta agree that Her Majesty's Government in the United Kingdom must in the end be the arbiter of what is and what is not necessary in the sphere of defence. What they are concerned with is that before an important decision in the defence sphere is taken by Her Majesty's Government there should be an exchange of information on the subject between representatives of Her Majesty's Government and of the Maltese Government, that there should be consultation between the two parties, and that Maltese interests should not be overlooked in reaching a final decision.

79. With this in view we have diligently sought to find an arrangement whereby activities essential to Defence should be regarded not as something which Her Majesty's Government insists on conducting, or carrying out, over the heads of the Maltese people, but an activity in which the Maltese can be asked to share, making the defence of the western world, which is just as important for the survival of Malta as it is for the NATO countries, an end to which Her Majesty's Government and Malta can jointly contribute. We believe that if this attitude towards defence matters can be got across to the Maltese people, defence requirements, though they

¹⁶ Malta Round Table Conference, Cmd. 9657, para. 65.

must admittedly at times be onerous and it would be unrealistic to expect that difficulties will not arise, may well be regarded in a more friendly and co-operative spirit than has been the case in the past.

80. We suggest that this can be achieved by removing from the Maltese Legislature the prohibition which existed under the dyarchical form of government against legislating on defence matters and making the Maltese Legislature a body competent to pass such legislation, and Maltese Ministers competent persons to take appropriate executive action either on the initiative of the Maltese Government or at the request of Her Majesty's Government in the United Kingdom conveyed through the United Kingdom Commissioner in Malta. Since, as has already been observed, the United Kingdom Government must have the last word in matters of defence the Commissioner should be empowered, if his request to the Maltese Government were not complied with, to make an Order which would have the force of law. Similarly the United Kingdom Commissioner could request the Maltese Government to refrain from action detrimental to United Kingdom defence interests and again, should this be necessary, should be empowered to make an appropriate Order.

(iii) Her Majesty's Government's Responsibility for Foreign Affairs

81. We are not convinced that there is a general desire amongst the Maltese people to remove on to their shoulders the responsibility for the conduct of Maltese foreign affairs, or at any rate such foreign affairs as are carried on at what might be described as diplomatic level, from Her Majesty's Government in the United Kingdom. Nevertheless, here also the inability to legislate in this field existing under the dyarchical system should be removed, the United Kingdom Commissioner being given powers similar to those with which he would be invested in matters of defence. On the other hand we do believe that there is a general desire that the Maltese Government should have power to negotiate such things as trade treaties and trade agreements, and should be eligible for full or associate membership, when practical and appropriate, of the United Nations specialized agencies and similar international organizations. This appears to us to be a reasonable desire and such arrangements might prove fruitful in many fields. We therefore recommend that power to this end should be delegated to the Maltese Government by Her Majesty's Government.

82. If the "concurrent powers" arrangement is to work satisfactorily and friction is to be reduced to a minimum there must be satisfactory arrangements for consultation between the Maltese Government and the United Kingdom Commissioner. Indeed such consultation might usefully be extended to the economic and financial problems arising from the activities in Malta of the Service Departments and the Maltese Government, and also as occasion requires to internal security. We think that this consultation should take the form of a Consultative Council under the chairmanship of the Governor. Normally it might be composed, in the case of the Maltese Government, of the Prime Minister and one other Minister—presumably the member of the cabinet whose portfolio is involved in the matter to be discussed—and in the case of the United Kingdom, of the United Kingdom Commissioner and one of his staff or

a service chief or other United Kingdom service or government officer. The numbers and the balance of membership are not of primary importance since the Council is consultative and not executive, and agreement rather than decision by vote should be the primary object.

83. It will be necessary for the Council to have access to relevant and appropriate papers, and to secure the attendance as experts of officers of either Government should their presence at meetings of the Council be considered necessary or desirable. Records of meetings should be as brief and factual as possible.

84. Turning now from those subjects in relation to which Her Majesty's Government carries certain responsibilities, we come to the two spheres of government activity relating to which Her Majesty's Government has given certain undertakings—the public service and the police. These require separate consideration.

(iii) Her Majesty's Government's undertakings in respect of the public service

85. The public service, by which we understand the terms of reference to mean what is known in Malta as the civil service, contains amongst its members a number of officers who have served various Maltese Ministers. They have served their political masters faithfully according to their lights, and they will no doubt serve them faithfully again. But the faithfulness has perhaps been somewhat one-sided, for we have heard of a number of instances in which a civil servant who found it necessary to differ from his chief, or to tender unpalatable advice, found his career jeopardized. It is perhaps a matter of some surprise that the Malta civil service has been expected to carry on, and has in fact carried on, under various systems of ministerial government for the last thirty years or so without the effective protection, which civil services enjoy in other countries, afforded by a Public Service Commission. An earlier Public Service Commission, for which provision was made by Section 54 of The Malta Letters Patent, 1939, was merely an advisory body with no real power. The present statutory provisions for a Public Service Commission are contained in the Malta (Constitution) Order in Council, 1959. The Commission itself has only recently come into being ; it is midway between a purely advisory and a fully executive commission but ultimately the Governor is bound to act on its recommendation ; it is not yet widely known nor fully appreciated ; it has still to win the confidence of the public service as a whole, and to show that it can in fact protect the individual civil servant from victimization and prevent political interference in the work of the service. We were much impressed when the Commission* appeared before us, at our request, by their obvious appreciation of the magnitude and importance of their task and by their desire to assist in establishing a public service for Malta imbued with the highest ideals. We have no doubt that the Commission will succeed in due course in accomplishing these aims. We recommend entrenched provision for such a Commission in the new constitution. We believe that a properly functioning Public Service Commission will afford the adequate protection for the civil service envisaged

* Public Service Commission Memorandum at Appendix F.

in the Secretary of State's undertaking. There is not, nor has there ever been, any question of making the civil service a "reserved" nor a "concurrent" subject, nor of removing it from normal ministerial control.

(iv) Her Majesty's Government's undertakings in respect of the Police

86. The constitutional provisions for the Public Service Commission, read in conjunction with a new Police Ordinance which is shortly to be enacted, will, we believe, provide the police as individuals with protection from victimization and from political interference. We have dealt in Chapter VII with the administration of the force, the day-to-day work of the police, and the execution of their task of maintaining the peace and upholding law and order.

(v) Human Rights

87. In paragraph 37 we have already made reference to the danger of the creation of a police state in Malta. We see no reason to doubt the statement made by many people who came to see us that they had observed the beginning of a society in which lip service alone was paid to democracy and the essential rights which a democracy cherishes were sacrificed when it suited a political party to do so. In confirmation of this view we were referred to written records of positive threats to the liberty and freedom of government officers and other persons living in Malta. One or two typical cases, and there are many, are reproduced in Appendix G.

88. People told us that they were afraid. Whether they have genuine grounds for being afraid or not is in a sense unimportant: the fact is that they are afraid, of this we were quite convinced. The problem is not merely to devise a means of preventing victimization nor of establishing freedom of speech; nor is it just a question of taking adequate steps to maintain law and order. The core of the problem is an attitude of mind which accepts as normal, if it does not actually foster, the use of power in one form or another for party ends.

89. It appears to us to be of primary importance that everyone in Malta should realize that he is living in a part of a Commonwealth which as a whole cannot tolerate the methods of a police state, and that everyone in Malta should have redress if he feels that his rights as a human being are threatened. To this end we recommend that provisions dealing with fundamental human rights derived from the United Nations Declaration of Human Rights and based on the most recent example of such legislation—that contained in the new Nigerian Constitution—should be inserted as entrenched provisions in the new Malta Constitution.

CHAPTER IX

RECOMMENDATIONS (CONSTITUTIONAL)¹⁷

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| A. Title of new State. | L. The Public Service Commission. |
| B. The Governor. | M. Internal Security and Police. |
| C. The Legislature. | N. Finance. |
| D. Electoral Boundaries. | O. Official Languages. |
| E. The Speaker. | P. Human Rights. |
| F. Power of the Legislature. | Q. Amendment of the Constitu-
tion. |
| G. The Cabinet. | R. Reservation of Bills. |
| H. Her Majesty's Government's
Responsibility for Defence
and External Affairs. | S. Disallowance of Laws. |
| J. Consultative Machinery. | T. United Kingdom's power to
legislate for Malta. |
| K. The Judiciary. | |

A. Title of New State

90. We believe that it would be fitting in view of the new status which Malta will achieve under the new constitution, that it should be described as the State of Malta, and we recommend that the new constitution should so provide.

B. The Governor

91.—(a) We have already indicated our view that under the new constitution the position of the Governor should be approximated to that of a constitutional monarch, so far as that is possible in present circumstances in Malta. Subject to our other recommendations concerning certain specific matters the Governor will act on the advice of the Cabinet.

(b) Varied opinions have been expressed on the title to be given to the Head of the State. Suggestions are: Head of State; Queen's Lieutenant; Queen's Governor; and, as at present, Governor. We have no strong feelings on the subject and recommend that this be left for later decision.

(c) Provision will need to be made for the exercise of the Governor's functions during his temporary absence from Malta, or any period when the office is vacant. The Chief Justice would seem to be a suitable officer to discharge these functions.

(d) To enable the Governor properly to discharge the duties of his office, he should be given the right to see cabinet papers.¹⁸

C. The Legislature

92. (a) We recommend that there should be a Legislative Assembly, elected by universal adult suffrage, under the present form of proportional representation.

(b) Our attention has been drawn to the appreciable numbers of persons who are prohibited for one reason or another from becoming members of the legislature. We recommend that the grounds for disqualification should be reviewed, and, having in mind the comparatively small reservoir from which persons of education and experience can be drawn for public

¹⁷ See also Appendix J.

¹⁸ Singapore (Constitution) Order in Council, 1958, S. 18; and Nigeria (Constitution) Order in Council, 1954, as amended, S. 123A.

service of this nature, the grounds for such disqualification should be reduced to the barest minimum.

(c) Some of those who have given evidence before us objected to the arrangement whereby all voters must present a voting certificate before being allowed to record their votes at a polling booth, and alleged that the practice leads to abuse. We recommend that this matter should be investigated with a view to altering the law if this is thought desirable before the next general election.

D. Electoral Boundaries

93. It has been put to us that the electoral boundaries need to be revised, having regard to the disparity now existing between the population of Gozo and that of other electoral divisions. This matter should be considered by the Government of Malta, but we feel that under any revised scheme Gozo should remain as a single electoral division, and the number of members of the Legislative Assembly should not exceed fifty.

E. The Speaker

94. In view of the comparatively small number of members of the Legislative Assembly and the precarious balance previously existing at times between the parties, we think it desirable to make provision for the election as Speaker either of a member of the Assembly or of any other Maltese.

F. Powers of the Legislature

95. We propose that the Maltese Legislature should have full power to legislate for the peace, order and good government of Malta on all subjects, including defence, external affairs and internal security, subject only to the provisions of the constitution itself, and to the concurrent power of the United Kingdom Commissioner in relation to defence and external affairs.

G. The Cabinet

96. We propose that there should be a cabinet consisting of the Prime Minister and not more than seven other Ministers, which, subject to the other recommendations made in this Report, shall have the general direction and control of the government of Malta and shall be collectively responsible therefor to the Assembly. The appointment of the Prime Minister and Ministers, and the allocation of their functions, would follow the practice established in the United Kingdom.¹⁹

H. Her Majesty's Government's Responsibility for Defence and External Affairs

97. (a) We recommend that Her Majesty's Government should be represented in Malta by a Commissioner appointed by Her Majesty The Queen, who should have the functions and powers necessary to the discharge of Her Majesty's Government's responsibilities relating to concurrent subjects. In order to ensure that the United Kingdom Commissioner shall be in a position to discharge his responsibilities under the

¹⁹ Singapore (Constitution) Order in Council, 1958, Ss. 20 onwards.

constitution, it will be necessary to provide that he shall have the right to see relevant cabinet papers, and also to ensure that he shall enjoy the ordinary immunities of an ambassador.²⁰

(b) In order to discharge its defence responsibility, and for the fulfilment and protection of its Commonwealth and international obligations and interests, it will be necessary to provide that the Crown in the right of the United Kingdom shall be entitled to occupy, control and use for such time as it may require, bases, installations and facilities in Malta designated by the United Kingdom Government through the Commissioner.²¹

(c) We consider that the Government of the United Kingdom should be entitled to request the Maltese Government through the Commissioner to take any action deemed necessary by the United Kingdom Government in order to enable them to discharge their responsibilities for defence and external affairs, or to request the Maltese Government to desist from taking any action which they are taking or proposing to take which the United Kingdom Government deems to be prejudicial to their discharge of those responsibilities. In the event of the Maltese Government refusing or neglecting within a specified time to take such action, or to desist from taking such action, as the case may be, the United Kingdom Commissioner should be empowered to make an Order. This Order should have the force of law, should prevail over local legislation, and should not be subject to challenge in the Courts.²²

(d) So far as external affairs are concerned, we see no reason why Malta should not at least exercise delegated authority in respect of trade agreements and similar matters. We therefore recommend that the Maltese Government should be empowered to exercise delegated authority:—

- (i) to apply for full or associate membership, where practicable and as appropriate, of the United Nations Special Agencies and similar international organizations;
- (ii) to enter into technical, financial and trade, and emigration agreements as appropriate with Commonwealth and foreign states, international organizations and other territories, Her Majesty's Government retaining however a right of veto to ensure that Malta does not enter into agreements conflicting with Her Majesty's Government's existing international obligations or their general international policy.

J. Consultative Machinery

98. We recommend that provision be included in the constitution for the establishment of a Consultative Council on the lines suggested in paragraph 82.

K. The Judiciary

99. (a) Provision is made by Parts V and VI of the Malta (Constitution) Orders in Council, 1959 and 1960, for the constitution of the Judiciary, and a Judicial Service Commission. Broadly speaking, the

²⁰ *Ibid.* Ss. 18 and 19; see also S. 72 (3).

²¹ Singapore Constitution, S. 72.

²² *Ibid.* S. 74.

position under the Order in Council relating to the appointment and removal of judges and magistrates is as follows:—

- (i) Judges are appointed by the Governor in pursuance of instructions given to him by Her Majesty through a Secretary of State.
- (ii) Judges are removable only for incapacity or misbehaviour, so found by the Judicial Committee of Her Majesty's Privy Council.
- (iii) Magistrates and certain Court officers are to be appointed or dismissed by the Governor "acting on the recommendation of the Judicial Service Commission".
- (iv) The Judicial Service Commission is an independent body consisting of the Chief Justice, another judge appointed by the Governor after consultation with the Chief Justice, the chairman of the Public Service Commission, and a person who is or has been a judge appointed by the Governor in his discretion.

(b) We have given some thought to the mode of appointment of judges, and see no sufficient reason why they should not be appointed by the Governor on the advice of the cabinet, thus in effect following the procedure in the 1947 Constitution. We recommend accordingly.

(c) In our view the remaining provisions in subparagraphs (a) (ii), (iii), and (iv) above are satisfactory; no criticism was directed at them by any person who gave evidence before us, nor are we aware of any dissatisfaction relating thereto. We therefore recommend that they be carried into the new constitution without amendment.

L. Public Service Commission

100.—(a) Part VI of the 1959 Constitution provided for the establishment of a Public Service Commission. Provision was made for the appointment of certain senior officers of the Government service by the Governor acting in his discretion. Subject thereto, the power to make appointments to public offices, and to dismiss and to exercise disciplinary control over public officers, was vested in the Governor acting on the advice of the Public Service Commission. The reference to "public offices" was not to include a reference to the office of any police officer below the rank of Inspector. Under the provisions of the proposed new Police Ordinance referred to in paragraph 86 powers in relation to police below the rank are to be exercised by the Commissioner of Police. The Governor was given the right, acting in his discretion, to refer any recommendation of the Commission back to it once for reconsideration. Thereafter he was bound to act on it. Acting on the recommendation of the Commission the Governor delegated to administrative heads his powers in respect of non-pensionable posts of which the maximum emoluments do not exceed £500 per annum. It was provided that the power to grant benefits under any pensions law should rest in the Governor, acting in his discretion. It was further provided that the members of the Commission should be appointed for a fixed term by the Governor, acting in his discretion, and should be removable by the Governor only for incapacity or misbehaviour. For the reasons given in Chapter VIII we recommend that provisions similar to Part VI of the 1959 Constitution be carried into the new constitution, and that they be entrenched.

(b) In so doing however we advise that the provisions should be amended, so as to give effect to the following suggestions made to us by the Public Service Commission :—

- (i) Appointments to the Commission should continue to be made by the Governor in his discretion after consultation with the Prime Minister.
- (ii) Removal of a Commissioner from office should lie either entirely in the discretion of the Governor, or perhaps in the hands of the Governor on the recommendation of a special tribunal similar to that prescribed, for example, by Section 78 (2) of the Singapore Constitution.

(c) As regards procedure relating to promotions, particularly in relation to the higher posts, and senior appointments to special posts, we accept the view suggested by the Commission that it is not feasible to include in the constitutional documents any definition of the cases in which it is desirable that the Ministry should be consulted. However, the Public Service Commission realizes the desirability of consultation with Ministers in appropriate cases, and we would hope that with goodwill on both sides satisfactory solutions will be worked out in practice. Similarly we would expect that in exercising his discretion to refer back, the Governor would, in appropriate cases, consult with the Ministry.

(d) The Society of Administrative and Executive Civil Servants made representations to us, both orally and in writing. They appear to be well satisfied with present arrangements, broadly speaking, but wish to see the authority of the Commission extended so as to cover interdepartmental transfers, at least in relation to the senior grades, civil service training, and the content and conduct of public examinations. This seems rather too specialized a matter to call for any recommendation by us. A copy of the written submissions made by the Society appears in Appendix B, and no doubt these suggestions will receive due consideration when this part of the new constitution is being drafted.

M. Internal Security and the Police

101.—(a) The Maltese Legislature will have exclusive power to legislate on internal security matters. Nevertheless we recommend that any bill affecting internal security which is passed by the Legislature shall be reserved for the signification of Her Majesty's pleasure.

(b) In Chapter VII we have set out in full our reasons for believing that as a temporary measure the Commissioner of Police should be ultimately responsible to the Governor and we recommend accordingly. We hope that this period of control will not be prolonged and, to that end, we further recommend that there should be provision in the constitution for the delegation of this responsibility by the Governor in his discretion to the Maltese Cabinet.

N. Finance

102.—(a) Provisions should be made along the lines of Part VII of the 1959 Constitution for the establishment of a Consolidated Revenue Fund, for the authorization of expenditure, and for the appointment, terms

of service and exercise of the functions of the Director of Audit to secure his impartiality and freedom from political control.²³

(b) Special provision should also be made on the lines of Part VII of the 1947 Constitution for the payment out of the Consolidated Fund of certain expenses relating to the office of Governor and to his staff, to the Judiciary, and, during the interim period only, to the Police.

O. Official Languages

103. We recommend that the English and Maltese languages should continue to be the official languages of the State of Malta.²⁴ We see no present reason why provision should be retained in the constitution regulating the use or teaching of any language either generally or in educational institutions.

P. Human Rights

104. Having regard to the general considerations set out in Appendix H we make the following recommendations:—

- (1) The new constitution should include an appropriately worded preamble referring to the United Nations Declaration of Human Rights.
- (2) The constitution should contain provisions modelled on Chapter III of the Constitution of the Federation of Nigeria, adapted, of course, to the circumstances existing in Malta.
- (3) As regards religious freedom and compulsory acquisition of property, the substance of Sections 49 and 51 of the Malta (Constitution) Order in Council, 1959, which made provision therefor, should be incorporated in the new constitutional provisions dealing with human rights.
- (4) The provisions of Section 31 of the Nigerian Constitution, which confer upon the High Court a special jurisdiction to provide redress against infringement of human rights should be included in the new constitution, expanded perhaps so as to confer upon any person the right to sue for a writ of habeas corpus in respect of the detention of himself or any other person, a right which does not at present exist in Malta.
- (5) Consideration might be given to the insertion of a provision authorizing the Advocate of the Poor, or some other appropriate officer, at the instance of any person, to bring before the Court any case of an alleged infringement of human rights declared by the constitution.²⁵
- (6) In view of threats of trial by “people’s tribunals” (see Appendix G) the provisions of Section 21 (2) of the Nigerian Constitution might be strengthened by substituting for the word “court” a form of words confining the jurisdiction to try criminal offences to the existing courts of Malta.

²³ The Malta (Constitution) Order in Council, 1959, S. 47.

²⁴ See 1947 Constitution, Ss. 32, 33, 46, and 48.

²⁵ See The Report of the Advisory Commission on the Review of the Constitution of Rhodesia and Nyasaland, 1960, Cmnd. 1148, paragraph 238.

Q. Amendment of the Constitution

105. (a) We recommend that the basic provisions of the constitution should be entrenched, but that the Assembly should be at liberty to amend any other part of the constitution, by resolution supported by two-thirds of its members.

(b) The provisions of the constitution which we consider should be entrenched include those relating to the following:—

- (i) The office and powers of the Governor, including the use and operational control of the police and provision relating to his personal staff.
- (ii) The powers of the Maltese Legislature.
- (iii) The United Kingdom's responsibility for defence and external affairs, and the office and powers of the United Kingdom Commissioner.
- (iv) The amendment of the Constitution.
- (v) The Judiciary.
- (vi) The Public Service Commission.
- (vii) The financial provisions.
- (viii) Official languages.
- (ix) Human Rights.

(c) As regards subparagraphs (viii) and (ix) only, we suggest that the Assembly should be at liberty, by resolution supported by two-thirds of its members, to pray the Crown in Council to amend the same. We suggest that if such a prayer is rejected, it should lapse and a period of say, twelve months should elapse before it could again be debated.

R. Reservation of Bills

106. (a) We recommend that the Governor be empowered, or if so advised by the United Kingdom Commissioner obliged, to reserve for the signification of Her Majesty's pleasure any bill which affects or appears to affect the discharge by the Government of the United Kingdom of its responsibilities for defence and external affairs. Similarly the Governor should be empowered to reserve any bill affecting internal security, or affecting or appearing to affect the stability of the Maltese currency or the entrenched provisions of the constitution. The provisions of the Singapore Constitution, Section 74 (5) and (6), prescribing the procedure to be followed when the United Kingdom Commissioner intends to advise that a bill shall be reserved, might well be adopted in Malta.

(b) There are certain existing Ordinances which we consider to be of such basic importance to Malta's orderly development, or so necessary to ensure the functioning of a sound democracy, that any bill repealing or amending, or otherwise appearing to affect the same, should also be reserved

for the signification of Her Majesty's pleasure. The Ordinances we refer to are the following:—

(i) *The Police Ordinance.*

The reasons for protecting this Ordinance appear earlier in Chapter VII.

(ii) *The Broadcasting Ordinance.*

It is obviously desirable that a political instrument so important as radio and television should be impartially controlled, so as to give all interests in the community a fair opportunity to state their case—the more so inasmuch as we understand that the Mintoff Ministry prevented its political adversaries from making any use whatsoever of the local broadcasting system.

(iii) *The Dockyard Ordinance.*

It is vitally necessary to ensure that nothing is done to hinder the plans, worked out between Her Majesty's Government and Bailey (Malta) Ltd., for the conversion and future use of the dockyard, which are to be implemented through the Dockyard Ordinance.

(iv) *Loans Ordinances.*

In view of the importance to the State of Malta of her Government's credit at home and abroad, particularly at this stage of her development, we consider that such Ordinances also should be protected from any amendment which might tend to prejudice the good credit which now exists.

S. Disallowance of Laws

107. For the same reason, and for more abundant caution, we recommend that Her Majesty's Government should have the power to disallow laws relating to Malta Government Stock.

T. United Kingdom power to legislate for Malta

108. The Parliament of the United Kingdom should retain the power to legislate for Malta on all matters. We recommend further that the Crown should retain the prerogative power to legislate for Malta, subject to review by Parliament of any instrument by which the prerogative power might be exercised, so that Parliament may be at liberty within a specified period to disallow any such instrument if it should see fit. We hope that it will be unnecessary for these powers to be exercised, except with the consent or at the request of the Maltese Government. On the other hand, we feel we cannot exclude the possibility of a repetition of the kind of emergency which has in the past required a suspension or revocation of the constitution. For this reason we consider it fitting that the Queen in Council should be at liberty to take any necessary action without delay, subject to review by Parliament, rather than that it should be necessary to introduce special legislation for the purpose.

CHAPTER X

MISCELLANEOUS RECOMMENDATIONS

109. We wish also to submit the following miscellaneous recommendations relating to two matters only remotely connected with our terms of reference or on the fringe of the area which they cover.

A. Local Government

110. It was a matter of some astonishment to us to find that there was no form of local government in the Maltese Islands. We realize that in so small an area the establishment of such bodies would present difficulties which do not exist in larger territories. Nevertheless we feel that had even a simple form of local government administration been introduced in the past advantages not dissimilar to those experienced elsewhere might have resulted: for example the cultivation of civic pride and self-reliance; a healthy spirit of inter-district rivalry; the relief of the central government from certain expenditures which should be borne by local funds; and perhaps most important of all the training of potential leaders in the administration of public affairs.

111. We were interested to learn of a measure of local government in Gozo. This step is to be welcomed, provided in due course that the Gozo local government body is prepared to face the duty of imposing its own taxation for purely local purposes.

112. When we visited Gozo the Gozo Civil Council presented us with a memorandum outlining the events which have led up to the present development. A submission at the end of the memorandum is in Appendix K. While fully appreciating the importance of Gozo local government legislation we do not think it appropriate that local government legislation should be entrenched or protected in the new constitution.

B. Public Relations

113. Reference has been made in paragraph 45 of our Report to the apparent lack of knowledge in Malta of the present financial relationship between the Government of Malta and Her Majesty's Government in the United Kingdom.

114. The Government of Malta is at a disadvantage in that, since there is at present no Legislative Council, they have not the opportunity which such a forum provides to advocate or to defend the policies which they carry out in Malta. Thus the task of publicising Her Majesty's Government's and the Government of Malta's activities for the welfare and development of the Islands is made the more difficult. The same consideration arises in the case of publicising this Report. If, as we suggest in the concluding Chapter, we have provided the occasion and the opportunity for a change in the attitude of mind of the Maltese people towards the metropolitan power, all the resources of the information services of the Government of Malta will be required to get this idea across as widely as possible.

115. Further: the changed attitude if established must continue to be fostered. For this purpose the United Kingdom Commissioner should be amply provided with resources both financial and material so that he can

take immediate, significant and well-publicised steps first to demonstrate the reality of joint action and responsibility in matters of defence and foreign affairs, secondly to explain the reasons for Her Majesty's Government's actions in the field of concurrent powers, and finally to keep before the Maltese people a clear picture of the role in the Commonwealth which Malta fulfils.

CHAPTER XI

CONCLUSION

116. In paragraph 42 we have referred to a feeling of insecurity regarding the economic future of Malta as one of the sources of political ferment. Another source is what at the present time is generally referred to as the "colonial relationship". The Maltese people see other countries, historically of more recent growth, and considerably less advanced, in the Maltese view, in culture and civilization, taking complete charge of their own affairs, and being "promoted" from the Colonial Office to the Commonwealth Relations Office, while Malta is neither complete mistress in her own house nor at any ascertainable point on the way thereto. Many even of those who will regard as a generous measure the constitution which we have recommended will still feel that they should know in what direction the step which is now envisaged is leading them.

117. It is not for us to enter into an argument whether Malta's disabilities in the matter of size and natural resources are a permanent limitation on her claims to sovereignty, or whether strategic considerations alone, as long as they obtain, are the barrier between these Islands and independence. Nor is this the place to press for a rationalization of Her Majesty's Government's handling of the affairs of sovereign and dependent countries of the Commonwealth by the creation of one single Commonwealth office, a reform which many consider is long overdue. On the other hand this is the place to emphasize the need for a change in the attitude of mind of some Maltese frequently expressed to us who think that Malta and the Maltese are regarded as somehow inferior or subservient to the metropolitan power.

118. We believe that this change of mind can be achieved only if Her Majesty's Government convinces the Maltese people that they are regarded as full and essential partners in the enterprise of holding the east-west Mediterranean passage. From this partnership the system of dyarchy has largely excluded the Maltese people in the past: into this partnership the system of concurrent powers which we advocate will welcome them in the future. We suggest it will be the duty of Her Majesty's Government through the United Kingdom Commissioner to demonstrate the reality of this partnership.

119. The two main political parties have deprived themselves of the opportunity of expressing their views to the Commission, and deprived us of the advantage of hearing what they had to say, by refusing officially to have anything to do with us on the grounds that our terms of reference

are too narrow. The implication appears to be that had we not been limited by our terms of reference we might have considered recommending a more generous form of self-government than that which our Report proposes.

120. It is only fair to record that we have not found ourselves hampered in any way by the limitations within which we have had to work. However wide our terms of reference might have been, we could not have envisaged Malta progressing, at the present time and in existing circumstances, to a more advanced stage along the path of constitutional progress than that which we have recommended. Reference to the table in Appendix J shows how far what is now contemplated exceeds anything which Malta has previously enjoyed in the way of responsibility for its own affairs, and for the affairs of the United Kingdom so far as the Islands are concerned.

121. However we know very well that no constitution can work if the will to make it work is not present. We cannot create that will, but we believe that if it were forthcoming the Maltese State could grow, and flourish, in the constitutional framework which we have devised.

CHAPTER XII

SUMMARY

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(Signed) HILARY BLOOD

EDWARD ST. JOHN

FRED HAYDAY

P. R. FORSYTH THOMPSON,
Secretary

Malta, 5th December, 1960.

APPENDIX A
 CONSTITUTIONAL COMMISSION'S DIARY

<i>October</i>	<i>Interviews</i>	<i>Visits</i>
In London		
3rd	V. B. de Gray, M.V.O., M.B.E., B.E.M., Commissioner of Police, Malta.	
4th	Col. V. Vella, C.M.G., C.V.O., O.B.E., E.D., Commissioner for Malta in London.	
5th	Malta Industrial Development Board: Sir George Dowty, Chairman, Colin Bruce, Secretary.	
6th	Colin Bruce, Secretary, Malta Aids to Industries. C. S. Roberts, Colonial Office, H. Steel, Colonial Office. J. D. Higham, C.M.G., Colonial Office.	
In Malta		
7th		Commission arrived in Malta. Guests of H.E. The Governor at San Anton Palace.
8th		Formal call on His Grace the Metropolitan Archbishop of Malta at Mdina Palace. Motor tour of East, North and Northwest of Island.
9th		Tour in launch of north and east coasts of Island and Comino.
10th		Commission to Phoenicia Hotel. Chairman at a Press confer- ence. Chairman broadcast on Rediffusion.
11th	Save the Children Fund: Mrs. J. Debono, Miss M. Bonnici. T. W. Hedley, Editor, Times of Malta. C. Mangion.	
12th	The Hon. A. Campbell, Chief Secretary. A. S. Mortimer. J. G. Vassallo.	Tour in launch round Malta harbours.
13th	Federation of Malta Industries: The Hon. E. Arrigo, Capt. J. E. Agius, D. O. Seymour, M.B.E. A. Montanaro, Editor, Il-Berqa. Major W. L. Bonello, M.V.O., O.B.E. Colonial A.D.C. to the Governor. J. C. Pollacco, Chairman, Malta Government Tourist Board.	Chairman shown over the Palace.

October

Interviews

Visits

- 14th Dr. V. Briffa.
S. Bugeja.
Democratic National Party:
Dr. Herbert Ganado, Leader,
Dr. Riccardo Farrugia, Deputy Leader,
G. Farrugia, Secretary,
Dr. Albert Ganado.
- 15th Confederation of Malta Trade Unions:
A. M. Callus, President,
W. R. Zahra, General Secretary,
T. J. Mayo, Assistant Secretary.
Malta Private Schools Association:
The Rev. A. Vella, O.P.,
The Rev. E. Camilleri, S.J.,
The Rev. J. R. Brookes, O.S.B., M.C.,
The Rev. Br. Dominic, S.F.C.
Malta Nationalist Youth Movement:
Dr. Guido de Marco, President,
A. Barbaro Sant, Secretary,
E. Saliba.
- 16th
- 17th R. G. Miller.
The Hon. Mabel Strickland, O.B.E., Leader,
Progressive Constitutional Party.
M. Abela, B.Sc.,
Electoral Registrar.
The Hon. J. La Rosa,
Member of Executive Council.
Chief Secretary and Information Adviser.
The Hon. E. Arrigo,
Member of Executive Council.
- 18th Society of Administrative and Executive
Civil Servants.
Major Sir Richard Onslow, Bt., T.D.
Francis X. Blackman.
J. Gasan.
R. Stimson.
- 19th The Hon. Col. A. J. Dunkerley,
Member of Executive Council.
The Hon. Professor J. Xuereb,
Member of Executive Council.
The Hon. D. S. Stephens,
Legal Secretary.
Malta Chamber of Commerce:
The Hon. E. G. Arrigo, President,
F. Darmanin, Vice President,
J. M. Cuschieri, Hon. Treasurer,
Capt. P. Toledo, Hon. Secretary,
J. Caruana Montaldo.
J. Borg.
- Mr. St. John shown over
Palace.
- Sir Alfred Roberts returned to
the United Kingdom.
- Remainder of Commission
tour south of Malta; visit
to neolithic temples at
Tarxien, Hal Salfieni, and
Hagar Qim, with Capt.
Zammit, curator of
Museum.
- Luncheon at St. Edward's
College.
Reception at Anglo-Maltese
League.
- Lecture at Anglo-Maltese
League by Prof. Vincent
Harlow on "Malta and the
Commonwealth".
- Visit to Capt. O. F. Gollcher,
Norman House, Mdina.
- Reception at Rediffusion
(Malta) Ltd., for 25th
Anniversary.
- Visit to St. John's Co-
Cathedral with Dr. Louis
Galea.

<i>October</i>	<i>Interviews</i>	<i>Visits</i>
	Call on	
20th	His Grace the Metropolitan Archbishop of Malta. P. Naudi, Director of Information. V. B. de Gray, M.V.O., M.B.E., B.E.M., Commissioner of Police.	Formal call on Admiral Sir Alexander Bingley, Commander-in-Chief, Mediterranean.
21st	J. Grima. The Hon. E. Cuschieri, C.B.E. Lt.-Col. F. Cassar Torreggiani. The Rev. J. R. Brookes, O.S.B., M.C. Public Service Commission: L. H. Gorsuch, C.B.E., Chairman, C. Thake, C.B.E., Deputy Chairman, Moses Gatt, Dr. C. Farrugia.	Segovia recital at De Porres Hall, Sliema.
	Call on	
22nd	The Governor and Chief Secretary.	Visit to Candle factory, Rabat. Visit to Malta Industries, Rabat. Visit to Valletta Museum with Capt. Zammit.
24th	Progressive Constitutional Party: The Hon. M. Strickland, Leader. Capt. J. L. Pace, Capt. S. C. Xuereb, M.B.E., Col. H. Ferro, J. Salinos, Notary A. Sceberras Trigona, J. Pugliesevich, B.E.M., J. G. Vassallo. G. Sammut, Editor, Sunday Times of Malta. A. Chetcuti, Anglo-Maltese League, Legal Secretary.	Visit to Mdina with Dr. Louis Galea.
25th	The Hon. E. L. Petrocochino, C.B.E. G. E. Camilleri. A. Miceli Farrugia.	Visit to Pipe factory.
26th	His Lordship the Bishop of Gozo. Gozo Civic Council.	Visit to Gozo by helicopter. Tour of island, visiting Ta Pinu Sanctuary, Ggantija temples, Xlendi and Marsalforn, with Chev. E. Cassar, Commissioner for Gozo.
27th		Visit Victoria Cathedral, Citadel, Museum, Calypso's cave, and Dwejra inland sea. Return to Malta by ferry.
28th	The Hon. D. A. Shepherd, O.B.E., Financial Secretary	Chairman broadcast on Malta Rediffusion.
29th		Commission returned to London.
31st October– 7th November		In London.

<i>November</i>	<i>Interviews</i>	<i>Visits</i>
8th		Chairman and Mr. F. Hayday to Malta.
9th	Mr. Hayday calls on His Grace the Metropolitan Archbishop of Malta.	Mr. St. John returns.
11th	Anglo-Maltese League: A. Chetcuti, President, A. M. Callus, Hon. Secretary, A. Amato. T. W. Hedley. Professor W. Ganado. Legal Secretary.	
13th		Remembrance Sunday.
14th	Progressive Constitutional Party: The Hon. M. Strickland, O.B.E., Capt. J. L. Pace, Capt. S. C. Xuereb, M.B.E., Col. H. Ferro, J. Salinos, Notary A. Sceberras Trigona, J. Pugliesevich, B.E.M., J. G. Vassallo. P. R. Noakes, Information Adviser.	
15th		Mr. Hayday visits Malta Industries and Brewery.
16th	Democratic Nationalist Party: Dr. Herbert Ganado, Dr. Riccardo Farrugia, G. Farrugia, Dr. Albert Ganado.	
17th		Chairman visits National Library.
19th	Legal Secretary	
21st	Service Chiefs: Air Marshall Sir Walter Cheshire, K.C.B., C.B.E., Rear Admiral D. H. F. Hetherington, D.S.C., Major General A. J. C. Block, C.B.E., D.S.O.	
22nd	V. de Brincat J. G. Vassallo Advisory Board to the Investment Company of Malta Ltd.: Cdr. J. Mattei, Lt.-Col. F. Cassar Torreggiani, Major A. Cassar Torreggiani, O.B.E., G. Samways.	} Mr. Hayday.
23rd		Mr. Hayday to Gas Works, Marsa.
24th	Financial Secretary.	
28th	Discussions with His Excellency, The Governor.	
29th		Mr. F. Hayday to Dusseldorf for Trade Union meeting.
<i>December</i>		
1st		Mr. E. St. John to London.
5th		Sir Hilary Blood departs from Malta.

APPENDIX B

WRITTEN REPRESENTATIONS SUBMITTED TO THE COMMISSION

Below is a list of written representations received by the Commission. Those marked with an asterisk have been reproduced (see pages marked)—

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	Dunstan G. Bellanti
	Joseph Borg
	S. Bugeja
40	*Lt.-Col. F. Cassar Torreggiani
45	*Confederation of Malta Trade Unions
45	*Democratic Nationalist Party
	Professor W. Ganado
	J. F. Grech
50	*Lancashire-Maltese Community
50	*Malta Chamber of Commerce
	Dr. D. Marguerat
51	*Medical Officers Union
	A. S. Mortimer
	Major Sir Richard Onslow, Bt.
51	*Progressive Constitutional Party
55	*Royal University of Malta
57	*Society of Administrative and Executive Civil Servants
	J. G. Vassallo
64	*Public Service Commission reproduced as Appendix F

From : Col. F. CASSAR TORREGGIANI.

Date: 28th October, 1960.

I. The Consideration of outside influences which affect any Constitution today.

The Past

The bridges of civilization have spanned chasms of human relationship in the wake of new forms of communication.

2. But History also shows that the invention of new means of transport has been one of the disrupting factors of the "status quo" in any territory. Stages in development of communications have prompted man to look further afield with a new vision, and sooner or later caused him to clash with his neighbour who has come so much closer, suddenly.

3. This is true since man mastered the horse, discovered the wheel, erected a sail, built a ship and built a road, invented the steam engine, discovered electricity, invented the telephone and the internal combustion engine, the radio and the aeroplane, and now rocket propulsion.

4. Each of these major developments in means of communication has provoked a relative shrinkage in the "size" of the earth and a corresponding expansion or growth of racial groups in inverse ratio.

5. This metaphorical shrinkage has produced cracks and upheavals at points where the new demands of racial groups, which we call nations, clash with those of others in a similar predicament.

6. This is inevitable as man's Soul being by nature transcendental, refuses to shrink in conformity. In fact, new frontiers are for ever being sought.

7. We can reasonably assert that in the complex nature of man's history "a new means of communication has invariably been a major factor in the growth of a 'casus belli'".

8. We can also reasonably look to the future with apprehension as the high speed jet plane, guided missiles, T.V. and the satellites, which now span the earth in two hours, have provoked another tremendous shrinkage in the size of our earth, and this at a time when two main opposed ideologies are rampant, and

where the Western and Eastern halves of the world are breaking into each other's domain searching a new settlement of mind and territory. For the world has become too small to contain both simultaneously.

9. We should look at this picture as a forerunner of a cataclysmic war but for different reasons from those envisaged by early Communist theorists. The dreaded consequences of a nuclear war have in fact proved a deterrent so far, and if the enigma China could be reckoned with, perhaps we would be justified in hoping that the "final" war will be averted.

10. In the meantime the effects of the current shrinkage have already forced man to direct his vision and energies towards frontiers beyond this earth and with God's Grace and man's inherent urge for survival a nuclear war may be averted until the shape of the new world is settled and men will learn to look at it as one big parish.

11. We are in a period of transitory upheaval after a new world "shrinkage". This may last for many years to come and normally provoked war. But so far this has been averted. It has instead produced the "cold war".

12. In the meantime we have to live; and to live as comfortably as we can and at peace with our neighbour at all costs.

13. We also have to fight the "cold war" or perish.

14. At this point democracy at the hands of illiterate people begins to look like a national liability.

II. Factors affecting self-government in Malta

The Present

15. Malta has always been a fortress. It still is. Malta is in the thick of the "cold war". The new concepts of defence in a shrunken world and modern weapons have altered Malta's rôle.

16. But from the point of view of the Western Powers it is still "ground vital for defence". Anyone who has any doubt about Malta's strategic value should try to visualize Malta as a Russian base in the Mediterranean!

17. IS THE COLD WAR A REAL WAR OR JUST A SLOGAN? This is a pertinent question as it is a main factor in forming an appreciation of Malta's political and economic requirements. This question has not been aired sufficiently in this Island. It is probably a major factor in safeguarding the people's loyalty.

18. I believe that a cold war does really exist. But if it exists the "enemy" must be identified. This is a psychological necessity and is of primary importance. (If there is no "enemy" there is no cold war, if there is no cold war the whole thing is a hoax and silly propaganda. Reason demands we get on with our work and stop caring about the "Bogey man".) Apathy is the strongest weapon in cold war.

19. Who are the enemies of the Western Powers in Malta? To come nearer home who are the Queen's enemies in Malta? Up to date we have believed that the Queen's enemies are Malta's enemies and that Malta's enemies are the Queen's enemies.

20. This is the root of our loyalty to Great Britain. For loyalty like love, is reciprocal. It dates back to Malta's voluntary entry into the British family of nations in return for the Security promised by the British Sovereign to defend Malta against all enemies and respect its way of life.

21. Is this being done? Many of us do not think so chiefly owing to circumstances which made the British Government appear to be grinding its own axe through a local political party, and closing its eyes while permitting it, rode roughshod over people's sentiments and played havoc with justice and freedom, thereby undermining trust which is a factor of loyalty and which is being questioned.

22. The questions must be asked: To what extent is the "cold war" raging in Malta? Who and where are Malta's enemies? And these must be answered now.

23. A serious attempt is being made to divide and alienate our deeply ingrained loyalty to God, to the Sovereign and to the British way of life which we have been assimilating for 160 years now, and to our Christian Faith and civilization which is our finest heritage.

24. I venture to state that the identification of the enemy in the cold war in Malta is a first step towards stability and clearer thinking.

25. In our minds the duty of dealing with the national enemy is the British Government's whether the enemy is outside or inside our shores. For the defence of Malta is the Sovereign's prerogative. The Maltese will finally rise to the occasion if they are given a clear lead in this line. In fact they are being led and doing so in the opposite direction for it so happens that the most active and troublesome political faction here today is violently anti-British.

26. Their propaganda against everything British or "of the West" is not innocent or guileless. It is filling a void in the mind of the impressionable and uneducated, and identifying Britain as "the enemy". Children are being groomed into "hate" groups and prepared for "Democracy"!

27. Anyone opposing this view is a "traitor" and must be attacked somehow. For minds which accept violence—psychological or physical—as a "modus operandi" the Universal Catholic Church is a natural target anywhere. Anyone attempting to help sort out the mess is equally a "traitor" and will be dealt with later by retroactive law.

28. The attempt to sow the seed of terror is a fact and cannot be ignored.

29. But with all this (which is not understood or imagined by the electorate), the bulk of the people who think at all, has identified this anti-religious anti-British group as Britain's enemy, and has been expecting some action from Her Majesty's Government to curb this flagrant sedition.

30. But as NO action has been taken the people are puzzled and some suspicious.

III. Conclusion re New Malta Constitution

The Future

31. All the above is an oversimplified design for a backdrop for the immediate future.

32. Circumstances command the drawing-up of a political pattern of development in keeping with discernable trends which are evident in the world of today. For the world shrinkage referred to above affects not only large countries but all countries.

33. The smaller the territory, and the more insignificant it becomes in the new world picture, the greater is the effect of disruption of the inhabitants. As has been suggested above, the mind of man refuses to "shrink" to conform to the new size of their country. They will outgrow their country's shrinkage by a resolute effort to reassert themselves, brooking no interference from any quarter. The process seems to engender a fresh attempt at self-reappraisal and the resurgence of national sentiments to an inordinate degree. This flux of change has created the clamour for independence from territories which have not enjoyed self-government and a rush for the skies from the others.

34. It is historically evident that as the world "shrunk" in size the smaller territories have been overwhelmed and become part of large political entities. Unless subdued by force of arms small nations have found it necessary for economic, political and security reasons to "join" and become an integral part of a larger country. No one country is really independent today. Interdependence, organised, planned and effective, should be the order of the day.

35. In this we see a pointer to the future of smaller countries as they become integrated with more economically independent groups.

36. In this light the Malta Labour Party's idea of Integration (which was first studied and dropped by the Constitutional Party in 1945 as "not feasible") was in keeping with the trend of world development and the right order of thinking in the world of tomorrow; the clumsy attempt to give it premature

life by political gangsterdom today has given a setback to what may still turn out to be a "natural" in the course of time and of world events.

37. The upheaval caused in the world by the launching of the first satellite and the advent of T.V. is being felt in Malta now. Both these factors command a new sense of values and T.V. is about to put an end to Malta's insularity. Like our fellow men we Maltese are undergoing a process of resurgence and adjustment as a natural reaction to the new shrinkage as we attempt to find our place in a new world.

38. The damage caused by the necessary withdrawal of the Constitution owing to the ignorance of some and the action of our political gangsters has added confusion to the Maltese mind when clarity of thought and calm leadership was most essential ; and it has turned it away from a natural course which events were laying out for the world and of which Malta forms a small but lively part. At the moment we seem to have lost our sense of political direction. Our mind is not attuned to Independence. All our historic life seems to have been spent in subjection to the greatest nation ruling at that time. Furthermore we are attuned to the one-ness of the world for we form part of the Roman Catholic Church which is universal and knows no frontier.

39. But we must steer our own course, in a friendly stream of traffic and subject to regulations calculated to prevent traffic jams or accidents to our neighbour and ourselves.

40. I venture to suggest that any political drive on parallel lines aiming at unity of people with common interests should find response if it is genuine.

41. To sum up. The emergence of new "independent" uneconomic splinter states which is now taking place in the world is temporally inevitable. This runs counter to the drive for closer union between hitherto sovereign independent countries which is an imperative condition for existence in the future.

42. In the case of Malta which already forms an integral part of the Commonwealth, Interdependence should be the honest aim of professional Civil Servants and Politicians. After the political vicissitudes which the people of Malta have endured and survived they must have the opportunity to "feel" the Freedom of political dreamers but within the laws at present governing the relationship of various countries forming the British Commonwealth and the Western Powers. Very soon they will find out that the nearest approach to freedom on this earth is to be found in the Catholic Church, and in the British concept of Freedom as reflected in the Common Law of England.

43. Viewed in the light of the above observations the problem resolves itself as follows:—

- (1) Malta is British territory. Hitherto used as a Fortress its uses as such are on the wane.
- (2) The importance of Malta to Britain has dwindled but it is still "ground vital for defence" for the Western Powers. Britain's financial obligations towards Malta are out of proportion to the uses which can be made of it. But a moral obligation to see Malta through exists.
- (3) Malta is involved in the Cold War between two opposed ideologies, viz.: the freedom of the West against the slavery of the East.
- (4) The Maltese must be made responsible for their own Government.
- (5) The achievement of complete independence by Malta today will be running counter to evident trends of development in a new smaller world.
- (6) An independent Malta could not exist as such for any length of time.
- (7) For historical, humane, practical and psychological reasons Malta must have a liberal constitution, supported by British and international interests.
- (8) The new Constitution must have built-in safeguards to prevent Malta defecting from the West at the instigation of unscrupulous politicians or enemy agents taking control of Political Parties and Trade Unions.
- (9) The three stereotype British Constitutions for overseas territories are unsuitable. In this half of the century they are out of date, rigid and brittle.

- (10) The British Government must be FIRM and JUST.
- (11) The British Government must assume definite responsibilities for ensuring that the Government of Malta does not collapse owing to insecurities in the economic field.
- (12) The Maltese Parliament will be prohibited from backdating any Law or regulation.
- (13) If desirable, necessary or expedient, Britain's responsibility for defence could be shared with other NATO countries.
- (14) Human Rights must be safeguarded.
- (15) Trade Unions must not subvent Political Parties.
- (16) Repetition of past mistakes should be avoided.
- (17) From the above it would appear that conclusions can be drawn as follows:—
 - (a) A Constitution "sui generis" to be drawn to meet Malta's special case. It must be liberal, generous, justly safeguarding the interests of minorities and friendly in its trusts. It must also be very firm on International relationships and political gangsterdom.
 - (b) The Catholic Church, which has a powerfully beneficial and positive influence must be given a voice in authoritative secular quarters. Her rights must be fully respected.
 - (c) Since there has been no continuity of experience of self-government, the setting up of "County Councils" (one for each electoral district) may well prove to be a much needed nursery for politicians. They would also help in decentralising the work of unwieldy Government Departments. Future politicians will be "graduated" through these Councils. They will make or break themselves on Government matters of a parochial nature but should be fairly mature when they are elected to Parliament.
 - (d) Constituted bodies should be represented in Parliament and their voice carry weight. They are all elected anyway.
 - (e) To overcome the difficulty of Reserved Matters the British Government, together with other NATO countries, must be given a voice in the Malta Parliament backed by a firmness of action if necessary. They should not be in a position to interfere in the day-to-day running of the government.

44. From the above conclusions it appears that the main course open is as follows:—

The New Constitution should be specifically devised to meet Malta's special needs. It should be preceded by a just financial agreement and sealed by an agreement of friendship. It should aim at establishing a Two-House Parliament and local government by District Councils.

The Second House of Parliament should be a traditional Senate with part of its Members being elected representatives of Constituted Bodies, including the Roman Catholic Church.

The defence of the Island to be vested in Britain and/or NATO, jointly or separately. There should not be any "Reserved Matters", but when the Senate is asked to vote on any point calculated to affect adversely the interests of Britain and NATO to the advantage of their potential enemies in the International field, or an infringement of the Constitution, the representative of Britain and NATO who will have a Reserved seat each in the Senate will have the right to vote, and finally on certain specified matters of a grave nature, the right to Veto.

The NATO forces in Malta in a special agreement and jointly with Great Britain will assume responsibility for the defence of Malta. They will maintain a Defence Force including a Special Security Force, recruited overseas and in Malta.

(Signed) F. CASSAR TORREGGIANI.

From: THE CONFEDERATION OF MALTA TRADE UNIONS

917

Date: 8th October, 1960.

Sir,

I have been requested by my Council to refer the Constitutional Commission to the Memorandum submitted by the Confederation of Malta Trade Unions, to Lord Perth during his visit to Malta, last July, and in particular to paragraphs 5 and 6 which state:—

- (5) The Confederation therefore looks forward to the early restoration of responsible government with the fullest constitutional liberties possible.
- (6) . . . the Confederation expects to be consulted when such a Constitution is being drafted.

2. The Council also wishes to draw the attention of the Commission to paragraph 7 of the same document, wherein my Council expressed the hopes of the Confederation that the British Government would continue to grant economic help to our country until such time as a stable economic situation had been established.

Yours faithfully,

(Signed) W. R. ZAHRA,
General Secretary.

From: THE DEMOCRATIC NATIONALIST PARTY

Date: 28th October, 1960.

Outline of Proposals

Constitutional future of the Maltese Islands

Her Majesty's Government, prior to or concurrently with the promulgation of the envisaged constitution, is to issue a clear statement regarding the constitutional future of the Maltese Islands. Such statement to indicate unequivocally that

- (i) the constitution is an interim one, and
- (ii) that the ultimate goal for the Maltese Islands is to be full self-government within the Commonwealth.

Enactment, amendment and suspension of the Constitution

2. (a) The Constitution to be enacted by Act of Parliament.

(b) No powers to be reserved to Her Majesty in Council to revoke, amend, or alter the Constitution.

(c) Clauses of the Constitution, dealing with

- (i) reserved matters,
- (ii) human rights, and
- (iii) the amendment of the Constitution,

shall only be open to amendment by Act of Parliament. Any such amendments, however, shall become operative ONLY if subsequently endorsed by Resolution of the Maltese Parliament carried by at least two-thirds of all the members.

All other clauses shall be open to amendment ONLY BY THE MALTESE PARLIAMENT in accordance with normal procedure for legislation, provided such legislation is passed by not less than two-thirds of all the members.

(d) Suspension of the Constitution to be provided for only in case of emergency and then only for a limited period or periods ; no amendments of the Constitution to be effected during its suspension.

Governor—Head of State

3. The Office of Governor to be abolished, and substituted by that of “Head of State” or “Chief of State”, to be appointed by Her Majesty after consultation with the Maltese Government. For the first six months of the Constitution, the person holding the Office of Governor on its promulgation to be Head of State. The Head of State to act on the advice of the Maltese Ministry in all matters other than those for which responsibility rests with Her Majesty’s Government. Her Majesty’s Government to have, as representative, a Commissioner. The word “colony” not to be applicable any longer to the Maltese Islands which are to be officially designated as “State” of Malta.

Responsibility for Defence and Foreign Affairs

4. (a) Responsibility for Defence and Foreign Affairs to be provided for in such a way as to make it clear that in questions of interpretation a restrictive meaning should prevail.

(b) Without prejudice to (a) above, the following to be expressly excluded from the said responsibility:—

- (i) control of shipping and air navigation, with due safeguards in respect of existing international treaties and commitments ;
- (ii) compulsory acquisition of lands and buildings ;
- (iii) requisitioning of lands, buildings, goods and services ;
- (iv) compulsory military service (including ancillary services) ;
- (v) submarine cables, wireless telegraphy and wireless telephony ;
- (vi) coinage, currency, and exchange control ;
- (vii) immigration, emigration, deportation and extradition ;
- (viii) nationality, naturalisation, aliens and passports ;
- (ix) importation of goods, exportation of goods and the imposition of duties thereon ;
- (x) trade and commerce ; commercial and trade treaties (including association with Customs Unions, Trade Areas, Common Markets, etc.) ;
- (xi) establishment and appointment of representatives of the Maltese Government (or of Government Departments) abroad ;
- (xii) any matter which affects only incidentally Defence and Foreign Affairs.

(c) Treaties with foreign powers to be applicable to the Maltese Islands after a Resolution to that effect is passed by the Maltese Parliament which shall have full power to legislate for giving effect to such treaties in these Islands.

(d) Legislation in connection with Defence and Foreign Affairs to be enacted by the Maltese Parliament at the request of the United Kingdom Government. Should the Maltese Government contest the request on the grounds that it does not fall under Defence or Foreign Affairs, the matter to be referred to a local joint council (composed, say, of the Chief of State, the Prime Minister, two Ministers chosen by him, the United Kingdom Commissioner and two members nominated by him). If no agreement is reached at this Council, the matter to be referred to a council in the United Kingdom (composed of equal representatives of the United Kingdom and Maltese Governments, under an independent chairman), whose decision shall be final. The same procedure to apply to administrative and executive acts.

(e) Pending the definition of any such matter at issue by the said councils, the Head of State shall have the power to act, only in cases of urgency, after consultation either with the local joint council, mentioned in (d) or with the Prime Minister and the United Kingdom Commissioner.

(f) Internal security not to be included under, or to be considered as part of, defence. In matters of internal security that might affect defence, the procedure under (d) and (e) is to apply.

Civil Service and Police

5.—(a) The guarantees in favour of the Civil Service and Police should be given effect to

- (i) WITHOUT conferring on the United Kingdom Government any powers to legislate, or any right to interfere with, the Civil Service and the Police, and
 - (ii) WITHOUT hampering or hindering the Maltese Government in the ordinary administration and in giving effect to its policies.
- (b) If commissions are envisaged, it is suggested that
- (i) their powers be such as to safeguard the members of the Civil Service and of the Police Force from any victimisations, and
 - (ii) the Chairman to be independent, and the members to include representatives of the Opposition.

Human Rights

6. These should be enunciated briefly. No law whatsoever to be passed infringing these enunciated rights.

Judiciary

7. Security of tenure of office to be guaranteed in the Constitution. Magistrates to be assimilated to Judges.

Language and Instruction

8. These matters to be reserved exclusively to the Maltese Parliament and Government.

Procedure for legislation

9.—(a) When a bill is passed by the Maltese Parliament the Head of State can EITHER give his assent thereto OR (if he thinks the bill to be in contravention of the Constitution) reserve it for the signification of Her Majesty's pleasure.

(b) Whenever a bill is assented to by the Head of State, that bill becomes law and no disallowance can be exercised by any Secretary of State or other imperial authority.

(c) If, for any reason, the Head of State does not assent to or does not reserve a bill as in (a) above, within, say, two months, that bill shall be deemed to have been assented to on the expiration of the said period, and shall become law without any powers of disallowance.

(d) In the case of a reserved bill, the Secretary of State can EITHER give his assent thereto OR disallow it provided such disallowance shall be ineffectual unless it be approved by a resolution to that effect in the House of Commons.

(e) A reserved bill shall become law if:

- (i) it is assented to by the Secretary of State as provided for in (d) above;
- (ii) it is not disallowed by the Secretary of State within, say one month, from the date of the Head of State's reservation;
- (iii) the Secretary of State's disallowance is not approved by the House of Commons within twenty days of the disallowance—in the computation of the said period of twenty days, days in which the House of Commons actually sits to be taken into consideration.

Validity of Laws

10.—(a) The Colonial Laws Validity Act's application to these Islands to be revoked.

(b) No law passed by the Maltese Parliament to be contested solely on the ground that it touches defence and foreign affairs, and that the procedure for such matters had not been, or had not been fully, observed, if such law has become effective in any one of the ways mentioned in paragraph 9 (b) and (e) above.

(c) Subject to (b) above, any person or body shall have the right to contest—before the ordinary local Courts—the validity of any law passed in contravention of the Constitution.

(d) When a law is contested on the ground of its being against “human rights”, the action is not to be bound by any lapse of time. In other cases a period of one year (from the date on which the contested law becomes operative) is suggested as a limitation of the right of action.

Method of Election

11. Elections are to be held on the “Proportional Representation” system.

From : THE DEMOCRATIC NATIONALIST PARTY.

Date: 24th November, 1960.

At the very outset of the discussions on the drafting of a new constitution for the Maltese Islands, the delegation of the Democratic Nationalist Party made it clear to the Constitutional Commission that the party was seeking full self-government within the Commonwealth as the rightful status which should be conferred on these Islands. This is the ambition of all democratic nationalists, in accordance with the terms of the party statute, approved on the 19th October, 1958. Section 2, para. 3, of the statute lays down: “In the constitutional field the party shall strive to secure the recognition of national rights and the attainment of full self-government within the Commonwealth for the Maltese Islands”. This is also the policy of one other of the four political parties of the Island, namely the Nationalist Party.

2. The Democratic Nationalist Party is aware that the terms of reference of the Constitutional Commission preclude it from considering a constitution which would deny to Her Majesty’s Government responsibility for defence and foreign affairs. For this reason, the Democratic Nationalist Party has abstained from submitting to the Commission detailed proposals on full self-government that would take into account the defence of these Islands and the Commonwealth and the way of dealing with foreign affairs in so far as they affect these Islands. However, the Democratic Nationalist Party strongly feels that Her Majesty’s Government should, at this stage, declare unequivocally that the rightful place for these Islands in the Commonwealth is that of a fully self-governing unit. This declaration may be incorporated in a preamble to the new constitution. It will then be the duty of a future Maltese Government to decide, in conjunction with Her Majesty’s Government, when and how these Islands may be accorded that status.

3. While appreciating the limitations to which the Constitutional Commission is bound, the Democratic Nationalist Party is conscious of its responsibilities towards the people of these Islands; the main responsibility, at the present juncture, is that of securing an immediate return to self-government, in the widest possible measure, and, therefore, of bringing to an early end the primitive form of crown colony government holding sway over these Islands. Consciousness of responsibility is of no practical value unless it is translated into action. With this in mind the Democratic Nationalist Party resolved to appear before the Commission and submit its views in the firm belief that legitimate claims cannot readily be rejected. An “Outline of proposals”¹ for the drafting of a new constitution has been forwarded to the Commission; that outline may be published, together with this memorandum, as an appendix.

4. In the formulation of its proposals, the Democratic Nationalist Party has had to bear in mind the limits set by the Commission’s terms of reference. Consequently, even if the suggestions made are substantially adopted, the new constitution will in no way satisfy the aspirations of the Democratic Nationalist Party. For this reason, the Democratic Nationalist Party must necessarily consider the

¹ See page 75.

envisaged constitution as an interim one, and as a spring-board for further constitutional development. The Democratic Nationalist Party realizes at the same time, that if its proposals are adopted, the end of the road leading to full self-government will be well in sight.

5. The interim status envisaged by the Democratic Nationalist Party implies that :

- (1) The word "colony" is no longer to be applicable to the Maltese Islands, notwithstanding anything in the Interpretation Act, 1889 ;
- (2) the Maltese Islands are to be officially designated as a "state" ;
- (3) the Colonial Laws Validity Act, 1865, is not to apply to any law made by the Parliament of the Maltese Islands after the Constitution comes into force.

6. It is the wish of the Democratic Nationalist Party that, with the promulgation of the new constitution, Malta's affairs be transferred from the Colonial Office to the Commonwealth Relations Office. In the past, our country has had sad experiences of subjection to the Colonial Office, and it is no exaggeration to say that prejudice against the Colonial Office exists in these Islands to such an extent that its perpetuation may well cause the wrecking of any future constitution. This prejudice was very much in evidence when the 1947 Constitution was in force. The Prime Minister of Malta, in 1953, advanced a claim for the transfer of Maltese affairs to the Commonwealth Relations Office and in support validly quoted the arrangements made for Southern Rhodesia and South African territories. At that time, the claim was not entertained. Her Majesty's Government may have objected that these Islands then enjoyed a rather limited form of self-government.

7. The proposals submitted by the Democratic Nationalist Party would confer on the Maltese Islands a much higher status than that obtaining under the 1947 Constitution. They include the abolition of the dyarchy, the institution of a Head of State, the liberalization of defence and foreign affairs, and a considerable lessening of subordination to Her Majesty's Government and the United Kingdom Parliament. Apart from considerations of prestige, which, in a small country like Malta, have a particular importance, the new status of these Islands would strengthen the claim for the transfer to the Commonwealth Relations Office. The division between the Commonwealth Relations Office and the Colonial Office is after all artificial and rapidly becoming out-of-date ; the functions of these two departments inevitably overlap, because of the fact that the Commonwealth is in process of transition. Against the objection that the functions of the Colonial Office are administrative and those of the Commonwealth Relations Office representational, barely a few months ago, a group of Conservative Member of Parliament, assisted by experts, under the chairmanship of the Rt. Hon. Lord Colyton, thus expressed themselves : " We do not believe that the qualities required for these respective functions are incompatible and we do not think that there is any longer so sharp a distinction as there used to be between diplomacy and administration in the affairs of the Commonwealth."

8. The delegation of the Democratic Nationalist Party has had ample opportunity to elaborate and discuss with the Commission the various aspects and details of the "Outline of proposals" drawn up by the Party. The necessity of covering the same ground in this memorandum does not therefore arise.

(Signed) HERBERT GANADO,
Leader.

(Signed) R. FARRUGIA,
Deputy Leader.

(Signed) G. FARRUGIA.

(Signed) A. GANADO.

From : THE LANCASHIRE-MALTESE COMMUNITY

Date: 10th October, 1960.

Sir,

At a political meeting of the Lancashire-Maltese Community held in the city of Manchester, last Friday evening, October the 7th, by means of tape-recorded news-reel, released by the Maltese News Recording Studio, the members of the Maltese community came to know all about a Constitutional Commission for Malta.

2. The members, listeners to the Maltese News, heard the text of the statement made by the Secretary of State for the Colonies on the 27th day of July, 1960.

3. On behalf of the community, the major part are Maltese workers migrated in Lancashire, I am writing you to express this our high wish following Mr. Dom Mintoff's first plan: To integrate Malta with the United Kingdom. Of the alternative plan "independence" we are all doubtful because we are quite certain that Malta depends on Her Majesty's British Government.

4. What steps the Commission is going to take we still don't know but we are hoping that sooner or later Malta will keep on her feet with financial aids from Britain, and when elections will be held on the islands of Malta and Gozo, the new Constitution as it is now planned by Her Majesty's Government, will be pleased to the Leaders of Maltese Political Parties, and to the Maltese Peoples, including the Maltese Clergy.

5. On behalf of the Maltese Community in Lancashire and myself, I wish the Maltese Peoples on the islands of Malta and Gozo, "good luck" and God Bless You All.

Obediently yours,

(Signed) GEORGE V. LEPRE.

From : THE MALTA CHAMBER OF COMMERCE

Date: 10th October, 1960.

Sir,

I am directed to refer to Press Release No. 966/60 dated 27th September, 1960, inviting organisations and individuals to submit their views to the Constitutional Commission which is in Malta to formulate detailed proposals for a new constitution.

2. This Chamber welcomes the statement of the 27th July in the House of Commons by the Secretary of State for the Colonies to the effect that Her Majesty's Government are anxious to restore Representative Government in Malta.

3. This Chamber does not subscribe to party politics but it considers that political freedom without economic stability would be unworkable and therefore, any forward move in the political and constitutional sphere should be concurrently conditioned with sound economic guarantees. This more so, as the prospects of success of the Five Year Development Plan launched almost two years ago are still very uncertain and the fact that the amount of invisible exports has also shown a marked decrease further proves that it is essential to ensure that the present contributions from Her Majesty's Government must not be stopped on the plea that self-government would mean self-subsistence.

4. It is felt that whatever form of liberal constitution is finally granted to these Islands, it should provide a House of Review, composed partly of members elected under a system of universal suffrage and partly elected or nominated by recognised constituted bodies.

5. In conclusion this Chamber wishes to emphasise that it believes in the Western concept of freedom and supports the Atlantic Alliance and the principle for which this stands.

Yours faithfully,

(Signed) PHILIP H. TOLEDO,

Honorary Secretary.

From : *THE MEDICAL OFFICERS UNION.*

Date : 9th October, 1960.

Sir,

The Medical Officers Union is a professional trade union totally unconnected with party politics. While upholding the concept that the Maltese have the right to govern themselves as they think fit, this Union will not be submitting any constitutional proposals which do not affect directly the Medical Profession.

This Union wishes to make only two proposals for embodiment in any future Constitution for Malta. These are:—

- (1) Medical Officers enjoying private practice should be allowed to stand for Parliament, even if they receive emoluments from Government. Such a privilege would be parallel to that enjoyed by University Teachers under the several constitutions Malta has had since 1921. In a small place like Malta, it is more important than in other countries to avoid the limitation of political franchise among sections of the population which have the potentiality of giving the most valuable contribution to the Government of their country.
- (2) If in the next Constitution, a Public Service Commission is being introduced, the Union holds firmly that the powers of this Public Service Commission should neither supersede nor clash with the Advisory and Executive Board (Emergency Ordinance No. 1 of 1959). This submission should in no way be taken to mean as an expression of opinion on our part that a Public Service Commission should or should not be incorporated in the Constitution.

I have the honour to be,

Sir,

Your obedient servant,

(Signed) J. ATTARD,

Hon. Secretary.

From : *THE PROGRESSIVE CONSTITUTIONAL PARTY.*

Date : 7th October, 1960.

Dear Secretary,

On behalf of the Progressive Constitutional Party I would be very glad if you would convey our best wishes to Sir Hilary Blood, Sir Alfred Roberts and Mr. Edward St. John on their arrival in Malta. We also welcome you and look forward to co-operating with the Commission.

2. Enclosed is a brief Memorandum from the Progressive Constitutional Party in accordance with Press Notice No. 966/60 dated 27th September, 1960 in which we stress that the economic, constitutional and defence issues are inextricably interwoven and interdependent. An extract from the Party's proposals taken from the Memorandum submitted to the London Round Table Conference on September 14th, 1955 in which the creation of a separate Malta Development and Welfare Fund was envisaged is attached to our Memorandum.

3. Our suggestions on the constitutional problem are flexible and open to considerable argument; all are dependent on the economic adjustments that must be made.

4. In the new Constitution I would like to see two elements incorporated into one House, some elected from recognised bodies and others from the Common Roll.

5. I am also enclosing extracts from Constitutional suggestions made by my Party between September 1955 and November 1958² at different Constitutional

² Extracts from "Maltese Constitutional and Economic Issues 1955-59", pages 83-87, printed and published by Progress Press Co. Ltd., Valletta, Malta, 1959, for the Progressive Constitutional Party.

Talks in the hope that your Commission will be able to incorporate such of the suggestions as are applicable to the position today when the Terms of Reference of the Malta Constitutional Commission 1960, appear to be to provide Malta with a wide measure of Representative Government with Defence, Foreign Affairs, Police and the Civil Service outside direct political control.

6. Today, some wider form of an Interim Constitution is required before the ultimate goal of full internal self-government for Malta and the Royal State Proposal³ are achieved. I am desirous that ministerial responsibility will be the basis of the Constitution and suggest that certain provisions in the Singapore Constitution might be adaptable. I would be glad to discuss the whole matter with the Constitutional Commissioners whenever called to do so in what I trust will be more than one interview with myself and with my colleagues of my Executive Committee.

7. I am sure that the Commission will desire to make all possible contacts, so that they may be in the best position to apply their knowledge and experience to the very difficult problem of drafting a constitution. The constitution should meet the immediate needs of the people of Malta and Gozo by restoring representative government under the circumstances that exist today; the Constitution itself should also provide a sound basis for future constitutional advancement.

Yours faithfully,

(Signed) MABEL STRICKLAND,

Leader of the
Progressive Constitutional Party.

From : THE PROGRESSIVE CONSTITUTIONAL PARTY.

Date: 7th October, 1960.

Gentlemen,

Economic and Constitutional

From the outset I must make it clear that the Progressive Constitutional Party hold that the constitutional, economic and defence issues are inextricably interwoven and interdependent.

2. My Party place the economic issue at the forefront of the Maltese Constitutional problem and we have repeatedly asked for an Economic Royal Commission to be appointed.

3. If Malta is to utilise effectively the financial assistance which she is now receiving, there must be a sound basic organisation to ensure that this financial assistance is applied adequately and fruitfully.

4. In past years the Maltese recurrent budget has been balanced by additional taxation and grants in Aid and by postponing and avoiding a number of vitally urgent problems. At the same time wages have been rising, largely due to outside factors over which Malta has no control. As time goes on it becomes increasingly difficult and more costly to find a durable solution to Malta's financial difficulties.

5. No Constitution can hope for a long term success without an economic backing and a prospect of a viable economy. This has to be assisted and achieved in a change-over from a defence economy to that of industry. Nor can political parties be expected to shoulder the burden of balancing the Island's budget without a reasonably clear picture of the future and of Great Britain's intentions. The present Government has been struggling to right the economy of the island by the same hit and miss methods as before. The public is only conscious of accumulating individual difficulties and frustrations due to the total lack of any privileged public discussions on any subject.

³ *Ibid*; pages 112 and 115.

6. Even if the Government is succeeding in some sectors it is vital that people should understand the economic issues. The process of putting them right must not only exist, but be seen to be effective and just.

7. There is little doubt that Dr. Balogh's remark made in page 14, paragraph 25 of his report entitled "The Economic Problems of Malta" to the effect that "the Maltese civilian economy is an economic fossil" is as justified today as it was in 1955, and in the view of the Progressive Constitutional Party it is vital that an Economic Royal Commission should be appointed without delay so that the distorted economy of the island and much legislation that causes it to be distorted can come up for review and rectification. The economy is also bedevilled by copying laws enacted in the United Kingdom; many of these laws have since been amended in the country of their origin and not here, some of these fiscal laws are not wholly suitable for Malta.

8. It is pertinent to add that the financial contribution of the Metropolitan Power will have to be removed from party politics and controlled by mutual agreement over stated periods. In 1955 we made recommendations for the creation of a separate Malta Development and Welfare Fund which we envisaged as being administered within the framework of a Malta Council (see enclosure 1).

9. I would also wish to draw your attention to the financial offer made to the elected Maltese Government in March 1958, by the Secretary of State for the Colonies, Mr. Alan Lennox-Boyd, wherein specific sums were mentioned both for capital and recurrent contributions. The latter concerned education, health, and other social welfare services for which assistance is clearly required for a sustained period, if Maltese economy is to be on a sound basis and the standards of living of the industrial and other workers are to be raised to a level comparable with that of Britain.⁴

10. The offer of recurrent aid was clearly not repeated when the present Constitution was enacted and a Five Year Development Plan for the Maltese Islands 1959-1964⁵ was announced.

Constitutional

11. Joint Maltese and United Kingdom efforts have been made to establish democratic government in Malta. The Amery-Milner Constitution of 1921 had two Houses and was ultimately withdrawn for Defence reasons and on financial grounds. The 1939 Macdonald Constitution enabled Maltese representatives to participate and co-operate in the government. Undoubtedly this co-operation avoided any situation arising which might have necessitated martial law in Malta during the Second World War. The 1947 MacMichael Constitution did not include a Senate and laid down that the matter could be raised after ten years. The lack of the Senate, it is fair to suggest, may well have contributed to the ultimate establishment of a dictatorship in Malta when, in the 1955-58 Parliament the Socialist Prime Minister dominated Parliament, hardly challenged by a cowed parliamentary Opposition.

12. The suggestion I wish to make is that in the present circumstances two elements should be incorporated in one House by including representation by internal election of recognised bodies such as the Chamber of Commerce, the Federation of Malta Industries, the Trade Unions and the Graduates, as well as representation from the Common Roll say, 32 members to be elected from the Common Roll with a re-alignment of the existing electoral boundaries, and eight members from special constituencies.

13. My Party is not suggesting a second House as we wish to avoid any clash between the classes which in point of fact (but not necessarily in their individual interests) are closely interconnected.

⁴ Extracts from proposals by the Secretary of State for the Colonies in the House of Commons on 25th March, 1958, Hansard, Vol. 585, No. 80, Cols. 227-243.

⁵ Short summary—"Maltese Constitutional and Economic Issues, 1955-1959". Full text in booklet published by Malta Department of Information, 14th October, 1959, entitled "Development Plan for the Maltese Islands, 1959-64".

14. I envisage a Constitution being provided where the democratic political atmosphere can develop and all sections of the community can be represented in one House which within itself will provide sufficient checks and balances, and where members can work together on committees and interchange opinions in the parliamentary lobby as well as in open debate.

15. I would like to point out that from a population of 310,000 of whom some 30 per cent or more are still illiterate, Malta and Gozo are short of persons able to give their time to politics, and that it is extremely difficult to get persons representative of a good cross section of the public to enter political life.

16. I feel that the new Constitution must be so framed as to fit the circumstances existing in Malta, taking into account the characteristics of the people and the whole structure of the community, as well as the diverse problems that arise in a very congested area.

17. The immediate constitutional problem is to break the deadlock imposed on Malta and Gozo through no desire of the Maltese or of the English people which came into being when the 1947 Constitution was sabotaged by the two parties represented in the last parliament. The aim should also be to avoid both constitutional and financial deadlock occurring through inadequate machinery. It would have been possible had goodwill existed to amend the 1947 Constitution in time to meet both constitutional and economic needs.

18. The Progressive Constitutional Party considers that the next Constitution should be of an interim nature and considers it to be an urgent necessity for breaking the present deadlock, and re-establishing representative institutions. The Party in its long term policy envisages Malta as a Royal State.

19. The Commission's attention is drawn to Enclosure 2 in which as long ago as May 13th, 1958, we requested that the Government should revise the Electoral Law (Polling Ordinance); provide legislation to regulate Trade Unions in Malta; establish broadcasting and television services outside political control; establish a Public Accounts Committee and safeguard the position of the Police.

20. We also asked that when a new Constitution was being drafted, that the provision of the House of Commons Disqualification (Declaration of Law) Act, 1931, and its amendments should be made applicable to Malta; and that doctors who are in Government service who also have private practice should not be disqualified from standing as members of Parliament; that teachers from the Royal Malta University should not be prohibited by terms of their employment from standing for parliamentary elections; that holders of the office of Advocate of the Poor or Legal Adviser to Her Majesty's Forces should not be excluded from standing for elections.

21. These and other matters provide a wide field for discussion.

Yours sincerely,

(Signed) MABEL STRICKLAND,
Leader of the
Progressive Constitutional Party

ENCLOSURE 1.

Extracts from the Memorandum submitted to the London Round Table Conference on 14th September, 1955, page 32 of the booklet "Maltese Constitutional and Economic Issues, 1955-1959".

United Kingdom Finance

The Party welcomes Her Majesty's Government undertaking to assist the Malta Government with financial aid for agreed plans for economic development and social welfare and proposes that this should be given legal form by the United Kingdom Parliament through the creation of a separate Malta Development and Welfare Fund. The Fund should be administered on similar lines as the Colonial Development and Welfare Fund (in which Malta would not then participate) by a Financial Board established within the framework of the Malta Council. It is

stressed, however, that in order to ensure economic and political stability monies from the new Fund should be available for a period of at least ten years in the first instance.

This is a feasible financial arrangement which is in every way a more workable alternative than the proposal of integrating the two economies.

ENCLOSURE 2.

Progressive Constitutional Party observations on defects and omissions in the 1947 Constitution pointed out in a Memorandum on the 13th May, 1958, addressed to Sir Robert Laycock for transmission to the Secretary of State for the Colonies, from the booklet "Maltese Constitutional and Economic Issues, 1955-1959", page 86.

Among the most glaring defects are :—

- (1) The Electoral Law needs revision to ensure free and unfettered elections with the abolition of "voting certificates" which are at present required to be in the possession of the person going to vote and are exchanged at the polling booths for a ballot paper.
- (2) Legislation is required to regulate Trade Unions in Malta, to safeguard the individual freedom of Trade Unionists, and to prohibit the misappropriation of *bona fide* Trade Union funds for political purposes.
- (3) Broadcasting and Television services should be covered by Legislation, similar to that obtaining in the United Kingdom. The licence of the Rediffusion Company given under the Crown Colony Government of 1936 should be revised. It permits the Government of the day to use the radio daily while totally withholding its facilities to Opposition Parties. This power was not abused by any of the previous administrations from 1936 to 1955, but its misuse was one of the strongest mediums in the operation of a Police State system under Mr. Mintoff, following his assumption of office in 1955.
- (4) The restriction that the 1947 Constitution imposed on the industrial and commercial section of the community willing to take part in public life should be removed. Sections 7 (1) and 8 (1) of the Malta Constitution of 1947 should be brought into line with the House of Commons Disqualification (Declaration of Law) Act, 1931.
- (4a) Furthermore, in any new Constitution, doctors who are in government service but who have been allowed to exercise their private practice after office hours should not be disqualified from standing as candidates for Parliament.

Teachers at the Royal University of Malta should not be prohibited by the terms of their employment from standing for Parliamentary elections.

- (5) A Public Accounts Committee should be set up in Malta.
- (6) The position of the Police must be safeguarded from political abuse.

Progressive Constitutional Party.

From : THE ROYAL UNIVERSITY OF MALTA

Date: 24th November, 1960.

Sir,

I beg to refer to Section 47 of the Malta (Constitution) Letters Patent 1947 and to paragraph 10 (2) of the Instructions to the Governor, accompanying the Malta Constitution Order in Council 1959, which read as follows :—

- (1947) "47. No alteration shall, without our prior consent, obtained through a Secretary of State, be made either by legislation or by administrative action, in the law, regulation or practice from time to time in force regarding the use, as a medium of education or

instruction, or the teaching of any language in any University, school or other educational institution in Malta.”

(1959) “ 10 (2) The Governor shall secure that no alteration shall without our prior consent obtained through a Secretary of State, be made either by legislation or by administrative action, in the law, regulations or practice from time to time in force regarding the use, as a medium of education or instruction, or the teaching, of any language in any University, school or other educational institution in Malta.”

2. These provisions, in so far as they affect the University, run counter to the principle of academic freedom to Universities, so jealously cherished in Great Britain and in most countries of the Commonwealth.

3. The University became autonomous on the promulgation of the Royal University of Malta (Constitution) Ordinance 1947 (Ordinance No. XXXII of 1947) on the 18th September, 1947, four days before Self-Government. But it only enjoyed full academic freedom for these four days as the Malta (Constitution) Letters Patent 1947 came into force on the 22nd September, 1947.

4. In a letter addressed to H.E. The Governor dated the 21st September, 1953, I asked (in the name of the Council) that the University be exempted from the provisions of Section 47 of the Malta (Constitution) Letters Patent 1947 and asked for permission, in the meantime, to establish the Chairs of French and Italian Literature, which had been lowered to a Lectureship before 1947.

5. Before this request was forwarded to the Secretary of State, the Governor, on the suggestion of the Legal Secretary, raised the question of several amendments which the Council had made since 1947 and which in the Legal Secretary's views constituted an infringement of the provisions of Section 47 of the Letters Patent. He asked for explanations. The amendments were discussed by me with the Legal Secretary who seemed satisfied with my explanations and who suggested that I should ask for permission in respect of these amendments as well. With this I complied.

6. But though in September, 1954, the consent of Her Majesty the Queen was obtained to the proposal that a Chair of Italian Literature and a Chair of French Literature should be established in the University, we were informed that the Secretary of State after carefully considering our request to be exempted from the provisions of Section 47 of the Letters Patent regretted that he could “ not advise Her Majesty to take any action in this matter at the present time.”

7. The University was given to understand that the Secretary of State did not wish to have an “ ad hoc ” amendment to the Letters Patent, which would have emphasised the existence of the limitation to academic freedom in those documents and was therefore hoping that the amendment would be introduced concurrently with some other amendment. The University was dismayed to find that this clause was repeated in 1959 in The Instructions to the Governor above mentioned. It still feels very strongly that this restriction on its academic freedom should be removed ; and I therefore beg your Commission to make the necessary recommendation on this matter to restore to the Royal University of Malta the full measure of academic freedom which is enjoyed by its sister Universities in Great Britain and other parts of the Commonwealth.

Yours faithfully,

(Signed) J. A. MANCHE,
Vice-Chancellor and Rector Magnificus.

*From: THE SOCIETY OF ADMINISTRATIVE & EXECUTIVE CIVIL
SERVANTS*

(covering letter)

Date: 11th October, 1960.

Sir,

I am submitting for the consideration of the Commission three copies of a memorandum prepared by this Society. It will be noted that the memorandum deals only with the question of safeguards to the Civil Service. My society has restricted its comments to this one point on the assumption that the Commission will be recommending a ministerial system of government for Malta.

As the terms of reference of the Commission are couched, however, and because of the stand of certain political parties, the Commission may have, as an interim measure, to recommend a system of representative or quasi-representative government providing for an Executive Council made up of official and elected members. If this is likely to happen my Society would wish to be given an opportunity of meeting the Commission to make further submissions.

I have the honour to be,

Sir,

Your obedient servant,

(Signed) A. J. TABONE,
Honorary Secretary.

*From: THE SOCIETY OF ADMINISTRATIVE & EXECUTIVE CIVIL
SERVANTS*

Date: 10th October, 1960.

The Society of Administrative and Executive Civil Servants welcomes the arrival of the Malta Constitutional Commission and trusts that the result of its labours will be the introduction of a new constitution providing for the return of responsible Government to Malta. This Society, however, while welcoming any move which results in greater political freedom wishes to make known its views regarding the nature of the safeguards for the Civil Service which it desires to see incorporated in the new constitution.

Present Position

2. At the moment, the Public Service is covered by various sections of the Malta (Constitution) Order in Council, 1959. It is laid down in Section 32 (1) that "power to make appointments to public offices and to dismiss and to exercise disciplinary control over public officers shall rest in the Governor acting on the recommendation of the Public Service Commission." Provision is made in Section 34 for the appointment of a Public Service Commission consisting of a chairman, a deputy chairman and not less than one and not more than three other members. Other sections of the Order in Council provide for the delegation of the Governor's power to make appointments and to dismiss and to exercise disciplinary control over certain public officers and for the issue of regulations concerning the functions of the Commission. There is then the important Section 39 under which the Governor, before acting on any recommendation made to him by the Commission has the power to refer it back once for reconsideration.

3. In general, this Society is in agreement with these provisions, but it considers that the Commission should have certain additional functions. It is not, however, in a position to comment on how well the existing machinery works in practice since the Commission was appointed last July and started functioning effectively in August.

Constitutional Provisions for the Future

4. Her Majesty's Government's declaration that any future constitution will take account of the safeguards promised to the Malta Civil Service has been noted. It accords with this Society's view that any new constitution should provide for the setting up of a Public Service Commission.

5. The Constitutional Commission may be informed by political parties that the Civil Service should be the responsibility of Ministers and that Ministers, and not any independent body, are the proper authorities to act on appointments, promotions and discipline. They may argue, as Dr. Nkrumah of Ghana argued in 1952, that "the public service is an instrument of Government policy without which that policy cannot be carried out." This Society is certain that such arguments will not impress the Commission. Malta is a small place where everyone knows all about everyone else and one cannot hope for complete impartiality from politicians, however honest and imbued with a sense of responsibility they may be.

6. This Society agrees that Ministers must retain direct control over such matters as conditions of service, staff requirements, the organization and number of departments and the relation of departments to ministerial portfolios. It contends, however, that certain aspects of civil service administration, e.g., appointments, promotions and discipline, should be exercised by the Governor-in-Council, i.e., the Governor acting on and with the advice of Ministers sitting as an Executive Council, acting on the recommendations of an independent Public Service Commission. Only this arrangement will protect the Malta Civil Service, in the public interest as much as in the interest of its members, from political influence and from any external influences which may "seek to apply to candidates for appointment or promotion standards other than those of suitability and qualifications."

7. Recently, this Society has had occasion to declare to the Rt. Hon. the Minister of State for Colonial Affairs that "under any new constitution, the bestowal of offices, and related questions that may unduly or unfairly affect the bestowal of offices, should be left to an authority of unimpeachable impartiality." In accordance with this declaration this Society therefore submits that the Constitutional Commission should recommend that the power of making appointments and promotions, of effecting dismissals and of dealing with discipline in the Civil Service shall be vested in the Governor-in-Council acting on the recommendation of a Public Service Commission. It is further submitted that the Commission should be given executive powers regarding transfers, the content and conduct of public examinations and civil service training, but that it shall exercise these powers in consultation with the Prime Minister or any public officer delegated by him.

8. Some of the proposed functions are similar to those carried out by the present Public Service Commission and there is, therefore, no need to expand upon them. The only point it is desired to make here is that Section 39 of the present constitution should be incorporated in any new constitutional instrument. Some explanation of the executive powers proposed for the Commission is, however, called for.

9. The suggestion that transfers should be entrusted to the Commission stems from the fact that in a small civil service like Malta's a general service officer does not start and end his career in one department. Such transfers are necessary to give an officer experience of work in a number of departments, to save an officer from being unfairly chained to a dead-end job or to remove an officer from a job to which he is unsuited. A number of strategically timed transfers in an officer's career may therefore place him in a better position than others for promotion in the higher ranks. Another consideration is that transfers may otherwise be used as a disciplinary weapon without reference to the Commission. The transfers referred to in this paragraph are inter-departmental transfers since it is considered that intra-departmental transfers, so long as they do not involve either promotion or reduction in emoluments, should be delegated to heads of departments. Such transfers within a department should however be reported to the Commission if the transferred officers so request. Another alternative

might be to delegate power to make transfers up to a certain grade to heads of departments leaving the Commission with responsibility for transfers of the more senior grades, e.g., those with a salary or salary maximum of £1,000 and over. This latter arrangement would satisfy this Society.

10. Regarding the proposal that the Commission should be responsible for the content and conduct of public examinations, it is submitted that this flows logically from the Commission's power to nominate persons for appointment, including a first appointment. This after all is the task of the Civil Service Commission in the United Kingdom who have the responsibility of "selection for recruitment". On the principle that justice must not only be done but must be seen to be done it would be best if the Public Service Commission were to assume responsibility for public examinations.

11. The third matter over which the Commission should exercise executive power is civil service training. Whatever its form and content training always improves an officer's fitness for, and hence, chances of, promotion. More especially, however, the selection of an officer for a specialised training course whether in Malta or abroad enhances his chances of promotion even though it may not directly lead to a higher appointment. Since the Commission if the present regulations are anything to go by, will, in making promotions, examine the qualifications of officers, then it should also assume responsibility for training.

12. Apart from the above submissions the only other comments which this Society desires to make relate to the appointment of the members of the Commission. As matters now stand political influence can be excluded in the matter of the appointment of the Commission; it cannot, however, be altogether excluded under responsible government. It is submitted, therefore, that the Commission should be appointed by the Governor in his discretion after consultation with Ministers, in so far as the composition of the whole Commission is concerned, and with representatives of staff associations, in so far as two of the members of the Commission are concerned. It is also submitted that appointments of members of the Commission should last for five years and that persons who are members of the Legislative Assembly or who have affiliations with a political party or are associated in the public mind with a political party should not be qualified for appointment to the Commission.

13. It is the considered view of the Society of Administrative and Executive Civil Servants that the proposals submitted above are important measures designed to maintain and improve the neutrality of the Malta Civil Service. This Society is convinced that the Constitutional Commission will see its way to recommend them for inclusion in the new constitutional instrument.

(Signed) A. J. TABONE,
Honorary Secretary.

APPENDIX C

Chronological Table of Events

- 1921: New constitution granted.
- 1930 Constitution suspended.
- 1931 Royal Commission on Malta.
- 1932 Government's decision to restore the constitution.
- 1933 Constitution suspended and administration assumed by Governor.
- 1936 New constitution proclaimed giving Malta crown-colony status.
- 1939 New constitution promulgated.
- 1942 Award of George Cross.
- 1946 MacMichael Report on constitutional reform.
- 1947 New constitution in force.
- 1950 Government statement on financial aid to Malta.
- 1952 Further statement on financial aid to Malta.

- 1953 Home Office offer.
- 1955 London discussions.
- 1955 *February* General Election. Mr. Mintoff and Malta Labour Party in power.
- June*. London discussions with Maltese delegation.
Proposal to convene a Round Table Conference.
- July/December*. Round Table Conference which favoured integration proposals.
- 1956 *February*. Referendum on Maltese Government proposals for integration. 59 per cent of electorate voted, 40 per cent abstained. Of the votes cast 74 per cent were in favour of integration (44 per cent of the electorate) and 22 per cent were against.
- March*. Government statement that a Malta Bill would be introduced giving effect to the Round Table Conference proposals but which would only become effective after a general election in Malta.
- June*. Greatly-increased Maltese Budget.
- September*. Economic commission appointed.
Schuster Report largely rejected by the Maltese Government.
Interim Report, October, 1956 } published in April, 1957.
Final Report, March, 1957 }
- 1957 *February*. Maltese delegation visited London.
Britain agreed to provide £6 million towards the 1957-8 Maltese budget.
- November*. Hives Committee appointed to study the diversification of Maltese economy. Agreement reached on major issues of integration proposals. British defence cuts.
- December*. The "December resolution" in the Maltese Legislative Assembly.
- 1958 *March*. Maltese delegation visited London. Britain agreed to contribute £5 million towards the 1958-9 Maltese budget. Mr. Mintoff's rejection of the integration proposals which the Colonial Secretary outlined in the House of Commons.
- April*. Resignation of Mr. Mintoff and refusal of Dr. Borg Olivier to form a Government. The Governor takes over the administration. Riots in Valletta and state of emergency declared.
- July*. Announcement of further talks with the Maltese political parties.
- October*. Formation of the Democratic Nationalist Party.
- November*. The London talks.
- December*. Breakdown of the talks, due to Mr. Mintoff's demand for independence.
- 1959 *January*. Start of Mr. Mintoff's campaign for complete independence.
- February*. Malta (Letters Patent) Bill suspending the 1947 Constitution. Dockyard disturbances.
- March*. Take-over by Messrs. C. H. Bailey of the major portion of the naval dockyard. All dockyard workers re-engaged.
- April*. Malta (Constitution) Order in Council 1959, provided interim constitution for Malta.
- December*. Visit of Secretary of State.
- 1960 *August*. Public Service Commission established.
Appointment of Malta Constitutional Commission.
- October*. Arrival of Malta Constitutional Commission.
- December*. Report of Malta Constitutional Commission submitted to Secretary of State.

APPENDIX D

**(a) Extract from official announcement in the Malta Government
Gazette, No. 7824 of the 2nd November, 1933**

"A further source of anxiety to His Majesty's Government is the manner in which the finances of the Island have been administered. It is clear that these finances, which were taken over in a sound condition in 1932, have already been gravely prejudiced.

"In these circumstances the Governor was authorized to warn Ministers that the policy which they were deliberately pursuing was contrary to the spirit of the Constitution and gravely detrimental to the interests of Malta, and to make plain to them the consequences which must inevitably follow unless their policy were radically altered. He subsequently presented them with a detailed list of measures adopted by them since their accession to office which he regarded as objectionable, and which both in the interests of sound administration and as a proof of their compliance with the policy of His Majesty's Government he called upon them to revoke.

"The following examples are cited as an illustration of the nature and the extent of the acts to which His Majesty's Government took exception.

(1) . . . (6)

"(7) The General Estimates for the current year disclose the fact that expenditure of a reckless and improvident character is being incurred. The Colony is threatened with an excess of expenditure over revenue which, if persisted in, must lead to an entire depletion of liquid assets.

"There have, moreover, been in day to day administration a number of instances indicating that the Ministers have neglected few opportunities, however small, of displaying their disinclination to work in harmony with the policy of His Majesty's Government.

"The cumulative effect of these and similar acts is unmistakable. The Ministers have been given the opportunity to amend their policy upon these matters. They have declined to do so, and have accordingly been dismissed, and the Governor has again assumed the administration of the Islands."

**(b) Secretary of State's Statement in the House of Commons
2nd February, 1959**

Extract from Mr. Alan Lennox-Boyd's statement appearing in Hansard, Vol. 599, No. 48, Columns 41-43.

"After lengthy correspondence, I persuaded Mr. Mintoff to come to London in March, 1958, for further talks. He asked then for further extensive financial commitments by Her Majesty's Government, or alternatively, for the grant of independence. He demanded, also, that until such time as full economic equivalence with the United Kingdom had been reached, Her Majesty's Government should concede Malta the right to opt for independence, and that, at the next election, the Maltese people should be offered the choice between integration and independence.

"I do not think that any Government could have accepted that. As I said in the House on 25th March last year:

"... the Prime Minister of Malta refused to recommend integration to the Maltese people on the imaginative terms proposed by Her Majesty's Government. He attempted to attach a political condition, namely, the right to independence on a unilateral basis, which strikes at the root of a union in mutual confidence which was the basis of the integration proposals."—
(Official Report, 25th March, 1958; Vol. 585, c. 227.)

"It was then clear that the prospects of integration were fast disappearing. In an effort to bridge the gap, Her Majesty's Government offered an interim constitution for five years, broadly corresponding to full integration, but without the provisions specially designed for constitutional integration of Malta with the

United Kingdom. This alternative provided for a review at the end of five years to see whether agreement could be reached to proceed with a more permanent arrangement for the achievement of full integration or for some other agreed constitutional and economic basis for Malta's future.

"The details of this and of the full integration constitution were circulated in HANSARD on 25th March last year. Unhappily, however, it was not possible to make any progress with Mr. Mintoff on this basis. Indeed, soon after his return to Malta, and without any clearance with Her Majesty's Government, he proposed a budget which would have involved a deficit of £7 million, all of which would have to have been met by Her Majesty's Government. Then, on 21st April, 1958, he resigned on the specific ground of Her Majesty's Government's alleged refusal to find a *modus vivendi* on financial aid for the period necessary to hold an election. He refused to form a caretaker Government, but agreed to remain in office while the Governor consulted the Opposition.

"By this time, as the House will recall, there was serious rioting in Malta, which increased in violence over the next two days. Dr. Borg Olivier, the Leader of the Opposition, refused to form a caretaker Government. On 23rd April the Maltese Commissioner of Police told the Governor that Mr. Mintoff in his capacity as Minister of Police has issued orders, at three minutes' notice: one, to withdraw the mounted police; two, to suspend all baton charges; and three, to dismiss two named police officers. In the Commissioner's view—there were riots going on at that very moment—if these orders were carried out the Commissioner could not accept responsibility for keeping the situation under control. Therefore, in the interests of public safety, the Governor countermanded these orders and told Mr. Mintoff so as soon as he could contact him.

"On the next day, 24th April, the Governor told Mr. Mintoff that Her Majesty's Government were prepared to give financial assistance for the period of an election campaign at an annual rate of £5 million, without any conditions as to the situation after the formation of a new Government. At the same time, he asked for assurances from Mr. Mintoff that he would carry out his responsibilities for maintaining law and order. Mr. Mintoff was not prepared to give these, and the Governor, therefore, accepted his resignation. Then, as the House knows, there was a strike and a state of emergency was declared."

APPENDIX E

(a) Aid given to Malta by Her Majesty's Government

	1954/5	1955/6	1956/7	1957/8	1958/9	1959/60	Estimate 1960/1	Estimate 1961/2	Estimate 1962/3	Total
	£	£	£	£	£	£	£	£	£	£
Civil Defence	89,041	148,000	138,015	99,908	56,000	54,800	56,000	55,000	55,000	751,764
Stockpiling	56,159	68,000	76,000	74,136	33,250	44,500	44,000	10,000	—	406,045
Emigration	560,899	280,128	108,000	—	—	—	—	—	—	949,027
Diarchy	12,300	24,000	27,800	26,000	35,500	—	—	—	—	125,600
Oil Storage	—	—	—	32,434	120,000	248,400	231,100	59,700	36,100	727,734
General Financial Aid	£ 718,399	520,128 800,000	349,815 *4,430,569	232,478 3,720,000	244,750 3,080,000	347,700 997,743	331,100 1,230,000	124,700 554,000	91,100 532,000	2,960,170 15,344,312
War Damage	£ 718,399 1,768,000	1,320,128 1,633,000	4,780,384 1,746,000	3,952,478 1,885,000	3,324,750 1,104,000	1,345,443 245,400	1,561,100 241,700	678,700 390,000	623,100 390,000	18,304,482 9,403,100
C.D. and W. (including grants for University)	£ 2,486,399 386,832	2,953,128 385,458	6,526,384 478,858	5,837,478 318,608	4,428,750 104,375	1,590,843 2,337,758	1,802,800 3,354,156	1,068,700 3,267,000	1,013,100 2,157,000	27,707,582 12,790,045
Bailey (Malta) Ltd.	£ 2,873,231	3,338,586	7,005,242	6,156,086	4,533,125	3,928,601 1,783,978	5,156,956 636,000	4,335,700 1,500,000	3,170,100 1,000,000	40,497,627 4,919,978
	£ 2,873,231	3,338,586	7,005,242	6,156,086	4,533,125	5,712,579	5,792,956	5,835,700	4,170,100	45,417,605
Civil Aviation	34,069	35,000	35,295	19,481	25,000	9,992	120,000	138,000	Not available	416,837
	£ 2,907,300	3,373,586	7,040,537	6,175,567	4,558,125	5,722,571	5,912,956	5,973,700	4,170,100	45,834,442

* includes £1,174,232 towards 1955/6 deficit.

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(b) **Financial Aid given to Malta compared with some other territories for the period 1957-58 to 1959-60**

For these calculations population figures as shown in the 1960 Colonial Office List have been used. The total aid over the period has been taken from the Colonial Development and Welfare Fund, the Colonial Services Vote and Exchequer Loans. In the case of Malta only, aid amounting to approximately £10 per capita from War Damage Fund sources has been included.

	<i>Per Capita</i>	<i>Population</i>
St. Helena	89·23	4,802
Malta	50·46	323,667
Virgin Islands	44·02	7,600
British Honduras	34·97	88,281
Seychelles	16·41	43,149
Gibraltar	13·77	25,637
Kenya	1·76	6,450,000
Uganda	0·63	5,868,200
Mauritius	0·4	632,721

Malta has the highest per capita rate of Colonial Development and Welfare assistance promised in the period 1959-64 of all territories, followed by St. Helena, Gibraltar, Virgin Islands, Seychelles and British Honduras.

APPENDIX F

Memorandum submitted by *THE PUBLIC SERVICE COMMISSION, MALTA.*

Date: *25th October, 1960.*

In the normal course of constitutional advance elsewhere in the Commonwealth the Public Service Commission has gone through two stages:—

- (1) Control of the public service is vested in the Governor with the assistance of a Public Service Commission. This Commission is an advisory body; the Governor is not bound to consult it in all cases of appointment, promotion or discipline, nor is he bound to accept its advice.
- (2) Control of the service passes out of the Governor's hands, and the Commission becomes a fully executive body. In other words, it does not advise or recommend—it makes the decision on all matters falling within its province under the Constitution, and such matters must be referred to it other than those specifically excluded in the constitution.

2. The present Malta Public Service Commission lies constitutionally between these two stages. Control of the service is vested in the Governor "acting on the recommendation of" the Commission (section 32 (1) of the Order in Council), and he is bound to refer to the Commission all matters except in regard to the appointments reserved under sections 40, 41, and 47 (b). Moreover, he is bound to accept the recommendation of the Commission, subject to his discretionary power to refer back once to the Commission for reconsideration (section 39).

3. At the outset the Maltese members of the Commission wish to express the unanimous view that the Malta Public Service as a body is loyal to the conception that the Service shall serve the Government of the day with equal fidelity and zeal whatever its political complexion, subject to the condition that the Service shall be effectively insulated from improper influence or interference, political or otherwise. The Chairman, who can only judge from a brief contact with the Service at present, has formed the same impression; but the Service is undoubtedly still uneasy about the effectiveness of the insulation.

4. The Commission has assumed that in any new constitutional proposals there can be no going back on the present status of the Commission as described in paragraph 2 above. In its discussions, therefore, it has considered only two possibilities—either that control of the public service will remain vested in the Governor (or whatever title the Queen's Representative may have), or that the Governor may retire into the status of constitutional monarch and cede control of the service.

5. If control of the service remained vested in the Governor, the Commission would expect that the provisions in the new constitution governing its composition and functions would be, in general, the same as at present. There are, however, two points which will be developed later in this memorandum. The first is the question of consultation with Ministers over promotions or important new appointments. The second is whether, if the new Constitution were to envisage a ceding of control of the service by the Governor after a definite period, there might be an interim stage during which, while control of the service was still vested nominally in the Governor, the Commission functioned in practice executively, and the Governor's ultimate control would not come into operation except in cases where a difference of opinion between Ministers and the Commission had to be resolved. This would provide a "trial run" period, during which the relationship between Ministers on the one hand and a Commission of executive status on the other could be established by experience.

6. If, however, control of the service is no longer vested in the Governor, the first point that arises is the security of tenure of office of the Commission itself. The present Commission feels strongly that any confidence which the public service as a body might have gained in the integrity and impartiality of the Public Service Commission and in its power to insulate them from improper influences would be lost if, under a new Constitution, the appointment or removal of members were placed in political hands. The question is how it is practicable to afford safeguards against this. The minimum safeguard in respect of appointment is, in the Commission's view, that it should lie with the Governor *in his discretion*, whether or not the control of the public service remains vested in him; but in either case Ministers might claim a voice in the matter, and it might be thought necessary to allow for "consultation" with the Prime Minister (and preferably the leader of the opposition as well), though not for appointment "on his advice". The tenure of appointment should be for a prescribed period. In regard to the removal of a member, the authority might lie with the Governor in his discretion. An alternative (which the Commission has noted is prescribed in section 78 (2) of the present Singapore Constitution) is that, on representation by the Prime Minister or the Chairman of the Commission after consulting with the Prime Minister, a question of removal may be referred by the Head of State to a tribunal consisting of the Chief Justice and two Judges of the Supreme Court, on whose recommendation the Head of State shall act. Whatever method of removal may be adopted, it is in this Commission's view essential that the power to remove a member of the Public Service Commission, or to suspend him or to interfere in any way with the execution of his functions, shall not lie in political hands.

7. This Commission appreciates that the answers to the questions where control of the public service shall lie and what the authority and functions of a Public Service Commission shall be in any future Constitution depend partly on consideration of what is feasible constitutionally or politically; and that those are matters of which the Constitutional Commission must be the judges. It may, however, be permissible for the present Public Service Commission to offer some material for consideration based on its experience to date of the functioning of the Commission under the present Constitution, and in the case of the Maltese members on their knowledge and experience of conditions in Malta touching the public service, both now and in the past.

8. There are difficulties in the way of an over-hasty jump into full executive status:—

- (1) The present Commission only came into existence in August of this year. But there was, for many years previously, a body of the same name, which consisted entirely of senior officials and was purely advisory in status.

This has created confusion in the minds of the public, and indeed of the public service itself, and it will take some time yet before the radical differences between the old Commission and the new are fully grasped.

- (2) Malta is not, like most other territories, moving steadily forward in constitutional advance; it has been moving forward, back and forward again. There have been long periods of representative government in the past. But in none of those periods have Ministers had to deal with a Public Service Commission even of the present kind. They may well take time to establish a working relationship with a Commission of the present type—and even longer if confronted with a Public Service Commission of full executive status at the outset. It is for this reason that the possibility has been suggested in paragraph 5 of a trial run under executive status.
- (3) The present Public Service Commission has inherited a legacy of staff relations which cannot be called harmonious. This atmosphere of dissatisfaction and lack of confidence cannot be ignored in the present and future. It has to be patiently dissipated by the present Public Service Commission, and nothing can do this but a demonstration over an adequate period of just and impartial handling by the Commission of its business. In the long run the success of the Public Service Commission will depend on the confidence which the Service and the public come to repose in it. A jump forward into executive status before this confidence is gained (and possibly in the face of political opposition, overt or covert) might make the Commission's task extremely difficult. And sooner or later it must become a body entirely Maltese in composition (the present Chairman's engagement is for a year only, renewable by mutual agreement but at the option of the Government).

9. For these reasons the Commission would prefer, if the choice lay with it, to have a longer period of consolidation under its present status than may be available if a new Constitution providing for representative government comes into force next year. But the choice does not lie with it. All it can ask is that the Constitutional Commission in framing its recommendations, shall take account of the difficulties outlined above. If the Public Service Commission is required to undertake greater responsibilities in the near future it will do its best to be ready for them and to discharge them, in the expectation that it will be safeguarded constitutionally against difficulties which may otherwise prove too great to enable it to protect the legitimate interests of a Malta Public Service modelled and working on the British civil service tradition.

10. The Commission has discussed the question of relationships between itself and Ministers which will arise whether control of the public service is vested in the Governor or not. The Commission fully realises and accepts that adequate weight must be given to the fact that a Minister is responsible to the legislature for the conduct and performance of the Ministry and, if the tradition of Ministerial responsibility in the United Kingdom is followed, can find no refuge in the plea that he was let down by his civil servants. That being so, whatever the status of the Public Service Commission may be it is out of the question that its existence should debar a Minister entirely from interest in staff matters, and in fact the staff is responsible to him. The question is how far the United Kingdom tradition that the public service keeps its own house in order shall be followed in future under representative government in Malta, and how this shall be secured. The Commission has considered this under the three main heads of its functions—appointments, promotions and discipline.

11. *Appointments.* The Commission feels that Ministers should, as a general rule, be content to allow the normal inflow of entrants to the Service to proceed under the aegis of the Public Service Commission (as it does under the Civil Service Commission in the United Kingdom) according to defined rules and without interference from them. It may be mentioned here that the Commission intends, as soon as time permits, to carry out a comprehensive review of all arrangements for entry into the Service, whether by examination or otherwise. Any proposals that may arise out of this review will, of course, be put before

the Government. The only case in which consultation with Ministers is envisaged is where the filling of some appointment of a special nature which has been created in consequence of a policy decision is under consideration, e.g., an appointment of an expert, consultant or commercial type. In such a case the Commission would take the view that the Ministers who had decided the policy should be consulted on the selection of the person who might be the key-man in carrying it out.

12. *Promotions.* Here the Commission feels that as a general rule Ministers would and should not be interested in the flow of routine promotions in the lower and middle levels of the service, and should be content to rely on the Public Service Commission to ensure that these are determined by the established criteria of qualifications, experience and merit. The position is different at the levels where civil servants work in personal contact with a Minister; if the Minister is to answer for his Ministry he must have confidence in his official lieutenants. Two classes of appointment spring at once to the mind—Permanent Secretaries and Private Secretaries. In these cases a Minister would always be consulted before an appointment was made. There is also a fringe of senior administrative and professional officers who would have frequent contact with the Minister as his advisers. The Commission feels that it would be difficult to lay down in black and white the extent of the zone in which the Minister's interest should operate. It is a matter for determination by experience, by good sense on both sides and by mutual respect and confidence between Minister and Public Service Commission. The essential point is that both sides should be guided by the one consideration—the efficiency and loyalty of the service.

13. The question of how promotion procedure in these cases should work has been discussed, and here there is a shade of difference of opinion, though not a fundamental one. One alternative is that the Ministry itself (in consultation with the official who is the head of the civil service) should prepare its own short list, and pass it to the Public Service Commission with the Minister's views; the other is that the Ministry should confine itself to consideration of candidates within the Ministry only, and leave the Public Service Commission to prepare a general short list and consult the Minister on it. The exact procedure will have to be worked out in due course. The point is mentioned here only as an illustration of the possibility that it may not be found feasible (however desirable it may be) to include in the actual constitutional documents provisions to cover the kind of points raised in this and in the preceding paragraph.

14. *Discipline.* The Commission's view may be covered by one illustration. A Minister should not say—"I am not satisfied with X's performance (or conduct)—sack him". But he is entitled to say—"I am not satisfied with X's performance (or conduct)—look into it". The disciplinary machinery of the public service will then come into operation, and X will be dealt with according to his deserts. The fundamental point beyond which, in the interests of the public service as a whole, this Commission would not be prepared to retreat is that from the day he enters the service to the day he leaves it a public officer should know beyond doubt that if he has to be disciplined it will be under publicly prescribed regulations and procedure.

15. A problem which remains to be resolved is what is to happen if a difference of opinion on any point arises between Minister and Public Service Commission on which neither is prepared to give way. If control of the public service remains vested in the Governor the problem will solve itself; there may be one reference back to the Commission by the Governor in his discretion, but thereafter the recommendation of the Commission must prevail. But if control of the public service is not vested in the Governor the position is different. In that case the dispute would presumably have to go to the Executive Council or Cabinet. If the decision were adverse to the Public Service Commission it may be held that the latter should give way. If so the Commission suggests for consideration that the ultimate safeguard should be that of publicity. One suggestion is that the circumstances under which the Public Service Commission was over-ruled should be set out in a paper (agreed to by the Public Service Commission) laid on the table of the legislature, and that a vote in the legislature

to approve the action of the Government should be required by the Constitution. An alternative possibility is that the Governor, although not vested with the control of the public service, should in this specific event have a power of decision or veto under the Constitution.

16. It has been held that the definition of "public officer" in the present Constitution embraces every public employee down to and including the daily-paid worker. In consequence an almost impossible task arises of devising a code covering general orders, disciplinary regulations, political activities and so on for a body extending from senior established civil servants to casual diggers of a hole in a road. Another consequence is that the conferment of this status encourages a thrust from below for establishment and pensionability. In other territories this has been avoided by excluding daily-paid workers from the definition of "public officer", and even of confining the definition to officers whose posts are shown individually in the Estimates, thus excluding employees paid from a block vote. The Commission feels that some such limit should be placed on the definition of "public officer" in any future Constitution.

M. GATT,
Member.

L. H. GORSUCH, C.B.E.,
Visiting Chairman.

C. FARRUGIA,
Member.

C. THAKE,
Deputy Chairman.

APPENDIX G

Extracts from Maltese newspapers containing Threats

(a) To Individuals.

(b) To the Economy of the Islands.

(a) *Threats to Individuals:*

(i) "De Gray (Commissioner of Police is surrounded by fellow-traitors, who may rest assured that we will not only give them a taste of their own medicine but will poison them with it. The Maltese people will avenge themselves on these traitors."—*Is-Sebh*,⁶ July 24th, 1958.

(ii) "Sgts Abela and Camilleri (Malta Police Force) may rest assured that, if they succeed in escaping the hand of justice now, justice will be done to them later."—*Is-Sebh*, August 25th, 1958.

(iii) "The Labour Party binds itself to take legal action as soon as it assumes government against all those, Government employees or not, who with ill-intention, would have co-operated with the Imperial Government in putting to effect its policy of depriving the Maltese of responsible government and suffocating the movement for independence."—Directive of the Action Committee of the Malta Labour Party, *Il-Helsien*, January 20th, 1959.

(iv) "We know who the traitors are . . . and the Maltese people know them too. The hour of judgment will come for everyone."—*Il-Helsien*, November 13th, 1959.

(v) "When we said we would set up Tribunals, there was no epithet that our opponents did not use against us . . . If they think that by shouting they are going to stop us from setting up Tribunals, they are sadly mistaken. The time will come when the people will demand judgment on those who are now ill-treating them. The hypocrites, the servile and the traitors will be brought before the

⁶ "Is-Sebh" was suspended on January 9th, 1959. Immediately following this suspension, "Il-Helsien" was published.

Tribunals and will have to give an account of their actions.”—*Il Heisien*, September 6th, 1960.⁷

(b) *Threats to the Economy of the Islands :*

(i) “It would be unwise to expect a Maltese Labour Government to come to the rescue of any investors who put their trust in the Five Year Plan, as presented by the British Government, later to regret their folly.”—*Voice of Malta*, October 25th, 1959.

(ii) “The Labour Party forewarned all Maltese people who co-operate with the Administration by lending money to the Five Year Plan. The Party declared that when it resumed power it would not guarantee any national debts created by the Colonial rule. The Party means what it said.”—*Il-Helsien*, December 22nd, 1959.

(iii) “Remember: A Maltese Labour Government will not recognize any loans raised by the present administration to finance the Five Year Plan, nor will it be bound by any agreements connected therewith. The choice is yours.”—*Voice of Malta*, December 27th, 1959.

(iv) “We are sure that when the Malta Labour Party takes over the reins of government, it will scrap the undertaking and set up Malta’s own Television station.”—*Voice of Malta*, October 2nd, 1960 (referring to television contract expected to be granted in the near future).

APPENDIX H

Constitutional Provision for Human Rights

1. The insertion in written constitutions of provisions designed to protect human rights and fundamental freedoms is not a novel idea, but it is only in modern times that history has seen the development of a systematic and comprehensive definition and declaration of human rights, notably in the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations without a dissenting vote on the 10th December, 1948. This has led to the insertion of a declaration of many of those rights in new constitutions adopted since the end of the Second World War. The most recent and comprehensive model, so far as the British Commonwealth is concerned, is to be found in the Constitution of the Federation of Nigeria, Chapter III, “Fundamental rights”,⁸ which to a large extent followed the declaration of rights contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms.⁹ The United Nations Declaration had been concerned with a wide declaration of rights, some of which could be protected by law, whilst others (mainly the so-called “economic, social and cultural rights” set out in Articles 22 et seq.), could be realized only through positive legislative or governmental action directed to that end. The European Convention and the Nigerian Constitution, on the other hand, were concerned only with the rights of the former class, which were of such a nature that they could be protected by the insertion of appropriate provisions in a constitution or convention; furthermore, the framers both of the Convention and the Constitution were necessarily concerned to cut down the rights declared in general terms by the Universal Declaration, by expressing the necessary qualifications, which had rightly been ignored in the Declaration, but must of course be considered by the legal draftsman.

⁷ The Malta Labour Party’s threat of setting up “People’s Tribunals” to bring those co-operating with the Administration to summary justice after the return of self-government was strongly attacked in “Malta Taghna” (the organ of the Democratic Nationalist Party) and in the Church newspaper “Lehen-is-Sewwa”.

⁸ The Second Schedule to The Nigeria (Constitution) Order in Council, 1960. An interesting discussion of these provisions will be found in the Journal of the International Commission of Jurists, Vol. II, No. 2, p. 30.

⁹ Published as Cmd. 8969, 1953.

2. The recommendations comprised in the Report are therefore directed to two different ends: first, to write into the constitution, so far as that is practicable, the personal, civil and political rights dealt with in Articles 2 to 21 of the Universal Declaration; and secondly, to include in the preamble to the constitution a reference to the whole Declaration so as to emphasize also the economic, social and cultural rights set forth in its remaining Articles commencing with Article 22, and representing ultimate aims of human government. There are precedents to be found for the latter, as for the former. As to the latter, there is the proposal mentioned by the Secretary of State for the Colonies in the House of Commons on the 21st June, 1960, in relation to a new constitution for Trinidad and Tobago, that it "should include an appropriately worded preamble based on the preamble of the United Nations Declaration of Human Rights" and see also Article I of the Statute of Togoland, by which the Trust Territory of Togoland under the French Administration is declared to be "a republic based on the respect for international treaties and conventions and the principles set forth in the Universal Declaration of Human Rights and in the preamble to the Constitution of the French Republic." As to the former (the writing in of the earlier Articles, dealing with personal, civil and political rights), the Nigerian Constitution has already been mentioned, and other earlier examples are collated in a United Nations publication, "The Universal Declaration of Human Rights, A Standard of Achievement", at pages 24 and 25; see also the Report of the Advisory Commission on the Review of the Constitution of Rhodesia and Nyasaland, 1960, Cmd. 1148, pages 79 to 82, where reference is made to the recent Canadian Bill of Rights, and generally as to the incorporation of safeguards in written constitutions see The Declaration of Delhi, adopted by the International Congress of Jurists in New Delhi in 1959.

APPENDIX J
Table Showing a Comparison between the 1947 Malta Constitution, the Singapore Constitution and the
Recommendations of the Commission

THE LEGISLATURE

Letters Patent*	Sec.	1947	Sec.	Singapore	Para.	Commission's Recommendations	Remarks concerning effect of Commission's recommendations as compared with 1947 Constitution
				Preamble—" State of Singapore "	82	" State of Malta "	Malta becomes " State of Malta."
Con.	4	<i>Legislative Assembly</i> I. <i>Constitution.</i>	34 35	Legislative Assembly. Special provision for election of Speaker.	84 86	Legislature. Special provision for election of Speaker.	No significant change recommended as regards the Legislative Assembly.
	5 11	40 Members. 8 Electoral divisions—P.R.	40	Special qualification for membership.			
	12/13 21	Universal adult suffrage. 4 years duration.	62	5 years duration.			
	22 23 25 25 (1) (a)	II. <i>Powers.</i> "Peace, order and good government of Malta". Shall not extend to reserved matters as therein defined. Power of Legislative Assembly to amend Constitution. Entrenched provisions.	47 105 104	"Peace, order and good government of Singapore" but "subject to the provisions of this Order". Assembly's limited power to amend Constitution. H.M. power to amend, add to or revoke Constitution with concurrence of Singapore Government.	87 97 97 (c)	"Peace, order and good government of Malta" (including foreign affairs and defence, subject to concurrent authority of U.K. Commissioner). Legislative authority to amend Constitution other than entrenched provisions by two-thirds majority. Amendment of entrenched provisions.	Commission recommends widest power to legislate to be given to Maltese Assembly -- no "reserved matters"—but U.K. Commissioner to have concurrent power to legislate in relation to defence and external affairs.
Con.	25 (1) (b)	<i>Senate</i> Power to establish.		No provision.		No provision.	Commission recommends against a second house.

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APPENDIX J—continued

Letters Patent*	Sec.	1947	Sec.	Singapore	Para.	Commission's Recommendations	Remarks concerning effect of Commission's recommendations as compared with 1947 Constitution
O. of G.	16	<i>Legislative Powers of U.K. representative.</i> The Governor, by Ordinance in relation to Reserved Matters.	72 74	Legislative power of U.K. Commissioner.	89	Legislative power of U.K. Commissioner in relation to "defence and external affairs" only—not further defined—but only if Maltese Government itself refuses to legislate.	Legislative power of U.K. Commissioner to operate only if Maltese Government refuse to comply with request.
72 Con.	34	<i>Controls exercised directly or indirectly by H.M.G.</i> Presentation of Bills for assent—S. of S. to have final decision as to whether it affects a reserved matter.	74 (5) & (6) 57	Reservation of Bills.	98	Reservation of Bills.	See below to the bills which are to be reserved. As before.
	35	Reservation of Bills.		Disallowance of laws relating to Singapore Government Stock.	99	Disallowance of bills dealing with Malta Government Stock.	
	37	Disallowance of laws.	123	Removal of difficulties.	100	H.M. power to legislate for Malta.	Commission recommends retention of H.M. power to legislate for Malta.
	58	Power of Governor to amend Constitution by proclamation within first year.	104	H.M. power to amend etc. Constitution with consent of Government of Singapore.			
	59	Emergency laws.	106	H.M. emergency power to suspend Constitution etc.			
	60	Reserved power of H.M. to amend entrenched provisions.					
O. of G.	17	Power to disallow Governor's Ordinances.					
	19	Reserved power to legislate by Order in Council concerning reserved matters.					

APPENDIX J—continued

THE EXECUTIVE

O. of G.	3	I. <i>Malta Government.</i> <i>Governor</i> Office of Governor constituted. To act in accordance with Letters Patent, Commission and Instructions. <i>Ministry.</i> 8 Members of the Assembly appointed by the Governor. Functions. <i>Executive Council.</i> "Such persons being Ministers as the Governor shallappoint."	4	Yang di-Pertuan Negara (Malayan born).	83	Representative of the Crown in Malta.	Governor becomes constitutional head, although exercising discretionary power in certain matters, and to have control of police for interim period only.
	4		93 (b)		Interim responsibility for police.		
	40		88		Maltese Cabinet, P.M. and Ministers.		
Con.	41		20		88		
O. of G.	10		21	Appointment of P.M. and Ministers.	89	Delegated authority for trade agreements, etc.	
O. of G.	10		73	Delegated authority to deal with trade and cultural relations.	(d)		
73 Con.	1	II. <i>The Imperial Authority</i> <i>Maltese Imperial Government</i> <i>Lieutenant-Governor.</i> To act in accordance with Instructions. <i>Nominated Council.</i> Lieutenant-Governor, Legal Secretary and Service officers.	15	<i>U.K. Commissioner.</i> Right to see cabinet papers. Immunities. Right to request action to be taken by Government of Singapore. U.K. right to occupy bases.	89	U.K. Commissioner. Right to request Maltese Government to take action. U.K. right to occupy bases.	Maltese Imperial Government to be replaced by U.K. Commissioner who must first request action by Maltese Government.
	8		18		89 (c)		
	11		74				
			72		89 (b)		
O. of G.	8		19				
	11		74				
	14		72				
	14	III. <i>Provision for Consultation.</i> <i>Privy Council.</i> Consisting of Members of Executive and Nominated Councils.	64	Internal Security Council.	90	Consultative Council.	Commission recommends continuous consultation.

APPENDIX J—continued
THE JUDICIARY AND MISCELLANEOUS

Letters Patent*	Sec.	1947	Sec.	Singapore	Para.	Commission's Recommendations	Remarks concerning effect of Commission's recommendations as compared with 1947 Constitution
Con.	42	<i>The Judicature.</i> Appointed by Governor in Council.	87	Judicature.	91	Judicature.	No significant change except as to mode of removal of judges.
	45	Removed on Address from Assembly.					
	49 52	<i>Finance.</i> Reserved Civil List.	95 101	Finance. Director of Audit.	94	Finance.	No significant change as regards finance.
74		<i>Entrenched Provisions.</i> Miscellaneous sections concerned with structure and function of legislative and executive organs.		Ditto.	97	Ditto.	The major development in this field is the declaration and entrenchment of human rights, including religious toleration.
	32 } 33 } 46 } 48 } 53 }	Official Languages.	49	Official Languages.	95	Official Languages.	
		Religious toleration.			96	Human Rights.	
	35	<i>Bills to be Reserved:</i> Discriminating against non-Maltese Affecting Imperial property and interests. Relating to territorial waters, etc. Affecting certain entrenched provisions. Amending the Constitution.	74 (5)	Prejudicing the discharge by H.M.G. of their responsibilities for defence and external affairs.	98	Affecting the discharge by U.K. Government of their responsibilities for defence and external affairs. Affecting internal security. Affecting stability of Maltese currency. Affecting entrenched provisions. Affecting Police, Broadcasting, Dockyard or Loans Ordinance.	Wider range of bills to be reserved including bills affecting certain Ordinances.

* References under this head to "Con." refer to The Malta (Constitution) Letters Patent, 1947, and references to "O. of G." refer to The Malta (Office of Governor) Letters Patent, 1947.

From : GOZO CIVIC COUNCIL

Date: 26th October, 1960.

On the occasion of the Commission's visit to Gozo on 26th/27th October the following submissions were made by the Gozo Civic Council:—

We are glad to note that steps are being taken for the early implementation of that agreement,¹⁰ and once we have reached that stage in the progressive evolution of this institution, we wish today, on this occasion, to express our considered views on two key aspects of the issue, namely, that when an agreement is reached on the future constitution for Malta,

- (a) adequate safeguards will be embodied in it to guarantee the stability of the new Municipal Council for Gozo ; and
- (b) the people of Gozo, as a separate electoral district will concurrently share in the responsibilities of the Government of Malta and its dependencies, by means of their elected representatives in parliament.

¹⁰ The agreement by the Government of Malta to create the Gozo Civic Council with certain local government powers and duties.