

Cyprus

Constitution



COLONIAL OFFICE

# Cyprus Constitution

Despatch dated 7th May, 1948,  
from the Secretary of State  
for the Colonies to the  
Governor of Cyprus

LONDON  
HIS MAJESTY'S STATIONERY OFFICE

TWOPENCE NET

THE CHURCH HOUSE,  
GREAT SMITH STREET, S.W.1.

7th May, 1948.

My LORD,

His Majesty's Government have given careful consideration to the future of constitutional development in Cyprus. The results of their study of the question are embodied in this despatch. I should be grateful if a copy of the despatch may be communicated to the Chairman of the Consultative Assembly, so that its contents may be brought before the Assembly for consideration without delay.

2. His Majesty's Government have had under review the outline of a constitution given to the Consultative Assembly by its Chairman, Sir Edward Jackson, on 7th November, 1947, and also the statement addressed to me by eight Greek members of the Assembly which was enclosed with the Chairman's letter of 26th November, 1947, and forwarded to me under the Acting Governor's despatch No. 170 of the same date. I intimated in the House of Commons on 28th January that His Majesty's Government saw considerable difficulties in the way of accepting the proposals of the eight Greek members, which embodied the principle of fully responsible government in the internal affairs of Cyprus. Further consideration of those proposals since that date has confirmed His Majesty's Government in the view that they are unacceptable and that the interests of Cyprus at this juncture will best be served by the adoption of a form of government which, without entailing any violent break with the existing administrative structure, will, nevertheless, provide for the active participation of the people of Cyprus in the conduct of their internal affairs, both through the normal processes of debating and voting by their elected representatives in the Legislature and through a close association between the Legislature and the executive side of Government.

3. In considering how this general conception may be translated into concrete terms, my colleagues and I have turned to the tentative outline laid before the Consultative Assembly by its Chairman on 7th November, 1947. We find ourselves in general agreement with this and consider that within its framework is to be found the proper line of advance in the shaping of a constitution for Cyprus. This being so His Majesty's Government now put forward proposals for filling in that framework which will be found to reflect the broad features of the outline which the Chairman commended to the Assembly, though in certain respects they go beyond it.

4. These proposals are being laid before the Consultative Assembly so that its members, and the people of Cyprus, may have a clear view of the general form of Constitution which His Majesty's Government would be willing to see introduced in Cyprus if the people desire it. The proposals have, therefore, been set out with a fair degree of detail. While His Majesty's Government would be unable to give their approval to a Constitution which fundamentally exceeded these proposals in the direction of full self-government, they do not wish to limit the freedom of the Consultative Assembly unnecessarily, and it will be observed that a considerable number of points are left open for further discussion. I should make it clear that the language used in the following paragraphs is not in all respects the precise legal language, which would have to be employed in the eventual constitutional instruments embodying the new Constitution. It will also be understood that this despatch does not refer to all the provisions which, in common with other constitutions, would be required in those instruments.

5. The outline which follows is set out under four main headings: the composition of the Legislature, the functions and powers of the Legislature, the Executive Council and certain subsidiary matters.

## COMPOSITION OF THE LEGISLATURE

### FRANCHISE

6. Every male British subject of 21 years or over, who is resident in the Colony, should have one vote. Provision should also be made to enfranchise non-British subjects who have appropriate residence and other qualifications. I would suggest that, as before 1931, residence in the Colony for five years would suffice, unless the Assembly see grounds for increasing the period required.

7. It will be for the Assembly to consider whether or not the franchise should be extended to women. If the Assembly favour this course, His Majesty's Government will be willing to accept it.

### FREQUENCY OF ELECTIONS

8. Elections to the Legislature should be held at intervals of not more than a stated period—either four or five years. It will be for the Assembly to determine which of these two periods is to be preferred.

### FORM OF ELECTIONS

9. The Colony should be divided into constituencies for the purpose. In view of the presence in Cyprus of the substantial Turkish minority community, with its own religion, language and customs, I consider that at this stage it would be necessary that the Turkish community should elect their own representatives in the Legislature. Communal constituencies would be defined for that purpose and Turkish voters would register on a communal electoral roll. For representation of the general population, voters would be registered in each constituency on a general electoral roll. If any person qualified to be registered as a Turkish voter preferred to be registered on the general electoral roll for the appropriate constituency, he could so choose. The compilation of the registers of voters would be undertaken by persons appointed by the Governor.

### NUMBER OF ELECTED MEMBERS

10. His Majesty's Government take the view that there should be a clear and substantial majority of elected members in the Legislature, and that only the minimum number of officials whose presence is essential for the conduct of business should be members of the Legislature. The latter are dealt with in the next section.

11. I would therefore propose that there should be 22 elected members, that is to say, approximately one per 20,000 of the present population of Cyprus. Of these, again in approximate proportion to the respective population figures, 18 members should be elected on the general electoral register and four members on the Turkish communal electoral register.

12. The total figure of 22 elected members is put forward as a basis of discussion, and it will be for the Assembly to consider whether this number is appropriate or whether there are good grounds for modifying it. It appears, however, that to increase the number substantially would make the size of the electorate in each constituency undesirably small, while to decrease the number substantially would create a Legislature too small to reflect adequately all aspects of public opinion. I should make it clear that, if the Assembly should wish to suggest a modification in the total number of elected members, I should attach great importance to retaining the principle that the number of seats allotted for election on the Turkish communal register should be proportionate to the numerical strength of the Turkish community in the Island, as is the case with the proposal above for allotting them four seats out of 22.

### OFFICIAL MEMBERS OF THE LEGISLATURE

13. In accordance with the principles stated in the previous section, His Majesty's Government would wish to see provision made for a small number of senior officials to have seats in the Legislature. This requirement would be met if there were four official members, namely, the Colonial Secretary, the Attorney-General, the Treasurer and the Senior Commissioner. The presence of these officials would ensure that the Legislature is properly informed on executive subjects and on the policy of the Government, both by speeches and by answers to members' questions, and would also ensure that the members of the Legislature themselves, as the representatives of public opinion in the Island, would be able to make their views known directly and in the free exchange of debate to the most senior officials.

### CHAIRMAN

14. His Majesty's Government take the view that, with a Legislature of the form now contemplated, it would be undesirable for the Governor himself to preside over its deliberations, and that the interests of the Legislature itself would be best served by the appointment of the Chairman by the Governor from among persons who are not members. He would thus be in an entirely independent and impartial position. It is my hope that a person of distinction would be found to accept the Governor's appointment to this post.

15. It is clear that a Chairman appointed in this manner should not have an original vote in the proceedings of the Legislature. I should welcome the views of the Assembly on the question whether there would be advantage in giving the Chairman a casting vote. They may hold that, as long as the Chairman is not selected from among members, it would be inappropriate for him to exercise even a casting vote. In that event, it would be necessary to provide some other method of resolving the situation created when the votes on a matter before the Legislature are equally divided; for example, by providing that, when the vote is equal, the motion shall be deemed to be lost.

### FUNCTIONS AND POWERS OF THE LEGISLATURE

16. It is the intention of His Majesty's Government that the field of debate and legislation should be restricted as little as possible. The Constitution must provide that the Legislature may not discuss the status of Cyprus within the British Commonwealth; but apart from this no subject need be *ipso facto* excluded.

### POWERS OF LEGISLATION, AND RESERVATIONS

17. Subject to the above, the Legislature will thus be free to legislate on any subject in accordance with the procedure and necessary limitations set out below.

18. I consider it necessary to prescribe that the Governor's prior consent should be obtained, through the Chairman of the Legislature, before the introduction of any Money Bill or Resolution, any Bill which in the opinion of the Governor affects defence, external affairs, or the special interests of minorities, or any Bill amending the Constitution. Apart from this, I do not think it necessary for any limitation to be placed on freedom to introduce legislation, including private members' Bills.

19. It would be necessary to give the Governor the usual reserve legislative power; that is to say, power to declare a Bill or motion to have effect as if it had been duly passed, if (a) he considers that it is expedient in the interests of public order, good faith or good government that it should have effect, and

(b) it has been rejected by the Legislature or passed in a form which is unacceptable. The Governor should also be empowered to return Bills to the Legislature with his recommendations for amendments.

20. Bills passed by the Legislature would of course require the assent of The King or of the Governor in The King's name. The Governor, who would have the normal authority to reserve Bills which have been passed by the Legislature for the signification of His Majesty's pleasure, should be required by the Constitution to exercise this power of reservation in respect of certain classes of Bills, including in particular any Bill which he is satisfied affects defence or external affairs, or discriminates against minorities, or amends the Constitution. The usual provision would also be made in the Constitution for disallowance of laws by His Majesty.

21. The Consultative Assembly will, I hope, recognise that the provisions described in the preceding three paragraphs are not intended to circumscribe the freedom of the Legislature unnecessarily; and occasions on which it might be necessary to invoke some of them, in particular the "reserve power," should be very rare. These provisions should, therefore, be regarded only as safeguards which His Majesty's Government consider necessary and not as evidence of any desire on the part of His Majesty's Government to interfere with the freedom of action of Legislature in the normal domestic affairs of the Island.

#### QUESTIONS

22. Standing Orders of the Legislature should recognise the normal right of legislative bodies to obtain information by means of questions, which would be addressed to the appropriate members of the Executive Council who would be sitting in the Legislature. This method of bringing public opinion to bear on day-to-day policy is of considerable value and would, I feel, meet a definite need in the circumstances of Cyprus to-day.

#### RESERVED CIVIL LIST

23. I consider that provision should be made for a small reserved civil list covering the salaries of the Governor and of the Judiciary. The effect of this reservation would be that, while the Legislature might, if they thought fit, vote additional sums under any or all these heads, they would not be in a position to reduce the sums provided, save by an amendment to the Constitution. The Assembly will, I think, recognise the desirability of placing these matters beyond day-to-day controversy.

#### STANDING ORDERS

24. The Legislature will require Standing Orders for the conduct of its business. These should be prepared in the first instance by the Governor, so that the Legislature would have a code of procedure ready to hand as from its first meeting. Afterwards the Legislature would be entitled to amend the Standing Orders if occasion were seen to do so, but amendments should require the Governor's approval before they take effect.

### THE EXECUTIVE COUNCIL

#### THE GOVERNOR

25. In accordance with normal practice, general responsibility for the Executive would remain vested in the Governor as the representative of The King. He would be assisted, as at present, by an Executive Council. The Constitution should provide that the Governor would not be bound to take the advice of his Executive Council, but he would be required to inform the Secretary of State of any instance where he acted contrary to its advice.

## COMPOSITION OF EXECUTIVE COUNCIL

26. With a Legislature of the type proposed, composed largely of elected representatives of the people, it would clearly be inappropriate for the Executive Council to remain a body composed almost entirely of officials. Close cooperation between the Legislature and those responsible under the Governor for the formulation and execution of policy would be essential. One way of providing this link has already been mentioned, namely, the proposal that four officials should have seats in the Legislature. It will be equally, if not more, important, however, for the elected members of the Legislature to be closely connected with the direction of affairs in the Executive Council. To this end, His Majesty's Government propose that certain of them should be appointed to membership of the Executive Council. Moreover, it is the view of His Majesty's Government that non-official members of the Executive Council should not be found otherwise than from among members of the Legislature.

27. In the Constitutional instruments, it would therefore be provided that the Executive Council should consist of the four officials who have already been named as official members of the Legislature, and of such other persons, being elected members of the Legislature or other officials, as His Majesty may from time to time direct through a Secretary of State.

28. The exact number of members of the Executive Council would not be laid down in the Constitution itself (except for the four officials already mentioned), in order to leave the greatest possible measure of flexibility. The number of non-official members appointed could vary as experience might show to be desirable. It would also be possible for other officials in addition to the four already mentioned to be made members of the Council if it were thought that the Council would benefit from their presence. Since an Executive Council does not proceed by the method of resolution or voting, which is inappropriate to a body of that nature, the question whether officials or non-officials are in the majority at a particular moment becomes of small significance.

29. While the formal position in the constitutional instruments would be left as indicated above, I think it desirable for me to state clearly now that it would be the intention of His Majesty's Government that, in the first instance, four non-official members should be appointed to the Council. Of these, three would be Greek members chosen from the majority party in the Legislature, and one a Turkish member chosen from among the Turkish representatives in the Legislature.

## FUNCTIONS OF COUNCILLORS

30. It would, moreover, be the intention to associate these four non-official members of the Council (and any others who may be added in future) with certain specific Departments, in the manner already suggested to the Consultative Assembly by its Chairman. They would be known as Councillors for those subjects. The decision on the distribution of Departments would lie with the Governor, who would also prescribe the precise relationship between the Councillors and the Departments assigned to them. This procedure would be experimental, and no doubt in the initial stages there might be uncertainties and difficulties, but with good-will on both sides there is no reason why these should not be easily overcome. Councillors would take part in the formulation of general Government policy in Executive Council, with all the authority derived from their position as elected representatives of the people and leaders of the Legislature. More particularly, through their knowledge of the issues involved, they would be able to shape policy regarding the Departments with which they were individually associated. It would clearly be suitable for them to speak and to answer questions in the Legislature on the work of the particular Departments associated with them. It is impossible to forecast exactly how an

arrangement of this sort will work until it has been tried ; but in the view of His Majesty's Government it opens up a wide and promising field of experience and one into which I trust the Consultative Assembly will be ready to enter.

### SUBSIDIARY MATTERS

31. There are certain subsidiary matters on which His Majesty's Government do not feel it necessary at this stage to express a firm view, but which it is desirable to bring to the attention of the Consultative Assembly in this despatch.

#### QUALIFICATIONS OF MEMBERS OF THE LEGISLATURE

32. Members should be British subjects ; and it is clear that, in accordance with normal practice, their qualifications should otherwise not be less than the qualifications of voters. The Assembly may wish to consider whether further qualifications for members, such as a higher age limit, should be imposed. I should be prepared to consider any such recommendations, though I do not myself feel that further restrictions would be necessary, apart from the normal disqualifications such as insanity and imprisonment.

#### PAYMENT OF MEMBERS OF THE LEGISLATURE

33. It is common practice in most democratic countries for members of the Legislature to be remunerated for their services. The Assembly will no doubt wish to consider this point, and, if they endorse the principle, to suggest an appropriate figure. Unless the rate of remuneration of members were written into the Constitution itself (which I should not consider desirable), the recommendations of the Assembly on this point would, of course, require confirmation by the Legislature when it comes into existence.

34. The Assembly may also wish to consider whether members of the Legislature who are from time to time also holding the position of members of the Executive Council, should be remunerated at a higher rate.

#### NAME OF THE LEGISLATURE

35. For the sake of simplicity this body has been referred to throughout my despatch as " the Legislature," but a suitable title will be required. Members of the Consultative Assembly may feel that there would be advantage in marking the advance on the Constitution of 1882-1931 by a change in terminology ; if so, I shall be most willing to hear their views.

36. I commend these proposals to the members of the Consultative Assembly. While they stipulate limits beyond which His Majesty's Government is not prepared to go, they have been shaped with the single purpose of affording, within those limits, the maximum advance in constitutional liberty. His Majesty's Government, always solicitous for the welfare of Cyprus, earnestly trust that the members of the Consultative Assembly will recognise the sincerity and singleness of purpose with which the proposals are put forward. If they will rise to it they have now a great opportunity to enlarge the liberties of the people of Cyprus and to make them partners and helpers in that social and economic progress which it is the wish of His Majesty's Government to see the Island achieve. There have been many delays in the setting up and the work of the Consultative Assembly. I trust its members will now recognise the wisdom of pressing forward so that Cyprus may have its Constitution at an early date.

I have, etc.,

LISTOWEL

(for the Secretary of State)

Governor,

The LORD WINSTER



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