

INTERNATIONAL COURT OF JUSTICE

**LEGAL CONSEQUENCES OF THE SEPARATION OF THE
CHAGOS ARCHIPELAGO FROM MAURITIUS IN 1965
(REQUEST FOR ADVISORY OPINION)**

Written Statement of the Republic of Mauritius

VOLUME II

(Annexes 1–60)

1 March 2018

VOLUME II

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Annex 1

Sir Lowry Cole's Despatch from Mauritius, *List of Dependencies (British) of Mauritius (1826)*,
FCO 31/3836 (19 Sept. 1826)

ANNEX B

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LIST OF DEPENDENCIES (BRITISH) OF MAURITIUS (1826).

Source: Sir Lowry Cole's Despatch from Mauritius, dated 19/29/1826.
Filed with Library (Misc 69 CO 167/85).

L'Isle Rodrigues.
L'Isle Brandon or Cargados Carayos.
Diego Garcia.
Les Six Isles.
Les Trois Frères.
Isles Sulkomon. (or French name Les Onze Isles).
Les Peres Banhos.
Isle Segour.
Isles George et Roguefriz.
Agalága.
Coelivi.

Isles Seychelles. : L'Isle Mahé.
L'Isle St Anne.
L'Isle aux cerfs.
L'Isle Anonine.
L'Isle du Sud Est.
L'Isle Longue.
L'Isle Ronde.
L'Isle Moyenne.
L'Isle Therese.
L'Isle de la Conception.
L'Isle aux vaches marines.
L'Isle aux frégates.
L'Isle La Digue.
L'Isle Praslin.
Les Cousin et Cousine.
Les Trois Soeurs.
L'Isle Ronde.
L'Isle Aride.
L'Isle Félicité.
L'Isle Marianne.
L'Isle aux Roseifs.
Les deux Isles du Nord.
L'Isle Denis.
L'Isle Curieuse.
Les Mammelles.
L'Isle Silhouette.
L'Isle Plate.

Les Amirantes. : L'Isle Africain.
L'Isle Zémire.
L'Isle d'avios.

Annex 2

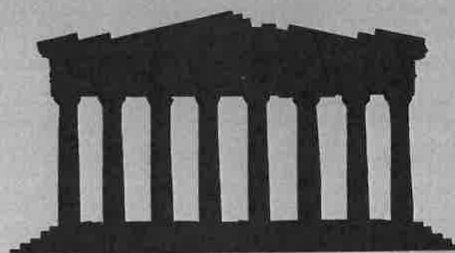
Anonymous, *An Account of the Island of Mauritius, and its Dependencies* (1842)

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An Account of the Island
of Mauritius, and its
dependencies. By a late
Official Resident.

Anonymous



An Account of the Island of Mauritius, and
its dependencies. By a late Official Resident.

Anonymous

AN ACCOUNT
OF THE
ISLAND OF MAURITIUS,
76
AND ITS
Dependencies.

BY A LATE OFFICIAL RESIDENT.

LONDON:
PUBLISHED BY THE AUTHOR.
1842.

MY LORD,

Your Lordship having appointed me as a Special Magistrate for the Mauritius, I am indebted to that circumstance, for whatever knowledge or information I possess of the Colony ; and to you, therefore, I respectfully beg leave to dedicate this account of the Island and its dependencies. It is a well known fact, that of all the British possessions, less is known of the Mauritius generally, than of any other of our Colonies ; and when the vast National and Commercial consequence of the Island is considered, whether in reference to produce or her important position, in relation to our East India possessions and Trade, is a matter of surprize.

Should this brief account of the Island and its dependencies meet your Lordship's approval, and add towards the better knowledge of this interesting possession, my object will be attained.

I have the honour to be,

My Lord,

Your Lordship's most obedient,

And very humble servant,

THE AUTHOR.

To the Right Honourable the Lord Stanley,
Secretary for the Colonial Department.

CHAPTER VII.

*Customs Duties.—Import Duties—Entrepot, do.—
Export, do.—Port Charge.*

CUSTOMS DUTIES.

IMPORT DUTIES.

GRAIN of all sorts, ploughs, and harrows, steam and water engines, and other articles of machinery, calculated to diminish manual labour, and being of British manufacture, free of duty.

Salted meat, fish, duly certified to have been cured at the Cape of Good Hope, New South Wales, or Van Dieman's Land, free of duty.

All goods, the produce of the dependencies of the Mauritius, or of the Island of Madagascar, with the exception of ebony, if imported in British bottoms, are admitted free of duty.

Annex 3

Governor of Mauritius and the Council of Government, *Ordinance No. 20 of 1852* (2 June 1852)



MAURITIUS AND DEPENDENCIES.

ORDINANCE

No. 20 of 1852.

Enacted by the Governor of Mauritius with the advice and consent of the Council of Government thereof.

TITLE. For empowering the Governor in certain cases to extend to the Seychelles Islands and other Dependencies of Mauritius the laws and regulations published in this Island.

PREAMBLE. WHEREAS some of the laws and regulations published in this Colony may be conveniently adapted to the local circumstances of the Seychelles and other Dependencies, and it is expedient that sufficient power should be given to the Governor for that special purpose.

His Excellency the Governor in Council has enacted, and does hereby enact as follows:

Art. 1.—The Governor is hereby empowered to extend to the Seychelles Islands and other Dependencies of Mauritius any laws or regulations published in this Colony, under such restrictions and modifications in the said laws and regulations as the Governor may deem fit, according to the local circumstances of the said Dependencies.

Art. 2.—The present Ordinance shall take effect from the 5th day of June 1852.

Passed in Council at Port Louis, Island of Mauritius, this second day of June 1852.

H. M. H. H.
Secretary to the Council.

Annex 4

Governor of Mauritius and the Council of Government, *Ordinance No. 14 of 1853* (23 Mar. 1853)

MAURITIUS & DEPENDENCIES.

ORDINANCE

No. 14 of 1853.

—Enacted by the Governor of Mauritius with the advice and consent of the Council of Government thereof.

TITLE. For amending and repealing Ordinance No. 20 of 1852.

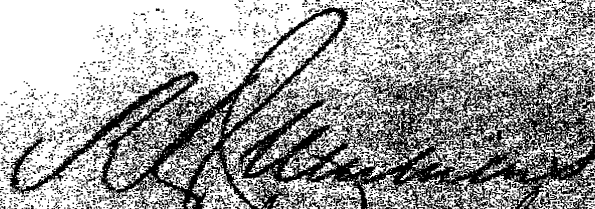
PREAMBLE. WHEREAS an Ordinance has been passed on the 2nd day of June 1852, No. 20, for empowering the Governor in certain cases to extend to the Seychelles Islands and other Dependencies of Mauritius, the laws and regulations published in this Island, and it is expedient that such power be vested in the Governor and His Executive Council.

His Excellency the Governor in Council has enacted and does hereby enact as follows :

Art. 1.—Ordinance No. 20 of 1852 is hereby and shall be repealed, and it is enacted that the Governor in his Executive Council is hereby empowered to extend to the Seychelles Islands and other Dependencies of Mauritius, any laws or regulations published in this Colony, under such modifications and restrictions in the said laws and regulations as the Governor may deem fit, according to the local circumstances of the said Dependencies.

Art. 2.—The present Ordinance shall take effect from the twenty sixth day of March 1853.

Passed in Council at Port Louis, Island of Mauritius, this twenty third day of March 1853.


Acted in Council

Annex 5

Governor of Mauritius, its Dependencies, and the Council of Government, *Ordinance No. 5 of 1872* (10 Feb. 1872)

Ordinance No. 5 of 1872.



AN ORDINANCE

Enacted by The Governor of Mauritius and its Dependencies, with the advice and consent of the Council of Government thereof.

To make better provision for the Administration of Justice in certain Dependencies of Mauritius.

L. S.

ARTHUR GORDON.

(10th February 1872.)

WHEREAS it is expedient to make better provision for the Administration of Justice in certain Dependencies of Mauritius ;

BE IT THEREFORE ENACTED by His Excellency The Governor, with the advice and consent of the Council of Government, as follows :

Modification of Proclamations. 1.—The Proclamation dated 24th October 1864 and the Proclamation No. 14 of 10th June 1868 are hereby modified so far as they are repugnant to or inconsistent with the provisions of this Ordinance.

Extension of Laws. 2.—Ordinance No. 34 of 1852, entitled “An Ordinance for amending and consolidating the Laws relating to the establishment of District Courts within the Colony,”—and Ordinance No. 35 of the same year, entitled :—“An Ordinance for amending the Ordinance relating to the Jurisdiction of District Courts in Criminal Matters,” and Ordinance No. 11 of 1869 entitled “An Ordinance to extend the Jurisdiction of District Courts in Criminal Matters,” and Ordinance No. 27 of 1871 entitled “An Ordinance to bring within the Jurisdiction of the District Courts certain Misdemeanors, Contraventions and Offences hitherto excluded from such Jurisdiction,” are hereby extended to the Islands

31 *To make better provision for the Administration of
Justice in certain Dependencies of Mauritius.*

mentioned in Article 5 of this Ordinance, subject to the provisions hereinafter contained.

Jurisdiction of Magistrate in Port Louis

3.—The Junior District Magistrate of the District of Port Louis, in the Island of Mauritius, for the time being, is hereby constituted to be the District Magistrate for the said Islands, and he, the said Junior District Magistrate of Port Louis, and all the Officers of his Court, shall have the same powers, authority and jurisdiction respectively, to all intents and purposes, as if the said Islands formed part of the said District of Port Louis.

Procureur General's powers maintained.

4.—Nothing contained in this Ordinance shall be held to diminish, limit, or in any way affect the right and power of the Procureur General to reduce or refer back under the Ordinances No. 11 of 1869 or No. 27 of 1871, any Criminal charge concerning any offence committed in the said Islands.

Ordinance to apply to certain Islands.

5.—This Ordinance shall apply to the following Islands, namely :

Diego Garcia,
Six Islands,
Danger Island,
Eagle Islands,
Peros Banhos,
Coetivy,
Solomon Islands,
Agalega Islands,
St. Brandon Islands, also and otherwise called
Cargados Carayos.

PASSED in Council, at Port Louis, Island of Mauritius, this Sixth day of February One thousand Eight hundred and Seventy-two.

THOS. ELLIOTT,

Acting Secretary to the Council of Government.

Published by Order of His Excellency The Governor.

EDWARD NEWTON,

Colonial Secretary.

Annex 6

Governor of Mauritius, its Dependencies, and the Council of Government, *Ordinance No. 41 of 1875* (28 Dec. 1875)

ORDINANCE No. 41 of 1875.



AN ORDINANCE

*Enacted by The Governor of Mauritius,
and its Dependencies with the advice
and consent of the Council of Govern-
ment thereof.*

To appoint a Police and Stipendiary Magistrate for the smaller Dependencies commonly called "Oil Islands" and those other Islands, Dependencies of Mauritius, in which there are or may be Fishing Stations, and to appoint permanent Officers of the Civil Status for those Islands.

P. M. Magy
31 Dec 1875

WHEREAS it is expedient to appoint a Police and Stipendiary Magistrate for the smaller Dependencies commonly called "Oil Islands," and those other Islands, Dependencies of Mauritius, in which there are or may be Fishing Stations, and to appoint permanent Officers of the Civil Status for those Islands ;

WHEREAS it is expedient that such Police and Stipendiary Magistrate should have summary jurisdiction, and should from time to time visit the aforesaid Dependencies to administer justice therein ;

BE IT THEREFORE ENACTED by His Excellency the Governor, with the advice and consent of the Council of Government, as follows :

Police and Stipendiary Magistrate to be appointed.

1.—It shall be lawful for Her Majesty the Queen, Her Heirs and Successors, from time to time, to appoint a fit and proper person to be a Police and Stipendiary Magistrate for the smaller Dependencies of Mauritius enumerated in Schedule A.

Residence of Magistrate. 2.—Such Police and Stipendiary Magistrate shall not reside permanently in any one of the Dependencies subject to his jurisdiction, but shall, from time to time, visit such Dependency to administer Justice therein between private individuals and between Master and Servant, he shall also report to His Excellency the Governor, the result of each visit paid as aforesaid, he shall make a return of all Judgments and Convictions by him given or awarded in each Dependency separately.

Magistrate to visit Dependencies.

To report.

Salary. 3.—There shall be paid to such Magistrate a salary not exceeding Five hundred pounds per annum, and a further sum not exceeding One hundred pounds per annum for travelling expenses. He shall be entitled to no other allowance.

Free passage. Such Magistrate shall further be entitled to obtain a free passage to and from any of the said Dependencies on board the ships or coasters belonging to, or chartered, or employed by the proprietors or lessees of such Dependencies.

Contribution to be made by proprietors of Oil Islands. 4.—The salary and travelling expenses of the said Magistrate shall be paid partly out of a sum of Four hundred pounds sterling which the proprietors or lessees of the Dependencies commonly called "Oil Islands," shall pay into the Treasury, on or before the 15th day of January in each year, and partly out of the General Revenues of this Colony.

Tax to be levied in default of contribution. 5.—In default of the said sum of Four hundred pounds sterling being paid as aforesaid by the proprietors or lessees aforesaid, on or before the 15th day of January as aforesaid, there shall be levied by the Collector of Customs on each Gallon of Oil imported into this Colony from the said Oil Islands, the sum of one half-penny.

Powers of Stipendiary Magistrate. 6.—The said Magistrate shall have the powers and authority vested in Stipendiary Magistrates in Mauritius by the Order in

Council of 7th September 1838 and Ordinance No. 15 of 1852, but under the modifications hereinafter enacted.

Duties & powers. 7.—He shall examine into the conduct and state of the Laborers or Servants employed for hire in the said Islands, and if the wages of the said Laborers and Servants have not been duly paid; or if medicines or proper house accommodation have not been duly provided for the said Laborers and Servants; or if they have been maltreated by their Master or Masters, or by any Agent of such Master or Masters, he shall have in each such case power

Engagements to be annulled. to dissolve and annul the engagements of the said Servants or Laborers, and to send them by the first ship to Mauritius, and he shall have further power to adjudge that the costs and expenses of the return passage of such Servants or Laborers to Mauritius, shall be paid by their Master or Masters.

Power to send back Servants to Mauritius. 8.—In every case in which the said Stipendiary Magistrate shall find

that any Servant or Laborer in the said Islands, has been brought to the said Islands to work there for a limited space of time and after the expiration of his engagement has been detained upon the said Islands, or refused a passage back to Mauritius, then it shall be lawful for the said Stipendiary Magistrate to take the necessary measures to convey the said Servant or Laborer to Mauritius, and to adjudge that the expense and

Passage money of Servant to be paid by Master. costs of the return-passage of such Servant or Laborer to Mauritius shall

be borne by the Master and all expenses and costs adjudged by the said Magistrate under this Article and the preceding one to be paid by a Master shall be recoverable in Mauritius in virtue of such adjudication before the competent Court of Law in Mauritius.

Further powers. 9.—In every case in which a complaint shall in the said Islands be brought before the said Magistrate by a Master or his Agent against a Servant, and the said Servant shall be found guilty under the provisions of the aforementioned Order in Council, or of the aforementioned Ordinance No.

15 of 1852, the said Stipendiary Magistrate shall have power to annul the engagement of the said Servant and to take the necessary measures to bring him back to Mauritius and whatever wages are owed to the said Servant shall be paid to the said Magistrate and go in deduction of the passage-money.

Complaint may be made in Mauritius.

10.—After the arrival of a Master or Servant in Mauritius, complaint may be brought by any Master or Servant for any offence or breach of the law committed in the said Islands, and mentioned in the said Order in Council, or in the said Ordinance No. 15 of 1852, before the Stipendiary Magistrate of Port Louis, and the said Magistrate shall deal with the said offence according to the provision of the laws of Mauritius applicable to such offence, and in the same way as if the said offence had been committed in Port Louis, provided no judgment or order has been given in the matter by the Stipendiary Magistrate of the said Islands.

Judgments to be final.

11.—All judgments of the said Stipendiary Magistrate given in the said Islands shall be definitive and final to all intents and purposes.

Persons committed to Prison may be detained in Port Louis Gaol.

12.—Every Warrant which shall be issued by the person so appointed as a Stipendiary Magistrate for the committal to Prison of any person, may be lawfully executed by the removal of the Offender to the Gaol of Port Louis, and by his detention therein in terms of the said Warrant.

Magistrate to have powers of District Magistrate.

13.—The said Magistrate shall also have the powers and authority vested in District Magistrates of Mauritius by the said Ordinances Nos. 34 and 35 of 1852 and all other laws regulating their jurisdiction and in force in Mauritius for the time being, but with the modification hereinafter mentioned.

Concurrent jurisdiction with Magistrate of Port Louis.

14.—The said person so appointed, on being duly sworn before any Judge of the Supreme Court in terms of Ordinance No. 12 of 1869, shall

during his tenure of office, have in and over the said Islands concurrent jurisdiction with the District Magistrate of Port Louis.

Persons committed to Prison may be detained in Port Louis Gaol.

15.—Every warrant which shall be issued by the Person so appointed as a Magistrate for the committal to Prison of any Person, may be lawfully executed by removal of the Offender to the Gaol of Port Louis, and by his detention therein in terms of the said warrant.

To compel attendance before Supreme Court of witnesses, &c.

16.—The Person so appointed as a Magistrate shall have further and additional power to make all orders, and to take all necessary measures to secure the attendance before the Supreme Court of Mauritius, of all the Witnesses required to be heard against or in favor of every Offender committed by him for trial as aforesaid.

District and Stipendiary Clerk unnecessary.

17.—It shall not be necessary for the said Magistrate in and for the discharge of his duties as a District and Stipendiary Magistrate to have a District and Stipendiary Clerk.

Magistrate to have powers of Clerk.

For the purposes of this Ordinance the said Magistrate is invested with the functions and is empowered to perform within the said Islands the duties of Clerk of a District Court as defined by Ordinances Nos. 34 and 35 of 1852.

Register of Orders, Judgments, &c.

18.—The said Magistrate shall keep a Register in which shall be entered a note of all orders, judgments and executions and of all other proceedings by him given or issued and the entry in such Register or a true copy thereof signed by the Magistrate shall at all times

Extracts to be admitted as evidence.

be admitted as evidence of such entries, and of the proceedings referred to being such entry or entries and of the regularity of such proceedings without further proof.

District Clerk, Port Louis, to recover fines, &c.

19.—It shall be the duty of the District Clerk of Port Louis, whenever fines inflicted or monies ordered to be

paid by the Magistrate aforesaid have not been received or paid in the said Dependencies, to issue a warrant of execution under the seal of the District Court for the execution in this Colony of the order, judgment or conviction left unexecuted, and such warrant shall issue on the production to such District Clerk of a copy certified by the Magistrate to be a true copy of the original entry in the Register aforesaid of the order, judgment or conviction.

Judgment not to be quashed, challenged, &c. And it shall not be lawful for any Court,

Judge or Magistrate to quash, set aside, modify or challenge in any way whatsoever such order, judgment or conviction, except upon the Governor's fiat that a question of law is involved in

Exception. the issue which deserves and requires to be considered by a higher tribunal, and in no case shall it be lawful to issue such fiat, until the amount of the fines or the sum or sums ordered to be paid have been deposited in the Registry of the Supreme Court.

CHAPTER II

Civil Status.

Manager to be Officer of Civil Status. 20.—The Manager of each of the Islands or group of Islands in Schedule A mentioned, may be Officer of the Civil Status within the Island or group of Islands placed under his management.

Births, Deaths and Marriages to be notified to Registrar General. If any Birth or Death occur or any Marriage be celebrated in any of the Islands or group of Islands in Schedule A mentioned, it shall be the duty of the Officer of the Civil Status of every such Dependency or of any part thereof where the Birth, or Death has occurred or the Marriage has been celebrated upon the first occasion when intercourse can take place between the said Dependencies and Mauritius, to notify the said Birth, Death or Marriage to the Registrar General with a full and circumstantial Memorandum of the said Birth, Death or Marriage signed and dated by him.

Notification to be submitted to Procureur General. The said Notification and Memorandum shall be submitted by the Regis-

Registrar General to the Procureur General, and the Birth, Death or Marriage shall be registered in the Central Civil Status Office according to the directions of the Procureur General.

House of Acting Officer of Civil Status to be Civil Status Office. 21. — The House in which the Person appointed to act as Officer of the Civil Status resides, shall be to all intents and purposes the Civil Status Office.

Salary. 22. — He shall receive a salary of £ 25 per annum payable by the Colonial Treasury, and he shall be liable to the penalties enacted in part X of Ordinance 17 of 1871 (Articles 112 and following) against Offences committed by the Officers of the Civil Status.

Prosecution, where to take place. Provided that the prosecution shall take place before one of the District Magistrates of Port Louis, and be carried on in manner and form provided for by Article 112 of Ordinance No. 17 of 1871.

Registers to be kept. 23. — The Officer of the Civil Status shall keep one Register for Births, another for Marriages and another for Deaths, and such Registers shall be examined and signed by the Magistrate whenever he visits the Islands aforesaid.

Amendment of Acts of Civil Status. 24. — Whenever it shall be necessary to amend an Act of the Civil Status relative to the inhabitants of the said Islands, such amendment shall take place free of expense, on the Magistrate being satisfied that it ought to take place and a note of such amendment shall be entered in the Register and returned by the Officer of the Civil Status as soon as practicable to the Registrar General.

Further amendments. Provided that the Registrar General shall have the right to apply to a Judge or Magistrate to have the said Act further amended or the amendment set aside, if such amendment has been effected by fraud or by means of illegal methods or for illegal purposes.

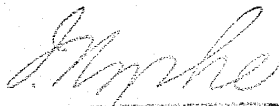
Marriage can be celebrated after one publication.

25.—A Marriage may be celebrated in any of the said Islands after one publication only.

Ordinance No. 17 of 1871 to have force in the Oil Islands.

26.—The provisions of Ordinance No. 17 of 1871 shall have force in the said Islands provided nevertheless, that it shall be lawful for the Governor in Executive Council, to frame Regulations for the forms of Contracts of Service, the management of camps, hospitals and shops, and also whenever the local circumstances of the Islands shall require it, to modify or restrict the provisions of this Ordinance, and all such Regulations shall be enforced by penalties not exceeding £50 sterling or imprisonment not exceeding three months. And such Regulations shall be laid on the table of the Council of Government, and if not disallowed within one month, shall be published in the Government Gazette, and shall then and thenceforth have force of law as if they formed part of this Ordinance.

PASSED in Council, at Port Louis, Island of Mauritius, this Twenty-eighth day of December One thousand Eight hundred and Seventy-five.



Acting Secretary to the Council
of Government

SCHEDULE **A**

*Dependencies to which this Ordinance
applies.*

Diego Garcia
Six Islands
Danger Island
Eagle Island
Peros Banhos
Coetivy
Solomon Islands
Agalega
St.-Brandon Islands, also and
otherwise called Cargados
Carayos.
Juan de Nova.
Trois Frères.
Providence.

Annex 7

Ivanoff Dupont, *Report of the Acting Magistrate for the Lesser Dependencies on the Islands of the Chagos Group for the Year 1882* (11 June 1883)

578

COLONY OF MAURITIUS

REPORT

OF

THE ACTING MAGISTRATE

FOR THE

LESSER DEPENDENCIES

ON THE

ISLANDS

OF THE

CHAGOS GROUP

FOR THE YEAR

1882.

Report on visit to the Islands of the Chagos Group.

No. 3.

Bambous, Black River,
11th June 1883.

The Honorable
The Colonial Secretary.

Sir,

I have the honour to transmit to you herewith, for submission to His Excellency the Governor, my report on the result of my recent visit to the Islands of the "Chagos" Archipelago.

I have the honor to be,

Sir,

Your most obedient servant,

IVANOFF DUPONT,

Acting Magistrate for the Lesser Dependencies.

The total population of the Islands of the Chagos Group, as ascertained by the Acting Magistrate on his recent visit to the Islands of the Chagos Group, viz :	
Islands	Population
Diego Garcia	121
Six Islands	12
Eagle Island	12
Peros Banhos	12
Salomon Islands	12
Total	159

Report of the Acting Magistrate for the Lesser Dependencies of Mauritius on the result of his recent visit to the Islands of the Chagos Group, viz :

Diego Garcia

Six Islands

Eagle Island

Peros Banhos

Salomon Islands.

1. I left Mauritius on the 18th April 1883 on board of the Steam Tug "Stella," and I arrived on the 27th at Diego Garcia, where we anchored at noon, at "Pointe de l'Est".

This Island, since my last visit in 1881, has become a coal-
ing station for the Steamers of the Orient and Pacific Steam
Navigation Companies, and others, and I have made a special
report on the changes which have taken place by that fact.

2. Two sailing ships were then unloading coals:— the
"Rothesay Bay" from Australia, for Lund & Co., and the
"Religione e Liberta", from England, for the Orient Company.

The next morning at Roll Call I informed the labourers that
I was ready to hear any complaint which they might have to make.

No complaints were made either by the Manager or by the
labourers.

4. The total population of "Pointe de l'Est" on my arrival amounted to :

	Males	Females
Adults... ..	182	42
Children	18	12
	<hr/> 200	<hr/> 54
Total...	254	

and was composed as follows :

	Adults		Children	
	M.	F.	M.	F.
Natives of Mauritius	35	26	14	6
Indians	35	9	3	3
Malgaches... ..	40	5	...	2
Mozambiques	14	2	1	1
Europeans	18	...	...	...
Somaulis (from Port Said)	40	...	...	...
	<hr/> 182	<hr/> 42	<hr/> 18	<hr/> 12
	<hr/> 224		<hr/> 30	
Total...	254			

Seventeen of the Europeans and the Somaulis are in the employ of the Orient Company, the first as workmen making iron lighters, and the last as labourers engaged at Port Said before the French Consul for one year.

The European workmen are expected to leave in the beginning of next year, after the completion of the iron lighters, and the Somaulis will be sent back to Port Said as soon as labourers will have been obtained from Mauritius.

One European, Mr. George Worsell, is Agent at Diego Garcia for Lund & Co.

The number of persons employed with the proprietors of the Island amounts to :

	Males	Females
Adults	123	39
Children ... ..	...	...
	<hr/> 123	<hr/> 39
Total...	162	

of which are under written engagement :

	Males	Females
Adults	74	16
	<hr/> 74	<hr/> 16
Total...	90	

5. The Europeans and Somaulis in the employ of the Orient Company provisionally reside at Pointe de l'Est, no building having as yet been erected on the Islet, at the entrance of the Bay, which has been let by the Government to the Company.

6. I inspected the labourers' camp which I did not find in very good state of repair nor of cleanliness, and I called the attention of the Manager to this fact. Most of the huts belong to the labourers who have built them themselves.

7. The hospital was found by me in good order, and the supply of medicines sufficient.

The prisons are the same which I have reported on in February 1881.

I found from the prison register that 39 cases of imprisonment of labourers had taken place during the past 27 months, all of which for insolence, insubordination and disturbance.

No complaints were made by the labourers as regards those imprisonments.

9. I examined the Pay Book and found it properly kept.

The sum of Rs 28,230.76c has been paid to the labourers from the 1st of January 1881 to the 30th April 1883, showing monthly payments of Rs 1,008.24c; and the sum deducted for sickness and absences amounted to Rs 4,016.35c, giving monthly deductions of Rs 143.44c.

The wages are paid monthly.

10. The shop showed a pretty good supply of goods. The sum of Rs 17,132, 58c was paid by the labourers for merchandize from the 1st January 1881 to the 31st of March 1883, showing monthly purchases for the sum of Rs 634.54c.

The sales are made for cash, and on an average of 25 o/o above Mauritius prices.

11. The stores contained only 28 bags of rice, sufficient for two weeks rations, and when the ship of the company left on the 27th January last, there were in store rations for four months only instead of for six months, as required by the regulations.

The ship "Eva Joshua" was expected daily after my departure: she had arrived at Peros Banhos on the 11th of May.

The rations issued to the labourers are more than those to which they are entitled.

The labourers rear fowls and ducks. They are not allowed to rear pigs for which they could not procure food on the island, and would therefore be induced to steal cocoa-nuts to feed them.

The boats and nets of the establishment continue to be placed at their disposal for fishing.

12. The task works are fair and reasonable, and the Sunday "Corvée" is according to the Regulations.

13. The Sanitary condition of the island is good. There exists no prevailing disease.

14. I examined the Registers of the Civil Status which show that from the first January 1881 to the 30th April 1883 the following number of Births and Deaths had take place.

BIRTHS.

Males	10
Females	7
Total	17

DEATHS.

	Males.	Females.
Adults	7	3
Children	1	7
	8	10
Total	18	

of which one female died at sea on board the ship "Pelham" from Mauritius on the 27th August 1881, and one male, the master of the ship "Eleanor", from England, who died of Dysentery at "Pointe de l'Est" on the 10th February 1882.

The causes of deaths were as follows :—

	Adults		Children	
	M.	F.	M.	F.
Erysypelas ... ..	...	1	...	...
Old Age	1	1	...	...
Premature Birth ... ..	...	...	...	2
Cramp ... ..	...	...	...	1
Scrofula	1	...	...	...
Dysentery	1	...	...	...
Tambave (thrush) ... ..	...	...	1	4
Dropsy	1	...	...	...
Hernia	1	...	...	...
Consumption ... ..	...	1	...	...
Drowning (accidental)	1	...	...	...
Fever	1	...	...	...
	7	3	1	7
	10		8	
Total	18			

I made an enquiry into the case of drowning, and it was proved to have been accidental. The enquiry has been referred by me to the Honorable the Procureur General.

No still-birth has taken place, and no marriage has been celebrated by the Officer of the Civil Status.

15. The production of Pointe de l'Est has been in

1881	41000 veltes
1882	31500 "
and is estimated for 1883, at	32000 "
by the Manager.	

16. The communications with Mauritius take place three times in the year.

17 Early in the morning of the 2nd of May I left for Pointe Marianne Establishment.

POINTE MARIANNE.

18. No complaints were made by the Manager against the labourers, nor by the labourers against the manager.

One labourer wanted to bring a charge of larceny against another, but as he had no evidence to support it I advised him to abstain, which he did.

19. The population of Pointe Marianne amounted to :

	M.	F.
Adults	81	21
Children	11	13
	<hr/> 92	<hr/> 34

Total 126

out of which are employed :

	M.	F.
Adults	80	17
Children	2	...
	<hr/> 82	<hr/> 17

Total 99

the number under written engagement amounted to :—

Males	27
Females	5

Total 32

20. The population is composed as follows :—

	Adults		Children	
	M.	F.	M.	F.
Creoles	30	14	11	12
Malgaches	46	4	...	1
Mozambiques	4	3	...	...
Indians	1	...	...	...
	<hr/> 81	<hr/> 21	<hr/> 11	<hr/> 13
	<hr/> 102		<hr/> 24	

Total.... 126.

21. The camp was inspected by me and found to be in good order.

22. The hospitals were in good order and of the required dimensions.

The medicines in store were sufficient.

23. The prison which existed at the time of my last visit has been pulled down by the Manager, and, pending the erection of a new one, a room in a stone building, of proper dimensions, is used as a prison.

The punishment of imprisonment was inflicted on 30 labourers during the past 27 months, as follows.—27 were imprisoned for insolence, insubordination and disturbance and 3 for larceny. As regards these last I informed the Manager that they were illegal, and I desired him to confine himself to the cases for which the regulations authorize him to imprison, as otherwise he would be liable to the penalties provided for by the same regulations, should complaints be made against him.

He gave as an excuse that he thought that he was authorized to imprison also for larcenies, which, he stated, were of frequent occurrence.

No complaints were made by the labourers.

24. I examined the Pay Book and found that Rs 23,558.52 c. had been paid to the labourers from the 1st January 1881 to the 30th April 1883, showing monthly payments of Rs 841.27 c. and that the sum of Rs 4,520.14 c. had been deducted for sickness and absences, giving monthly deductions of Rs 161.43 c.

The wages are paid monthly.

25. The amount of the sales in the shop has been from the 1st May 1881, the accounts from 1st January to 30th April 1881 not being in the possession of the actual Manager, Rs 11,226.81 c. showing monthly sales of Rs 468.78 c.

The sales are made for cash, and, on an average, at about 40 o/o above the prices in Mauritius.

26. The stores contained only 24 bags of rice, sufficient for three weeks rations. The "Eva Joshua" was expected daily.

When the said ship left on the 27th January last there were in store 121 bags of rice, sufficient for four months rations only.

The labourers rear fowls and ducks, and easily procure fish by means of the boats and nets of the establishment.

27. The task works are fair and reasonable, and the Sunday Corvée is according to the regulations.

28. I examined the Registers of the Civil Status.

The following number of Acts have been registered from the 1st January 1881, to the 30th April 1883, viz :—

BIRTHS

Males	...	...	...	...	...	7
Females	...	...	...	...	...	5
						<hr/>
Total						12

586

DEATHS

	M.	F.
Adults ...	4	1
Children ...	4	5
	<u>8</u>	<u>6</u>
Total 14		

The causes of deaths were as follows:—

	Adults		Children	
	M.	F.	M.	F.
Child Birth ...	...	1	...	...
Dropsy ...	1	...	...	...
Laryngitis ...	1	...	...	...
Consumption ...	...	...	1	...
Poisoning (accidental) ...	...	...	...	2
Hæmorrhage ...	...	...	1	...
Fever ...	1	...	...	...
Dysentery ...	...	...	2	...
Sore throat ...	...	...	...	3
Cancer ...	1	...	...	...
	<u>4</u>	<u>1</u>	<u>4</u>	<u>5</u>
	5		9	
Total 14				

I made an enquiry into the causes of deaths of the two children who died of poisoning, and found that they had been eating some of the fish called "Voultang", which had been cooked by a woman who was ignorant of its poisonous nature.

The enquiry has been referred by me to the Honorable the Procureur General.

STILL BIRTHS

Males ...	0
Females ...	1
	<u>1</u>
Total 1	

No marriage has been registered by the Officer of the Civil Status.

29. The production of the establishment for each of the past two years has reached 30,000 veltes, and is estimated at the same quantity for the year 1883.

30. I was informed by the Manager that no traffic of any kind exists with the vessels which come to Diego Garcia.

MINIMINI ESTABLISHMENT.

31. On the 4th May 1883 I visited Minimini Establishment.

32. No complaints were made by the Manager against the labourers, nor by the labourers against the Manager.

587

33. The population of the Establishment amounted to :—

	M.	F.
Adults	37	38
Children	17	11
	<hr/> 54	<hr/> 49
Total	103	

out of which were employed :

	M.	F.
Adults	37	32
Children	1	...
	<hr/> 38	<hr/> 32
Total	70	

Twenty four labourers were under written engagement :

Males	13
Females	11
	<hr/> 24

The population was composed as follows ;

	Adults		Children	
	M.	F.	M.	F.
Natives of Mauritius	15	32	17	11
Malagashes	20	5	...	...
Mozambiques	2	1	...	...
	<hr/> 37	<hr/> 38	<hr/> 17	<hr/> 11
	<hr/> 75		<hr/> 28	
Total	103			

34. The camp of the labourers was found by me to be in good and proper order.

35. The hospital was properly kept, and the supply of medicine was sufficient.

36. The prison is the same which I have reported on after my last visit.

The register of imprisonment shew nine cases of imprisonment : 8 for insolence and insubordination, and 1 for repeated absence. This last case was illegal and I informed and cautioned the Manager accordingly.

37. I examined the Pay Book which shows that Rs12,261.45 were paid to the labourers from the 1st January 1881 to the 30th April 1883, giving monthly payments of Rs 473.62, and that the sum of Rs 1,838.14c has been deducted for absences and sickness, showing monthly deductions of Rs 65.65c.

The wages are paid monthly.

38. The stores contained 33 bags of rice, which were sufficient for six weeks rations. The "Eva Joshua" was expected daily.

When the ship left on the 27th January last there was in store a supply of rice for six months. The labourers have the same advantages as on the other establishments as regards fishing and rearing animals.

39. The goods in the shop are sold for cash, and at about 40 o/o above Mauritius prices.

The produce of the sales for the last 28 months has amounted to Rs. 8,194.87c, giving a monthly average of Rs 292.67c.

40. The task work is fair and reasonable and the Sunday Corvée according to regulations.

41. I examined the Registers of the Civil Status, and found that the following Acts had been registered since the 1st January 1881 :—

BIRTHS

Males	...	...	...	...	4
Females	...	...	...	...	5
					Total 9

DEATHS

				M.	F.
Adults	...	...	...	1	1
Children	...	...	...	1	3
				2	4
					Total 6

The causes of deaths were as follows :

	Adults		Children	
	M.	F.	M.	F.
Cramp ...	...	...	1	1
Cold ...	...	1	...	...
Dropsy ...	...	1	...	...
Dysentery	...	...	...	2
	<hr/>	<hr/>	<hr/>	<hr/>
	1	1	1	3
	<hr/>	<hr/>	<hr/>	<hr/>
	2		4	
Total 6				

No still-births have taken place and no marriages have been registered.

42. The production of the establishment has been 34,476 vettes for the past three years, giving a yearly average of 11,492 vettes.

43. No traffic of any kind, as I was informed, takes place with the vessels calling at Diégo Garcia.

44. I left Diégo Garcia on the 6th May 1883 at 5 o'clock p.m. for "Six Islands."

SIX ISLANDS.

45. On the 7th May at 10 o'clock a.m. we arrived at "Six Islands," but the "Stella" could not enter the bay as the depth of the water in the channel could not allow it. I waited until noon when a boat came and met us at about $1\frac{1}{2}$ miles from the reefs, and I proceeded in it to the establishment, where I landed at 3.15 p.m.

46. When the labourers were informed by me that I was ready to hear any complaint they might have to make four of them stated that the manager had retained from each one month wages, for an alleged larceny of cocoa-nuts. The Manager having admitted the fact I ordered the money to be returned to the labourers, which was done in my presence.

The Manager could not prosecute the parties as he had no sufficient evidence to obtain their conviction.

47. The population of the Island amounted to :—

	M.	F.
Adults	30	19
Children	10	12
	<hr/> 40	<hr/> 31
	<hr/> Total 71	

Out of which were employed :—

	M.	F.
Adults	30	14
Children	1	...
	<hr/> 31	<hr/> 14
	<hr/> Total 45	

Of this number were under written engagement :—

Males	17
Females	7
	<hr/> Total 24

The population was composed as follows :—

	Adults		Children	
	M.	F.	M.	F.
European	1	...	...	...
Creoles	11	13	10	12
Malgaches	10	...	...	...
Mozambiques	7	5	...	...
Indians	1	1	...	...
	<hr/> 30	<hr/> 19	<hr/> 10	<hr/> 12
	<hr/> 49		<hr/> 22	
	<hr/> Total 71			

48. I inspected the camp which I found in very good order.

49. The hospital for the men was in good order, and according to the regulations, but the hospital for the women was found by me to be too small, and I directed the manager to lengthen it by 14 feet.

50. The prison is composed only of one room, of sufficient dimensions. Two rooms in a stone building are being fitted up to be used as prisons.

Two labourers were imprisoned for disturbance since the last visit of the Magistrate in August 1881.

51. I examined the Pay Book.

From the 1st August 1881 to the 30th April 1883 the sum of Rs. 7692.47 c. has been paid to the laborers for wages, showing monthly payments of Rs. 366.31c, and the sum of R. 279.29 c. has been deducted for sickness and absences, giving monthly deductions of Rs. 13.30 c.

The wages are paid monthly.

52. The sales of goods to the labourers from the 1st August 1881 to the 30th April 1883 have produced the sum of Rs. 4269, 45c, giving a monthly average of Rs. 203.30 c.

The goods are sold for cash and at 40 o/o above Mauritius prices.

53. The stores contained 35 bags of rice, sufficient for the rations of two months and a half. A ship was expected at the Island in the course of the month of June.

The labourers receive more rations than they are entitled to. They rear fowls and are offered for fishing the same facilities which are given to the labourers in the other Islands.

54. The task work and Sunday Corvée are fair and reasonable.

55. The Registers of the Civil Status showed that the following Acts were received from the 1st August 1881 to the 30th April 1883, viz :—

BIRTHS

Males	...	...	...	...	...	4
Females	...	...	...	...	...	2
						—
Total...						6

DEATHS

				M.	F.
Adults	...	...	...	...	1
Children	...	...	...	1	...
				—	—
				1	1
				—	—
Total...				2	

The adult female died of cancer, and the male child of cramp.

591

STILL BIRTHS

Male	1
Female	—
Total	1

No marriages have been celebrated by the Officer of the Civil Status.

56. The production of the Island has been :—

In 1881	12,000	vetes
" 1882	12,000	"
and is estimated for 1883	9,000	"

The Manager could not account for the reduction.

57. The communications with Mauritius have taken place only twice a year up to the present, but they are expected to be more frequent for the future.

58. On the 8th May at 11 o'clock a.m. I left the establishment to go and meet the "Stella." I joined her at a distance of about one mile from the reefs, at sea, and at 12.30 p.m. we sailed off for "Eagle Island."

EAGLE ISLAND.

59. On the 8th May 1883 I arrived at Eagle Island, where the ship was anchored at 5 o'clock p.m.

60. The next day early in the morning I went on shore.

One complaint was brought by the Manager Mr. Decamps Larrouget against the labourer Chéri Abel for neglecting to perform his stipulated work. The charge was proved and the accused was sentenced by me to 14 days imprisonment.

No complaint was made by the labourers.

61. The population of the Island on my arrival amounted to :—

Adults	M.	F.
Children	36	17
	6	3
	—	—
	42	20
Total	62	

Of which were employed :—

Adults	M.	F.
Children	36	14
	1	—
	—	—
	37	14
Total	51	

All the labourers are under verbal engagement.

592

The population was composed as follows :—

	Adults		Children	
	M.	F.	M.	F.
Creoles	10	9	6	3
Malgaches	23	6	...	...
Mozambiques	3	2	...	...
	<hr/>		<hr/>	
	36	17	6	3
	<hr/>		<hr/>	
Total...	53		9	
	62			

62. The camp was in good and proper order.

63. The hospital is being rebuilt. The supply of medicines was sufficient.

64. The prison is the same which I have reported on last year.

Four labourers have been imprisoned for insubordination and disturbance since my last visit in July 1882.

65. I examined the Pay Book. From the 1st July 1882 to the 30th April 1883 the sum of Rs 4,168.64c has been paid for wages, showing monthly payments of Rs 416.86c and the sum of Rs 240.78c has been deducted for sickness and absences, showing monthly deductions of Rs. 24.08c.

The wages are paid monthly.

66. The sales in the shop from the 1st July 1882 to the 30th April 1883 have amounted to the sum of Rs 2,881.83c giving a monthly average of Rs 288.18c.

The goods are sold for cash, and at an average of 50 op above Mauritius prices.

67. The stores contained 79 bags of rice, sufficient for nearly four months rations.

68. The task work and Sunday Corvée are fair and reasonable.

69. I examined the Registers of the Civil Status.

One birth has been registered, that of a boy. Another one has taken place, that of the son of the manager, which has been registered at Mauritius.

One death has been registered, that of a male child who died of tetanus.

No still-births and no marriages have been registered.

70. The production of the Island is estimated at 10,000 veltes for 1882-83.

71. The communications with Mauritius continue to take place three times during the year.

72. On the 10th of May at 6 o'clock a.m. I left on the Stella for "Peros Banhos".

PEROS BANHOS.

73. On the 10th of May at 2 o'clock p.m. the "Stella" anchored at Peros Banhos, and I at once went on shore.

74. No complaints were made by either the Manager or the labourers.

75. The population of the Island amounted to :

	M.	F.
Adults	81	35
Children	25	23
	<u>106</u>	<u>58</u>
Total 164		

of which are employed :

	M.	F.
Adults	80	33
Children	6	...
	<u>86</u>	<u>33</u>
Total 119		

out of this number were under written engagement :

Males	19
Females	9
	<u>28</u>

The population was composed of :

	Adults		Children	
	M.	F.	M.	F.
Creoles	36	32	25	23
Malgaches	40	2	...	...
Mozambiques	4	1	...	...
Indians	1	...	...	...
	<u>81</u>	<u>35</u>	<u>25</u>	<u>23</u>
	<u>116</u>		<u>48</u>	

Total 164

76. I inspected the camp which I found in good state of repair; the huts being according to the regulations.

77. The hospital was found by me to be in good order, and the supply of medicines sufficient.

78. The prison has been rebuilt since my last inspection. It consists of a stone building containing three rooms which measure only 7x6 feet. I desired the Manager to remove the partitions and to divide the building into two rooms only.

594

Eighteen cases of imprisonment have been registered since 1st of January 1881 :—

10 for disturbance.

3 for insubordination.

2 for insolence.

3 for repeated absences from work.

I warned the Manager as to the illegality of these three last cases. He gave for excuse that the parties were constantly absent from their work and behaved disorderly in the camp.

79. From the Pay Book it appeared that the sum of Rs.24,782.27c. has been paid for wages to the labourers from the 1st January 1881 to the 30th April 1883, showing monthly payments of Rs.885.08c. The amount deducted for sickness and absences was Rs.1,946.81c. giving monthly deductions of Rs. 69.53c.

The wages were paid monthly.

80. The sales in the shop from the 1st January 1881 to the 30th April 1883 have produced the sum of Rs. 16,105.57c., giving monthly purchases of Rs. 575.20c.

The sales are made for cash, and at about 25 o/o above Mauritian prices.

81. The number of bags of rice in store added to the quantity brought by the Ship "Eva Joshua" whilst I was at the Island exceeded the amount required by the regulations.

82. The task works are fair and reasonable, and the Sunday Corvée according to the regulations.

83. The Registers of the Civil Status showed that the following Acts have been registered since the 1st January 1881 :

BIRTHS :

Males	...	...	...	...	...	11
Females	...	...	...	...	...	7

Total 18 all natural

DEATHS :

	M.	F.
Adults	6	1
Children	9	4
	<u>15</u>	<u>5</u>

Total 20

595

The causes of death have been as follows :—

	Adults		Children	
	M.	F.	M.	F.
Fever ... ..	...	...	2	...
Unknown	1	...	...	...
Debility ... ..	...	...	1	...
Old age ... ..	...	1	...	...
Cramp ... ..	...	...	4	4
Consumption	4	...	1	...
Dysentery ... ..	...	...	1	...
Poisoning (accidental)	1	...	...	...
	6	1	9	4
	7		13	
	Total 20			

The cause of the death given as "unknown" was reported on by me in February 1881. The death was only registered after I had examined the Registers of the Civil Status.

I made into the cause of the death given as "poisoning" an enquiry which I have referred to the Honorable the Procureur General. The death was caused by an excessive dose of laudanum, taken by the deceased out of a small flask which had been imprudently left in his possession by the then assistant manager of the Island.

No still-births and no marriages have been registered by the Officer of the Civil Status.

84. The production of the Island has been

for 1881	22,336	veltes
for 1882	19,750	"
and is estimated for 1883 at	23,000	"

85. The communications with Mauritius take place three times during the year.

86. On the 12th of May at 7 o'clock a. m. I left "Peros Banhos" Islands.

SALOMON ISLANDS

87. I arrived at "Salomon" Islands on the 12th May 1883, at 4 o'clock p. m.

88. The same afternoon, when all the labourers were assembled, I enquired from them if they had any complaint to make. They all said that they had none.

No complaint was brought by the Manager.

596

89. The population of the Island amounted to :—

				M.	F.
Adults	...	...	...	44	16
Children	...	...	...	5	6
				49	22

Total 71

Of which were employed :—

				M.	F.
Adults	...	...	...	43	13
Children	...	...	...	...	...
				43	13

Total 56

None were under written engagement.

The population was composed as follows :—

			Adults.		Children.	
			M.	F.	M.	F.
Creoles	...	...	19	12	3	5
Malgaches	...	...	21	3	2	1
Mozambiques	...	...	2	1	0	0
Indians	...	...	2	0	0	0
			<hr/>	<hr/>	<hr/>	<hr/>
			44	16	5	6
			<hr/>	<hr/>	<hr/>	<hr/>
			60		11	

Total... 71

90. The camp on inspection was found to be in good state of repair.

91. The hospital was not in good order. The Manager, on my remark to him, said that it was never used. That he did not insist on the laborers coming to the hospital, for which they showed disinclination, and that he attended on them in their huts.

I desired him however to comply with the regulations.

92. The prison has been rebuilt, and is in compliance with the regulations.

Two labourers were imprisoned since my last visit in July 1882 : one for disturbance and one for insubordination.

93. The Pay Book, after examination, showed that Rs 4799.04c. have been paid to the laborers since 1st July 1882, showing monthly payments of Rs 479.90c. and that Rs 306.76c. had been deducted for sickness and absences, giving monthly deductions of Rs 30.67c.

94. Goods for the sum of Rs 3767.84c. have been sold in the shop from 1st July 1882 to the 30th April 1883, or an average monthly sum of Rs 376.78c.

The goods are sold for cash, and at about 35 o/o above Mauritius prices.

597

95. The stores contained a stock of rice sufficient for 5 months' rations, and a further supply was expected in the course of the month.

96. The task work is fair and reasonable, and the Sunday Corvée is according to the regulations.

97. The Registers of the Civil Status showed that no births, no still-births, and no marriages had been registered for the past 10 months.

One death had happened, that of a male labourer who died of consumption.

98. The production of the Island is estimated by the Manager at 17,000 veltes for the present year.

99. The communications of the Island with Mauritius take place three times during the year.

100. On the 13th May, at noon, I left Salomon Islands for Diego Garcia where I arrived the next day; and on the 19th May, at 8 o'clock a.m. I left Diego Garcia for Mauritius where the "Stella" anchored on the 25th May at 11.30 in the night.

All of which is respectfully submitted for the information of His Excellency the Governor.

Bambous, Black River,
11th June 1883

IVANOFF DUPONT,

Acting Magistrate for the Lesser
Dependencies of Mauritius.

*Return of Cases heard by the Acting Magistrate for the Lesser
Dependencies of Mauritius at "Eagle" Island.*

No. of Cases.	Complainant.	Accused.	Offence.	Decision.
3	R. Decamps Larrouget.	Chéri Abel.	Neglecting to perform sti- pulated work.	Proved. Accused sentenced to 14 days imprisonment and to pay costs (Art. 10 Ord. 15 of 1852, and Order in Council of 1838.)

IVANOFF DUPONT,

Actg. Magistrate for the Lesser Dependencies.

Annex 8

Letters Patent, Section 52 (16 Sept. 1885)

Letters Patent 16th September 1885

VICTORIA, by the grace of God, &c.

Recites of Letters Patent of 22nd March 1879. WHEREAS the Council of Government of Our Colony of Mauritius is now constituted and possesses powers of legislation under and according to the provisions of certain Letters Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date the 22nd day of March 1879.*

* [see p. 12.]

AND WHEREAS We are minded to alter the constitution of the said Council of Government;

NOW KNOW YE that We do by these Our Letters Patent declare Our will and pleasure as follows:—

Letters Patent, 1885.

Governor may pro-
rogue or dissolve Coun-
cil.

49.—The Governor may at any time, by proclamation, prorogue or dissolve the Council.

Duration of Council.

50.—The Governor shall dissolve the Council at the expiration of five years from the date of the return of the first writs at the last preceding general election, if it shall not have been sooner dissolved.

Times of first and
subsequent general
elections.

51.—The first general election of Members of the Council shall be held at such time, not more than three months after the Proclamation of these presents in the Colony, as the Governor shall by proclamation appoint, and a general election shall be held within two months after every dissolution of the Council, at such time as the Governor shall in like manner appoint.

Interpretation.

52.—In these presents—

“The Colony” means the Island of Mauritius and its Dependencies.

“The Council” means the Council of Government as hereby constituted.

“The Governor” means the person for the time being lawfully administering the Government of the Colony.

“The Public Seal” means the Public Seal of the Colony.

“The Gazette” means the Mauritius Government Gazette.

“Minister of Religion” means any clergyman, minister, priest, or other person who exercises spiritual functions or performs the offices of religion for or in respect to any Christian or other church, community, or body within the Colony.

Revocation of so
much of the said Let-
ters Patent of the 22nd
day of March 1879 as
relates to the consti-
tution and functions of
the Council.

53.—From and after the date of the return of the first writs for the election of members of the Council hereby constituted, so much of Our said Letters Patent of the 22nd day of March 1879 as relates to the constitution and functions of the Council (namely, the seventh and eighth articles thereof) shall cease to be in force, but without prejudice to anything lawfully done thereunder.

Reserves power to
revoke, alter, or amend
Letters Patent, and to
make laws.

54.—We do hereby reserve to Ourselves, Our heirs and successors, full power and authority to revoke, alter, or amend these Our Letters Patent as to Us or them shall seem fit: and nothing herein contained shall affect Our or their undoubted right, by and with the advice and consent of Parliament, or with the advice of Our or their Privy Council, to make

Annex 9

Officer Administering the Government of Mauritius and its Dependencies, and the Council of Government, *Ordinance No. 4 of 1904* (18 Apr. 1904)

No. 4 of 1904.



AN ORDINANCE

*Enacted by the Officer Administering
the Government of Mauritius
and its Dependencies, with the
advice and consent of the Council
of Government thereof.*

**To provide for the Government
of and the Administration of
Justice in the Lesser Dependencies.**

*I reserve this Ordinance for the
signification of His Majesty's pleasure
thereon.*

Harman Rower

Officer Administering
the Government.

18th April, 1904.

BE IT ENACTED by the Officer
Administering the Government, with
the advice and consent of the Council
of Government, as follows :—

Short Title. 1. This Ordinance may
be cited as "The Lesser
Dependencies Ordinance".

Definitions. 2. In this Ordinance :

" Owner " includes lessee.

" Islands " means the Lesser Depen-
dencies mentioned in Schedule A, or
any one of them.

"The Magistrate", or "a Magistrate",
means any one of the District and
Stipendiary Magistrates for the Lesser
Dependencies appointed under this
Ordinance, and includes an Additional
Magistrate appointed under Article
3 (3).

" Servant " " Master " and " Em-
ployer " have the meanings attached to
them by the Labour Law, 1878.

Appointment of
Magistrate.

3. (1) It shall be lawful for the Governor, subject to the approval of the Secretary of State, to appoint two fit and proper persons to be District and Stipendiary Magistrates for the Lesser Dependencies, mentioned in Schedule A.

(2) Each of the said Magistrates shall act independently of the other, and shall have the rights, duties, powers and jurisdiction defined by this Ordinance.

(3) It shall further be lawful for the Governor when necessity arises to issue a commission to any other fit or proper person to act as Additional Magistrate for the Lesser Dependencies, and such Magistrate shall, in virtue of such commission and during its continuance, have all the powers of a Magistrate for the Lesser Dependencies.

Visits of Magis-
trate to Islands.

4 (1) The Magistrates shall visit the Islands at such times as they shall be directed by the Procureur General, and shall administer justice therein between the Crown, private individuals, and masters and servants as defined by the Labour Law, 1878.

Provided that so far as may be possible each Island shall be visited at least once in every twelve months: and if any Island has not been visited for a period of twelve months it shall be visited on the first opportunity in the ensuing twelve months.

(2) The Magistrates shall further have power to visit and inspect all the establishments on the Islands, and all camps and houses (other than private dwelling houses) thereon, to inspect the books of the establishment and of the shops, and to test the weights and measures used in such shops.

(3) They shall respectively report to the Governor the result of each visit and of the inspections made, and generally on all matters connected with the well-being of the Islands and the welfare of the inhabitants. There

shall also be included in such report a return of all decisions given, and action taken, in all matters brought before them or which have come under their notice.

Salary of Magistrate.

5. The salary of each of the Magistrates shall be 6,000 Rupees which shall be paid by the Treasury. The said salary shall cover all expenses and allowances hitherto allowed, to which the Magistrates shall henceforth have no further claim.

Provided that any Magistrate appointed under Article 3 (3) shall be entitled to an allowance for expenses of 5 Rupees a day during his absence from Mauritius, which allowance shall be paid by the Treasury.

Contribution to cost of administration by owners.

6. (1) The owners of the Islands shall contribute to the cost of administration of the Islands the sum of 12,000 Rupees in two half-yearly instalments, payable in the manner hereinafter provided, on or before the 31st. January and 31st. July in every year.

(2) The said contribution shall be apportioned between the owners of the Islands, according to the number of labourers employed by each of them, and the sum due by each owner shall be paid into the Treasury on or before the dates above-mentioned. For the purpose of such apportionment, each of the owners shall furnish the Receiver General with a statement of the said number of men so employed on the 30th. June and 31st. December in each year. The statement may be controlled by the Magistrate, and any owner making a false statement shall be liable to a fine not exceeding 1,000 Rupees.

(3) For the recovery of the said amount due from each owner the Government shall have a privilege, and the extent and conditions of such privilege shall be governed by Ordinance No. 18 of 1843, and shall be assimilated to the land tax mentioned in Article 31 of that Ordinance.

(4). When it is necessary for the purpose of any criminal trial or other proceeding in Mauritius that any persons should come to Mauritius as witnesses, or be brought to Mauritius as prisoners, the passage of such persons shall be provided free of cost on the vessels belonging to or chartered or employed by the owner of the Island on which the acts occurred out of which such trial or proceeding arises, and in their ordinary voyages. The cost of feeding to be refunded to the owners.

Free passage of Magistrate. 7. (1) Any Magistrate who is about to visit one of the Islands shall be provided by the owners with free passage and maintenance to and from such Island on board any vessel belonging to, or chartered or employed by, the owner of such Island, and to maintenance while on such Island.

(2) Vessels going to and from the Islands shall carry mails free on behalf of the Post Office.

Jurisdiction of Magistrates. 8. (1) The Magistrate shall be vested with the power and authority of District and Stipendiary Magistrates respectively in Mauritius, subject only to the modifications hereinafter enacted.

(2) A Court shall be held in such convenient room or place in the Island, and on such days and at such hours as the Magistrate shall determine.

(3) The Magistrate shall have power, in any case or matter, to appoint and swear in such person as he deems fit to act as interpreter.

Engagement of servants. 9. (1) All servants, other than artisans, proceeding to the Islands for employment shall previously enter into a written contract of service passed as follows :—

(i) If in Mauritius, then before a Magistrate, or before the Stipendiary Magistrate of Port-Louis.

(ii) If in the Islands, then before a Magistrate.

Provided that in either case the Magistrate shall be satisfied that such servant is free to enter into such contract.

- (iii) If in Seychelles, then before any officer of Seychelles authorised by the laws of Seychelles to pass such contracts.

Provided that the conditions and forms of such contracts, and the powers of the officer aforesaid in respect to passing them, are in all respects identical with the conditions and forms of the contracts, and the powers of the Magistrate passing such contracts, as determined by this Ordinance.

(2). Provided further that when any person on the Islands desires to enter into a written contract of service such contract may be passed in the Island before the Magistrate, and shall be in the same form and subject to the same conditions as the contract herein provided.

Contracts of service. 10. (1). Written contracts of service shall be in the form of Schedule B, (which may be amended by the Regulations), and shall not exceed three years; in the case of contracts entered into by members of the same family, they shall all expire at the same time: the word "family" in this Article shall include husbands, wives and children. Certified copies of all contracts shall be sent to the Manager.

(2) In all contracts the nature of the work for which the servant is engaged shall be specified, but where the nature of the work is general and not capable of express specification the Magistrate may, in passing the contract, describe such work as "general".

(3) In case any Island be sold, alienated or transferred to another person, or succeeded to by another person, before the termination of the contracts of service entered into with the servants engaged on the Island, such servants shall serve such other person according to the terms of the contract, and such new employer or master shall be held bound towards the said servants in all the stipulations

and obligations incumbent upon the employer or master so replaced by him.

(4) The Magistrate before whom such contracts are passed in Mauritius or in the Islands shall have the powers vested in Stipendiary Magistrates by Articles 100 and 101 of the Labour Law, 1878.

(5) The provisions of Article 102 of the Labour Law, 1878, shall apply to fictitious contracts.

Contracts to continue till renewal decided by Magistrate. 11. (1) Written contracts of service for whatever period they may be entered into shall continue in force from the day of their termination until the question of their renewal has been submitted to the Magistrate.

(2) At the expiry of any written contract of service as provided in the preceding paragraph it shall be optional for the servant and owner to renew the engagement either by written or verbal contract: provided that in the case of verbal contracts notice of such contract shall be given to the Magistrate by the Manager, and that the Magistrate is satisfied that the contract has been entered into.

Free passage of wives and children. 12. Servants under written contract who proceed to the Islands shall have a right for themselves and their wives, and minor children who shall proceed in the same ship, to free passage and subsistence to and from Mauritius or Seychelles, as the case may be.

Contracts with minors. 13. Contracts with minors shall be subject to the conditions prescribed in Article 99 of the Labour Law, 1878, except the fifth paragraph.

A sufficiency of rations to be kept on the Island. 14. Every contract of engagement as aforesaid shall stipulate that there shall be a sufficient supply of rations on the Island on which the labourers are to be employed to meet every contingency, which supply shall always be equal to the average consumption on the Island during four months.

No contract of service shall be passed for the employment of labourers in the Islands, unless the Magistrate is satisfied that arrangements have been made to secure the provisions of the preceding clause being strictly carried out; and any failure to comply with the terms of any contract as regards this provision shall render the owner liable to a fine not exceeding 1,000 Rupees.

Servant not proceeding to Island after written contract. 15. (1) Any servant who, after entering into a written contract of service, or any artisan who after entering into any contract of service, shall, without sufficient excuse, decline or neglect to proceed in the vessel provided to take him to the Island in which he has contracted to work shall be liable to be arrested.

(2) For this purpose a warrant shall be issued by the Magistrate or the Stipendiary Magistrate of Port Louis on the application of the master or his agent.

(3) The punishment shall be imprisonment not exceeding three months to be awarded by the Magistrate, or in his absence by the Stipendiary Magistrate of Port Louis who may further give judgment in respect of any advances made or alleged to have been made to such servant or artisan.

(4) Such sentence shall operate as a discharge from the contract whether written or verbal.

Undue detention on Islands. 16. The undue detention on the Island of any servant beyond the termination of his contract, or not providing means of return to any servant entitled thereto, by the ship next proceeding to Mauritius or Seychelles, as the case may be, shall be punishable by a fine not exceeding 500 Rupees, without prejudice to any action in damages in respect of such detention.

In case of undue detention, it shall be lawful for the Supreme Court, on motion by the "Ministère Public" to order the owners to take such measures for terminating such detention within

such time as to the Court may seem fit and proper.

Obligations and penalties of Labour Law imposed.

17. Where not otherwise provided, masters and servants under this Ordinance shall be subject to all the duties and obligations imposed upon masters and servants respectively by the Labour Law, 1878, and, for any breach thereof, the Magistrate shall impose the penalties therein prescribed.

Power to annul engagement and send servant home.

18. If in virtue of the Labor Law the Magistrate shall annul the contract, he shall send the servant back by the first ship, to Seychelles if the servant has been engaged in Seychelles, to Mauritius if the servant has been engaged in Mauritius, on the Islands, or elsewhere. The cost of such return passage shall, unless the Magistrate otherwise order, be paid by the employer.

Judgment of Magistrate to be final.

19. All judgments of the Magistrate given in the said Islands shall be definitive and final to all intents and purposes except as herein provided ; and no proceeding shall be commenced having for object to quash, set aside, modify, or challenge in any way whatsoever such order, judgment or conviction, except upon an *ex parte* order of a Judge in Chambers that a question of law is involved in the issue, which deserves and requires to be considered by a higher tribunal, and in no case shall such order be issued until the amount of the fines, or the sum or sums ordered to be paid, have been deposited in the Registry of the Supreme Court.

Imprisonment on the Islands or in Mauritius.

20. Any warrant issued by the Magistrate for the imprisonment of any person may be executed in the prison in the Island, or by the removal of the said person from the Island on board ship to the civil prisons in Mauritius, and by his detention therein as the Magistrate shall direct.

Jurisdiction may be exercised in Mauritius.

21. If in any case arising in the Islands, it is necessary to exercise jurisdiction in Mauritius, for the

purpose of either (a) determining any civil dispute between parties : or (b) determining any dispute between master and servants : or (c) holding any preliminary enquiry : or (d) trying any person charged with an offence, the Magistrate may exercise such jurisdiction, or if neither of the Magistrates is in Mauritius, or if there be no such Magistrate, or if the Magistrate who may be in Mauritius is incapacitated from acting, then such jurisdiction shall be exercised by one of the District Magistrates of Port Louis, in civil and criminal actions, and by the Stipendiary Magistrate of Port Louis, in stipendiary matters.

The Magistrate, when exercising any jurisdiction under this or any other Article, in Port Louis, shall hold his Court in the Stipendiary Court of Port Louis or in such other place as the Governor may appoint, and he shall have for the purpose of exercising this jurisdiction all the powers of a District or Stipendiary Magistrate acting as such in Mauritius, as the case may be.

Attendance of witnesses in Mauritius.

22. The Magistrate shall have power to make all orders, and to take all necessary measures to secure the attendance before the Supreme Court of Mauritius of all the witnesses on any Island who are required to be heard against or in favour of any offender committed by him for trial.

Magistrate may take evidence *de bene esse*.

23. (1) The Magistrate shall have power to summon before him, and to take the evidence on oath of, any person in the Islands whenever such evidence is required in any case pending before any Court in Mauritius or Seychelles, and such evidence taken *ex proprio motu* in cases of which he may take cognisance, or, in other cases, on the request of any Judge or Magistrate before whom such case is pending, shall be held to be evidence taken *de bene esse*.

(2) The Magistrate shall have the same power, acting *ex proprio motu*, with regard to evidence required in any case within his jurisdiction, and

he shall have power whenever he deems it expedient to try such cases partly in Mauritius and partly in the Islands.

Magistrate to perform duties of clerk.

24. (1) The Magistrate is empowered to perform within the said Islands the duties performed by a District or a Stipendiary Clerk in Mauritius.

(2) When the Magistrate exercises any jurisdiction under this Ordinance in Mauritius, it shall be lawful for the Governor to depute any district or stipendiary clerk to act as such in the Court in which the Magistrate holds his sitting.

Register of judgments &c.

25. The Magistrate shall keep a register in which shall be entered a note of all orders, judgments and executions and of all other proceedings by him given, issued or taken; and the entry in such register, or a true copy thereof signed by the Magistrate, shall at all times be admitted as evidence of such entries and of the proceedings referred to in such entry and of the regularity of such proceedings without further proof.

Execution of judgments.

26. It shall be the duty of the District Clerk of Port Louis, whenever fines inflicted or monies ordered to be paid by the Magistrate aforesaid have not been received or paid in the said Dependencies, to issue a warrant of execution under the seal of the District Court, for the execution in this Colony or in the Dependencies of the order, judgment, or conviction left unexecuted, and such warrant shall issue on production to such District Clerk of a copy certified by the Magistrate to be a true copy of the original entry in the register aforesaid of the order, judgment or conviction.

Lodging to be furnished.

27. In all the Islands the proprietors shall be bound to furnish their labourers with good and sufficient lodging, having sufficient air-space to afford four hundred cubic feet of air for each adult and child above ten years of age, and two hundred and fifty cubic feet for each child under ten years of age, with

a floor space of at least 10 feet by 5 for each adult and child above ten years of age, and half that amount for each child under ten years of age.

The Manager shall be bound to see that the camp is kept clean and in good order.

Register of camps to be kept. A register shall be kept of the houses and huts in the camp by the Manager showing their dimensions and number of persons inhabiting them.

List of task-work to be posted up. 28. A list of the task-work shall be drawn up by the Manager and posted up in the place where the rations are issued on the Islands, and a copy kept at the office of the owners or owners' agents in Mauritius, who shall produce the same before the Stipendiary Magistrate before whom the labourers are engaged. In this list the nature and duration of the *corvée* required from the labourers shall be specified.

"Corvée" and "field labour". "Corvée" and "field labour" shall be subject to the provisions of Articles 111 and 112 of the Labour Law, 1878.

Hospital to be provided. 29. (1) A hospital shall be constructed on each Establishment which shall be in charge of the manager who shall employ a competent warder paid by the owners.

The hospital shall contain at all times accommodation and beds or other sleeping places for at least the following proportion of servants; namely, 40/0 on the number of servants engaged at the time: provided that in no case shall the hospital contain beds or sleeping places for fewer than four servants.

The hospital shall be constructed so as to contain one thousand cubic feet per bed, and to afford a floor space of 12 feet by 6 feet for each bed.

(2) Separate accommodation in the hospital shall be provided for women on the Island; one quarter of the number of beds as above provided being set apart for that purpose.

Power of imprisonment by Manager.

30. (1) In order to secure order and the proper and peaceful behaviour of the labourers in camps, it shall be lawful for the Manager of any of the Islands to imprison for a period not exceeding six days labourers who are guilty of insolence and insubordination. He shall also have the power to detain those who are disturbing or threatening to disturb the public peace, until the danger of disturbance is over.

(2) For the purposes mentioned in the preceding paragraph, a proper prison shall be provided on such Establishment of such dimensions as to afford four hundred cubic feet of air-space and 10 feet by 5 of floor-space for each person confined therein. In this prison there shall be a separate room for the women.

Power of fining by Manager.

31. In cases of petty praedial larcenies the Manager shall have power to inflict a fine not exceeding 10 Rupees.

Record of each imprisonment to be kept.

32. The Manager shall be bound to record in a book each case of fine or imprisonment with the causes and circumstances thereof, which shall be submitted to the Magistrate on his next visit. The Magistrate shall have power to remit or approve such fines, and to approve the imprisonment. If he is of opinion that the imprisonment was not justified, he shall have power to award compensation to the labourers.

Nothing herein contained shall in any way interfere with the power of the Procureur General to prosecute criminally in case of need.

Penalty for breach of Regulations.

33. Any breach of this Ordinance not otherwise provided for shall be punished by a fine not exceeding 100 Rupees, and the Magistrate may also pronounce the cancellation of the engagement of the labourer to the prejudice of whom such breach has been committed.

Manager to be agent of owners.

34. In all matters in connection with the engagement, and in all judicial proceedings arising thereunder, the

Manager shall be held to be the agent of the owners, and such owners may sue and be sued through such agent.

Civil Status registers. 35. Subject to the provisions of Article 7 of Ordinance No. 26 of 1890, the Civil Status Officers in each Island shall keep all Civil Status Registers in duplicate, in such manner as may be provided by the Registrar General. One of the duplicates shall be forwarded to the Registrar General after examination by the Magistrate as hereinafter provided.

(2) The Magistrate shall, on each visit to any Island, examine, inspect and verify the said Registers, making a note of such examination in the margin of each act, and report thereon to the Registrar General. He shall further have power, *ex proprio motu*, to order the rectification, amendment or annulment of any act, reporting his action in any case to the Ministère Public, who shall have power to refer the matter for subsequent order to the Supreme Court.

(3) The Magistrate shall on his next visit to every Island examine the entries in the existing Registers made since the coming into force of the Civil Status Ordinance 1890, reporting thereon to the Registrar General, after taking such action as he is empowered to take by paragraph (2) of this Article as the circumstances of each case may require.

Legal assistance to servants by Protector. 36. The powers vested in the Protector of Immigrants with regard to servants and immigrants in Mauritius by Articles 22, 23 and 24 of the Labor Law, 1878, shall be exercised by the "Ministère Public" with regard to all servants in the Islands.

Power of Governor. 37. The powers given to the Governor in Executive Council under Article 284 of the Labor Law 1878, shall apply *mutatis mutandis* to the Islands.

Medical inspection. 38. The Governor shall have power to order the inspection by a duly qualified medical

man of any one or more of the Lesser Dependencies, and such medical inspector shall be entitled to a free passage to the Island to be inspected and his subsistence while on duty there.

Duty of Collector to withhold clearance, when.

39. It shall be the duty of the Collector of Customs before giving clearance to any vessel bound for the Islands, in addition to any duties in respect of clearance imposed by the Merchant Shipping Act, 1894, to ascertain whether the labourers on board other than artisans are all under written contract : and to refuse clearance until the fact is established to his satisfaction.

Power to make Regulations.

40. The Governor in Executive Council shall have power to make Regulations, which shall be laid on the Table of the Council, with respect to—

i. the employment of labourers on the Islands or in any one of them, their rates of pay, rations, tasks, hours of labour, hospital treatment, supply of medicines, passages to and from the Islands ;

ii. the general conduct of the shops on the Islands, and the weights and measures to be used therein ;

iii. the prevention and removal of nuisances and all matters relating to the public health, and such measures as may be necessary to facilitate the sanitary administration of the Islands: and to impose penalties for any breach thereof not exceeding 1,000 Rupees.

Extension of District Court Ordinances.

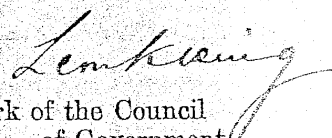
41. The District Court Ordinances, namely; Ordinances Nos. 21, 22 and 23 of 1888, and all Ordinances amending the same, are extended to the Islands, in so far as they may be applicable, or have not been modified by the provisions of this Ordinance, and the Governor in Executive Council shall have power to make Regulations which shall be laid on the table of the Council, analogous to the Rules of Court, for the purpose of regulating the procedure under the said Ordinances.

Repeal. 42. The following enactments are repealed:

Ordinance No. 5 of 1872.
" No. 41 of 1875.
" No. 62 of 1898-99.
" No. 3 of 1901.

Government Notice No. 124 of 1877,
and so much of Ordinance No. 11 of
1870 as remains unrepealed.

Passed in Council at Port Louis,
Island of Mauritius, this twenty-ninth
day of March, One thousand nine
hundred and four.


Clerk of the Council
of Government

Came into force on 7th July 1904
(see Proclamation 30 of same date)

Annex 10

Maurice Rousset, Acting Magistrate for Mauritius and the Lesser Dependencies, *Report of Mr. Magistrate M. Rousset on the Chagos Group* (19 June 1939)

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MAURITIUS

No. 9

Government House,

Port Louis,

14th January, 1940.

13 FEB 1940

C. O. REGY

Sir,

I have the honour to transmit to you the accompanying copy of a report from Mr. Maurice Rousset, Acting Magistrate for Mauritius and the Lesser Dependencies, on a visit which he made to Diego Garcia, Peros Banhos and Salomon Islands in May 1939. These Islands were last visited in October, 1938 and the Magistrate's report on that visit was forwarded with my despatch No. 47 of the 3rd February, 1939.

2. The local Agents of the groups of Islands visited have been furnished with copies of the various portions of the Report which require attention.

3. A copy of paragraph 3 of the Magistrate's General Remarks regarding Health and Sanitation was communicated to the Director of the Medical and Health Department who reports that it will not be possible to arrange for the Dispenser-Stewards of the Islands to undergo a course of practical instruction in the duties of Sanitary Inspectors. The name of a suitable text book, a study of which it is considered will enable them to dispose of all normal sanitary problems, will be communicated/

The Right Honourable

MALCOLM MACDONALD, P.C.,

Secretary of State for the Colonies.

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- 2 -

be communicated to the Companies and it is hoped to encourage the development of sanitary knowledge in the islands.

4. The Comptroller of Customs and Harbour Master comments in the following terms on the observations made by the Magistrate in paragraph 7 of the General Remarks in regard to the S.S. "Zambezia":-

- "(i) Since the visit of the Magistrate to Diego in May 1939, the S.S. "Zambezia" has made more than a dozen voyages and is still afloat.
- (ii) The leak mentioned was due to a slack rivet which was made good on the return trip of the steamer from Diego Garcia".

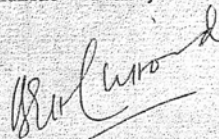
Mr. Doyle adds that in accordance with Board of Trade rules the hull of every vessel is surveyed annually in dry dock.

I have the honour to be,

Sir,

Your most obedient,

humble servant,



Governor.

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ENCLOSURE TO MAURITIUS DESPATCH No 9 OF 4.1.40

Report of Mr. Magistrate M. Rousset on the
Chagos Group.

- Departure. 1.- In compliance with instructions received from the Hon. Procureur General, I left Mauritius on 22.5.39 on board S.S. "Zambezia", 879 tons register. A. Nicolin, master, M. Ross, Mate.
- Arrival. 2.- I arrived at Pointe de l'Est, Diego Island, on 29/5, in the early morning.
- Last visit. 3.- Diego Island had been last visited by Mr. Magistrate M. Lavoipierre in October, 1938.
- Manager. 4.- Mr. Lois Dumee. Assistant Mr. Charoux.
- Population. 5.- On my arrival the population consisted of 157 men, 177 women, 82 boys and 74 girls.
- Civil status. 6.- The Civil Status registers examined by me showed that from October 1938 to June 1939, 10 births have been registered.
- Deaths. 7.- 12 deaths have been registered during the same period.
- Still births. 8.- Two still births were registered.
- Marriages 9.- Five marriages have been celebrated since last visit.
- Causes of death. 10.- Causes of death were registered to be: Pneumonia (2); Dysentery (1); Septicaemia (2); Intestinal Haemorrhage (1); Infantile debility (1).
- Remarks. 11.- As a whole I found that the Civil Status registers were kept in a fairly good way. I had to correct or rectify only two acts.

12.-

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● Live stock. 12.- As far as could be ascertained at the time of my visit the animals numbered 60 asses, 40 horses, 68 pigs and poultry.

On all the Islands I visited fresh meat is sold to the population at least once a week at about 0.25cs per lb.

Prison. 13.- I visited the prison building which I found clean. Invariably all the buildings on these islands are given a fresh coat of paint in expectation of the Magistrate's arrival.

An enquiry revealed that in all cases prisoners confined in the cells have received treatment as provided by law. I examined the prison register and approved of various sentences of imprisonment inflicted by the Manager. 3 cases of disturbance (quarrel in camp) and one case of insubordination were dealt with and the delinquents were sentenced to undergo short terms of imprisonment ranging from one to six days' imprisonment. I have been satisfied that in no case the Manager abused his powers.

Administration of justice. 14.- I received only one complaint. On the morning of our departure a labourer complained to me that his shed had been broken open and various articles (rice, utensils etc) had been stolen. In spite of close searches made under my own supervision and guidance no satisfactory evidence could be gathered.

The victim of this larceny had come from a camp situate at about 5 miles from the main establishment for purposes of loading the ship. I urged on the

Manager /

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-3-

manager the necessity of having a watchman to keep constant watch of uninhabited huts during absence of their occupants at work else such occurrences would be bound to recur. A labourer was suspected of being the author of the larceny; it appeared that he had been dismissed from service some time ago for gross misconduct and had managed to return on the island by some means or other. As the presence of this man on the island was a source of trouble to the manager and to his fellow labourers he was ordered to return to Mauritius.

Hospital

15.- The hospital was clean and well kept and was under the care of a new warder. I visited the hospital daily and paid close attention to the work done by the dispenser whom I found efficient and industrious. It was a moving sight to see ^{few} ~~new~~ centenarians coming every afternoon to rest in the hospital bed when they are given tea; one of them was suffering from "cataract"; in spite of all persuasive argument and solicitations the old man refused obstinately to come to Mauritius when I tried to convince him that he could successfully be operated upon. He refused, saying that he preferred to die on his island and be buried together with his wife.

Register.

16.- The hospital register was kept up to date and showed that from October 1938 to June 1939, 88 patients were admitted for treatment, the commonest diseases being influenza, ankylostomiasis (amongst adults) dysentery.

17.-

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+ Another 637 bags

-4-

Pharmacy 17.- At the time of my visit the value of medicine and drugs in stock was reckoned to be about Rs.400 worth. Another Rs.135 worth were just landed. The surgical and other instruments were in a good state of preservation.

Shop. 18. The shop was abundantly stocked. The value of goods in stock at the date of my arrival amounted to Rs.14,802,90cs to which must be added another Rs. 6,895,06cs worth of other goods just landed. I checked the invoices, the weights and measures which I found correct. I also examined the price list and caused an error to be corrected in the case of retail price of Gold Flake cigarette tins.

Rice. 19.- The stock of rice on my arrival was 536 bags, were received by S.S.Zambezia. The rice was of good quality. The average monthly consumption was given to be 100 bags.

Wages. 20.- The total amount of wages received by the labourers from October 1938 to May 1939 has been Rs.20,500,79 cs.

Extras 21.- The extra sums paid during the same period amounted to Rs.2,579,72cs.

Destruction of rats. 22.- Extras paid for the destruction of rats have been Rs.554.37cs. About 32,000 of these rodents are killed yearly.

Capture of turtles. 23.- The sums paid for the capture of turtles amounted to Rs.123.

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Savings Bank. 24.- The sum of money deposited in the hands of the manager amounted to Rs.2,152,25cs.

* *

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POINTE MARIANNE

25-Diego Island comprises two establishments for purposes of facilitating and dividing the work, the one at Pointe de l'Est being the main establishment, the other being at Pointe Marianne, situate on the other side of the bay, at a distance of about two miles. On my arrival the manager of this establishment received order to go to Peros group and was replaced by Mr. A.Talbot.

About 15 or 20 men are employed and reside on this establishment.

26.- I found the camp in a state of abandonment and the house threatening ruin and an imminent fall. Most of them were supported by poles. I urged on the new manager that such a state of matters should not be allowed to obtain and that the houses should be attended to immediately. I also impressed on the manager the necessity of sending the dispenser of ^{Peros de l'Est} Diego establishment at least once a week to Pointe Marianne where labourers would consult him.

PART II

Peros Banhos Group.

Arrival.

27.- I left Diego Island on the 2nd of June last and reached Peros on the next day.

The headquarters of this group are on Ile de Coin which is at a distance of about 130 miles from Diego Garcia.

28.-

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Manager. 28.- Mr.W.Thatcher, Assistant H.Rambert.

Population 29.- On my arrival the population numbered:-
 Males ... 100 Adults ... 73 boys
 Females... 89 Adults ... 78 girls
 3 men, 3 women and 3 children arrived by S.S.Zambezia.

Civil Status 29.- The Civil Status registers examined by me showed that from October 1938 to June 1939 -
 Births 13, 1 still birth and 4 deaths were registered.

Cause of death 30- The causes of death were reported to be Bronchitis, nutritis and tetanus.

Marriages. 31.- No marriage was celebrated since last visit.

Hospital 32.- I examined the hospital building which I found very clean. Some bed sheets were old and torn; the dispenser Mr. K.Zelia told me he had ordered a new set.

The surgical instruments were clean and neat. The register was kept up to date ^{and showed that from October 1938 to date of} my visit. 23 persons were admitted for treatment. The diseases treated including cases of lying-in were abdominal pains, wounds of minor character, abscesses, dyspepsia, hepatitis, fractures, influenza, lumbago, nutritis and rheumatism. The midwife attached to the hospital was suffering from tuberculosis and had to go back to Mauritius, in the meantime the dispenser's wife is performing her duties with even more competency.

Pharmacy. 33.- The pharmacy was well stocked at the date of my arrival, the value of drugs etc in stock was about Rs.500. Another Rs.84 worth of medicine arrived by S.S.Zambezia.

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Prison 34.- The prison building was clean. Since last visit in October 1938, only one labourer was sentenced to undergo 55 hours imprisonment for plundering coco nuts. I duly signed the prison register and approved of the sentence inflicted.

Administration of Justice. 35.- I received no complaint during my stay.

Shop 36.- The shop was fairly well stocked. At my arrival the value of goods in stock was Rs.8,571,62cs. About Rs.3,492,90 worth of goods were just landed. I duly checked the invoices and price list and tested the weights and measures which were found correct.

Rice 36.- The stock of rice was 273 bags to which was to be added 155 bags just landed. The average monthly consumption was given to be about 48 bags.

Sales 37.- Rs.9,653,85cs value of goods have been sold from October 1938 to April 1939.

Camp 38.- I visited the camp which I found in a fairly good state of repair.

Live stock 39.- As far as could be ascertained the animals on the island were 50 asses, 130 pigs and poultry.

Wages. 40.- The net total amount of wages paid to the labourers from October 1938 to May 1939 have been Rs.11,078, 15cs. The pay book was checked at random with the attendance book and found correct.

Extras 40.- The extras paid for the same period were Rs.1253,25 cs
Capture of turtles 41.- Since last visit 84 turtles were captured and labourers received a total of Rs.420, making Rs.5 per turtle captured.

41.-

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Savings Bank

42.- The sums deposited in the hands of the Manager amounted to Rs.948,56cs.

Exports

43.- The following have been the exports of the island from October 1938 - 328 vells of oil, 568 tons of coprah and 74 kgs of tortoise shell.

Remarks

44.- The population of this island struck me as being the most docile and disciplined of the whole lot. The manager is a young and efficient man who is most liked by his subordinates.

* *

*

PART IIISalomon Islands.Departure

45.- We left Peros Island on the 3rd of June and arrived at Salomon group on the next day. The distance between the two groups is about 30 miles. Our stay on this island was much prolonged on account of a flat calm which delayed the loading and unloading operations.

Manager.*Population*

46.- On my arrival the population numbered:-
 Males 80 Adults ... 47 boys
 Females 66 Adults ... 46 girls

Civil Status

47.- The Civil Status registers examined by me showed that during the period starting from October 1938 to June 1939 -

Births ... 6) were registered
 Deaths ... 4)
 4 marriages

A/

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-9-

A few errors or omissions in certain entries were set right.

Wages. 48.- The total amount of wages paid to the labourers, after lawful deductions made amounted to Rs.8,789,25cs. The pay book was checked and found correct.

Extras 49.- The amount paid for extras since last visit was Rs.589,52cs and a further sum of Rs.55 for capture of turtles.

Savings Bank 50.- At the time of my visit the sums deposited in the hands of the manager amounted to Rs.1,730,23cs.

Shop. 51.- The value of the articles in stock at the time of my visit was Rs. 2235,36cs. Another 4,199,43cs worth of goods was just landed. The weights and measures were tested and found correct.

Rice 52.- The stock of rice was 187 bags. 128 bags were just landed. The monthly consumption is about 55 bags.

Hospital. 53.- The hospital was clean. The surgical instruments were in good condition. The dental instruments being rusty. I recommended their renewal. I examined and signed the register which showed that since last visit 11 patients were admitted for treatment. Out of this number 6 women were admitted to be delivered of child; the 5 others were suffering from bronchitis, wounds of minor character and intestinal obstruction.

The midwife was dismissed towards the end of last year and pending the arrival of a duly registered midwife from Mauritius she is replaced by a female labourer.

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I have been told that great difficulty is experienced in finding competent midwives to work on the island on account of the unattractive pay they receive, Rs.12 per mensem, I believe.

When I last visited this island in 1936, I had been most ^{unfavourably} ~~unfortunately~~ impressed by the look and unhealthy appearance of the children. I record my appreciation of the good work performed by the dispenser, Mr. Madeleine, who has succeeded in eliminating ankylostomiasis by generous distribution of "chenopod" and "ricin" oil. Only a few adults are now suffering from this disease which has worked so much havoc in the past amongst the inhabitant.

Cause of death. 54.- The cause of death was reported to be Bronchitis, Intestinal obstruction.

Pharmacy. 55.- The value of medicine, drugs etc in stock at time of my visit was about Rs.300. Another Rs.154.55 worth was just landed.

Live stock. 56.- As far as could be ascertained the animals on the island were:

60 pigs, 7 horses, 24 asses, poultry, 10 ~~sheep~~,
1 cow, 2 bulls and 2 heifers.

Camp. 57.- I visited the camp which I found very clean and well kept.

The camp has been rebuilt entirely on modern lines and the wooden houses look pretty and comfortable.

Administration of Justice. 58.- I dealt with two cases during my stay. One was a case of attempt at wounds and blows on the person

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of a ~~commandeur~~ (one local sirdar). Being given the trifling nature of this offence and the particular circumstances of this case I sentenced the accused to pay a fine of Rs.5, with costs. The evidence adduced disclosed that on the occasion of the new year the male population indulged in prolonged libations in the course of which a quarrel broke out between victim and the accused.

The second case was one of wounds and blows inflicted by a labourer on his paramour. He pleaded guilty and was fined Rs.10, with costs. These amounts have been handed to the Assistant District Clerk II Ind Division to be paid to the Treasury.

Prison.

59.- The prison building was clean. The prison register showed that since last visit no sentence had been inflicted by the manager.

Exports

60.- Since last visit 387 tons of coprah have been exported.

* *

*

PART IV

Six Islands.

61.- Only recently there used to be a permanent establishment on this small group.

As it proved too costly the Company has decided to close it down, as a separate establishment. It now depends on Solomon group for purposes of control and administration. At the time of my visit there were 8 men working on these islands: I met them on their return to Salomon Islands; all were content and happy.

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- 12 -

A nice little vessel plies every month between the islands and bring the labourers back to their headquarters where they received their pay and rations.

* *

*

PART V

General Remarks.

This time, a good weather permitting I availed myself of every opportunity afforded to me to collect as much material on matters connected with the well being of the islands and the welfare of the inhabitant.

Much praise is due to Reverend Father R. Dusserole for his good and generous work for the moral and spiritual welfare of the labourers on the islands.

From the day of the arrival of the ship up to very day on which she leaves this kind-hearted and very zealous missionary is to be seen constantly and freely mixing with the labourers of the island with a view to making them profit by benefit of christian teaching.

It is in no small measure due to his excellent work on the islands that discipline and well behaviour of the labourers is so good.

Work 1.- Boys and girls start to work at the age of 15.

Until they are physically strong enough to perform the work of adults, they are given same work as female labourers. The men, women and children camp on islands adjourned to the main island where they are provided with decent sheds, rations and water. The female/

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female labourers and the younger ^{population is employed} on clearing work; the task set ~~out~~ is 10 "gaulettes" (of 10 feet each) per day. The task of the men consists in collecting and husking from about 500 to 600 coco nuts per day. A good worker can collect and husk about 1000 nuts per day and thus earn extra wages.

The men earn R.3 per mensem for their task; the boys and women get Rs.6. A bonus of R.1 per mensem is given to those who work full time. Those other labourers who stay permanently on the main establishment also collect and husk nuts and are otherwise employed in the manufacture of coprah.

Those rendered unfit for labour by age or illness are given a pension of Rs.3.- per mensem and also receive rations.

Oarsmen

2.- There are two teams of oarsmen on each island (main). They ply every day between the main establishment and the adjoining islands to carry ^{nuts} across the lagoon. Their tasks consists in carrying 3000 nuts per day; an average of 5000 is easily carried. The boats used by them are locally made by competent marine carpenters and are of remarkable build. Except for a certain season of the year the sea is generally smooth.

From what I saw an average worker may easily earn Rs.20 per mensem. When the earnings of the wife and children are added to that of the head of the family the amount is more than sufficient to keep the whole family comfortably.

Health and sanitation.

3.- On the whole the population on the island is now very healthy. The men are of a fine and strong build

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especially at Peros and Solomon islands where most of them have been born. An ill-defined disease had prevailed until recently and was commonly termed "guim-guimbe"; the people suffering from it felt weak in the limbs and were slack at work. About two years ago Dr. Barbeau visited the islands at the request of the agent in Mauritius and he came to the conclusion that this disease was the "digue" fever, well known in Mauritius. He prescribed tonics and the consequential result is that now this disease has disappeared. I was also pleased to find that ankylostomiasis had almost been eliminated. This gratifying state of affairs can only be maintained by constant supervision on the part of the dispenser who should take preventive measures and ~~to~~ exert sanitary control.

The state of things would be made better if the dispenser stewards were subjected to a special training and underwent a course of practical instruction in the duties of sanitary inspector; they would then be in a position to give reliable advice on sanitary subject and disseminate the knowledge of elementary hygiene practice. Almost all confinements were conducted in the hospitals. The dietary in hospitals consists of chicken, bread, tea, milk and sago.

Water.

4.- The water collected from wells in the camp is of good quality; up to the present day there has been no outbreak of disease attributable to water-born infection. I think it would be unnecessary to impose on the company to provide each hut with its own water

*This is
said to
be
digue
by 67*

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saving cistern; the population would not use them.

Agriculture.

5.- Vegetables obtainable all the year round are "langue de vache", pumpkins and bredes. There are also plenty of bananas and lemons. Each hut is provided with a small garden but unfortunately the labourers, all of negro stock are reluctant to till the soil. This voyage a mission of scientists composed of Messrs Guerandel and P.O.Wiehe and F.E.Lionnet visited the island at the request of Mr. B.Lionnet the agent in Mauritius. I have no doubt that their report, especially on the more practical subject, will result in most beneficial effect. For instance use of guano available on the island would bring the soil into a state of greater fertility and gardens would maintain a steady supply of vegetables.

Milk supply.

6.- As a result of recommendations made in 1933 relative to experiment in the raising of dairy cattle there exist at present on Solomon Island one bull, one cow and two heifers. The cow, at the time of my visit, was giving about 8 bottles of milk daily. I congratulated the Government Veterinary Surgeon, Dr.F.E.Lionnet for the care and pains taken by him in order to supply the island with fresh milk. During last visit he supplied to the manager all possible information concerning the feeding of the animals. I had long talks with this officer on the subject of rearing cattle on the islands and he told me that after careful investigation he thought that the conditions prevailing on them would render them suitable sites for breeding centres. I have always thought

among 239 people

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that the question of fresh milk supply should be one of the aims of a competent manager. I was pleased to see that the milk supply at Solomon Island was sufficient enough to allow of milk being sold at a very reasonable price to the inhabitants.

Arrival.

7.- I left Diego Island on the 14th of June and arrived at Port Louis on the 20th instant.

Soon after we had left Diego harbour a leak was detected. It seems as if that before the boat is allowed to proceed out to sea a sufficient examination of its hull is not made with the result that on any one of these trips a disaster may occur.

Before concluding my report I beg to report my appreciation of the courtesy extended to me by the manager, the agent in Mauritius, Mr. Richard Lionnet as well as by the captain, officers and other members of the crew.

19th June, 1939.

(sg) Maurice Rousset
Ag. District Magistrate
Lesser Dependencies.

Annex 11

The Atlantic Charter (14 Aug. 1941)

Atlantic Charter

AUGUST 14, 1941

The President of the United States of America and the Prime Minister, Mr. Churchill, representing His Majesty's Government in the United Kingdom, being met together, deem it right to make known certain common principles in the national policies of their respective countries on which they base their hopes for a better future for the world.

First, their countries seek no aggrandizement, territorial or other;

Second, they desire to see no territorial changes that do not accord with the freely expressed wishes of the peoples concerned;

Third, they respect the right of all peoples to choose the form of government under which they will live; and they wish to see sovereign rights and self government restored to those who have been forcibly deprived of them;

Fourth, they will endeavor, with due respect for their existing obligations, to further the enjoyment by all States, great or small, victor or vanquished, of access, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity;

Fifth, they desire to bring about the fullest collaboration between all nations in the economic field with the object of securing, for all, improved labor standards, economic advancement and social security;

Sixth, after the final destruction of the Nazi tyranny, they hope to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all lands may live out their lives in freedom from fear and want;

Seventh, such a peace should enable all men to traverse the high seas and oceans without hindrance;

Eighth, they believe that all of the nations of the world, for realistic as well as spiritual reasons must come to the abandonment of the use of force. Since no future peace can be maintained if land, sea or air armaments continue to be employed by nations which threaten, or may threaten, aggression outside of their frontiers, they believe, pending the establishment of a wider and permanent system of general security, that the disarmament of such nations is essential. They will likewise aid and encourage all other practicable measure which will lighten for peace-loving peoples the crushing burden of armaments.

Franklin D. Roosevelt

Winston S. Churchill

Annex 12

Governor of Mauritius and the Council of Government, *Courts Ordinance No. 5, 1945* (3 Mar. 1945)

ORDINANCE No. 5 OF 1945

11

The Courts Ordinance, 1945.

Ordinance No. 5 of 1945

*I assent,**in force as from
7/3/45*

DONALD M. KENNEDY,

*Governor.**28th February, 1945.*An Ordinance to consolidate and amend the law relating to the
Organisation and Jurisdiction of Courts of Law in Mauritius*vic. Ord. n.
61/45
21/47*

[3rd March, 1945].

*30/4/47*BE IT ENACTED by the Governor, with the advice and
consent of the Council of Government, as follows—

PART I—PRELIMINARY

1. This Ordinance may be cited as the Courts Ordinance, 1945. Short title.
2. In this Ordinance unless the context otherwise requires— Definitions.
 "Bench" means a Bench of three Magistrates.
 "Chief Justice" means the Chief Justice of the Supreme Court of Mauritius.
 "Curator" or "Curator-Accountant" means the Accountant in Bankruptcy and Curator of Vacant Estates.
 "Judge" means any one of the Judges of the Supreme Court and includes the Chief Justice.
 "Law Officer of the Crown" means the Procureur General or any of his Substitutes.
 "Lesser Dependencies" means the islands of Diégo Garcia, Agaléga, Péros Banhos, Saint Brandon group, Salomon Islands, Six Islands, Trois Frères (including Danger Island and Eagle Island).
 "Magistrate" means a District Magistrate appointed under the provisions of this Ordinance.
 "Master" means the Master and Registrar of the Supreme Court.
 "Registrar" means the Master and Registrar of the Supreme Court.

The Courts Ordinance, 1945.

Seal.

82. Every District Court shall have a seal and all summonses and other process issuing out of the said Court which may be required to be under seal, shall be sealed with such seal.

Governor
may appoint
Magistrates
in Mauritius
and the
Dependenci-
es thereof.

83. It shall be lawful for the Governor to appoint as many fit and proper persons as may be needed to be Magistrates for Mauritius and the Dependencies, and every person so appointed shall by virtue of such appointment have and may exercise jurisdiction as a District Magistrate in each and every district of the Colony and as Magistrate of the Dependencies, subject to the provisions of section 87 :

Provided that he shall exercise such jurisdiction only in such district or districts or in such Dependencies as may be assigned to him by the Governor.

R
Qualifica-
tions of
Magistrates.
6/30/47

84. No person shall be eligible for appointment to the office of District Magistrate unless he be a barrister or advocate admitted to practice in one of the Superior Courts of the United Kingdom and of at least five years standing at the Bar.

Disqualifi-
cation of
Magistrates.

85. No Magistrate so long as he holds office as such, shall do any other work or hold any other office, whether for or without remuneration, without the instructions or permission of the Governor.

Assignment
of Districts
etc., to
Magistrates.

86.—(1) The Governor may, on the recommendation of the Chief Justice, assign a district or districts to any Magistrate for Mauritius and the Dependencies, or may direct such Magistrate to act in any other district instead of, or in addition to any district or districts already assigned to him, or may direct such Magistrate to hear and determine any case civil or criminal or make enquiry into any crime out of any district or districts already assigned to him, or to take, follow-up and determine any case, cause, enquiry or proceeding begun before another Magistrate or otherwise to act in lieu and place of another Magistrate.

Dismissed
7/1/50/47

Substituted
(2) advised

(2) The Governor may assign the Island of Rodrigues or the Lesser Dependencies to any Magistrate for Mauritius and the Dependencies.

4 (3) Any Magistrate assigned the Lesser Dependencies shall have and exercise the same rights, duties, powers, and jurisdiction as any other District Magistrate and shall, in addition thereto, perform such administrative or other duties as may be allotted to him by the Governor.

5 (4) Any such instructions from the Governor shall be communicated by the Chief Justice in writing and shall further (except an order to hear and determine a case, to make an enquiry, or to continue a case begun by another Magistrate) be notified in the *Government Gazette*.

ORDINANCE NO. 5 OF 1945

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The Courts Ordinance, 1945.

87. Whenever two or more Magistrates have been appointed to any District, it shall be lawful for the Governor by Proclamation to declare that the Court for the District shall sit in two or more Divisions, as the case may be, and the names by which such Divisional Courts shall be designated. Divisions of District Courts.

88. In Port Louis the District Court shall sit in two Divisions, to deal with civil and criminal matters, designated as the "First Division" and the "Second Division" of such Court respectively. Division of Port Louis District Court.

89. Flat Island and Gabriel Island, for the purposes of this part of this Ordinance, shall not be considered dependencies of Mauritius but shall be deemed part of the District of Rivière du Rempart as if the said Islands formed part of the shore of Mauritius within the said district. Flat Island and Gabriel Island.

90.—(1) The language of all District Courts shall be English, but any person may address the Court in French. Whenever any person giving evidence satisfies the Court that he does not possess a competent knowledge of the English or French language, he may give his evidence in the language with which he is best acquainted. Language and interpretation.

(2) Whenever any person appearing before the Court gives his evidence in a language other than English or French, the proceedings, if the Magistrate so directs, shall be translated in Court into that language.

91. In every case or matter heard before the Court of a District Magistrate, the Magistrate shall take down in writing the oral evidence given before the Court. Recording of evidence before District Magistrate's Court.

92.—(1) As many proper persons as are needed may be appointed by the Governor to be clerks and interpreters for the District Courts. Such officers shall be deemed appointed for the whole Colony and may be removed from one District Court and ordered by the Chief Justice to act in any other District Court or Courts. Appointment of clerks and interpreters.

(2) The senior or principal clerk attached to a District Court shall be called the District Clerk of such Court, but every Clerk or Assistant Clerk shall have the same powers as the District Clerk and may perform any act which the law may require the District Clerk to perform :

Provided that the Magistrate, with the approval of the Chief Justice, may issue directions as to the distribution of business among such officers.

(3) All such officers shall on their first appointment take the oath of allegiance and the official oath, but not the judicial oath.

93. All interpreters attached to District Courts shall be deemed to be and on an order of the Magistrate may act as clerks attached to the District Courts of which they are interpreters. Interpreters may be called upon to act as clerks.

Annex 13

The Mauritius (Legislative Council) Order in Council, 1947 (19 Dec. 1947)

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MAURITIUS

THE MAURITIUS (LEGISLATIVE COUNCIL) ORDER IN
COUNCIL, 1947

AT THE COURT AT BUCKINGHAM PALACE

The 19th day of December, 1947

Present

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

WHEREAS by the Mauritius Letters Patent, 1947, (hereinafter called "the Letters Patent of 1947") it is provided that the Council of Government constituted by the Letters Patent mentioned in the First Schedule to the Letters Patent of 1947 shall cease to exist, and that, in place thereof, there shall be such Legislative Council in and for the Colony of Mauritius as may be constituted by any Order of His Majesty in Council, with such functions as may be prescribed by any such Order:

AND WHEREAS it is expedient to make provision accordingly for the constitution and functions of a Legislative Council for the Colony of Mauritius:

NOW, THEREFORE, His Majesty, in the exercise of the powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows—

PART I

Preliminary

Interpretation.

1.—(1) In this Order and the Schedules, unless the context otherwise requires—
“the appointed day” means the day appointed under Article 2 of the Letters Patent of 1947;

“the Colony” means the Island of Mauritius (including the small islands adjacent thereto) and the Dependencies of Mauritius;

“the Council” means the Legislative Council of the Colony constituted by this Order;

“election” means the election of Elected Members and “elector” and “electoral register” have corresponding meanings;

“the Council of Government” means the Council of Government constituted by the existing Letters Patent;

“the existing Letters Patent” means the Letters Patent mentioned in the First Schedule to the Letters Patent of 1947;

“the Executive Council” means the Executive Council constituted by the Letters Patent of 1947, or any Letters Patent thereafter amending, or substituted for, those Letters Patent;

“the Gazette” means the *Government Gazette* of the Colony of Mauritius;

“the Governor” means the Governor and Commander-in-Chief of the Colony and includes the officer for the time being administering the Government and, to the extent to which a Deputy for the Governor is authorized to act, that Deputy;

“the Governor in Council” means the Governor acting with the advice of the Executive Council, but not necessarily in accordance with that advice nor necessarily in such Council assembled;

“Member” means a Member of the Council and “Nominated Member,” “Elected Member” and “Temporary Member” mean, respectively, a Nominated, an Elected Member and a Temporary Member of the Council;

“public office” means, subject to the provisions of sub-section (5) of this section, any office of emolument under the Crown in the Colony or under a Municipal Corporation within the Colony;

“the Public Seal” means the Public Seal of the Colony;

“session” means the meetings of the Council commencing when the Council first meets after being constituted under this Order, or after its prorogation or dissolution at any time, and terminating when the Council is prorogued or is dissolved without being prorogued;

“sitting” means a period during which the Council is sitting continuously without adjournment, and includes any period during which the Council is in Committee;

“Vice-President” means the Vice-President of the Council.

(2) The rules set out in the First Schedule to this Order shall apply for the interpretation of the expressions “ordinarily resident” and “ordinarily resided” in sections 16 and 17 of this Order.

(3) Where in this Order reference is made to any public officer by the term designating his office, such reference shall be construed as a reference to the officer for the time being lawfully discharging the functions of that office.

(4) All references in this Order to His Majesty's dominions shall be construed as including references to all territories under His Majesty's protection or in which His Majesty has for the time being jurisdiction.

(5)—(a) For the purposes of this Order a person shall not be deemed to hold an office of emolument under the Crown or under a Municipal Corporation by reason only that he—

(i) is in receipt of a pension or other like allowance in respect of service under the Crown or under a Municipal Corporation; or

(ii) is a Member of the Council; or

(iii) is the Mayor of, or a Member of the Council of, a Municipal Corporation, or the Standing Counsel or the Attorney of a Municipal Corporation.

(b) If it shall be declared by any law for the time being in force in the Colony that an office shall be deemed not to be an office of emolument under the Crown or under a Municipal Corporation for all or any of the purposes of this Order, this Order shall have effect accordingly as if such law were enacted therein.

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(6) Save as is in this Order otherwise provided, or required by the context, the Interpretation Act, 1889, shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament. 52 and 53 Vict. C. 63.

2. This Order may be cited as the Mauritius (Legislative Council) Order in Council, 1947. It shall be published in the *Gazette* and, save as otherwise expressly provided in this Order, shall come into operation on the appointed day. Short title and commencement.

PART II

Constitution of the Legislative Council

3. There shall be a Legislative Council in and for the Colony constituted in accordance with the provisions of this Order. Establishment of Legislative Council.

4. The Council shall consist of the Governor as President, three *ex officio* Members, twelve Nominated Members and nineteen Elected Members. Constitution of Legislative Council.

5. The *ex officio* Members shall be the Colonial Secretary, the Procureur and Advocate General and the Financial Secretary. Ex-officio members.

6. The Nominated Members shall be appointed by the Governor by Instrument under the Public Seal in pursuance of His Majesty's instructions through a Secretary of State. Nominated members.

7. The Elected Members shall be persons elected in accordance with the provisions of this Order. Elected members.

8. Subject to the provisions of section 9 of this Order, any person, who is qualified to be registered as an elector under the provisions of this Order and who is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Council, shall be qualified to be appointed as a Nominated Member or elected as an Elected Member and no other person shall be qualified to be so appointed or elected or, having been so appointed or elected, shall sit or vote in the Council. Qualifications for Nominated and Elected Membership.

9. No person shall be qualified to be appointed as a Nominated Member or elected as an Elected Member or, having been so appointed or elected, shall sit or vote in the Council who— Disqualifications for Nominated and Elected Membership.

(a) is the holder of any public office ; or

(b)—(i) in the case of a Nominated Member, is a party to, or a member of a firm or a director or manager of a company which is a party to, any subsisting contract with the Government of the Colony for or on account of the public service and has not disclosed to the Governor the nature of such contract and his interest therein ; or

(ii) in the case of an Elected Member, is a party to, or a member of a firm or a director or manager of a company which is a party to, any subsisting contract with the Government of the Colony for or on account of the public service and has not published within one month before the day of election, in the *Gazette* and in a newspaper circulating in the electoral district for which he is a candidate, a notice setting out the nature of such contract and his interest therein ; or

(c) is an undischarged bankrupt, having been declared a bankrupt under any law in force in any part of His Majesty's dominions, or has obtained the advantage of *cessio bonorum* in the Colony ; or

(d) is disqualified from practising as a legal or medical practitioner in any part of His Majesty's dominions by the order of any competent authority ; or

(e) in the case of an Elected Member, is disqualified for election by any law for the time being in force in the Colony by reason of his holding, or acting in, any office the functions of which involve—

(i) any responsibility for, or in connection with, the conduct of any election ; or

(ii) any responsibility for the compilation or revision of any electoral register ; or

(f) is disqualified for membership of the Council by any law for the time being in force in the Colony relating to offences connected with elections.

10.—(1) Subject to the provisions of this Order, every Nominated Member shall hold his seat in the Council during His Majesty's pleasure. Tenure of Office.

(2) Every Nominated or Elected Member shall in any case cease to be a Member at the next dissolution of the Council after his appointment or election, or previously thereto if his seat shall become vacant under the provisions of this Order.

- (3) The seat of a Member (other than an *ex-officio* Member) shall become vacant—
- (a) upon his death ; or
 - (b) if, being a Nominated Member, he shall without the leave of the Governor previously obtained, or, being an Elected Member, he shall without leave of the Council previously obtained, be absent from the sittings of the Council for a continuous period of three months during any session thereof ; or
 - (c) if he shall cease to be qualified to be registered as an elector under the provisions of this Order ; or
 - (d) if he shall do, concur in, or adopt, any act done with the intention that he shall become the subject or citizen of any foreign State or Power ; or
 - (e) if he shall be sentenced by a competent court, in any part of His Majesty's dominions, to death or to imprisonment (by whatever name called) for a period exceeding twelve months ; or
 - (f) if, without the approval of the Governor, he shall become a party to, or any firm of which he is a member or any company of which he is a director or manager shall become a party to, any contract with the Government of the Colony for or on account of the public service ; or if, without such approval as aforesaid, he shall become a member of a firm, or a director or manager of a company, which is a party to any subsisting contract as aforesaid ; or
 - (g) if he shall be declared bankrupt under any law in force in any part of His Majesty's dominions, or shall obtain the advantage of *cessio bonorum* in the Colony ; or
 - (h) if, being a Nominated Member, he shall become an Elected Member ; or
 - (i) if, being a Nominated Member, he shall be appointed permanently to any public office ; or
 - (j) if, being an Elected Member he shall be appointed to, or to act in, any public office ; or
 - (k) if he shall become subject to any of the disqualifications mentioned in paragraphs (d), (e) and (f) of Section 9 of this Order.
- (4) If a Nominated Member shall be appointed temporarily to, or to act in, any public office, he shall not sit or vote in the Council so long as he continues to hold, or to act in, that office.
- (5) Any person vacating a seat as a Member may, if qualified, be again appointed or elected as a Member from time to time.
- (6) The Governor may, by Instrument under the Public Seal, declare any Nominated Member to be incapable of discharging his functions as a Member, and thereupon such Member shall not sit or vote in the Council until he is declared, in manner aforesaid, to be again capable of discharging his said functions.

Decision of
questions as to
Membership.

11. Subject to the provisions of this Order—

- (a) all questions which may arise as to the right of any person to be or remain a Nominated Member shall be referred to, and determined by, the Governor in Council.
- (b) all questions which may arise as to the right of any person to be or remain an Elected Member shall be determined by the Supreme Court of the Colony in accordance with the provisions of any law for the time being in force in the Colony.

Temporary
Appointment.

12.—(1) Whenever there shall be a vacancy in the number of persons sitting in the Council as *ex-officio* or Nominated Members by reason of the fact that—

- (a) one person is lawfully discharging the functions of more than one of the three offices referred to in section 5 of this Order ; or
 - (b) a Nominated Member is lawfully discharging the functions of any of the three offices referred to in section 5 of this Order ; or
 - (c) no person is lawfully discharging the functions of any one of those offices ; or
 - (d) the seat of a Nominated Member is vacant for any cause other than the dissolution of the Council ; or
 - (e) a Nominated Member is unable to sit or vote in the Council in consequence of a declaration by the Governor, as provided in this Order, that he is incapable of discharging his functions as a Member ; or
 - (f) an *ex-officio* or Nominated Member is absent from the Colony ; or
 - (g) a Nominated Member is unable to sit or vote in the Council in consequence of his having been appointed temporarily to, or to act in, any public office ;
- the Governor may, by Instrument under the Public Seal, appoint a person to be a Temporary Member for the period of such vacancy.

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(2) If the vacancy is in the number of persons sitting in the Council as *ex-officio* Members, the person appointed shall be a person holding office of emolument under the Crown in the Colony and if the vacancy is in the number of persons sitting in the Council as Nominated Members, the person appointed shall be a person qualified for appointment as a Nominated Member.

(3) If a person is appointed under this section to be a Temporary Member to fill a vacancy in the number of persons sitting in the Council as *ex-officio* Members then, so long as his appointment shall subsist, the provisions of this Order shall, subject to the provisions of this section, apply in relation to him as if he were an *ex-officio* Member:

Provided that the provisions of paragraph (a) of section 11 of this Order shall apply in relation to any such person as if he were a Nominated Member.

(4) If a person is appointed under this section to be a Temporary Member to fill a vacancy in the number of persons sitting in the Council as Nominated Members, then, so long as his appointment shall subsist, he shall be to all intents and purposes a Nominated Member and, subject to the provisions of this section, the provisions of section 10 of this Order shall have effect accordingly.

(5) The Governor shall forthwith report every temporary appointment made under this section to His Majesty through a Secretary of State and such appointment may (without prejudice to anything done by virtue thereof) be revoked by the Governor by Instrument under the Public Seal.

(6) A temporary appointment made under this section shall cease to have effect on notification by the Governor to the person appointed of revocation by the Governor, or on supersession of the appointment by the definitive appointment of a person to fill the vacancy, or when the vacancy shall otherwise cease to exist.

13.—(1) The Governor may summon to any meeting of the Council the person Extraordinary Members. for the time being performing the functions of Head of any department of the Colony or any Officer for the time being holding the appointment of, or acting as, Officer Commanding His Majesty's Naval Military or Air Forces, respectively, in the Colony notwithstanding that such person may not be a Member of the Council, when, in the opinion of the Governor, the business before the Council renders the presence of such person desirable.

(2) Any person so summoned shall be entitled to take part in the proceedings of the Council relating to the matter in respect of which he was summoned as if he were a Member of the Council, except that he shall not have the right to vote in the Council.

14.—(1) For the purpose of the election of Members the Colony shall be divided into five electoral districts as follows— Electoral Districts.

- (a) the Electoral District of Plaines Wilhems and Black River, which shall return six Members;
- (b) the Electoral District of Moka and Flacq, which shall return three Members;
- (c) the Electoral District of Port Louis, which shall return four Members;
- (d) the Electoral District of Grand Port and Savanne, which shall return three Members; and
- (e) the Electoral District of Pamplemousses and Rivière du Rempart, which shall return three Members.

(2) The boundaries of each electoral district shall be such as may be prescribed by, or in pursuance of, any law for the time being in force in the Colony.

15.—(1) Every person who is registered as an elector in any electoral district shall, while so registered, be entitled to vote at any election for that district and no person shall vote at any election for any electoral district who is not registered as an elector in that district. Right to vote.

Provided that nothing in this subsection shall entitle any person to vote at any election if he is prohibited from so voting, by any law for the time being in force in the Colony, by reason of his being a returning officer.

(2) No person shall be registered as an elector in any electoral district who is not qualified to be so registered under the provisions of this Order.

16.—(1) Subject to the provisions of section 17 of this Order, any person shall be qualified to be registered as an elector in any year in any electoral district if on the first day of July in that year he— Qualifications of electors.

- (a) is ordinarily resident in that district and can speak and can read and write simple sentences in, and can sign his name in, any of the languages mentioned in the Second Schedule to this Order to the satisfaction of the officer charged with the duty of registering electors in that district, except so far as that officer is satisfied that he is unable so to do through blindness or other physical cause; or

- (b) is ordinarily resident in that district and has served at any time for a period of at least twelve months in the armed forces of the Crown and is either still so serving or has obtained, on discharge from the said forces, a certificate showing his conduct during such service to have been satisfactory ; or
- (c) occupies (as owner or tenant), and has for the immediate preceding six months so occupied, business premises in that district :

Provided that :

- (i) no person shall be registered as an elector in any one electoral district in respect of more than one of the qualifications specified in paragraphs (a), (b) and (c), respectively, of this subsection ;
- (ii) no person shall be registered as an elector in more than two electoral districts in all ;
- (iii) no person shall be registered as an elector in two electoral districts save in the one district in respect of the qualification specified in paragraph (c), and in the other district in respect either of the qualification specified in paragraph (a) or of the qualification specified in paragraph (b), of this subsection.
- (2)—(a) For the purposes of paragraph (b) of subsection (1) of this section conduct described as fair shall be deemed to have been satisfactory.
- (b) In this section the expression " business premises " means any premises (that is to say any building or part of a building, or any place or space which can be so defined as to enable it to be occupied separately) of the annual rental value of not less than two hundred and forty rupees occupied for the purpose of the business, profession or trade of the person to be registered.
- (c) Where business premises are in the joint occupation of two or more persons each of the joint occupiers shall, for the purposes of this section, be treated as occupying the premises :

Provided that—

- (i) the annual rental value of the premises is not less than the amount produced by multiplying two hundred and forty rupees by the number of the joint occupiers ;
- (ii) not more than two joint occupiers shall be entitled to be registered in respect of the same premises, unless they are *bona fide* engaged as partners carrying on their business, profession or trade on the premises.

Disqualifications of Electors.

- 17.** No person shall be qualified to be registered as an elector in any year if he—
- (a) is not a British subject or is by virtue of his own act under any acknowledgment of allegiance, obedience, or adherence to a foreign State or Power ; or
- (b) was less than twenty-one years of age on the first day of July in that year ; or
- (c) has not ordinarily resided in the Colony for the two years immediately preceding the first day of July in that year ; or
- (d) has been sentenced by any Court in His Majesty's dominions to death or to imprisonment (by whatever name called) for a term exceeding twelve months and has not either suffered the punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor, or received a free pardon ; or
- (e) is certified to be insane under any law for the time being in force in the Colony ; or
- (f) is disqualified for registration by any law for the time being in force in the Colony relating to offences connected with elections.

Laws as to Elections, etc.

18. Subject to the provisions of the Order, provision may be made by, or in pursuance of, any law enacted under this Order for the following matters, that is to say—

- (a) the registration of electors ;
- (b) the ascertainment of the qualifications of electors and of candidates for election ;
- (c) the holding of elections ;
- (d) the definition and trial of offences in relation to elections and the imposition of penalties therefor including disqualification for membership of the Council or for registration as an elector of any person concerned in any such offence.

Vice-President of the Council.

19.—(1) The Council shall, before proceeding to the despatch of any other business (except the taking of the oath of allegiance), at its first sitting after the appointed day and thereafter at its first sitting after every dissolution of the Council, elect a Nominated or Elected Member to be Vice-President of the Council.

(2) A Member holding office as Vice-President shall, unless he earlier resigns his office by writing under his hand addressed to the Governor or ceases to be a Member, vacate his office on the dissolution of the Council.

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(3) Whenever the office of Vice-President shall become vacant otherwise than as the result of a dissolution of the Council, the Council shall, at its first or second sitting after the occurrence of the vacancy, elect another Nominated or Elected Member to be Vice-President.

20. The Governor if present, or, in the absence of the Governor, the Vice-President, or, in the absence of the Vice-President, the Member present who stands first in the order of precedence, shall preside at the sittings of the Council. Presiding in
Legislative Council.

21.—(1) The Vice-President shall take precedence next after the Governor, and the other Members of the Council shall take precedence after the Vice-President and among themselves as His Majesty may specially assign, or, if precedence be not so assigned, as follows— Precedence of
Members.

First, the *ex-officio* Members in the order in which they are mentioned in section 5 of this Order ;

Secondly, any other Members who are Members of the Executive Council according to their seniority therein ;

Thirdly, the remaining Members according to the length of time for which they have been continuously Members, Members who have been continuously Members for the same length of time taking precedence according to the alphabetical order of their names.

(2) For the purposes of the preceding subsection—

(a) in ascertaining the length of time for which any person shall have been continuously a Member—

(i) no account shall be taken of any interval between the vacation by that person of his seat in the Council in consequence of a dissolution of the Council and the date of his appointment or re-appointment or election or re-election to fill a vacancy in the Council caused by that dissolution ; and

(ii) if any person, having been for any period immediately before the appointed day a Member of the Council of Government constituted by the existing Letters Patent, is appointed or elected as a Member by virtue of the first appointments or elections to the Council after the appointed day, he shall be deemed to have been a Member during the said period ; and no account shall be taken of any interval between the end of that period and the date upon which he is so appointed or elected as a Member, or of any interval in his Membership of the said Council of Government necessarily following a dissolution of that Council of Government ;

(b) when the Council is dissolved, Nominated Members appointed to fill vacancies caused by such dissolution shall be deemed to have been appointed, and Members elected at the ensuing general election shall be deemed to have been elected by virtue of that election, on the date of the return of the first writ at such election ;

(c) the provisions of paragraph (b) of this subsection shall apply to Members appointed or elected by virtue of the first appointments and elections to the Council after the appointed day as if such appointments and elections were consequent upon a dissolution of the Council.

22.—(1) Whenever the seat of an Elected Member becomes vacant, a fresh election shall be held to fill the vacancy in accordance with the provisions of this Order. Filling of
Vacancies.

(2) Whenever the seat of a Nominated Member becomes vacant, the vacancy shall be filled by appointment by the Governor in accordance with the provisions of this Order.

PART III

Legislation and Procedure in Legislative Council

23. Subject to the provisions of this Order, it shall be lawful for the Governor, with the advice and consent of the Council, to make laws for the peace order and good government of the Colony. Power to
make Laws.

24.—(1) Save as otherwise provided in this Order, all questions proposed for decision in the Council shall be determined by a majority of the votes of the Members present and voting.

(2) The Governor or other Member presiding shall not vote unless the votes of the other Members shall be equally divided, in which case he shall have a casting vote.

(3) If, upon any question before the Council, the votes of the other members are equally divided and the Governor or other Member presiding does not exercise his casting vote, the motion shall be declared to be lost.

Council may
transact business
notwithstanding
Vacancies.

25. The Council shall not be disqualified for the transaction of business by reason of any vacancy among the Members and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do sat or voted in the Council or otherwise took part in the proceedings.

Quorum.

26. No business except that of adjournment shall be transacted if objection is taken by any Member present that there are less than twelve Members present besides the Governor or other Member presiding.

Governor's
reserved
power.

27.—(1) If the Governor shall consider that it is expedient in the interests of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of the Colony as a component part of the British Empire, and all matters pertaining to the creation or abolition of any public office or to the appointment, salary or other conditions of service of any public officer) that any Bill introduced, or any motion proposed, in the Council should have effect, then, if the Council fail to pass such a Bill or motion within such time and in such form as the Governor may think reasonable and expedient, the Governor, at any time in his discretion, may, notwithstanding any provisions of this Order or of any Standing Orders of the Council, declare that such Bill or motion shall have effect as if it had been passed by the Council, either in the form in which it was so introduced or proposed or with such amendments as the Governor shall think fit which have been moved or proposed in the Council or in any Committee thereof; and thereupon the said Bill or motion shall have effect as if it had been so passed, and, in the case of any such Bill, the provisions of this Order relating to assent to Bills and disallowance of laws shall apply accordingly.

(2) The Governor shall forthwith report to a Secretary of State every case in which he shall make any such declaration and the reasons therefor.

(3) If any Member objects to any declaration made under this section, he may, within seven days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting, and a copy of such statement shall, if furnished by such Member, be forwarded by the Governor as soon as practicable to a Secretary of State.

(4) Any such declaration, other than a declaration relating to a Bill, may be revoked by a Secretary of State and the Governor shall cause notice of such revocation to be published in the *Gazette*; and from the date of such notification any motion, which shall have had effect by virtue of the declaration revoked, shall cease to have effect and the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to such revocation as they apply to the repeal of an Act of Parliament.

52 & 53 Vict. c. 63.

Assent to Bills.

28.—(1) No Bill shall become a law until either the Governor shall have assented thereto in His Majesty's name and on His Majesty's behalf and shall have signed the same in token of such assent, or His Majesty shall have given his assent thereto through a Secretary of State.

(2) When a Bill is presented to the Governor for his assent, he shall, according to his discretion but subject to the provisions of this Order and of any Instructions addressed to him under His Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents, or refuses to assent, thereto, or that he reserves the Bill for the signification of His Majesty's pleasure:

Provided that the Governor shall reserve for the signification of His Majesty's pleasure any Bill by which any provision of this Order is revoked or amended or which is in any way repugnant to, or inconsistent with, the provisions of this Order, unless he shall have been authorized by a Secretary of State to assent thereto.

(3) A law assented to by the Governor shall come into operation on the day on which such assent shall be given, or if it shall be enacted, either in the law or in some other enactment (including any enactment in force on the appointed day), that it shall come into operation on some other date, on that date.

(4) A Bill reserved for the signification of His Majesty's pleasure shall become a law as soon as His Majesty shall have given His assent thereto through a Secretary of State and the Governor shall have signified such assent by Proclamation published in the *Gazette*. Every such law shall come into operation on the date of such Proclamation or, if it shall be enacted, either in the law or in some other enactment (including any enactment in force on the appointed day), that it shall come into operation on some other date, on that date.

Disallowance of
Laws.

29.—(1) Any law to which the Governor shall have given his assent may be disallowed by His Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by His Majesty, the Governor shall cause notice of such disallowance to be published in the *Gazette*.

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(3) Every law so disallowed shall cease to have effect as soon as notice of such disallowance shall be published as aforesaid and thereupon any enactment repealed or amended by, or in pursuance of, the law disallowed shall have effect as if such law had not been made. Subject as aforesaid, the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

30. Subject to the provisions of this Order, the Governor and the Council shall, in the transaction of business and the making of laws, conform as nearly as may be to the directions contained in any Instructions under His Majesty's Sign Manual and Signet which may from time to time be addressed to the Governor in that behalf. Royal Instructions

31.—(1) Subject to the provisions of this Order and of any Instructions under His Majesty's Sign Manual and Signet, the Council may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business, and for the passing, intituling and numbering of Bills, and for the presentation thereof to the Governor for assent, but no such Standing Orders shall have effect until they shall have been approved by the Governor. Standing Orders.

(2) The first Standing Orders of the Council shall be made by the Governor and may be amended or revoked by the Council under subsection (1) of this section.

32. The official language of the Council shall be English but any Member may address the chair in French. Official language.

33. Subject to the provisions of this Order and of the Standing Orders of the Council, any Member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Council, and the same shall be debated and disposed of according to Standing Orders: Introduction of Bills, etc.

Provided that, except with the recommendation or consent of the Governor signified thereto, the Council shall not proceed upon any Bill, amendment, motion or petition, which in the opinion of the Governor or other Member presiding, would—

(a) dispose of or charge any public revenue or public funds of the Colony, or revoke or alter any disposition thereof or charge thereon, or impose, alter or repeal any rate, tax or duty; or

(b) suspend the Standing Orders of the Council or any of them.

34. Except for the purpose of enabling this section to be complied with, no Member of the Council shall sit or vote therein until he shall have taken and subscribed before the Governor, or some person authorized by the Governor in that behalf, the Oath of Allegiance in the form set out in the Third Schedule to this Order: Oath of Allegiance.

Provided that every person authorized by the law of the Colony to make an affirmation instead of taking an oath in legal proceedings may make such affirmation in like terms instead of the said oath.

35.—(1) The sittings of the Council shall be held at such times and places as the Governor shall from time to time appoint by Proclamation published in the *Gazette*. There shall be a session of the Council once at least in every year, so that a period of twelve months shall not intervene between the last sitting in one session and the first sitting in the next session. Sittings and Sessions.

(2) The first session of the Council shall commence within six months of the appointed day.

36.—(1) The Governor may at any time, by Proclamation published in the *Gazette*, prorogue or dissolve the Council. Prorogation and dissolution.

(2) The Governor shall dissolve the Council at the expiration of five years from the date of the return of the first writ at the last preceding general election, if it shall not have been sooner dissolved.

37. There shall be a general election at such time within four months after the appointed day, and thereafter within three months after every dissolution of the Council, as the Governor shall by Proclamation published in the *Gazette* direct. General Elections.

PART IV

MISCELLANEOUS

Penalty for unqualified persons sitting or voting.

38.—(1) Any person who—

- (a) having been appointed or elected a Member of the Council but not having been, at the time of such appointment or election, qualified to be so appointed or elected, shall sit or vote in the Council, or
- (b) shall sit or vote in the Council after his seat thereon has become vacant or he has become disqualified from sitting or voting therein, knowing, or having reasonable grounds for knowing, that he was so disqualified, or that his seat has become vacant, as the case may be, shall be liable to a penalty not exceeding five hundred rupees for every day upon which he so sits or votes.

(2) The said penalty shall be recoverable by action in the Supreme Court of the Colony at the suit of the Procureur and Advocate General.

Provisions necessary to give effect to the Order.

39.—(1) At any time before the appointed day the Council of Government constituted by the existing Letters Patent may by laws made under those Letters Patent, and thereafter at any time before the first sitting of the Council under this Order the Governor may by Proclamation, make such provision as appears to them or to him (as the case may be) to be necessary or expedient for giving effect to the provisions of this Order and in particular and without prejudice to the generality of the foregoing power may make provision for all or any of the matters specified in section 18 of this Order; and the expression "any law for the time being in force in the Colony", wherever it occurs in this Order, shall include any law or Proclamation made under this subsection.

(2) It shall not be necessary for any law enacted in accordance with the provisions of subsection (1) of this section to be reserved for the signification of His Majesty's pleasure.

(3) Every Proclamation made under subsection (1) of this section shall have the force of law and may be amended, added to or revoked by further Proclamation within the period specified in that subsection.

(4) This section shall come into operation forthwith.

Emoluments.

40.—(1) The Governor and other Officers mentioned in the Fourth Schedule to this Order shall receive by way of annual emoluments the sums respectively specified therein and the said sums are hereby charged on the revenues of the Colony and shall be paid by the Accountant General out of the said revenues upon warrant directed to him under the hand of the Governor.

(2) Nothing in subsection (1) of this section shall prevent the payment to the Governor or to any of the Officers aforesaid of any greater or other sums by way of salary or other emoluments for which provision may be duly made from time to time.

(3) In this section and the Fourth Schedule to this Order the word "Governor" means the person for the time being holding the substantive appointment of Governor and Commander-in-Chief.

Removal of difficulties.

41.—(1) If any difficulty shall arise in bringing into operation any of the provisions of this Order or in giving effect to the purposes thereof, a Secretary of State may, by Order, make such provision as seems to him necessary or expedient for the purpose of removing the difficulty and may by such Order amend or add to any provision of this Order:

Provided that no Order shall be made under this section later than the first day of January, 1950.

(2) Any Order made under this section may be amended, added to, or revoked by a further Order, and may be given retrospective effect to a day not earlier than the date of this Order.

(3) This section shall come into operation forthwith.

Power reserved to His Majesty.

42.—(1) His Majesty hereby reserves to Himself, His Heirs and Successors power, with the advice of His or Their Privy Council, to amend, add to or revoke this Order as to Him or Them shall seem fit.

(2) Nothing in this Order shall affect the power of His Majesty in Council to make laws from time to time for the peace, order and good government of the Colony.

E. C. E. LEADBITTER.

7 JANUARY 1948

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FIRST SCHEDULE

Section 1.

1. Subject to the provisions of rules 2, 3, 4 and 5 of this Schedule, the question of whether a person is or was ordinarily resident at any material time or during any material period shall be determined by reference to all the facts of the case.

2. The place of ordinary residence of a person is, generally, that place which is the place of his habitation or home, whereto, when away therefrom, he intends to return. In particular when a person usually sleeps in one place and has his meals or is employed in another place, the place of his ordinary residence is where he sleeps.

3. Generally, a person's place of ordinary residence is where his family is; if he is living apart from his family, with the intent to remain so apart from it in another place, the place of ordinary residence of such person is such other place. Temporary absence from a place of ordinary residence does not cause a loss or change of place of ordinary residence.

4. Any person who has more than one place of ordinary residence may elect in respect of which place he desires to be registered.

5. Any person, who at any time is serving in the armed forces of the Crown, shall be deemed to be ordinarily resident during the period of such service in the place in which he so resided immediately before he entered on such service, unless he has thereafter established some other ordinary residence elsewhere.

SECOND SCHEDULE

Section 16.

English.
French.
Gujerati.
Hindustani.
Tamil.
Telugu.
Urdu.
Chinese.

The Creole Patois commonly in use in the Colony.

THIRD SCHEDULE

I,, do swear that I will be faithful and bear true allegiance to His Majesty King George VI, His Heirs and Successors, according to law. Section 34.
So help me God.

FOURTH SCHEDULE

Section 40.

Governor	...	...	...	Rupees 50,000, salary
Colonial Secretary	...	...	...	Rupees 24,000, salary
Procureur and Advocate-General	...	...	...	Rupees 20,000, salary
Financial Secretary	...	...	...	Rupees 20,000, salary
Governor or Officer for the time being	...	...	...	Rupees 20,000, salary
Administering the Government	...	...	...	Rupees 10,000, duty allowance

Annex 14

“Draft of Position Paper from Background Book for Colonial Policy Discussions” in FOREIGN
RELATIONS, VOL. II (21 June 1950)

*Present Membership of the Special Committee:**Administering Members:*

Australia, Belgium, Denmark, France, Netherlands, New Zealand, United Kingdom of Great Britain and Northern Ireland, United States of America.

Elected Members:

Brazil, Egypt, India, the Union of Soviet Socialist Republics for a term of three years;

Mexico, the Philippines for a term of two years;

Sweden, Venezuela for a term of one year.

IO Files

*Draft of Position Paper From Background Book for Colonial Policy
Discussions*

CONFIDENTIAL

[WASHINGTON,] June 21, 1950.

ITEM III, A, 2—SUBMISSION OF POLITICAL INFORMATION TO THE UNITED
NATIONS

BACKGROUND

The problem of the submission of political information to the United Nations by Members administering non-self-governing territories was first discussed at the San Francisco Conference.

Article 73 of the Charter had its genesis at that time in a draft general declaration on colonial policy presented by the United Kingdom to which the Australian Delegation submitted an amendment. This amendment provided for reports upon a specified list of economic, social and educational topics, and, in some cases, at the direction of the General Assembly, reports on political development were to be required. In the redrafts of this amendment the United States combined the two types of reporting and included political information, the United Kingdom omitted reporting, and Australia retained reporting but dropped political information. The U.S.S.R. favored political reporting. The United States in its second redraft of this amendment, however, omitted political information and in the final formulation, political information was not included although there is no full record of the circumstances surrounding the eventual decision on this matter.

From the time of the First Session of the General Assembly, the question of submitting information on political conditions in non-self-governing territories has arisen regularly. In Subcommittee 2 of the Fourth Committee, First Session, it was agreed that such information was of great importance and much to be desired. No action was taken on this question, however, until the *Ad Hoc* Committee sub-

mitted a draft proposal which, after the defeat in the plenary session of a U.S.S.R. amendment which would recommend the submission of information on local participation in administration, was adopted by the General Assembly as Resolution 144 (II). This resolution notes the voluntary submission of political information by some Members and considers it to be in conformity with the Charter and, therefore, to be noted and encouraged. At the same session the Assembly adopted Resolution 142 (II) to which was annexed the Standard Form, the optional Part I of which covers items of a political nature. In the Special Committee, 1948, it was noted that Australia, Denmark, New Zealand, Netherlands, France (for Morocco and Tunisia) and the United States had voluntarily submitted political information.

At the Third Session of the General Assembly two resolutions were adopted relevant to this question: Resolution 218 (III) which provides, *inter alia*, for Secretariat summaries of voluntarily submitted political information and invites information on items in Part I of the Standard Form other than government from those Members who had not previously submitted such information; and Resolution 222 (III) which requests Members concerned to communicate information of a constitutional nature in cases where they have ceased to report on territories under Article 73(e).

The Special Committee, 1949, submitted a draft proposal which recalled the provisions of Resolution 144 (II) and expressed the hope that such Members as had not done so would voluntarily include political information in their reports. This was adopted by the Assembly as Resolution 327 (IV) after an amendment which provided that in revision of the Standard Form information on geography, history, peoples, and human rights should cease to be classified as optional and expressed the hope that information on government would be voluntarily submitted. Attempts by the U.S.S.R., both in the Special Committees and in various sessions of the Assembly, to make the submission of political information mandatory have been consistently defeated by sizeable majorities.

DISCUSSION

The question of submission of political information has not only been debated on its own merits but as an ancillary factor in other disputes. In addition to the principal issue based upon the interpretation of Article 73(e), the submission of political information has arisen in connection with the general consideration of the purposes for which information is transmitted under Article 73(e), and specifically with regard to its use in defining and applying the term "non-self-governing". It has also become a major aspect of the proposed revision of the Standard Form.

As a problem, *per se*, the question of submitting political information has involved two interpretative positions: on one hand, the non-administering powers have maintained that Article 73 must be read as a whole. They pointed out that sub-paragraph (a) deals with political, as well as economic, social, and educational advancement and that sub-paragraph (b) deals specifically with the development of self-government and political institutions. The more extreme view, held by the U.S.S.R., its satellites and Egypt, maintains, therefore, that submission of political information is mandatory under their interpretation of Article 73. The less extreme view, in which India takes the lead with the support of the majority of the non-administering group, has agreed, however, that political information is not mandatory under Article 73(e), but has strongly supported its inclusion on a voluntary basis, pointing out that political considerations cannot be divorced from economic, social and educational factors, and stressing that sub-paragraph (e) should be given a broad interpretation within the larger context of the Article. On the other hand, by a strictly literal interpretation of the Article, it has been maintained that the obligations enumerated in the sub-paragraphs other than (e) are of a general type, conditioned by the nature of Chapter XI as a declaration; whereas, sub-paragraph (e) states a specific obligation clearly limited and circumscribed.

In connection with discussions as to the purposes in general for which information is transmitted, it should be noted that, while the language of Article 73(e) states that information transmitted thereunder is for information purposes, the terms of reference of the first and subsequent Special Committees have provided for the examination of the summaries and analyses of information transmitted on economic, social and educational conditions and for reports including procedural and substantive recommendations relating to functional fields generally but not with respect to specific territories. Such political information as may be voluntarily submitted, however, is not mentioned in these terms of reference, and the problem has arisen as to the use of this information, particularly as a procedural question of the competence of the Special Committee to discuss and analyze the information, discuss the action of those Members who voluntarily submit such information, and criticize the action of those Members who do not. The non-administering powers have taken the position that political information, voluntarily submitted, is admissible for discussion and recommendation in the Special Committee, as well as the General Assembly, but they have not challenged the general proviso that such recommendations shall not deal with specific territories.

This general problem of the purpose of political information and the competence of the General Assembly in respect to it has found particular expression as an aspect of the issue of defining the term "non-self-governing" for the purposes of Chapter XI. If the right of the General Assembly not only to determine, but also to apply such a definition is granted, then it can be argued that such a right militates in favor of the obligatory submission of political information, at least for the purpose of determining the status of territories under Chapter XI. If, however, it is agreed that political reporting is voluntary only, questions arise as to (a) the competence of the General Assembly to utilize voluntarily submitted political information in its discussion of a general definition of the term non-self-governing, and (b) its competence to discuss the status of particular territories on which political information is voluntarily submitted.

In discussions on the Standard Form and its revision, the problem of submission of political information has been a primary consideration. No new factors are involved in this aspect of the problem, however, and essentially the anticipated revision of the Standard Form represents a means for securing a wider interpretation of Article 73. The General Assembly has recommended (Resolution 327 (IV)), that in revision of the Standard Form the optional classification be removed from items in Part I other than government. This was strongly supported by the moderate non-administering Members. In this connection it should be noted that the Standard Form, as a whole, was annexed to Resolution 142 (II) for the guidance of reporting Members and is, therefore, optional in its entirety.

POSITIONS OF THE UNITED KINGDOM, FRANCE, AND BELGIUM

On the question of interpretation of Article 73, the United Kingdom has taken a consistently firm position insisting upon a most literal and strict adherence to the language of the Article. This position regards Chapter XI as a unilateral declaration of intent and the obligations mentioned in Article 73 as consisting of two types: general obligations as stated in sub-paragraphs (a), (b), (c), and (d), and a very specific and limited obligation as stated in sub-paragraph (e). This position obviously excludes any consideration of the proposition that submission of political information is mandatory in view of the general intent and language of Chapter XI and Article 73. In addition, the United Kingdom has opposed the provision of such information on a mandatory or voluntary basis, claiming that (a) the matter was considered and rejected at San Francisco, (b) such a move constitutes an extra-legal attempt to rewrite the Charter, and (c) there is a difference between the public discussion through normal constitutional processes and the interference of international agencies in

matters which concern only the United Kingdom and its colonial peoples. In addition to opposing voluntary submission, the United Kingdom has stated that it would not conform to such a proposal were it adopted. Belgium has supported this position throughout and has stated that it would only consider changing this interpretation after a decision by the International Court of Justice. Belgium has also held that under Article 55 signatories of the Charter were bound to improve conditions generally but were not expected to furnish information as to whether they were doing so.

France has opposed attempts to interpret Article 73 in the broad sense which would make political reporting on non-self-governing territories mandatory. It has, however, supported voluntary submission at the discretion of the reporting Member, although it has reserved its position on further submission of such information on French territories in view of the decision of the Special Committee, 1949, that discussion of such information was admissible.

Other administering Members, including Australia, New Zealand, Netherlands, Denmark and the United States have supported the position that submission of political information is voluntary under the terms of Article 73(e).

On the related question of the purposes for which information is transmitted and the use to which it can be put, the United Kingdom, France, Belgium, and the Netherlands have taken the position that they are not prepared to discuss political or constitutional matters in the Special Committee or in any other organ of the United Nations; and, in addition, they have opposed the competence of the Special Committee to consider and make recommendations upon the general subject of voluntary submission. In taking this view, they have reasserted the argument that information, including that voluntarily submitted, is for information purposes only and not to be discussed nor could resolutions be recommended concerning it.

However, in opposing Resolution 222 (III), the United Kingdom stated that, while it always made public any constitutional changes, [as a result of which it ceased to report on a territory],¹ and had always furnished and would continue to furnish to the library of the United Nations full details on such changes, in its view it was not required at any stage to bring officially to the notice of the Secretary General the constitutional instruments providing for such changes in such a way that the information would become a matter for discussion in the United Nations. This latter position would seem to imply that information officially transmitted, presumably including voluntary

¹ Brackets appear in the source text.

political information, is admissible for discussion in the United Nations. France has stated that it was quite probable that it would not supply political information since the competence of the Special Committee in this matter was decided affirmatively.

It would appear that the administering powers, while originally opposing discussion, reports, and recommendations on information on economic, social, and educational conditions, have acquiesced in these cases but attempted to maintain their original position in regard to voluntarily submitted political information. The United Kingdom and France abstained on the proposal providing for Secretariat summaries of such information and inviting information on Part I other than item (d): government (Resolution 218 (III)).

On the question of definition of the term non-self-governing, with which the problem of submission of political information has become involved, the colonial powers have not objected in principle to the right of the Assembly under Article 10 to attempt such a definition. Their opposition, however, has been most strong on the question of determination of the status of any specific territory under Chapter XI. The relevance of political information to this problem arises principally in connection with the sources of information which the Assembly or the Special Committee might use in their discussions. Consistent with their position against the application of any definition by the Assembly, the United Kingdom, France and Belgium have opposed the official submission or discussion of political information for the purpose of determining the status of any non-self-governing territory under Chapter XI. The United Kingdom, France, and Belgium abstained on Resolution 222 (III) under the provisions of which the United Nations considers it essential that it be informed of constitutional changes by virtue of which information is no longer transmitted and requests communication of appropriate information on the constitutional status and the relationship with the metropole of such territories. France has complied with the provisions of this resolution; the United Kingdom has not. On another occasion, the United Kingdom stated that the question of the constitutional relationship between the metropolitan powers and their territories was a matter within the exclusive jurisdiction of the powers concerned. The latter contention is consistent with the United Kingdom interpretation of Article 2(7) that discussion and recommendation by the United Nations may constitute interference in matters within domestic jurisdiction.²

² The Department drafted a separate position paper on this subject, "Recourse to the domestic jurisdiction clause of the Charter" (Item III, D, 3, b), not printed.

On the question of the Standard Form which is related to the problem of submission of political information by virtue of the optional Part I of the Form, the colonial powers voted in favor of Resolution 142 (II) to which the Form was annexed for the guidance of Members. Belgium, however, made general reference at that time to the tendency to illegally revise the Charter, pointing particularly to the provisions of Part I. The United Kingdom's only reservation was on the practical grounds that compilation of reports should not interfere with the substantive work in non-self-governing territories. In the Fourth Committee, Fourth Session, the United Kingdom opposed, as did Belgium and France, Resolution 327 (IV) which provides, *inter alia*, that in revision of the Form general information on geography, history, people and human rights should cease to be classified as optional. In so doing, the United Kingdom stated that it had agreed to include in its returns under Part I such supplementary information on these subjects as was necessary to a proper understanding of the information transmitted under Article 73(e) and that the description "optional" should continue to apply to Part I. This appears to represent a retrogression from the position taken by the United Kingdom in the Special Committee, 1948, where it opposed an invitation to Members to supply information on the items specified above, stating that it was not prepared to submit any information under the optional section, though it would include such information as it deemed necessary on the subjects therein other than government under Part II of the Form. It would appear that had the United Kingdom consistently maintained this earlier view, it should have supported the recommended revision of Part I. The United Kingdom also stated in 1948 that it was not prepared to have anything to do with Part I of the Form as such.

RECOMMENDED UNITED STATES POSITION

1. On the question of submission of political information as a problem, *per se*, the United States should adhere to its present position which, while recognizing that the submission of political information is not required under the provisions of Article 73(e), supports the voluntary transmission of such information by Members administering non-self-governing territories. In stating this position, the United States might point out that it wishes to secure the cooperation of all Members of the United Nations in a constructive and reasonable interpretation of Chapter XI, and that, to this end, it will continue to oppose attempts to interpret Article 73 in its widest sense as obligating the submission of political information, but similarly, it seeks to avoid the provocative results of a rigid insistence upon a narrow and literal interpretation of the obligation set forth in sub-paragraph (e). The

United States representative might also call attention to the fact that only the U.S.S.R., its satellites and Egypt have insisted upon an interpretation which would make political reporting mandatory; whereas, a majority of the colonial and non-colonial powers have supported voluntary submission. Acceptance and implementation of the latter point of view by all colonial powers would, in the view of the United States, be tactically desirable as a possible means of preventing the strengthening of the extreme, U.S.S.R. position.

2. Should the question be raised as to the position of the United States on the use of or purpose for which political information is voluntarily submitted, the United States should state that, in relation to the Special Committee, it maintains the same position on its competence with regard to information voluntarily transmitted as on other information transmitted under Article 73(e), *viz.*, that the Committee is competent to discuss, report, and make substantive and procedural recommendations upon functional fields generally, but not with respect to specific territories. The United States feels that such a position is consistent with (1) the voluntary character of such political information as is transmitted, (2) the request made by the General Assembly to the Secretary General to summarize and analyze such information, (3) the considerations which prompted the present procedure on social, economic and educational information, and (4) the provisions of Resolution 334 (IV) providing for the preliminary consideration by the Committee of the factors to be taken into account in deciding whether any territory is or is not non-self-governing.

In respect to the General Assembly and the issue of defining "non-self-governing", the United States should reply that, while it does not consider that recognition of the right of the General Assembly to attempt such a definition alters the interpretation of Article 73 in such a way as to make submission of political information mandatory, it takes the view that the General Assembly is competent to utilize such political information as is voluntarily submitted in its discussion of a general definition. But the United States believes that the General Assembly should not make recommendations on specific territories to individual administering Members, irrespective of whether they had voluntarily submitted political information on those territories or not. The United States has consistently maintained that the submission of voluntary information in no way prejudices the right of administering Members to determine the status of their territories under Chapter XI.

3. Should the question of the proposed revision of the Standard Form arise, the United States should state that insofar as such revision would involve changes in the optional classification of items

a, *b*, *c* and *e* under Part I, it considers that the provisions of paragraph 3, Resolution 327 (IV) should be complied with in view of (*a*) the essentially optional character of the Standard Form as a whole, (*b*) the fact that the General Assembly did not recommend that item (*d*): government, cease to be classified as optional, and (*c*) the principle, to which the United States subscribes, that resolutions of the General Assembly should be faithfully complied with by Members of the United Nations.

4. In commenting generally upon the voluntary submission of political information by Members administering non-self-governing territories, the United States representative might emphasize the importance of a broad and constructive approach to this problem, pointing out that it would appear desirable, in view of the essential nature of the United Nations and the spirit of the Charter, as well as for pressing, contemporary tactical considerations, that those countries who are most intimately associated with the development of democratic, constitutional government and whose experience has been widest in the problems of its evolution should take every opportunity to expound its virtues, discuss its problems, and answer its critics, especially in respect to those areas of the world where they have undertaken the responsibility to develop democratic self-government. To adopt other than a liberal, constructive attitude toward the discussion of fundamental political problems, even upon the soundest legal grounds, is to provide the opportunity for unjustified presuppositions and insinuations.

IO Files

Draft of Position Paper From Background Book for Colonial Policy Discussions

CONFIDENTIAL

[WASHINGTON,] June 22, 1950.

ITEM III, B, 1—THE RELATIVE FUNCTIONS OF THE UNITED NATIONS AND THE ADMINISTERING AUTHORITIES, AND THE TENDENCY OF THE UNITED NATIONS TO CONCERN ITSELF WITH ADMINISTRATION, AS WELL AS WITH SUPERVISION OF THE TRUST TERRITORIES

BACKGROUND

The United Nations Charter does not make clear the distinction between the terms "administration" and "supervision". Spokesmen for the British, French, and Belgian Governments have repeatedly expressed in UN bodies the view that the functions of the United Nations in relation to Trust Territories are strictly limited to super-

Annex 15

Extracts from the Mauritius Gazette (*General Notices*) (1951-1965)

OBITUARY NOTICE

CLAUDE PHILIPPE JEAN SALIMAN, Second Class Teacher, Government Primary Schools, Education Department, died on 14th January, 1951.

The Secretariat,
Mauritius, 3rd February, 1951.

K. V. MACQUIRE,
Acting Colonial Secretary.

General Notice No. 75 of 1951.

APPOINTMENTS

JOSEPH ANDRÉ D'ESPAGNAC, to be Chief Officer, Fire Services, with effect from the 1st of January, 1951. (M.P. 4058)

PHILIPPE BENJAMIN OHSAN, Inspector, Police Department, to be Bandmaster, with effect from the 1st of July, 1950. (P.F. 5068)

ARRIVAL AND RESUMPTION OF DUTY

PHILIPPE BENJAMIN OHSAN, Bandmaster, Police Department, 11th January, 1951, from leave. (P.F. 5068)

REVERSION TO SUBSTANTIVE APPOINTMENT

C. G. DECOTTER, Station Officer, Fire Services, 1st January, 1951. (M.P. 4058)

By direction of His Excellency the Governor.

The Secretariat,
Mauritius, 3rd February, 1951.

K. V. MACQUIRE,
Acting Colonial Secretary.

General Notice No. 76 of 1951.

(M.P. 11810)

APPOINTMENT IN THE MAGISTRACIES

His Excellency the Governor has been pleased to appoint Mr. J. Desplacés, Attorney-at-Law, to act as Magistrate for Mauritius and the Dependencies and has assigned to him the Lesser Dependencies with effect from the date of the departure of the next vessel for Chagos Archipelago.

By direction of His Excellency the Governor.

The Secretariat,
Mauritius, 3rd February, 1951.

K. V. MACQUIRE,
Acting Colonial Secretary.

1952, on leave. (P.F. 12096)
 Officer in charge of the Malaria Eradication Scheme, 2nd October,

REVERSION TO SUBSTANTIVE APPOINTMENT

F. NOZAIC, Assistant Registrar General, 7th October, 1952. (P.F. 1315)

E. GÉRARD, Taxing Officer, Registrar General's Department, 7th October, 1952. (P.F. 1315)

H. H. HARGREAVES, Superintendent of Prisons, 7th October, 1952. (P.F. 12140)

The Secretariat,
 Mauritius, 18th October, 1952.

J. D. HARFORD,
Colonial Secretary.

General Notice No. 892 of 1952.

(M.P. 12345/53)

CHANGE OF NAME

His Excellency the Officer Administering the Government in Council has been pleased to authorise SOOROOPIERSAD BHOLAH to change his name and surname into those of RAMCHANDAR REECHAYE.

The Secretariat,
 Mauritius, 18th October, 1952.

J. D. HARFORD,
Colonial Secretary.

General Notice No. 893 of 1952.

(M.P. 12427)

LAND SETTLEMENT ADVISORY COMMITTEE

His Excellency the Officer Administering the Government has been pleased to appoint Dr. the Honourable S. Ramgoolam and the Honourable V. Ringadoo to be additional members of the Land Settlement Advisory Committee.

2. This Committee is now composed as follows :—

The Land Settlement Officer, *Chairman*

The Civil Commissioner (South),

The Civil Commissioner (North),

The Civil Commissioner (Moka—Flacq),

The Director of Public Works (or his representative),

The Liaison Officer for Agriculture and Fisheries,

The Honourable D. Luckeenarain,

The Honourable A. M. Osman, O.B.E.,

Dr. the Honourable S. Ramgoolam,

The Honourable V. Ringadoo,

The Honourable J. N. Roy,

The Honourable H. R. Vaghjee.

The Secretariat,
 Mauritius, 15th October, 1952.

J. D. HARFORD,
Colonial Secretary.

General Notice No. 894 of 1952.

(M.P. 1746)

SACK FACTORY BOARD

With reference to General Notice No. 251 of 1952, His Excellency the Officer Administering the Government has been pleased to appoint Mr. R. Lincoln to be a member of the Sack Factory Board, in the place of Mr. Serge Staub during his absence on leave.

The Secretariat,
 Mauritius, 18th October, 1952.

J. D. HARFORD,
Colonial Secretary.

General Notice No. 895 of 1952.

(M.P. 9719/2)

APPOINTMENT IN THE MAGISTRACIES

His Excellency the Officer Administering the Government has been pleased to appoint Mr. Jacques André Cyril Cantin, Barrister-at-Law, to act as Magistrate for Mauritius and the Dependencies with effect from the date of the departure of the "Sir Jules" from the Chagos Islands.

The Secretariat,
 Mauritius, 18th October, 1952.

J. D. HARFORD,
Colonial Secretary.

IUS GAZETTE

29 JUNE 1963

General Notice No. 680 of 1963.**LEGAL SUPPLEMENT**

The undermentioned Government Notices and Ordinances are published in the Legal Supplement to the number of the *Government Gazette* :—

The Road Traffic Ordinance, 1962.

(Government Notice No. 41 of 1963)

The Central Housing Authority (Execution of Documents and Instruments) (Amendment) Rules, 1963.

(Government Notice No. 42 of 1963)

The Civil Establishment (General) (Amendment) Order, 1963.

(Government Notice No. 43 of 1963)

The Telephone Tariff Regulations, 1963.

(Government Notice No. 44 of 1963)

The Ministry of Finance (Integration) Ordinance, 1963.

(Ordinance No. 17 of 1963)

The Ministry of Agriculture and Natural Resources (Integration) Ordinance, 1963.

(Ordinance No. 18 of 1963)

The Development (General Purposes) Loan Ordinance, 1963.

(Ordinance No. 19 of 1963)

The Investment in Mauritius Government Securities Ordinance, 1963.

(Ordinance No. 20 of 1963)

The Road Traffic (Amendment) Ordinance, 1963.

(Ordinance No. 21 of 1963)

The Telfair Street (Modification) Ordinance, 1963.

(Ordinance No. 22 of 1963)

By direction of His Excellency the Governor.

Chief Secretary's Office,
Port Louis,
29th June, 1963.

A. F. BATES,
Acting Chief Secretary.

General Notice No. 681 of 1963.

(M.P. 2327)

NEW JERUSALEM CHURCH SOCIETY FOR 1963

In accordance with section 5 of the New Jerusalem Church Society Ordinance, (Cap. 375) His Excellency the Governor has been pleased to approve the election of Mrs. Y. Walter as Vice-President of the New Jerusalem Church Society for the rest of the year in the place of Mr. Lucien de Chazal, resigned.

Chief Secretary's Office,
Port Louis,
25th June, 1963.

A. F. BATES,
Acting Chief Secretary.

General Notice No. 682 of 1963.

(E/406/201)

APPOINTMENT OF ADDITIONAL CIVIL STATUS OFFICER

His Excellency the Governor has been pleased to approve the appointment of Mr. Joseph Marden, Post Officer Grade II, as Additional Civil Status Officer, Quartier Militaire with effect from the 1st July, 1963.

General Notice No. 683 of 1963.

(E/406/201)

APPOINTMENT OF CIVIL STATUS OFFICER

His Excellency the Governor has been pleased to approve the appointment of Miss Chan Shiou Ti Chan Tung as Civil Status Officer of Port Louis with effect from the 1st July, 1963. General Notice No. 568 of 1963, concerning the appointment of Miss Cathaye Mootoosamy as Civil Status Officer, is hereby cancelled.

Chief Secretary's Office,
Port Louis,
25th June, 1963.

A. F. BATES,
Acting Chief Secretary.

General Notice No. 684 of 1963.

(M.P. 2497/1)

MAGISTRATE FOR THE LESSER DEPENDENCIES

His Excellency the Governor, after consultation with the Honourable the Chief Justice, has been pleased to assign the Lesser Dependencies to Mr. Shunmoogum Mootoosamy, a District Magistrate for Mauritius and its Dependencies.

This assignment is in addition to the assignment made to him by the Honourable the Chief Justice of each and every district of the Colony.

Chief Secretary's Office,
Port Louis,
25th June, 1963.

A. F. BATES,
Acting Chief Secretary.

General Notice No. 685 of 1963.

(M.P. 1836/14)

TURKISH CONSULAR REPRESENTATION

With reference to General Notice No. 929 of 1961, His Excellency the Governor has been informed by the Right Honourable the Secretary of State for the Colonies that Mr. Fikret Berker has been appointed as Consul-General of Turkey in London, with jurisdiction in all British Colonies and Protectorates, in succession to Mr. Ismael Soysal.

Mr. Fikret Berker is accordingly granted provisional recognition in his consular capacity pending the issue of Her Majesty's Exequatur.

Chief Secretary's Office,
Port Louis,
27th June, 1963.

A. F. BATES,
Acting Chief Secretary.

General Notice No. 686 of 1963.

(M.H.S. 36)

NON DISALLOWANCE OF ORDINANCE

His Excellency the Governor has been informed by the Right Honourable the Secretary of State for the Colonies that the power of disallowance will not be exercised in respect of the following Ordinance of the Legislature of Mauritius :—

Ordinance No. 2 of 1962 shortly entitled :

MOKA—FLACQ

His Excellency the Governor having issued His Writ for the election of three Members of the Legislative Council for the electoral district of Moka—Flacq, the Returning Officer for the said electoral district will on the eighteenth day of July, 1953, between the hours of 9 a.m. and 3 p.m. at the de Flacq Government School, proceed to the nomination, and if there is no opposition, to the election of three Members for the said electoral district.

Every nomination paper must be signed by any six more registered electors of the electoral district of Moka—Flacq and be delivered to the Returning Officer between the said hours of 9 a.m. and 3 p.m.

Every nomination paper shall specify the name, address, and occupation of the candidate.

No nomination paper shall be valid or acted upon by the Returning Officer unless it is accompanied by—

(a) a declaration in the form set out in the Second Schedule to the Legislative Council Ordinance, 1948;

(b) a deposit of two hundred and fifty rupees in cash.

Dated this 1st day of July, 1953.

J. D. HARFORD,
Colonial Secretary.

PAMPLEMOUSSES—RIVIERE DU REMPART

His Excellency the Governor having issued His Writ for the election of three Members of the Legislative Council for the electoral district of Pamplemousses—Rivière du Rempart, the Returning Officer for the said electoral district will on the eighteenth day of July, 1953, between the hours of 9 a.m. and 3 p.m. at the District Court of Mapou, proceed to the nomination, and if there is no opposition, to the election of three Members for the said electoral district.

Every nomination paper must be signed by any six more registered electors of the electoral district of Pamplemousses—Rivière du Rempart and be delivered to the Returning Officer between the said hours of 9 a.m. and 3 p.m.

Every nomination paper shall specify the name, address, and occupation of the candidate.

No nomination paper shall be valid or acted upon by the Returning Officer unless it is accompanied by—

(a) a declaration in the form set out in the Second Schedule to the Legislative Council Ordinance, 1948;

(b) a deposit of two hundred and fifty rupees in cash.

Dated this 1st day of July, 1953.

J. D. HARFORD,
Colonial Secretary.

General Notice No. 501 of 1953.

(M.P. 1523/5)

THE LEGISLATIVE COUNCIL ORDINANCE

NOTICE OF ELECTION OF THREE MEMBERS OF THE LEGISLATIVE COUNCIL FOR THE ELECTORAL DISTRICT OF GRAND PORT—SAVANE

His Excellency the Governor having issued His Writ for the election of three Members of the Legislative Council for the electoral district of Grand Port—Savane, the Returning Officer for the said electoral district will on the eighteenth day of July, 1953, now next ensuing, between the hours of 9 a.m. and 3 p.m. at the Belle Government School proceed to the nomination, and if there is no opposition, to the election of three Members for the said electoral district.

Every nomination paper must be signed by any six more registered electors of the electoral district of Grand Port—Savane and be delivered to the Returning Officer between the said hours of 9 a.m. and 3 p.m.

Every nomination paper shall specify the name, address, and occupation of the candidate.

No nomination paper shall be valid or acted upon by the Returning Officer unless it is accompanied by—

(a) a declaration in the form set out in the Second Schedule to the Legislative Council Ordinance, 1948;

(b) a deposit of two hundred and fifty rupees in cash.

Dated this 1st day of July, 1953.

J. D. HARFORD,
Colonial Secretary.

General Notice No. 503 of 1953.

(M.P. 10993/6)

CHANGES IN THE MAGISTRACIES

With reference to General Notice No. 1043 of 1952, His Excellency the Governor has been pleased to approve of the following changes in the Magistracies:—

The appointment of Mr. G. Bouloux, Magistrate for Mauritius and the Dependencies, to act as Magistrate of the Industrial Court with jurisdiction over the whole island of Mauritius, to lapse with effect from the date of departure of the 'Sir Jules' for the Chagos Islands.

Mr. G. Bouloux, Magistrate for Mauritius and the Dependencies, is assigned the Lesser Dependencies with effect from the date of departure of the 'Sir Jules' for the Chagos Islands.

The Secretariat, Mauritius,
4th July, 1953.

J. D. HARFORD,
Colonial Secretary.

General Notice No. 504 of 1953.

(M.P. 10993/6)

THE INDUSTRIAL COURTS ORDINANCE

(Cap. 133)

It is hereby notified that His Excellency the Governor, in exercise of the powers conferred upon him by section 4 of the Industrial Courts Ordinance, has appointed

Mr. G. Desmarais, Magistrate for Mauritius and the Dependencies, in addition to his duties as Magistrate for Mauritius and the Dependencies, to act as Magistrate of the Industrial Court, with jurisdiction over the whole island of Mauritius, with effect from the date of departure of the "Sir Jules" for the Chagos Islands.

The Secretariat, Mauritius,
4th July, 1953.

J. D. HARFORD,
Colonial Secretary.

ARRIVAL AND ASSUMPTION OF DUTY

MRS. MARJORIE EDNA COATES, Education Officer, Education Department, arrived on 28th August, 1957, and assumed duty on 2nd September, 1957, on contract.

General Notice No. 745 of 1957.

APPOINTMENT

LUC MARCEL FIJAC, Assistant Establishment Officer, Secretariat, to act as Establishment Officer, with effect from the 15th September, 1957.

By direction of His Excellency the Governor.

Colonial Secretary's Office,
Port Louis,
19th October, 1957.

ROBERT NEWTON,
Colonial Secretary.

General Notice No. 838 of 1957.

(M.P. 6168/13)

OPENING OF ADDITIONAL CIVIL STATUS OFFICES

Notice is hereby given that His Excellency the Governor has, in exercise of the powers vested in him under section 6 (3) of the Civil Status Ordinance—Cap 39, Laws of Mauritius—approved the establishment of two Civil Status Offices, one at Beau Bassin and one at Vacoas (La Caverne) respectively.

Colonial Secretary's Office,
Port Louis,
19th October, 1957.

ROBERT NEWTON,
Colonial Secretary.

General Notice No. 839 of 1957.

(M.P. 16672/1)

MAGISTRATE FOR LESSER DEPENDENCIES

His Excellency the Governor has been pleased to appoint Mr. L. Paul Toureau, Civil Commissioner, to act as Magistrate for Mauritius and the Dependencies, with the assignment of the Lesser Dependencies, for the purpose of visiting the Chagos Islands, with effect from the date of departure of the *M.V. Sir Jules* for Agalega on or about the 23rd October, 1957.

Colonial Secretary's Office,
Port Louis,
19th October, 1957.

ROBERT NEWTON,
Colonial Secretary.

General Notice No. 840 of 1957.

(E/406/2/01/408)

APPOINTMENT OF CIVIL STATUS OFFICER

His Excellency the Governor has been pleased to appoint Mr. Basheeray Yoosoofkhan Moortoozakhani, Temporary Clerk, Registrar General's Department, as Civil Status Officer, Central Civil Status Office, with effect from the 15th October, 1957.

Colonial Secretary's Office,
Port Louis,
19th October, 1957.

ROBERT NEWTON,
Colonial Secretary.

General Notice No. 841 of 1957.

LEGAL SUPPLEMENT

The undermentioned Government Notice is published in the Legal Supplement to this number of the *Government Gazette* :—

The Bread (Control of Manufacture and Sale) (Amendment) Order, 1957.

(Government Notice No. 61 of 1957)

By direction of His Excellency the Governor.

Colonial Secretary's Office,
Port Louis,
19th October, 1957.

ROBERT NEWTON,
Colonial Secretary.

General Notice No. 842 of 1957.

SPECIAL LEGAL SUPPLEMENT

The undermentioned Bills are published for general information in the Special Legal Supplement to this number of the *Government Gazette* :—

A Bill "To establish "La Clinique Mauricienne" and to provide for the incorporation and management thereof".

A Bill "To provide for the incorporation and management to the Mauritius Bar Association and matters incidental thereto".

A Bill "To amend the Trade Marks Ordinance".

By direction of His Excellency the Governor.

Colonial Secretary's Office,
Port Louis,
19th October, 1957.

ROBERT NEWTON,
Colonial Secretary.

General Notice No. 843 of 1957.

THE MAURITIUS LEGISLATIVE COUNCIL

Notice of Private Bill proposed for introduction in the Legislative Council

WHEREAS it is provided under Standing Orders of the Standing Orders and Rules of the Legislative Council that when any Private Bill shall be proposed which may directly affect the private rights or property of any person or company, notice shall be given to parties concerned of the general nature and object of such Bill by advertisement in the *Government Gazette* to be published one month before the first reading of such Bill;

AND WHEREAS it is further provided that such advertisement shall be inserted *three times* at the least in the *Government Gazette* before such first reading;

AND WHEREAS a petition has been presented to Messrs. M. de Spéville, Q.C., L. E. Venchard, G. De J. R. Hein, J. R. Hein, Q.C., C. K. L. Yip Fong, A. J. nauth, C. Lamalétie, C. de Labauve d'Arifat, R. Drub de Broglio, R. d'Unienville, A. M. Ahmed, H. E. W. M. Gujadhur, R. Montocchio, R. Jomadar, R. Boodh S. Bhuckory, E. Madhoo, J. Bedaysee, R. Sewgobind L. Pillay, A. Osman, E. Bussier and H. Nahab Barristers-at-law, practising before the Courts of the Colony, for the purpose set out in the Schedule here

THIS IS therefore to give notice for the *third time* to all parties which may be concerned that a Bill entitled "To provide for the incorporation and management of the Mauritius Bar Association and matters incidental thereto" is proposed for introduction in the Legislative Council and that the general nature and object of such Bill are set out in the Schedule here

Council Office,
Port Louis,
1st October, 1957.

L. REX MOUTOU,
Clerk, Legislative Council.

SCHEDULE

The Bill referred to above aims at providing for incorporation and management of an association styled "Mauritius Bar Association" for the following purposes, namely, the safeguard, maintenance and promotion of interests of the Mauritius Bar, the upholding of the dignity, reputation and independence of the members thereof and the furtherance of their interests in connection with practice of their profession.

General Notice No. 844

TENDER

GOVERN

Tenders on the app value of Rs 1.50 wi the Treasury on Wed 10 p.m., for the erect
(a) One Deep The Hospital, Cando
(b) One G.M.O.'s Q
(c) One house for G
(d) A group of bu Agriculture at R together with all
Forms of tender, documents may be Government Architect
fact that the intendi es away such docum each job will imply t der.

3. The intending con dence to the Govern necessary plant, labour egution of the works.

4. The deposit of Rs e only on the receipt urn of all the docum
5. Government does est or any tender, n ction of any tender.
6. Treasury, Port Lou 10th October, 1957.

General Notice No. 845

CRIMINAL

Notice is hereby give
Supreme Court of the
dependencies will hold
Delivery and the Despat
Louis or in such other
Justice may direct, on a
First Session on and
1958.
Second Session on an
1958.
Third Session on and
Fourth Session on and
1958.

19th October, 1957.

General Notice No. 846

NOTICE UNDER S. COMPANII

CANCELLATION OF RE

Notice is hereby given
been struck off the
The Mauritius Stone I
Perrefonds Ltd.

Dated at Port Louis, 1
October, one thousand

the 4th February, 1963.

ARRIVAL AND RESUMPTION OF DUTY

(M.L./P.F. 207)

GOINSAMY RAMASAWMY, Principal Assistant Secretary, returned from official business on the 4th February and resumed duty on the 5th February, 1963.

REVERSION TO SUBSTANTIVE APPOINTMENT

(ML/PF 212)

ABDOOL AHUD HOSSENBUX, Assistant Secretary, 5th February, 1963.

DEPARTURE

(P.F. 25466)

KENNETH CAULFIELD PEARSON, Establishment Secretary, 9th February, 1963, on leave.

By direction of His Excellency the Governor.

Chief Secretary's Office,
Port Louis,
13th February, 1963.

TOM VICKERS,
Chief Secretary.

General Notice No. 145 of 1963.

SPECIAL LEGAL SUPPLEMENT

The undermentioned Bills are published for general information in the Special Legal Supplement to this number of the *Government Gazette* :—

A Bill "The Pensions (Amendment) Bill".

A Bill "The Civil Code (Amendment) Bill".

By direction of His Excellency the Governor.

Chief Secretary's Office,
Port Louis,
16th February, 1963.

TOM VICKERS,
Chief Secretary.

General Notice No. 146 of 1963.

NON DISALLOWANCE OF ORDINANCES

His Excellency the Governor has been informed by the Right Honourable the Secretary of State for the Colonies that the power of disallowance will not be exercised in respect of the following Ordinances of the Legislature of Mauritius :—

(M.P. 4799/4)

Ordinance No. 23 of 1962 shortly entitled :

"The Renganaden Seeneevassen Memorial Foundation (Incorporation) Ordinance, 1962".

(F/REV/23/1)

Ordinance No. 17 of 1962 shortly entitled :

"The Customs Tariff (Amendment) Ordinance, 1962".

(M.P. 1646/16)

Ordinance No. 25 of 1962 shortly entitled :

"The Phoenix Military Cemetery (Repeal) Ordinance, 1962".

Chief Secretary's Office,
Port Louis,
16th February, 1963.

TOM VICKERS,
Chief Secretary.

In exercise of the powers conferred upon him by Section 5 (1) of the Representation of the People Ordinance, 1958, His Excellency the Governor has been pleased to appoint :

(1) Mr. F. R. Mosses to be Assistant Registration Officer with effect from the 3rd January, 1963, for each of the following electoral districts as defined in Proclamation No. 10 of 1958 :—

- No. 34—Belle Rose
- No. 35—Quatre Bornes
- No. 36—Stanley
- No. 37—Rose Hill
- No. 39—Beau Bassin
- No. 40—Petite Rivière

in replacement of Mr. C. Paul ;

(2) Mr. C. Joachim to be Assistant Registration Officer with effect from the 3rd January, 1963, for each of the following electoral districts as defined in Proclamation No. 10 of 1958 :—

- No. 11—Grand' Baie
- No. 12—Poudre d'Or
- No. 13—Piton
- No. 14—Rivière du Rempart

in replacement of Mr. R. M. Hurdowar

(3) Mr. I. Mamoojee to be Assistant Registration Officer with effect from the 9th January, 1963, for each of the following electoral districts as defined in Proclamation No. 10 of 1958 :—

- No. 27—Black River
- No. 40—Petite Rivière

in replacement of Mr. E. Appadou.

Chief Secretary's Office,
Port Louis,
11th February, 1963.

TOM VICKERS,
Chief Secretary.

General Notice No. 148 of 1963.

TERMINATION OF APPOINTMENT OF ADDITIONAL CIVIL STATUS OFFICER

His Excellency the Governor has approved the termination of appointment of Mr. Indraparsad Lolichand as Additional Civil Status Officer for Grand' Gaube, with effect from the 18th January, 1963.

Chief Secretary's Office,
Port Louis,
15th February, 1963.

TOM VICKERS,
Chief Secretary.

General Notice No. 149 of 1963.

(M.P. 16672/1)

MAGISTRATE FOR LESSER DEPENDENCIES

(Courts Ordinance (Cap. 168) as subsequently amended)

His Excellency the Governor, with the concurrence of the Chief Justice, has been pleased to appoint Mr. Barrister Régis Bourdet, to act as Magistrate for Mauritius and the Dependencies, with the assignment of the Lesser Dependencies, for the purpose of visiting the Chagos Archipelago, with effect from the date of the departure of the M.V. "Mauritius" for the Chagos Archipelago on or about the 16th February.

Chief Secretary's Office,
Port Louis,
8th February, 1963.

TOM VICKERS,
Chief Secretary.

NON DISALLOWANCE OF ORDINANCE

His Excellency the Governor has been informed by the Right Honourable the Secretary of State for the Colonies that the power of disallowance will not be exercised in respect of the following Ordinance of the Legislature of Mauritius :—

Ordinance No. 40 of 1963 shortly entitled :

"The Tobacco Board Employees' Provident Fund Ordinance, 1950, (Repeal) Ordinance, 1963",

Chief Secretary's Office,
Port Louis,
25th March, 1964.

TOM VICKERS,
Chief Secretary.

General Notice No. 271 of 1964.

MAGISTRATE FOR THE LESSER DEPENDENCIES

(Courts Ordinance (Cap. 168) as subsequently amended)

His Excellency the Governor, with the concurrence of the Chief Justice, has been pleased to assign the Lesser Dependencies to Mr. R. Lallah, acting Magistrate for Mauritius and its Dependencies, for the purpose of visiting Chagos, with effect from the date of the departure of the M.V. Mauritius on or about the 4th April, 1964.

Chief Secretary's Office,
Port Louis,
20th March, 1964.

TOM VICKERS,
Chief Secretary.

General Notice No. 272 of 1964.

BANKING STATISTICS

NUMBER OF REPORTING BANKS : 4

Figures as at 31st December, 1963

(All figures are in rupees (000 omitted))

LIABILITIES	Rs	ASSETS
1. Notes in circulation ...	—	1. Cash ...
2. Deposits :		2. Balances due by other banks in the Colony ...
(i) Demand ...	174,717	3. Balances due from banks abroad ...
(ii) Time ...	10,722	4. Loans and advances :
(iii) Savings ...	20,641	(i) Primary production (including processing of primary products) ...
3. Balances due to :		(ii) Other industries (including Commerce, Transport and Distribution) ...
(i) Other banks in the Colony ...	4,290	(iii) Other advances ...
(ii) Banks abroad ...	5,220	5. Investments :
4. Other Liabilities ...	66,276	(i) Local ...
		(ii) Other ...
		6. Other Assets :
		(i) Bills discounted ...
		(ii) Bills receivable ...
		(iii) Other ...
Total Liabilities ...	281,866	Total Assets ...

MAURITIUS GOVERNMENT SERVICE

VACANCIES FOR TEMPORARY METEOROLOGICAL TANTS (MALE) IN THE METEOROLOGICAL DEPAR

Salary : Rs 2,748 per annum
Age Limit : Between 18 and 35 years
Closing date : 14th April, 1964
Qualifications :

Cambridge School Certificate with credit in mathematics and one science subject or an acceptable alternative qualification.

For application forms and other details, apply in to the Establishment Division of the Chief Sec Office.

No consideration will be given to applications made on the prescribed forms, which should be supported by the required certificates. Applications and answers should be forwarded to the Secretary, Public Commission, 10, de Caën Street, Rose Hill.

311 Establishment Division,
18th March, 1964. Chief Secretary's Office
Port Louis

2nd and last publi

General Notice No. 274 of 1964.

NOTICE IN TERMS OF SECTION 5 OF LAND ACQUISITION ORDINANCE No. 1952

Notice is hereby given that the portions of described hereinafter have been acquired by Government for a public purpose, to wit :— The Construct Schools.

DESCRIPTIONS

Portion No. 1 of an extent of one arpent, Co Measure, forms part of a property admeasuring 1 approximately belonging to Mon Désert Alma Ltd. in terms of title deed transcribed in Vol. 510 No. 2 situated at Verdun in the District of Moka and bounded as follows :—

Towards the North by an Estate Road on hundred and ten and a half feet or 92.50 metres
Towards the East by the surplus of the property of Mon Désert Alma Ltd. on one hundred and five feet or 50.29 metres.
Towards the South by the Sinuosities of a drain
Towards the West by Verdun Road on one hundred and fifty five feet or 47.24 metres.

Portion No. 2 of an extent of one arpent, Co Measure, forms part of a property admeasuring 1 approximately belonging to the Anglo Ceylon General Estates Co. Ltd. in terms of title deed transcribed in Vol. 185 No. 351 is situated at Britannia the Labourers' Camp in the District of Savanne and bounded as follows :—

Towards the North East partly by the surplus of property of Anglo Ceylon and General Estates Ltd. on fifty and three fourths feet or 15.46 metres and partly by an Estate Road on ninety one one-fourth feet or 27.80 metres.
Towards the South East by the surplus of property of Anglo Ceylon and General Estates Ltd. on three hundred and fifteen and one-fourth feet or 96.08 metres.
Towards the South West by an Estate Road on hundred and forty two feet or 43.28 metres.
Towards the North West by the surplus of property of Anglo Ceylon and General Estates Ltd. on three hundred and seven and a half feet

A Bill "Further to amend the Trade Marks Ordinance"

A Bill "To amend the Crown Lands Ordinance".

By direction of His Excellency the Governor.

Chief Secretary's Office,
Port Louis,
2nd May, 1964.

TOM VICKERS,
Chief Secretary.

General Notice No. 446 of 1964.

LEGAL SUPPLEMENT

The undermentioned Government Notice and Ordinances are published in the Legal Supplement to this number of the *Government Gazette* :—

The Valuation Lists Regulations, 1964.
(Government Notice No. 44 of 1964)

The Customs (Amendment) Ordinance, 1964.
(Ordinance No. 5 of 1964)

The Hire-Purchase (Credit Sales) Ordinance, 1964.
(Ordinance No. 6 of 1964)

The Mauritius Broadcasting Corporation Ordinance, 1964.
(Ordinance No 7 of 1964)

By direction of His Excellency the Governor.

Chief Secretary's Office,
Port Louis,
2nd May, 1964.

TOM VICKERS,
Chief Secretary.

General Notice No. 447 of 1964.

MAGISTRATE FOR THE LESSER DEPENDENCIES

His Excellency the Governor, after consultation with the Honourable the Chief Justice, has been pleased to assign the Lesser Dependencies to Mr. A. G. M. Ahmed, a District Magistrate for Mauritius and its Dependencies.

This assignment is in addition to the assignment made to him by the Honourable the Chief Justice of each and every district of the Colony.

Chief Secretary's Office,
Port Louis,
28th April, 1964.

TOM VICKERS,
Chief Secretary.

General Notice No. 448 of 1964.

NON DISALLOWANCE OF ORDINANCE

His Excellency the Governor has been informed by the Right Honourable the Secretary of State for the Colonies that the power of disallowance will not be exercised in respect of the following Ordinance of the Legislature of Mauritius :—

Ordinance No. 32 of 1963 shortly entitled :
"The Central Electricity Board Ordinance, 1963".

Chief Secretary's Office,
Port Louis,
27th April, 1964.

TOM VICKERS,
Chief Secretary.

Salary Scale : Rs 2,748 to Rs 5,0

Age Limit : between 18 and officers over 35 apply.

Closing Date : 18th May, 1964.

Qualifications :—

Either : Cambridge School Certificate pass in English Language and Mathematics ;

Or : London General Certificate in five subjects at Ordinary level and the same sitting in English, French and Mathematics ;

Or : An acceptable alternative

For application forms and other details to the Establishment Division of the Office.

No consideration will be given to a candidate made on the prescribed forms, which should be forwarded to the Secretary Commission, 10, de Caën Street, Rose

Establishment
Chief Secretary

22nd April, 1964.

General Notice No. 450 of 1964.

NOTICE

ASSIGNMENT OF DISTRICTS TO MAGISTRATES

The Honourable the Chief Justice has announced the following changes in the assignments of District Magistrates with effect from the 21st April, 1964.

1. The special charge of the 1st Division of the District Court of Port Louis to L. E. V. District Magistrate, lapses ;
2. C. de Labauve d'Arifat, Esquire, District Magistrate, is given the special charge of the 1st Division of the District Court of Port Louis and the 1st Division of the District Court of Plaines Wilhems, lapses as from the same date ;
3. Y. P. Espitalier-Noël, Esquire, District Magistrate, is given the special charge of the 1st Division of the District Court of Port Louis, his special charge of the 1st Division of the District Court of Plaines Wilhems, lapses as from the same date ;
4. A. M. G. Ahmed, Esquire, District Magistrate, is given the special charge of the 1st Division of the District Court of Port Louis, his special charge of the 1st Division of the District Court of Plaines Wilhems, lapses as from the same date ;
5. C. Nazroo, Esquire, District Magistrate, is given the special charge of both the District Court of Port Louis and the District Court of Plaines Wilhems, lapses as from the same date ;

FRANCE
Master at Arms

24th April, 1964.

ets to announce the death, on the 54, of Mrs. Marie Olga Jasmin, Teacher Mary Schools, Ministry of Education rs.

Office,
A. S. ALLAN,
4. Acting Chief Secretary.

To. 1007 of 1964.

APPOINTMENTS

URICE RAULT, Magistrate, Intermediate, to act as Presiding Magistrate, with 26th October, 1964.

ALALL, Administrative Assistant, to be tary, with effect from the 26th October,

GÉRARD LALOUE, Puisne Judge, r Puisne Judge, with effect from the 1964.

PHUL, Magistrate, Intermediate Criminal, Puisne Judge, with effect from the 1964.

END RESUMPTION OF DUTY

NIEN MOOTOOSAMY, Superintendent of ctober, 1964, from leave and resumed h October, 1964.

puty Director of Agriculture, 19th Oc- om leave and resumed duty on the 1964.

IONS TO SUBSTANTIVE APPOINTMENTS

AVY, Assistant Superintendent of Pri- ber, 1964.

L, Assistant Superintendent of Prisons, 1964.

E PREFUMO, Chief Officer, Prisons School, 20th October, 1964.

His Excellency the Officer Adminis- ment.

Office,
A. S. ALLAN,
f. Acting Chief Secretary.

o. 1008 of 1964.

LEGAL SUPPLEMENT

ioned Bill is published for general e Special Legal Supplement to this ernment Gazette:—

r to amend the Co-operative Societies 45".

His Excellency the Officer Adminis- ment.

Office,
A. S. ALLAN,
Acting Chief Secretary.

The Interpretation and General Clauses Ordinance, 1957.

(Government Notice No. 146 of 1964)

The Town Council of Vacoas—Phoenix (General Rate) (Amendment) Regulations, 1964.

(Government Notice No. 147 of 1964)

The Customs Tariff (Amendment No. 2) Ordinance, 1964.

(Ordinance No. 28 of 1964)

The Public Holidays (Amendment) Ordinance, 1964.

(Ordinance No. 29 of 1964)

The Explosives (Amendment) Ordinance, 1964.

(Ordinance No. 30 of 1964)

The Labour Clauses in Public Contracts Ordinance, 1964.

(Ordinance No. 31 of 1964)

The Ministry of Social Security (Integration) Ordinance, 1964.

(Ordinance No. 32 of 1964)

The Old Age Pensions (Amendment) Ordinance, 1964.

(Ordinance No. 33 of 1964)

The Sugar Industry Reserve Funds (Amendment) Ordinance, 1964.

(Ordinance No. 34 of 1964)

The Ministry of Information, Posts and Telegraphs, and Telecommunications (Integration) Ordinance, 1964.

(Ordinance No. 35 of 1964)

By direction of His Excellency the Officer Adminis- tering the Government.

Chief Secretary's Office,
Port Louis,
31st October, 1964.

A. S. ALLAN,
Acting Chief Secretary.

General Notice No. 1010 of 1964.

DECLARATION OF POST VACANT

His Excellency the Officer Administering the Govern- ment has declared vacant the post of Teacher, Government Schools, Ministry of Education, held by Miss Marie Lise Ramasamy who failed to return to Mauritius to resume duty on the expiry on the 17th March, 1964, of approved leave spent in Britain.

Chief Secretary's Office,
Port Louis,
26th October, 1964.

A. S. ALLAN,
Acting Chief Secretary.

General Notice No. 1011 of 1964.

MAGISTRATE FOR LESSER DEPENDENCIES

(The Courts Ordinance (Cap. 168) as subsequently amended)

His Excellency the Officer Administering the Govern- ment, with the concurrence of the Honourable the Chief Justice, has been pleased to approve the following assignments:—

- (1) The Lesser Dependencies to Mr. N. A. Abbasakoor, acting Magistrate for Mauritius and its Dependencies, for the purpose of visiting the Chagos Archipelago with effect from the date of departure of M. V. "Mauritius" on or about the 18th November, 1964, and
- (2) The Lesser Dependencies to Mr. S. J. Forget, acting Magistrate for Mauritius and its Dependencies, for the purpose of visiting St. Brandon with effect from the departure of "La Perle II" on or about the middle of November, 1964.

Chief Secretary's Office,
Port Louis,
29th October, 1964.

A. S. ALLAN,
Acting Chief Secretary.

Salary scale : Rs 10,080 t
Age Limit : under 45
serving of

Closing date : 10th Decen

Qualifications : A suitable regard to together v education rience. to a Hor Hindi tog Philosoph degrees v Philosoph also be co

For application forms and the Establishment Divisio

Candidates in the United Mauritius Students' Unit, London, W.1.

No consideration will be : te on the prescribed ported by the required annexures should be f Public Service Commissi

Est

2nd October, 1964.

General Notice No. 1013 of

MAURITIUS GOVERNMENT

VACANCIES FOR ASSISTANT S THE GENERAL STO

Salary Scale : Rs 2,904
Age Limit : between
Closing date : 25th No

Qualifications:—

Either : A Cambridge Sc in at least five Language or F Elementary M: subjects.

Or : A London Gene with passes at C same examinatio English Literal and two other s

Or : An acceptable al

For application forms a person to the Establishme Secretary's Office.

No consideration will be made on the prescribed form by the required certificates. should be forwarded to th Commission, 10, de Caen

E

26th October, 1964.

General Notice No. 405 of 1965.

LEGAL SUPPLEMENT

The undermentioned Government Notices and Ordinance are published in the Legal Supplement to this number of the *Government Gazette* :—

Nationality and Passport Matters arising out of the Independence of The Gambia.

(Government Notice No. 22 of 1965)

The Wages Council (Printing Industry) Order, 1965.

(Government Notice No. 23 of 1965)

The Breweries (Amendment) Ordinance, 1965.

(Ordinance No. 2 of 1965)

By direction of His Excellency the Governor.

Chief Secretary's Office,
Port Louis,
30th April, 1965.

TOM VICKERS,
Chief Secretary.

General Notice No. 406 of 1965.

MAGISTRATE FOR THE LESSER DEPENDENCIES

His Excellency the Governor, after consultation with the Honourable Chief Justice, has been pleased to assign the Lesser Dependencies to Mr. R. Lallah, a District Magistrate for Mauritius and its Dependencies, as from the 19th April, 1965. This assignment is in addition to previous assignments made to him.

2. The assignment of the Lesser Dependencies to Mr. A. G. M. Ahmed published in General Notice No. 44, of 1964 lapses from the same date.

Chief Secretary's Office,
Port Louis,
23rd April, 1965.

TOM VICKERS,
Chief Secretary.

General Notice No. 407 of 1965.

MAURITIUS GOVERNMENT SERVICE

VACANCIES FOR TECHNICAL INSTRUCTORS TO TEACH:—

- (a) METALWORK AND MACHINE WORKSHOP
- (b) WOODWORK

AT THE JOHN KENNEDY COLLEGE IN THE
MINISTRY OF EDUCATION AND CULTURAL
AFFAIRS.

Salary Scale : Rs 9,000 to Rs 16,320.

Age Limit : Under 35 years—serving officers
over 35 years of age may apply.

Closing Date : 4th June, 1965.

Qualifications :—

For the teaching of Metalwork and Machine Workshop

A full Technological City and Guilds Certificate in Machine Shop Engineering or equivalent qualifications. Candidates must have served an apprenticeship to the trade and have good experience subsequently in fitting and machine work. Previous teaching experience is desirable.

For the teaching of Woodwork

A full Technological City and Guilds Certificate in Carpentry and Joinery or equivalent qualifications. Candidates must have served an apprenticeship to the trade and must have good experience subsequently in this work. Previous teaching experience

For application forms and of person to the Establishment Division of the Secretary's Office.

Candidates in the United Kingdom: Mauritius Students' Unit, 16, U. London, W. 1.

No consideration will be given made on the prescribed forms, which by the required certificates. Applicants should be forwarded to the Secretary Commission, 7, Louis Pasteur Street

Establishment
Chief :

23rd April, 1965.

*General Notice No. 408 of 1965.*MAURITIUS GOVERNMENT
VACANCIES IN THE DEPARTMENT

Applications are invited for the Department of Agriculture :—

- (1) Four Stock Inspectors
- (2) Five Assistant Agricultural C
- (3) One Scientific Assistant (D Services)
- (4) Four Agricultural Cadets

Salary Scales :—

- (a) For Stock Inspector, Assistant and Scientific Assistant — Rs
- (b) (i) For Cadet possessing F College of Agriculture — Rs 3
- (ii) For Cadet possessing Hon College of Agriculture — Rs 3.
- (iii) For Cadet possessing a U addition to Pass Diploma or the College of Agriculture — I

Age Limit :—

- (a) For posts of Stock Inspector, Officer and Scientific Assistant 35 years — serving officers over 35 may apply.

- (b) For posts of Cadet — between serving officers over 26 years of

Closing Date :—

20th May, 1965.

Qualifications :—

- (a) For posts of Stock Inspector, Officer and Scientific Assistant Diploma of the College of A

- (b) For posts of Cadet :—
Pass Diploma of the College of A
an acceptable alternative preference to candidates Honours or Pass Diploma Agriculture, possess a degree in the United Kingdom or Second preference to candidates not holders of a University Honours Diploma of the C

For application forms and other documents to the Establishment Division of the Office.

Annex 16

Mauritius (Constitution) Order in Council, 1958 (30 July 1958)

Amendment of section 4 of principal Order

2. Section 4 of the principal Order shall have effect as if—

- (i) the words “or expedient” were inserted after the word “necessary”;
- (ii) for the full-stop at the end of paragraph (b) there were substituted a semi-colon followed by the word “and”; and
- (iii) the following new paragraph were inserted at the end, that is to say—

“(c) otherwise for providing, maintaining or securing good government in Malta during any such period”.

W. G. Agnew.

MAURITIUS

The Mauritius (Constitution) Order in Council, 1958

At the Court at Buckingham Palace, the 30th day of July, 1958

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

Introductory

Citation and commencement

1.—(1) This Order may be cited as the Mauritius (Constitution) Order in Council, 1958.

(2) This Order shall be published in the Gazette and, save as otherwise expressly provided in this Order, it shall come into operation on such day (hereinafter called “the appointed day”) as the Governor, acting in his discretion, by Proclamation published in the Gazette shall appoint(a):

Provided that at any time after the making of this Order the boundaries of electoral districts may be fixed and electors may be registered in accordance with the provisions of sections 29, 30, 31 and 32 of this Order, and of any law enacted under the Mauritius (Electoral Provisions) Order in Council, 1958.

2.—(1) In this Order, unless the context otherwise requires—

“the Colony” means the Island of Mauritius (including the small islands adjacent thereto) and the Dependencies of Mauritius;

“the Gazette” means the Government Gazette of the Colony;

“the Governor” means the Governor and Commander-in-Chief of the Colony and includes the officer for the time being adminis-

(a) Day appointed, 31.12.58.

tering the Government and, to the extent to which a Deputy for the Governor is authorized to act, that Deputy;

"law" includes any instrument having the force of law made in exercise of a power conferred by a law;

"Municipal Corporation" includes a Town Council;

"public office" means, subject to the provisions of subsection (3) of this section, an office of emolument under the Crown or an office of emolument under a Municipal Corporation within the Colony;

"public officer" means the holder of any public office and includes a person appointed to act in any public office;

"the Public Seal" means the Public Seal of the Colony;

"the public service" means the service of the Crown in respect of the government of the Colony;

"session" means the sittings of the Legislative Council commencing when the Council first meets after being constituted under this Order, or after its prorogation or dissolution at any time, and terminating when the Council is prorogued or is dissolved without having been prorogued;

"sitting" means a period during which the Legislative Council is sitting continuously without adjournment, and includes any period during which the Council is in committee;

"the Speaker" and "the Deputy Speaker" mean respectively the Speaker and the Deputy Speaker of the Legislative Council;

"the Supreme Court" means the Supreme Court of the Colony.

(2) Any reference in this Order to the holder of an office by the term designating his office includes, to the extent of his authority, any person who is for the time being authorized to perform the functions of that office.

(3) (a) For the purposes of this Order a person shall not be deemed to be a public officer by reason of receiving—

(i) any salary or allowance as Speaker, Deputy Speaker, Minister, Acting Minister or as a member of the Legislative Council;

(ii) any salary or allowance as Mayor, Chairman or a member of a Municipal Corporation, or as the Standing Counsel or the Attorney of a Municipal Corporation;

(iii) a pension or other like allowance in respect of service under the Crown or under a Municipal Corporation.

(b) A provision in any law in force in the Colony that an office shall be deemed not to be a public office for any of the purposes of this Order shall have effect as if it were included in this Order.

(4) References in this Order to Her Majesty's dominions shall be construed as if they were references to all countries or territories within the Commonwealth.

(5) For the purposes of this Order the resignation of a member of any body or holder of any office established by this Order that is required to be addressed to any person shall be deemed to have effect from the time at which it is received by that person:

Provided that a resignation (other than the resignation of the Deputy Speaker) that is required to be addressed to the Speaker shall, if the office of Speaker is vacant, or the Speaker is absent from the Colony, be deemed to have effect from the time at which it is received by the Deputy Speaker on behalf of the Speaker.

(6) For the avoidance of doubt it is hereby declared that any person who has vacated his seat in any body, or has vacated any office, established by this Order may, if qualified, again be appointed or elected as a member of that body or to that office, as the case may be, from time to time.

(7) Save as in this Order otherwise provided or required by the context, the Interpretation Act, 1889(a), shall apply for the purpose of interpreting this Order as it applies for the purpose of interpreting an Act of Parliament.

Revocation

3. The Orders in Council mentioned in the First Schedule to this Order are revoked, but this revocation shall not prejudice anything lawfully done thereunder, and in particular shall not affect the continued operation of any law in force in the Colony immediately before the appointed day.

PART II

Executive Council

Executive Council

4.—(1) There shall be an Executive Council for the Colony which, subject to the provisions of section 10 of this Order, shall consist of three ex officio members and nine appointed members.

(2) The ex officio members and the appointed members shall be styled Ministers.

Functions of Executive Council and exercise of Governor's powers

5.—(1) The Executive Council shall be the principal instrument of policy and shall perform such functions and duties, and exercise such powers, as may from time to time be prescribed by or under this Order, any other Orders of Her Majesty in Council, any Instructions under Her Majesty's Sign Manual and Signet or, subject to the provisions of this Order and of such other Orders and Instructions as aforesaid, by any other law in force in the Colony.

(2) The Governor shall, save as is otherwise provided by this Order or by any Instructions under Her Majesty's Sign Manual and Signet,—

(a) consult with the Executive Council in the exercise of all powers conferred upon him by this Order other than powers which he is by this Order directed or empowered to exercise in his discretion; and

(b) act in accordance with the advice of the Executive Council in any matter on which he is by this subsection obliged to consult with the Executive Council.

Ex officio members

6. The ex officio members of the Executive Council shall be the Colonial Secretary, the Attorney-General and the Financial Secretary.

Appointed members

7.—(1) The appointed members of the Executive Council shall be persons who are elected or nominated members of the Legislative Council and shall be appointed by the Governor, acting in his discretion, by Instrument under the Public Seal.

(2) The Governor shall forthwith report to Her Majesty through a Secretary of State the appointment of any person to be a member of the Executive Council.

Tenure of office of appointed members

8.—(1) Subject to the provisions of this Order, an appointed member of the Executive Council shall hold office as such during Her Majesty's pleasure.

(2) An appointed member of the Executive Council shall vacate his office—

(a) when, after any dissolution of the Legislative Council, he is informed by the Governor that the Governor is about to reappoint him as a member of the Executive Council or to appoint another person in his place; or

(b) if he ceases to be a member of the Legislative Council otherwise than by reason of a dissolution of that Council; or

(c) if he resigns his office by writing under his hand addressed to the Governor; or

(d) if he is absent from the Colony without written permission given by the Governor, acting in his discretion.

Determination of questions as to membership

9. Any question whether any person is a member of the Executive Council shall be determined by the Governor, acting in his discretion.

Temporary members of the Executive Council

10.—(1) Whenever an ex officio or an appointed member of the Executive Council is unable, because of his illness or absence from the Colony, to perform his functions as a member of the Council, the Governor, acting in his discretion, may, by Instrument under the Public Seal, appoint a person to be temporarily a member of the Council:

Provided that he shall appoint a person who is a public officer in place of an ex officio member, and a person who is an elected or nominated member of the Legislative Council in place of an appointed member.

(2) A person appointed under this section to be temporarily a member of the Executive Council—

(a) shall hold office as such during Her Majesty's pleasure;

(b) shall cease to hold office as such when he is notified by the Governor that the member in whose place he was appointed is again able to perform the functions of his office, or when the office of the member in whose place he was appointed becomes vacant.

(3) The Governor shall forthwith report to a Secretary of State any appointment made under this section.

(4) Subject to the provisions of this section, the provisions of this Order shall apply in relation to a person appointed to be temporarily a member of the Executive Council—

(a) as they apply in relation to ex officio members, if he was appointed in place of such a member ; and

(b) as they apply in relation to appointed members, if he was appointed in place of such a member.

Official oath

11. Before entering upon the functions of his office every ex officio member and every appointed member of the Executive Council and every person appointed to be temporarily a member of the Council shall make and subscribe before the Governor, or some other person authorized in that behalf by the Governor, an oath for the due execution of that office in the following form:—

“I do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of So help me God”:

Provided that every person authorized by law to make an affirmation instead of an oath in legal proceedings may, instead of making the said oath, make an affirmation in like terms.

Summoning of Executive Council

12. The Executive Council shall not be summoned except by the authority of the Governor, acting in his discretion:

Provided that the Governor shall summon the Council if five or more members of the Council so request.

Proceedings in Executive Council

13.—(1) The Governor shall, so far as practicable, attend and preside at all meetings of the Executive Council, and in his absence such member as the Governor may either generally or specially appoint shall preside.

(2) No business shall be transacted at any meeting of the Executive Council if there are less than five members of the Council present at the meeting and any member present has objected to the transaction of business on that account.

(3) Subject to the last foregoing subsection, the Executive Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Council (including any vacancy not filled when the Council is first constituted or is reconstituted at any time) and the validity of the transaction of business in the Council shall not be affected by reason only of the fact that some person who was not entitled to do so took part in those proceedings.

Assignment of departments

14.—(1) The Governor, acting in his discretion, may by directions in writing—

(a) charge any ex officio member of the Executive Council with the administration of any department or subject ;

(b) declare which departments or subjects may be assigned to members of the Executive Council other than ex officio members ; and

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- (c) revoke or vary any directions given under this subsection.
- (2) The Governor may by directions in writing—
 - (a) charge any member of the Executive Council, other than an ex officio member, with the administration of any department or subject during such time as it shall be declared, under paragraph (b) of the foregoing subsection, to be a department or subject which may be assigned to members other than ex officio members; and
 - (b) revoke or vary any directions given under this subsection.

Leave of absence

15. The Governor, acting in his discretion, may grant leave of absence from his duties to any member of the Executive Council.

Commencement of Part II and transitional provisions

16.—(1) This Part shall come into operation on such day after the appointed day as the Governor, acting in his discretion, by Proclamation published in the Gazette shall appoint(a); and thereupon the Executive Council established by the Mauritius Letters Patent, 1947 and 1954, shall cease to exist.

(2) Whenever the Governor has occasion, before the commencement of this Part, to exercise any power conferred upon him by any other Part of this Order, then, unless the power is one which he is by this Order directed or empowered to exercise in his discretion, he shall, in the exercise of the power, consult with the said Executive Council in such circumstances, and on such conditions, as may be prescribed by such provisions as may at that time have effect, of the Instructions issued under the Royal Sign Manual and Signet to the Governor and Commander-in-Chief of the Colony and dated the 19th day of December, 1947, as amended by Additional Instructions dated the 22nd day of February, 1952.

PART III

Legislative Council

Legislative Council

17. There shall be a Legislative Council for the Colony which shall consist of a Speaker, three ex officio members, forty elected members and such nominated members, not exceeding twelve in number, as the Governor may, under the provisions of this Order, appoint.

The Speaker

18.—(1) The Speaker shall be a person who is not an ex officio, nominated, or elected member of the Legislative Council and who does not hold any public office, and shall be appointed by the Governor, acting in his discretion, by Instrument under the Public Seal.

(2) The Speaker shall hold office during Her Majesty's pleasure and, subject thereto, for such period as may be specified in the Instrument by which he is appointed, and shall not vacate his office by reason of a dissolution of the Legislative Council:

Provided that the Speaker may, by writing under his hand addressed to the Governor, resign his office.

(a) Day appointed for commencement of Part II, 7. 3. 59.

(3) If the office of Speaker is vacant, or if the Speaker is absent from the Colony or for any other reason unable to perform the functions of his office, the Governor, acting in his discretion, may by Instrument under the Public Seal appoint a person to act as Speaker; and the provisions of this Order other than subsection (1) of this section shall apply in relation to that person as they apply in relation to the Speaker.

The Deputy Speaker

19.—(1) The Legislative Council shall—

- (a) at its first sitting in every session, and
- (b) at its first sitting after the occurrence of a vacancy in the office of Deputy Speaker,

or as soon thereafter as may be convenient, elect as Deputy Speaker of the Legislative Council one of its own members, who is not a member of the Executive Council.

(2) The Deputy Speaker shall, unless he earlier vacates his office under the provisions of this Order, hold office until some other person is elected as Deputy Speaker under paragraph (a) of the foregoing subsection.

(3) (a) A person shall vacate the office of Deputy Speaker—

- (i) upon ceasing to be a member of the Legislative Council; or
- (ii) upon becoming a member of the Executive Council.

(b) The Deputy Speaker may by writing under his hand addressed to the Speaker or, in the absence of the Speaker or if there is no Speaker, to the Clerk of the Legislative Council, resign his office.

(4) In any election of a Deputy Speaker under this section the votes of the members of the Legislative Council shall be given by ballot in such a manner as not to disclose how any particular member votes.

Ex officio members

20. The ex officio members of the Legislative Council shall be the Colonial Secretary, the Attorney-General and the Financial Secretary.

Elected members

21. The elected members of the Legislative Council shall be persons qualified for election in accordance with the provisions of this Order and elected in the manner provided by any law enacted under the Mauritius (Electoral Provisions) Order in Council, 1958, or this Order.

Nominated members

22.—(1) Subject to the provisions of section 24 of this Order, the nominated members of the Legislative Council shall be British subjects of the age of twenty-one years or upwards and shall be appointed by the Governor, acting in his discretion, by Instrument under the Public Seal.

(2) The Governor shall forthwith report to Her Majesty through a Secretary of State every appointment of any person to be a nominated member of the Legislative Council.

Qualifications for elected membership

23. Subject to the provisions of the next following section, a person shall be qualified to be elected as a member of the Legislative Council if, and shall not be qualified to be so elected unless, he—

- (a) is a British subject of the age of twenty-one years or upwards ;
- (b) has resided in the Colony for a period of, or periods amounting in the aggregate to, not less than two years before the date of his nomination for election ;
- (c) has resided in the Colony for a period of not less than six months immediately before the date of his nomination for election ; and
- (d) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Council.

Disqualifications for elected and nominated membership

24. No person shall be qualified to be elected or appointed a member of the Legislative Council who—

- (a) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state ;
- (b) holds, or is acting in, any public office ;
- (c) (i) in the case of an elected member, is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government of the Colony for or on account of the public service, and has not, within one month before the day of election, published in the English language in the Gazette and in a newspaper circulating in the electoral district for which he is a candidate a notice setting out the nature of such contract, and his interest, or the interest of any such firm or company, therein ; or
- (ii) in the case of a nominated member, is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government of the Colony for or on account of the public service, and has not disclosed to the Governor the nature of such contract and his interest, or the interest of any such firm or company, therein ; or
- (d) has been adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions and has not been discharged or has obtained the benefit of *cessio bonorum* in the Colony ;
- (e) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Colony ;
- (f) is under sentence of death imposed on him by a court in any part of Her Majesty's dominions, or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended ;

(g) in the case of an elected member, is disqualified for election by any law in force in the Colony by reason of his holding, or acting in, any office the functions of which involve—

(i) any responsibility for, or in connection with, the conduct of any election; or

(ii) any responsibility for the compilation or revision of any electoral register; or

(h) is disqualified for membership of the Council by any law in force in the Colony relating to offences connected with elections.

Tenure of office of elected and nominated members

25.—(1) Subject to the provisions of this Order, a nominated member of the Legislative Council shall hold his seat in the Council during Her Majesty's pleasure.

(2) The seat of an elected or a nominated member of the Legislative Council shall become vacant—

(a) upon a dissolution of the Council;

(b) if he resigns it by writing under his hand addressed, if he is an elected member, to the Speaker, or if he is a nominated member, to the Governor;

(c) if, being an elected member, he is appointed as a nominated member of the Council or, being a nominated member, he is, with his consent, nominated as a candidate in any election of a member to the Council;

(d) if he ceases to be a British subject;

(e) if he becomes a party to any contract with the Government of the Colony for or on account of the public service, or if any firm in which he is a partner or any company of which he is a director or manager becomes a party to any such contract, or if he becomes a partner in a firm or a director or manager of a company which is a party to any such contract:

Provided that, if in the circumstances it appears to him to be just to do so, the Governor, acting in his discretion, may exempt any elected or nominated member from vacating his seat under the provisions of this paragraph, if such member, before becoming a party to such contract as aforesaid, or before or as soon as practicable after becoming otherwise interested in such contract (whether as a partner in a firm or as a director or manager of a company), discloses to the Governor the nature of such contract and his interest or the interest of any such firm or company therein;

(f) if he ceases to be resident in the Colony;

(g) if any of the circumstances arise that, if he were not a member of the Legislative Council, would cause him to be disqualified for election thereto by virtue of paragraph (a), (b), (d), (e), (g) or (h) of the last foregoing section; or

(h) in the circumstances mentioned in the next following section.

Vacation of seat on sentence

26.—(1) Subject to the provisions of this section, if an elected or nominated member of the Legislative Council is sentenced by a court in any part of Her Majesty's dominions to death or to imprisonment

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(by whatever name called) for a term exceeding twelve months, he shall forthwith cease to perform his functions as a member of the Council, and his seat in the Council shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the Speaker (or, if the office of Speaker is vacant or he is for any reason unable to perform the functions of his office, the Deputy Speaker) may, at the request of the member, from time to time extend that period for thirty days to enable the member to pursue any appeal in respect of his conviction or sentence, so however that extensions of time exceeding in the aggregate three hundred and thirty days shall not be given without the approval of the Council signified by resolution.

(2) If at any time before the member vacates his seat he is granted a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than twelve months or a punishment other than imprisonment is substituted, his seat in the Legislative Council shall not become vacant under the foregoing subsection, and he may again perform his functions as a member of the Council.

(3) For the purpose of this section two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

Determination of questions as to membership

27.—(1) Any question whether a person has been validly appointed as a nominated member of the Legislative Council or whether a nominated member of the Legislative Council has vacated his seat therein shall be determined by the Governor, acting in his discretion.

(2) Any question whether a person has been validly elected as a member of the Legislative Council, or whether an elected member of the Legislative Council has vacated his seat therein, shall be determined by the Supreme Court.

Temporary members of the Legislative Council

28.—(1) Whenever an ex officio or a nominated member of the Legislative Council is unable, because of his illness or absence from the Colony, to perform his functions as a member of the Council, the Governor, acting in his discretion, may by Instrument under the Public Seal appoint a person to be temporarily a member of the Council:

Provided that he shall appoint a person who is a public officer in place of an ex officio member, and a person qualified for appointment as a nominated member in place of a nominated member.

(2) A person appointed under this section to be temporarily a member of the Legislative Council—

(a) shall hold his seat in the Council during Her Majesty's pleasure;

(b) shall vacate his seat when he is notified by the Governor that the member in whose place he was appointed is again able to perform his functions as a member of the Council, or when the seat of the member in whose place he was appointed becomes vacant.

(3) The Governor shall forthwith report to a Secretary of State any appointment made under this section.

(4) Subject to the provisions of this section, the provisions of this Order shall apply in relation to a person appointed to be temporarily a member of the Legislative Council—

- (a) as they apply in relation to ex officio members, if he was appointed in place of such a member; and
- (b) as they apply in relation to nominated members, if he was appointed in place of such a member.

Electoral districts

29.—(1) For the purpose of electing members of the Legislative Council the Colony shall be divided into forty electoral districts, each of which shall return one member.

(2) The boundaries of each electoral district shall be fixed by the Governor by Proclamation published in the Gazette.

Qualifications of electors

30. Subject to the provisions of the next following section, a person shall be entitled to be registered as an elector in one electoral district only, but he shall not be entitled to be registered as an elector unless he—

- (a) is a British subject of the age of twenty-one years or upwards; and
- (b) has resided in the Colony for a period of at least two years immediately before the date of registration or is domiciled in the Colony and is resident therein at that date; and
- (c) has resided in the electoral district in which he claims to be registered for a period of at least six months immediately before the date of registration.

Disqualifications of electors

31. No person shall be entitled to be registered as an elector in any electoral district who—

- (a) has been sentenced by a court in any part of Her Majesty's dominions to death or to imprisonment (by whatever name called) for a term exceeding twelve months, and has not either suffered the punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor or received a free pardon; or
- (b) is a person adjudged to be of unsound mind or detained as a criminal lunatic under any law in force in the Colony; or
- (c) is disqualified for registration as an elector by any law in force in the Colony relating to offences connected with elections.

Right to vote at elections

32.—(1) Any person who is registered as an elector in an electoral district shall, while so registered, be entitled to vote at any election for that district unless he is prohibited from so voting by any law in force in the Colony—

- (a) because he is a returning officer; or
- (b) because he has been concerned in any offence connected with elections.

(2) No person shall vote at any election for any electoral district who is not registered as an elector in that district.

Law as to elections

33. Subject to the provisions of this Order, a law enacted under this Order may provide for the election of members of the Legislative Council, including (without prejudice to the generality of the foregoing power) the following matters, that is to say:—

- (a) the qualifications and disqualifications of electors;
- (b) the registration of electors;
- (c) the ascertainment of the qualifications of electors and of candidates for election;
- (d) the division of the Colony into electoral districts for the purpose of elections;
- (e) the holding of elections;
- (f) the determination of any question which may arise as to whether any person has been validly elected a member of the Legislative Council or as to whether the seat of any elected member in the Legislative Council has become vacant;
- (g) the definition and trial of offences relating to elections and the imposition of penalties therefor, including disqualification for membership of the Legislative Council, or for registration as an elector, or for voting at elections, of any person concerned in any such offence; and
- (h) the disqualification for election as members of the Legislative Council of persons holding, or acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election or the compilation or revision of any electoral register.

PART IV

*Legislation and Procedure in Legislative Council**Power to make laws*

34. Subject to the provisions of this Order, the Governor, with the advice and consent of the Legislative Council, may make laws for the peace, order and good government of the Colony.

Royal Instructions

35. Subject to the provisions of this Order, the Governor and the Legislative Council shall, in the transaction of business and the making of laws, conform as nearly as may be to the directions contained in any Instructions under Her Majesty's Sign Manual and Signet which may from time to time be addressed to the Governor in that behalf.

Standing Orders

36.—(1) Subject to the provisions of this Order and of any Instructions under Her Majesty's Sign Manual and Signet, the Legislative Council may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business, and for the passing, intitling and numbering of Bills, and for the presentation thereof to the Governor for assent; but no such Standing Orders shall have effect unless they have been approved by the Governor, acting in his discretion.

(2) The first Standing Orders of the Legislative Council shall, subject to the provisions of this Order, be the Standing Orders of the Legislative Council constituted under the Mauritius (Legislative Council) Orders in Council, 1947 to 1958, and in force at the time of the revocation of those Orders, and may be amended or revoked by the Council under the foregoing subsection.

Official language

37. The official language of the Legislative Council shall be English but any member may address the chair in French.

Presiding in Legislative Council

38. The Speaker, or in his absence the Deputy Speaker, or in their absence a member of the Legislative Council (not being a member of the Executive Council) elected by the Legislative Council for the sitting, shall preside at any sitting of the Council.

Legislative Council may transact business notwithstanding vacancies

39. The Legislative Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership thereof (including any vacancy not filled when the Council is first constituted or is reconstituted at any time) and any proceedings therein shall be valid notwithstanding that some person who was not entitled to do so sat or voted in the Council or otherwise took part in those proceedings.

Quorum

40.—(1) If at any sitting of the Legislative Council a quorum is not present and any member of the Council who is present objects on that account to the transaction of business and, after such interval as may be prescribed in the Standing Orders of the Council, the person presiding at the sitting ascertains that a quorum is still not present, he shall adjourn the Council.

(2) For the purposes of this section a quorum shall consist of sixteen members of the Legislative Council in addition to the person presiding.

Voting

41.—(1) Save as otherwise provided in this Order, all questions proposed for decision in the Legislative Council shall be determined by a majority of the votes of the members present and voting, and if, upon any question before the Council, the votes of the members are equally divided the motion shall be lost.

(2) (a) The Speaker shall have neither an original nor a casting vote; and

(b) any other person, including the Deputy Speaker, shall, when presiding in the Legislative Council, have an original vote but no casting vote.

Introduction of Bills

42.—(1) Subject to the provisions of this Order and of the Standing Orders of the Legislative Council, any member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Council, and the same shall be debated and disposed of according to the Standing Orders of the Council.

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(2) Except on the recommendation or with the consent of the Governor the Legislative Council shall not—

- (a) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding in the Council, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of the Colony or for altering any such charge otherwise than by reducing it or for compounding or remitting any debt due to the Colony;
- (b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the Council, is that provision should be made for any of the purposes aforesaid; or
- (c) receive any petition which, in the opinion of the person presiding in the Council, requests that provision be made for any of the purposes aforesaid.

Governor's reserved power

43.—(1) If the Governor considers that it is expedient in the interest of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of the Colony as a territory within the Commonwealth, and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer), that any Bill introduced, or any motion proposed, in the Legislative Council should have effect, then, if the Council fail to pass such Bill or to carry such motion within such time and in such form as the Governor thinks reasonable and expedient, the Governor may, at any time that he thinks fit, and notwithstanding any provisions of this Order or of any Standing Orders of the Council, declare that such Bill or motion shall have effect as if it had been passed or carried by the Council either in the form in which it was so introduced or proposed or with such amendments as the Governor thinks fit that have been moved or proposed in the Council, including any committee thereof; and the Bill or the motion shall be deemed thereupon to have been so passed or carried, and the provisions of this Order, and in particular the provisions relating to assent to Bills and disallowance of laws, shall have effect accordingly.

(2) The Governor shall forthwith report to a Secretary of State every case in which he makes any such declaration and the reasons therefor.

(3) If any member of the Legislative Council objects to any declaration made under this section, he may, within seven days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting, and a copy of such statement shall, if furnished by such member, be forwarded by the Governor as soon as practicable to a Secretary of State.

(4) Any declaration made under this section other than a declaration relating to a Bill may be revoked by a Secretary of State and the Governor shall cause notice of such revocation to be published in the Gazette; and from the date of such publication any motion that is deemed to have been carried by virtue of the declaration shall cease to have effect and the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to such revocation as they apply to the repeal of an Act of Parliament.

(5) The powers conferred on the Governor by this section shall be exercised by him in his discretion.

Assent to Bills

44.—(1) A Bill shall not become a law until—

- (a) the Governor has assented to it in Her Majesty's name and on Her Majesty's behalf and has signed it in token of such assent, or
- (b) Her Majesty has given Her assent to it through a Secretary of State and the Governor has signified such assent by Proclamation published in the Gazette.

(2) When a Bill is presented to the Governor for his assent, he shall, acting in his discretion but subject to the provisions of this Order and of any Instructions addressed to him under Her Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents, or refuses to assent, to it, or that he reserves the Bill for the signification of Her Majesty's pleasure :

Provided that the Governor shall reserve for the signification of Her Majesty's pleasure—

- (a) any Bill by which any provision of this Order is revoked or amended or which is in any way repugnant to, or inconsistent with, the provisions of this Order ; and
 - (b) any Bill which determines or regulates the privileges, immunities or powers of the Legislative Council or of its members ;
- unless he has been authorized by a Secretary of State to assent to it.

Disallowance of laws

45.—(1) Any law to which the Governor has given his assent may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever such a law has been disallowed by Her Majesty the Governor shall cause notice of such disallowance to be published in the Gazette and the law shall be annulled with effect from the date of the publication of that notice.

(3) The provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply in relation to the annulment of any law under this section as they apply in relation to the repeal of an Act of Parliament, save that any enactment repealed or amended by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made.

Oath of allegiance

46.—(1) Subject to the provisions of this section, no member of the Legislative Council shall be permitted to take part in the proceedings of the Council (other than proceedings necessary for the purposes of this section) until he has made and subscribed before the Council an oath of allegiance in the following form :—

“ I do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.”

(2) If, between the time when a person becomes a member of the Legislative Council and the time when the Council next sits thereafter a meeting takes place of any committee of the Council of which such person is a member, such person may, in order to enable him to attend

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the meeting and take part in the proceedings of the committee, make and subscribe the oath of allegiance before a judge of the Supreme Court; and the making and subscribing of the oath in such manner shall suffice for all the purposes of this section.

In any such case the judge shall forthwith report to the Council through the Speaker or, as occasion may require, through the Deputy Speaker that the person in question has made and subscribed the oath of allegiance before him.

(3) For the purposes of this section, every person authorized by law to make an affirmation instead of an oath in legal proceedings may, instead of making the oath mentioned in the foregoing subsection, make an affirmation in like terms.

Privileges of Legislative Council and members

47. A law enacted under this Order may determine and regulate the privileges, immunities and powers of the Legislative Council and its members, but no such privileges, immunities or powers shall exceed those of the Commons House of Parliament of the United Kingdom of Great Britain and Northern Ireland or of the members thereof.

Sessions

48.—(1) Subject to the provisions of this Order, the sessions of the Legislative Council shall be held in such place and begin at such time as the Governor by Proclamation published in the Gazette may appoint.

(2) The first session of the Legislative Council shall begin within twelve months after the appointed day; and thereafter a session of the Council shall be held from time to time so that a period of twelve months shall not intervene between the date when the Council last sat in one session and the date appointed for its first sitting in the next session.

Prorogation and dissolution

49.—(1) The Governor may at any time, by Proclamation published in the Gazette, prorogue or dissolve the Legislative Council.

(2) The Governor shall dissolve the Legislative Council at the expiration of five years from the date when the Council first meets after any general election unless it has been sooner dissolved.

General elections

50. There shall be a general election at such time within three months after the appointed day, and thereafter within three months after every dissolution of the Legislative Council, as the Governor by Proclamation published in the Gazette shall appoint.

PART V

The Public Service

Appointments etc. of officers in public service

51.—(1) Power to make appointments to offices in the public service (including appointments on promotion and transfer) and to dismiss and to exercise disciplinary control over officers in that service shall rest in the Governor.

(2) (a) Subject to the provisions of paragraph (b) of this subsection, the Governor may delegate, in such manner and on such conditions as

he may think fit, to any officer in the public service any of the powers conferred on the Governor by the foregoing subsection.

(b) The Governor shall not—

- (i) delegate any such power unless he has obtained the consent of a Secretary of State to such delegation; or
- (ii) delegate any such power with respect to officers whose annual emoluments exceed such sum as may be prescribed by a Secretary of State.

(c) For the purposes of this subsection the emoluments of an officer shall (whether or not he is employed on terms that include eligibility for pension) include only such emoluments as, under the law for the time being in force relating to pensions, are taken into account in computing pensions.

(3) If any law in force in the Colony immediately before the appointed day confers on any officer in the public service any power to appoint, promote, transfer, dismiss, or exercise disciplinary control over, other officers in the public service, that power shall be deemed to have been delegated to that officer by the Governor under the last foregoing subsection, and shall be exercisable by that officer until it is revoked by the Governor or until the provision conferring it has been repealed or revoked.

Public Service Commission

52.—(1) There shall be for the Colony a Public Service Commission (in this Part referred to as “the Commission”) which shall consist of a chairman and such number of other members as may be prescribed by any law enacted in pursuance of subsection (1) of section 54 of this Order.

(2) The chairman and other members of the Commission shall be appointed by the Governor, acting in his discretion.

(3) The Governor, acting in his discretion, may revoke the appointment of the chairman or any other member of the Commission.

(4) No person shall be appointed as a member of the Commission if he is a member of the Legislative Council and, if any member of the Commission becomes a member of the Legislative Council, his appointment as a member of the Commission shall thereupon be deemed to be revoked.

Public Service Commission to advise Governor

53.—(1) The Governor may, either generally or specially and in whatever manner he thinks fit, refer to the Commission for its advice any matter relating to the appointment of any person to an office in the public service, or the dismissal or disciplinary control of officers in the public service, or any other matter that, in his opinion, affects the public service.

(2) It shall be the duty of the Commission to advise the Governor on any question that he refers to it under this section, but the Governor shall not be obliged to act in accordance with its advice.

Laws relating to Public Service Commission

54.—(1) Subject to the provisions of this Order, any law enacted under this Order may provide for all or any of the following matters:—

- (a) the number, tenure of office and terms of service of members of the Commission;

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- (b) the organization of the work of the Commission and the manner in which it shall perform its functions ;
 - (c) grounds of disqualification for membership of the Commission ;
 - (d) consultation by the Commission with persons other than members of the Commission ;
 - (e) the appointment, tenure of office and terms of service of staff to assist the Commission in performing its functions ;
 - (f) the delegation to any member of the Commission of all or any of the powers and duties of the Commission ;
 - (g) the definition and trial of offences connected with the functions of the Commission and the imposition of penalties for such offences.
- (2) Any law in force in the Colony immediately before the appointed day which provides for any of the matters mentioned in the foregoing subsection shall, in so far as it is not inconsistent with the provisions of this section, be deemed for the purposes of this section to have been enacted under this Order.

Exclusion of judges

55. References in this Part to officers in the public service do not include judges of the Supreme Court or any person appointed to be temporarily a judge of that Court.

PART VI

Judges

Retirement and resignation of judges

56.—(1) Subject to the provisions of this Part, a judge of the Supreme Court shall hold office until he attains the age of sixty-two years :

Provided that the Governor, acting in his discretion, may permit a judge to continue in office beyond the age of sixty-two years for a period which does not exceed, or for consecutive periods which do not in the aggregate exceed, three years.

(2) A judge of the Supreme Court may at any time resign his office by writing under his hand addressed to the Governor.

(3) No office of judge of the Supreme Court shall be abolished while there is a substantive holder of that office.

Removal of judges

57.—(1) A judge of the Supreme Court may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be removed except in accordance with the next following subsection.

(2) A judge of the Supreme Court shall be removed from office by the Governor by Order under the Public Seal if the question of removing him from office has, at the request of the Governor, made in pursuance of the next following subsection, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of

the Judicial Committee Act, 1833(a), or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability as aforesaid or misbehaviour.

(3) If the Governor considers that the question of removing a judge of the Supreme Court from office for inability as aforesaid or misbehaviour ought to be investigated, then

(a) the Governor shall by Order under the Public Seal (which he may vary or revoke by another such Order) appoint a tribunal, which shall consist of a chairman and not less than two other members, selected by the Governor from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of Her Majesty's dominions or a court having jurisdiction in appeals from any such court;

(b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether he should request that the question of removing the judge from office should be referred by Her Majesty to the Judicial Committee; and

(c) if the tribunal so recommends, the Governor shall request that the question should be referred accordingly.

(4) Subject to the provisions of the last foregoing subsection, the provisions of the Commissions of Inquiry Ordinance(b), as in force on the appointed day, shall apply in relation to a tribunal appointed by an Order made under that subsection as if they were commissioners appointed by a commission issued under the Ordinance, and references in the Ordinance to commissioners and a commission shall be construed accordingly.

(5) If the question of removing a judge of the Supreme Court from office has been referred to a tribunal under subsection (3) of this section the Governor may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor and shall in any case cease to have effect—

(a) if the tribunal recommends to the Governor that he should not request that the question of removing the judge from office should be referred by Her Majesty to the Judicial Committee; or

(b) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(6) The powers conferred upon the Governor by this section shall be exercised by him in his discretion.

(7) This section shall apply to any person appointed to be temporarily a judge of the Supreme Court as it applies to a substantive holder of the office of judge of the Supreme Court, but without prejudice to the provisions of section 6 of the Courts Ordinance(c), as enacted by the Courts (Amendment) Ordinance, 1954(d), or to any other provision made by any law for the time being in force in the Colony for the termination of the appointment of such a person at the end of a

(a) 3 & 4 Will. 4. c. 41.

(b) Revised Mauritius Ordinances, 1945, cap. 286.

(c) Revised Mauritius Ordinances, 1945, cap. 168.

(d) Ordinance No. 12 of 1954.

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particular period or when his services as a temporary judge of the Supreme Court are no longer required.

Salaries and conditions of service

58.—(1) There shall be charged on the revenues of the Colony and paid thereout to judges of the Supreme Court, and to any person appointed to be temporarily a judge of that Court, such salaries as may be prescribed by any law in force in the Colony.

(2) The salary of a judge of the Supreme Court, or of any person appointed to be temporarily a judge of that Court, shall not be reduced, nor shall his pension rights and other conditions of service be made less favourable to him after his appointment; and, for the purpose of this subsection, if he elects that one of two or more laws shall apply to him, that law shall be deemed to be more favourable than the other law or laws.

(3) Nothing in this section shall prevent the reduction, if the cost of living falls, of a cost of living allowance payable to a judge of the Supreme Court, or to any person appointed to be temporarily a judge of that Court.

PART VII

Miscellaneous

Penalty for sitting or voting in Legislative Council when unqualified

59.—(1) Any person who sits or votes in the Legislative Council knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding five hundred rupees for each day upon which he so sits or votes.

(2) Any such penalty shall be recoverable by civil action in the Supreme Court at the suit of the Attorney-General.

Provisions to give effect to Order

60.—(1) At any time before the appointed day the legislature established by the Mauritius (Legislative Council) Orders in Council, 1947 to 1958, may, by laws enacted under those Orders, make such provision as appears to them to be necessary or expedient for the purpose of bringing any Ordinance in force in the Colony immediately before the appointed day into accord with the provisions of this Order or otherwise for giving effect, or enabling effect to be given, to those provisions; but no such law shall come into operation before the appointed day.

(2) This section shall come into operation forthwith.

Emoluments

61.—(1) The Governor and the other officers mentioned in the Second Schedule to this Order shall receive emoluments at the annual rates respectively specified in that Schedule; and the sums necessary to defray the cost of those emoluments are hereby charged on the revenues of the Colony, and shall be paid thereout by the Accountant-General upon warrant directed to him under the hand of the Governor.

(2) Nothing in this section shall prevent the payment to the Governor or any other officer of any additional sums for which provision may be made from time to time.

Removal of difficulties

62.—(1) If any difficulty arises in bringing into operation any of the provisions of this Order or in giving effect to the purposes thereof, a Secretary of State may, by Order, make such provision as seems to him to be necessary or expedient for the purpose of removing the difficulty and may by such Order amend or add to any provision of this Order:

Provided that no Order shall be made under this section later than twelve months after the appointed day.

(2) Any Order made under this section may be amended, added to or revoked by a further Order, and may be given retrospective effect to a date not earlier than the date of this Order.

(3) This section shall come into operation forthwith.

Power reserved to Her Majesty

63.—(1) Her Majesty hereby reserves to Herself, Her Heirs and Successors power, with the advice of Her or Their Privy Council, to amend, add to or revoke this Order as to Her or Them shall seem fit.

(2) Nothing in this Order shall affect the power of Her Majesty in Council to make laws from time to time for the peace, order and good government of the Colony.

W. G. Agnew.

FIRST SCHEDULE

Section 3

- The Mauritius (Legislative Council) Order in Council, 1947(a).
 The Mauritius (Legislative Council) (Amendment) Order in Council, 1950(b).
 The Mauritius (Legislative Council) (Amendment) Order in Council, 1951(c).
 The Mauritius (Legislative Council) (Amendment) Order in Council, 1952(d).
 The Mauritius (Legislative Council) (Amendment) (No. 2) Order in Council, 1952(e).
 The Mauritius (Legislative Council) (Amendment) Order in Council, 1953(f).
 The Mauritius (Legislative Council) (Amendment) Order in Council, 1956(g).
 The Mauritius (Legislative Council) (Amendment) Order in Council, 1957(h).
 The Mauritius (Legislative Council) (Amendment) Order in Council, 1958.
 The Mauritius (Electoral Provisions) Order in Council, 1958.

SECOND SCHEDULE

Section 61

Annual rate of emoluments.

Governor	...	...	...	Rupees 55,000 salary and Rupees 20,000 duty allowance.
Other Officer for the time being Administering the Government.	...	...	...	Rupees 49,500 salary and Rupees 20,000 duty allowance.
Colonial Secretary	...	...	...	Rupees 40,000 salary.
Attorney-General	...	...	...	Rupees 36,000 salary.
Financial Secretary	...	...	...	Rupees 36,000 salary.
Speaker	...	...	...	Rupees 30,600.

- (a) Rev. XIII, p. 277; S.R. & O. 1947 I, p. 2736. (b) S.I. 1950 II, p. 1546.
 (c) S.I. 1951 II, p. 1416. (d) S.I. 1952 III, p. 3992. (e) S.I. 1952 III, p. 3993.
 (f) S.I. 1953 II, p. 2799. (g) S.I. 1956 II, p. 3031. (h) S.I. 1957 II, p. 3081.

**The Mauritius (Constitution) (Amendment)
Order in Council, 1958**

At the Court at Buckingham Palace, the 19th day of December, 1958

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

Citation, and commencement

1.—(1) This Order may be cited as the Mauritius (Constitution) (Amendment) Order in Council, 1958, and the Mauritius (Constitution) Order in Council, 1958(a) (hereinafter referred to as “the principal Order”) and this Order may be cited together as the Mauritius (Constitution) Orders in Council, 1958.

(2) This Order shall come into operation forthwith and shall be published in the Government Gazette of Mauritius.

Sidenote to section 2 of principal order

2. In the margin of section 2 of the principal Order the word “Interpretation” is inserted as a sidenote.

Amendment of principal Order

3. Subsection (2) of section 16 of the principal Order is amended by substituting for the words “February, 1952.” the words “February, 1952, and the 1st day of April, 1958.”.

4. Part V of the principal Order is amended—

(a) by inserting as subsection (4) of section 51 :—

“(4) The powers conferred upon the Governor by this section shall be exercised by him in his discretion.”; and

(b) by substituting, in subsection (1) of section 53, for the words “The Governor” the words “The Governor, acting in his discretion.”.

W. G. Agnew.

ADDITIONAL INSTRUCTIONS passed under the Sign Manual and Signet to the Governor and Commander-in-Chief of the Colony of Mauritius.

Dated 1st April, 1958.

ELIZABETH R.

ADDITIONAL INSTRUCTIONS to Our Governor and Commander-in-Chief in and over Our Colony of Mauritius, or other Officer for the time being Administering the Government of Our said Colony.

Whereas We are minded further to amend the Instructions under the Royal Sign Manual and Signet dated the nineteenth day of December,

(a) See Pt. II, p. 2914, of this volume.

Annex 17

Alfred J. E. Orian, Department of Agriculture, Mauritius, *Report on a Visit to Diego Garcia* (9-14 Oct. 1958)

REPORT ON A VISIT TO DIEGO GARCIA

by

ALFRED J. E. ORIAN,

Assistant Entomologist — Department of Agriculture, Mauritius

CONTENTS

- I Introduction.
- II Short description of the atoll ; its geographical, physical and climatic conditions.
- III The Coconut plantations and industry.
 Natural and artificial groves.
 Insect enemies of the coconut palm.
 Diseases.
 The rat problem.
 Biological associations.
- IV The Rhinoceros beetle.
 Its life history.
 Eradication campaign.
 Suggestions for dealing with the beetle.
- V Other problems.
 The vegetable garden and fruit trees.
 Improvement of soil.
 Flies and mosquitoes.
- VI Summary.
- VII Acknowledgements.
- VIII References.

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Rev. Agric. (P. Louis) 38: 127-143, 48 pls. 1959
 MAURICE

I — INTRODUCTION

The writer left Mauritius per M. V. "SIR JULES" on the 1st October 1958 and reached Diego Garcia on the morning of the 9th. The "SIR JULES" left for Peros Banhos and Salomon, returning a few days later. The writer spent altogether 6 days in the island which he left on the 15th, arriving in Mauritius on the 23rd.

II — DIEGO GARCIA : SITUATION, TOPOGRAPHY AND CLIMATE

Diego Garcia is the southernmost atoll of the Chagos Group, which is situated between the parallels of 4°44'S. and 7°41'S. and the meridians of 70°47'E. and 72°52'E., about midway between Ceylon and Mauritius. It is the most important island of the Archipelago; its distance from Mauritius is 1,174 miles in a north-easterly direction. It is a typical atoll made up of a narrow ribbon of land varying in width from 30 yards to 1½ mile and almost completely encircling a vast V-shaped lagoon opening to the ocean towards the north-west. Three small islands lie across the mouth of the lagoon, which is itself 13 miles long and 4 to 6 miles broad; they are known by the names of West (1), Middle and East Islands (2).

Diego Garcia covers an area of about 6,000 acres; the land is subject to alterations, being at times washed away in one part and raised at another. The whole of the land composing the atoll is very low; the highest point being only 30 feet above high tide level and the general elevation 3 to 5 feet, so that the island appears to rise just above the waves. It is surrounded by reefs — the outer or seaward shore being higher than the inner or lagoon shore. Swamps formed by the sea or back-waters are fairly extensive in places. The strong tidal currents cause considerable beach erosion.

The nature of the soil varies a great deal from place to place consisting in some localities of bare coral rock while in others it is made up of calcareous sand and no coral. Also some parts of the land are older than others: these older parts have apparently been covered by vegetation for a considerable period for there is a thick peaty mould lying on the surface. According to Bourne, who visited the island in 1885, "the great strip of land which constitutes Diego" was formerly a series of disconnected islets which have since joined together by the accumulation of sand and coral debris between them. Deposits of guano occur here and there mixed with sand and marine shells or organic matter.

Diego Garcia was discovered by the Portuguese in the XVth century. It is named after two famous navigators of the same nationality:

(1) Or Bird Island or Isle Majaz.

(2) Or Isle Grand Barbe — the largest of the three; it is 800 yards long and nearly 100 yards broad.

ALFRED J. E. ORIAN

A VISIT TO DIEGO GARCIA

DIEGO DIAZ and GARCIA DE NORONHA. When first discovered, it was already covered by a luxuriant vegetation of coconut palms, of tatamaka (*Calophyllum inophyllum* L.), of bois blanc (*Hernandia peltata* Meissn), and of gayac (*Intsia bijuba* O. Ktze). The whole island is now devoted to the cultivation of the coconut, but its central part "was evidently at one time a large garden for taro: *Calocasia antiquorum* Schott" (3) (Plate II).

Before the piercing of the Suez Canal, Diego Garcia was a coaling station for ships going to Australia from Aden and back while earlier still it was a safe shelter for 17th and 18th century privateers. It was visited in August 1914 by the famous German battleship "EMDEN". As there was no wireless in those days, the population, ignorant of the outbreak of war, allowed the ship to load its full complement of fuel and fresh food... only to learn of hostilities between Britain and Germany from a British destroyer 24 hours after the Emden had left. During the last war it was one of the bases held by the R.A.F. and R.A. in the Indian Ocean.

The Archipelago lies on the southern limit of the North-west monsoon and winds at that season are from N.E. through N.W. to West. The S.E. trade wind prevails from April to October, blowing with persistence from June to September. Fortunately a natural windbreak is provided by the almost unbroken zone of *Scaevola frutescens* Krause (Bois manioc), *Thespesia populnea* Soland, and of *Tournefortia argentea*, L. (Velontier). Calms are very rare and cyclones do not occur. The climate is typically equatorial; the temperature varies little throughout the year and rarely exceeds 32°C or falls below 22°C. The weather is coolest when the S.E. Trade Wind is at its strongest. The dry season lasts from June to September and the wet season from October to March. The rainfall is high with fairly great variations. In 1957 it was 128 inches and this year (September 1957 — August, 1958) it dropped to 88.5 inches.

High rainfall and temperature, absence of cyclones and a constant supply of soil water can easily explain the dense vegetation which is to be found everywhere except where the soil conditions constitute a limiting factor. These conditions are responsible for the absence of a distinct flowering season and for the gigantic size of many native and cultivated trees (Wiehe 1939). The atoll is covered with luxuriant vegetation of bright green colour and is fringed by pure white sandy beaches. In places the tree-line is 125 feet high, while clumps of *Casuarina equisetifolia* Forst., reach 80 feet or more.

III — THE COCONUT PLANTATIONS AND THE COCONUT INDUSTRY

The main industry of the island is the production of copra; this is exported to Mauritius where oil is extracted and the press-cake or poo-

(3) Taro: *songe creole*. It is called "Via" in Diego. However, the plant called "Via" in Mauritius is different and its scientific name is *Typhonodorum lindleyanum* Schott — a giant arum.



Plate II — A plantation underplanted with seedlings.
Colocasia antiquorum in foreground.



Plate III. — Group of palms dying from rhinoceros beetle attack.

mac is valuable when added to poultry feed mixtures. Some guano is also exported. Table I summarises the island's production.

TABLE I

Year	No. of nuts collected	Weight in tons of copra exported to Mauritius	Weight of copra used for Diego edible oil requirements	Remarks
1957	4,817,000	590	34 tons	In addition 16,000 nuts were used in seedling production
1958	4,514,000	558	36 ..	This is equivalent to 26,520 bottles of oil

This year's guano production amounted to 1,425 tons. In addition 800 tons are in stock at Diego.

NATURAL AND ARTIFICIAL GROVES

The coconut groves are nearly all natural plantations which are very old; as a result yields are going down. In places the palms are intermingled with trees and other dense undergrowth on which grow epiphytic ferns, such as *Asplenium nidus* L. (an edible species commonly called "langue de vache"), while at their base and on the ground are thick tufts of *Psilotum triquetrum* Sw. thus forming an inextricable jungle. Owing to the dense foliage and the very low light intensity resulting therefrom, the palms are sometimes bent, with spirally twisted trunks.

A tremendous effort in replanting has been made in the past few years and regular plantations of the palm are now to be found e.g. at Nordest, East Point and Carcasse.

In striking contrast with the compact undergrowth of the natural groves, the vegetation of artificial groves changes to creeping plants associated with noxious weeds such as *Tridax procumbens* L. (Herbe caille), *Fimbristylis spathacea* Rath. (Herbe malgache), *Bryophyllum pinnatum* Kurze (Soudefafe), *Stachytarpheta indica* Vahl (Quene de rat), *Achyranthes aspera* L. (Herbe sergent), *Stenotaphrum dimidiatum* (4) Bronqn. (Chiendent bourrique), *Bidens pilosa* L. (Villebague), *Ageratum conyzoides* L. (Herbe bouc), *Boerhaavia diffusa* L. (Liane nina), *Portulaca oleracea* L. (Purslane, pourpier), *Passiflora suberosa* L. (Liane poc-poc)

(4) In many places this grass suffers from "chlorosis" probably due to some mineral deficiency.

and the ubiquitous shrub *Morinda citrifolia* L. (Bois tortue). Plants making up the beach community are frequently parasitized by *Cassytha filiformis* L. (Liane sans fin).

A large number of nuts are lost through germination. In the past, planting was only carried out to replace dead trees, and small holes were made in which self-sown seedlings removed with a hoe were planted (hence the name "coco-pioche"). This practice has disappeared altogether and large holes are now dug (3-7' diameter and from 4-10' deep according to the water table) and the hard pan underlying the surface is thoroughly broken. The establishment of seedlings is therefore not as slow as before and better trees result. Selection of seedlings, however, is not effected in nurseries. Nor is manuring of established plantations practised. It might be advantageous to use some of the lower grade guano to improve the soil in deficient areas. The only manuring is at planting time in the hole dug which is filled with organic matter and ash from burnt coir and coconut leaves.

Weeding is an important problem and is done by hand: gangs of labourers simply cutting down and burning the undergrowth from which some charcoal is made at the same time. Weed-killers are not used; should such be employed great care should be exercised to prevent injury to the coconut trees. A flame thrower might perhaps be used where *Bryophyllum* (soudefafe) is plentiful.

Ripe nuts are allowed to fall on the ground; these are collected weekly and the husks removed. Formerly the husks instead of being burnt were stacked round the trunks of the palms up to a height of 3-4 feet. This practice favoured the development of the rhinoceros beetle and also of adventitious roots along the trunk (Plate IV). The de-husked nuts are transported in donkey-drawn carts and the meat is dried in the copra kilns at East Point. Formerly the kernels were broken and the meat then spread on drying platforms with sliding corrugated iron roofs. Sun drying has sometimes to be resorted to, but it is altogether an unsatisfactory operation for should rain occur the wet copra does not keep and becomes rancid and mouldy. It is also more readily attacked by the copra beetle (*Necrobia rufipes* Deg.) (5) than kiln-dried copra.

Owing to the small size of the nuts, about 8,000 to 8,500 nuts are required for 1 ton of copra.

INSECT ENEMIES OF THE COCONUT PALM

About 800 insects have been recorded throughout the world on the coconut palm. Of these, nearly 25% are specific to the genus *Cocos*. Only about half a dozen have so far gained access to Diego. Top of the list comes the rhinoceros beetle.

(5) COLEOPTERA: Family Corynetidae (Cleridae). It is a small metallic blue beetle with reddish legs measuring 3.5 mm to 6 mm. in length.

The following is a list of coconut pests in Diego :—

TABLE II

Pests	Insect Order	Notes
(1) <i>Oryctes rhinoceros</i> L.	Coleoptera : Scarabaeidae	Commonly called the rhinoceros beetle
(2) <i>Aspidiotus destructor</i> Sign.	Hemiptera: Coccoidea-Diaspididae	The coconut scale
(3) <i>Chrysomphalus ficus</i> Ashm.	— do —	A round flat scale
(4) <i>Pseudococcus adonidum</i> L.	Hemiptera: Pseudococcidae	A white fluffy mealy bug
(5) <i>Pseudococcus</i> sp.	— do —	— do —

Aspidiotus destructor Sign.

This is the widespread coconut scale. It is a Diaspine coccid which also attacks a wide range of plants, including the banana, mango, papaw, avocado, breadfruit and *Barringtonia* sp. (Bonnet de prêtre). This leaf pest is covered by a flat delicate waxy and semi-transparent scale. The male scales have an oval outline, the female scales are circular. The eggs hatch under the scale and the larvae crawl out slowly in search of a suitable place to fix themselves by inserting their rostra into the leaf. The spread takes place in a number of ways: human agency (coconut leaf baskets), insects, birds and wind. *Chilocorus nigritus* F., a coccinellid beetle or lady bird introduced earlier from Mauritius was recovered but was present in insufficient numbers to check the scale. Thus, at Nordest a number of young coconut palms were severely attacked. The young fronds showed pronounced yellow and brown dying leaflets. The scales were so numerous as to form a continuous light brown crust on the undersurface of the entire fronds. There are indications that a few palms have been killed by this scale and not by the rhinoceros beetle.

It is suggested that new importations of *C. nigritus* be made from Mauritius. Another coccinellid *Cryptognatha nodiceps* Muls. present in Trinidad and Fiji could also be tried as its introduction into the latter islands was very successful against *Aspidiotus*.

It may be mentioned that the following ladybirds also prey upon *Aspidiotus*: — *Scymnus oblongosignatus* Muls., *Scymnus* sp. *Scymnomor-*

phus sp., *Lindorus lophanthæ* Blaisd., *Erochomus laeviusculus* Wsc., *Chilochorus politus* Muls. As these occur in Mauritius, it is also suggested that one or more of these insects be introduced into Diego for trial. An alternative control measure on small palms is to use a 0.2% malathion solution followed by an application of parathion, but as these substances are organophosphorus chemicals, they can only be used under expert guidance.

Chrysomphalus ficus Ashm. is another Diaspine coccid present in Diego Garcia. It is a round flat scale which can be controlled by coccinellids or by chemical treatment.

Pseudococcus spp.

These mealy bugs are common everywhere and are tended by ants; more commonly by *Technomyrmex detorquens* Wik. The ants intensify the attacks by carrying the young stages from leaf to leaf and palm to palm and warding off parasitic and predaceous insects. To keep the ants off, monthly sprayings with 0.5% chlordane might be made, when no other treatment of the palms is necessary.

Acarina

In a number of cases the palms showed signs of attack apparently by a mite; but in spite of repeated searches, the mite *Raoiella indica* Hirst was not encountered during the author's inspections of the groves. This does not rule out its presence in the island and investigations at other periods of the year would be necessary to find out whether it is present or not.

DISEASES OF THE COCONUT PALM

The author ventures to make the following remarks on some diseases of the coconut palm which he observed during his visit: *Bud rot*, *Stem rot* and *Stem bleeding disease*, *Yellowing*, *Leaf spot*, *Quick tapering* and *Premature nutfall*.

Bud-rot — This disease fortunately is not very common. A few cases were seen at East Point, at Cimetiere "Zenfan", and at Noroit. The attacked trees which are growing on unsuitable soil, seem also to have been adversely affected by strong winds. The only control measure advocated if the disease develops in epidemic proportion is burning down affected trees.

Stem-rot and Stem bleeding — This occurs throughout the island. The symptoms are fairly easy to detect and are characterized by the formation of drops of brown ooze from the bark which is cracked in a number of places, and of reddish-brown or dark streaks along the stem. The pathogen is a fungus *Ceratostomella paradoxa* (de Seynes) Dade. In advanced cases of the disease, large cavities appear inside the stem.

(Plate IV, trunk above abnormal roots). More than a score of heavily affected trees were counted in different places. Although the vigour of the palms is obviously impaired as a result of this disease, crops of nuts were present in all cases encountered.

The diseases known as "knife-cut" and "little leaf" were not seen although in one case large gashes were found on a palm, but it was difficult to decide whether the effects were due to human agency or to natural causes.

Yellowing — Pronounced leaf yellowing is common at a number of places. Sometimes it is restricted to occasional trees, at other times a fairly large area is affected, as for example at Carcasse, Verger, Canoterie, Aux puits. As pointed out already the mite *Raoiella* was not encountered in the island; the yellowing might be of pathological nature or be due to some unfavourable soil condition. A soil survey or possibly a study of soil profiles only might throw light on the problem.

Leaf spot caused by *Pestalozzia palmarum* Cke. is of extremely frequent occurrence resulting sometimes in a severe blight on young seedlings.

Tapering stem wilt or pencil point disease — In some areas the palms are apparently affected by a disease which involves rapid shrinkage in diameter, barrenness and yellowing of the tips. In advanced cases the decrease in leaf area and in stem diameter is such that the crown fails to produce leaves and dies (Plate V).

Premature nutfall — The fall of immature nuts (button nuts) within 2 months of the emergence of the spadix is a normal phenomenon. At a later stage when the endosperm of the fruit is just being formed nutfall must be attributed to insect attack or to some other adverse factor. It is known that attacks of the bug *Amblypelta cocophaga* China in some countries (e.g. British Solomon Islands Protectorate) leads to premature fruit fall, but as neither this insect nor any allied form was encountered, the cause of the trouble must be looked for elsewhere. In any case large losses of potential crop result and the problem deserves closer attention as in some areas a considerable number of trees are non-bearing.

Lightning injury

A number of trees were found with the dead leaves still attached to the crown; as their death could not be attributed to commonly occurring causes, it is possible that they had been struck by lightning. These trees decay rapidly and serve as breeding ground for the rhinoceros beetle.

The Rat Problem

The rat problem at Diego is comparable in magnitude to the

ravages of the rhinoceros beetle. According to observations and calculations an increase of more than $\frac{1}{4}$ of the nuts collected could be obtained were it not for destruction by rats.

An abstract from Charles Regnaud's book on the coconut (6) concerning damage to coconuts by rats is worth quoting as it explains the nature of the injury caused by this pest:—

« Il y a 240 ans que Pyrard écrivait : « Les rats ne s'attaquent qu'à ceux qui sont encore verts (les fruits), à cause que les secs sont trop durs à ronger, point que ces animaux désirent principalement d'en boire l'eau et ont cette industrie de faire un trou par dessus, de peur que l'eau ne se répande, et font ce trou de leur même grosseur, afin qu'ils puissent entrer dedans pour boire et manger ; et quand ce fruit n'a plus de substance dedans, il s'empire et tombe de telle sorte qu'aux îles non peuplées la terre en est couverte.....

Ces petits quadrupèdes n'ont pas changé de mœurs, depuis l'époque où Pyrard a signalé leurs dévastations. Ils pullulent encore dans toutes les îles où sont répandus les cocotiers... Le plus souvent, les rats entament le coco tout autour du point où il adhère à son calice persistant, en cet endroit le fruit est très tendre : aussi ont-ils bientôt atteint la noix, qui n'a pas encore atteint la dureté qu'elle doit offrir plus tard et fait leurs délices de la crème et de l'eau qu'elle contient. Chose assez singulière, les rats s'attaquent indifféremment aux cocos encore très jeunes, ou à ceux qui ont déjà acquis toute leur grosseur ; ils creusent même ceux qui ne sont pas plus gros qu'un œuf d'oie.....

Dans quelques-unes des îles de la mer de l'Inde, qui sont sous la dépendance de Maurice on a introduit des chats, espérant ainsi détruire ou du moins diminuer le nombre des rats : mais on n'a pas tardé à s'apercevoir que les chats dévoraient exclusivement les jeunes oiseaux de mer qui leur offraient une pâture plus délicate et infiniment plus facile à se procurer. On a souvent recours, dans ces mêmes îles, à un moyen analogue à celui employé dans certaines parties de la France pour la destruction des taupes. On a des *chercheurs de rats* : ce sont des noirs qui, en outre de la paye mensuelle, reçoivent la gratification d'un verre de rhum par douzaine de queues de rats qu'ils rapportent à l'établissement ; mais ce moyen est encore insuffisant »...

Besides cats, dogs were introduced in Diego to destroy the rats ; the attempt was not a success, as the dogs were not of the right type and they are now but degenerate mongrels which constitute a nuisance and should, in their turn, be exterminated. Introduction of the mongoose

(6) Histoire Naturelle, hygiénique et économique du cocotier. Paris 1806. pp. 22-23.

must be ruled out for obvious reasons. Trapping is not very efficient as only about 600 rats were destroyed by that means from September 1957 to August 1958. Reference is here made to an article (7) by J. R. Williams, former Entomologist of the Department of Agriculture on rat control and it is recommended that those interested in the problem in Diego should read the article.

Poison should be used with great caution, because after eating certain toxic substances, rats run for water and in Diego drinking water is in many cases obtained from wells. Substances containing warfarin, which give good results when properly used, should in the author's opinion be the type of poison to try.

Metal shields or strips of tin, something like an open small umbrella might be nailed round the palms in such a fashion that the lower rim stands out from the trunk, thus preventing ascent. This, however, is a costly job for in saline air metal corrosion is rapid and owing to increase in girth of the trees the shields burst.

BIOLOGICAL ASSOCIATIONS

A word might here be introduced about the origin of the coconut palm. Botanists generally accept O. F. Cook's views about the American origin of the coconut palm (1901), but this seems inadmissible for the crab *Birgus latro* Hbst. does not occur in American coasts and it is improbable that such an organism could have been evolved independently of the coconut.

At the time of my visit this crab (commonly called the Robber Crab or the "Cipaye") seemed very scarce. According to the Manager it does not at the moment cause important losses.

On the other hand, the large red crab, *Cardisoma carnifex* Hbst. (commonly called "troulourou") causes severe depredations in vegetable gardens; further they seriously damage the only road which crosses the island. They could be controlled by pesticide treatment.

IV - THE RHINOCEROS BEETLE

Before discussing methods for the control of *Oryctes rhinoceros* L., it is necessary to review briefly its life cycle and its effects upon the growth of the coconut palm. It is an Asiatic beetle which probably gained access to Diego Garcia during World War I, "being already firmly established in 1939 in some localities" (Wiehe). It now menaces the entire production of copra and consequently of poonac.

Notes on the life-cycle

The length of the life cycle of the insect from egg to adult has

(7) Field rats on sugar estates and methods for their control. *Rev. Agric. Maur.* 32 : 2 : 1953 pp. 56-66.

been variously assessed. Ghosh (1911) regarded it as being 336 days. Corbett (1932) found the minimum time, under laboratory conditions, to be just under four months and the maximum just over 9½ months, while other writers have found it to be 2 years. Obviously it varies with temperature and humidity. The adults occur throughout the year, but are more abundant from January to May. They lie in concealment during day-time and begin their flight at dusk, when they attack the coconut palm and burrow into its heart. Sometimes they simply bite through the folded leaf so that when it unfolds later, the leaflets are found perforated or cut symmetrically off. At other times they bite right through to the growing point and the tree is doomed.

The adult has been found to live for just under 3½ months under laboratory conditions. The female starts laying about one month after emergence and the total number of eggs varies between 27 and 60. They are placed singly, or a few at a time, in decaying palm stems or humus-aden rubbish heaps. The eggs average 3.5 mm by 2 mm (Plate I); they are creamy white in colour and increase considerably in size before hatching; they are often surrounded with hardened earth.

In Diego, under fairly humid conditions they hatch in about 8 days. The newly-hatched larva or grub measures 5-6 mm in length (Plate II). As many as 40 to 100 larvae have been counted in a few feet of coconut stem. Dead trees are soon converted into a damp brown powdery mass, and it has been calculated that over a thousand beetles can be bred from a rotten coconut tree before it is quite destroyed.

The grub lies on its side; it is fleshy and translucent and has three stages of development; when full grown it measures 70 mm x 25 mm. It has a large brown head with powerful black mandibles. The body is covered with numerous reddish bristles and reddish brown spiracles occur along its sides; the anal segment is very swollen. Larval life averages four months. The grub finally enters the pupal stage which is of short duration, so that pupae are comparatively rare to find. The pupa at first white but later turns brown. The size varies, but is generally about 48 mm by 20 mm. The sex is indicated by the size of the horn on the head which as in the adult is prominent in the male. The adult beetle is very hard and chitinous almost shining black above and reddish brown below and measuring from 50 to 65 mm by 20 to 35 mm. When it emerges from the pupa, it is yellowish to brown in colour; the thorax is notched and scooped out in front toward the head. The elytra are smooth with longitudinal grooves and fine punctures. The legs are stout, spiny and adapted for digging.

Campaign of eradication

Prior to 1951, the Entomology Division of the Department of Agriculture supplied Diego Ltd. with several colonies of *Scolia oryctolaya* Coq. for release in the atoll, apparently without result. In

November of the same year, N. L. H. Krauss, who was collecting *Scolia ruficornis* F. in Zanzibar for despatch to American possessions in the Pacific, kindly sent two consignments of the wasp (Plate I) to Mauritius for forwarding to Diego Garcia. The following table summarizes the position in December, 1951.

TABLE III — Shipment of *S. ruficornis* F. from Zanzibar to Diego Garcia

Shipment No.	Date sent from Zanzibar	No. sent from Zanzibar	Date of arrival in Mauritius	No. received in Mauritius		Date sent from Mauritius to Diego	No. sent from Mauritius to Diego
				Alive	Dead		
1	19.11.51	60 ♀ ♀ 10 ♂ ♂	22.11.51	55 ♀ ♀ 8 ♂ ♂	5 ♀ ♀ 2 ♂ ♂	7.1.51	36 ♀ ♀
2	29.11.51	64 ♀ ♀ 6 ♂ ♂	3.12.51	56 ♀ ♀ 6 ♂ ♂	8 ♀ ♀ —	7.12.51	53 ♀ ♀ 6 ♂ ♂

The total shipped to Diego was thus 89 ♀ ♀ and 6 ♂ ♂. The wasps became established and were recovered in 1956. The writer this year collected about a hundred wasps at East Point and Paille Sec. In spite of these recoveries, it is evident that the control of *Oryctes rhinoceros* (L.) through scolid wasps has not yet proved its effectiveness and that infestation remains chronic throughout the island. The Manager of the island seeing that the percentage parasitism is negligible started a campaign of collection and destruction of the eggs, larvae and adult beetles (8). The total catch during the past year (September 1957 to August 1958) has been 691,657. During my short stay in Diego Garcia the catch consisted of 40 eggs, 854 larvae, 34 pupae and 51 adults (27 ♂ ♂ and 24 ♀ ♀). Not one of these larvae was parasitized.

Suggestions for dealing with the beetle

The problem of rhinoceros beetle control is now complicated by the fact that nut production is falling, this being due to the old age of the trees. Although an intensive programme of replanting has been start-

(8) The usual method of destruction of the adult is to employ labourers (especially women) provided with a long flexible iron wire terminated by a barb with which to spear the beetle in its burrow at the base of the leaf stalks. (Incidentally this method is also employed in India where a « beetle rod », i.e. an iron rod $2\frac{1}{2}$ feet \times $\frac{3}{8}$ " with a hook at one end and another end bent to form a ring for a handle, is used. — Ref. Clerian, M. C. & Anatanarayanan, K. P., *Indian J. Agric. Sci.* 1939, 9: 571-599). Attacks can easily be seen because of the presence of « dead hearts » or central fronds killed by the beetle.

Countings of all stages of the beetle are then made and payment is 3 eggs, larvae or adults for one cent. Another method is to attract the adults by small fires at night and beat them into the fire while larvae are destroyed in trap logs. The author finds the economic value of the methods of collection uncertain.

ed, out of 16,000 seedlings planted last year, already a third have died through attacks of the beetle which is now, and has been for the past few years, a pest of considerable importance in the island. The writer therefore feels that a new approach to its control should be made:—

10. The use of insecticides should be introduced to ensure the protection of palms in their first years of life.
20. Improved methods of destruction of the larvae should be enforced together with insecticidal treatment of compost pits and refuse heaps.
30. New parasites should be sent to Diego Garcia, for biological control has one great advantage: its effects are usually permanent and once achieved it requires no further attention.

Insecticidal control

Treatment of crown of young palms: B. A. O'Connor after seeing a report of the Indian Central Coconut Committee (9) and experimenting with BHC-sawdust mixtures in Fiji recommends the following:— "Placing a mixture of one part by volume of a BHC formulation in nine parts of damp saw dust in the axils of the youngest four or five fronds of every palm (10). The two formulations which have been commonly used are the dispersible powders containing 6.5% and 10% gamma isomer respectively". A wettable powder containing 32% diazinon mixed with sawdust is more effective but unfortunately more expensive (11). I am also informed that 2% dieldrin granules applied around the base of the growing tips of young coconut palms seems likely to prevent damage.

Treatment of compost heaps, dung, etc — Intensive breeding having been observed in dung heaps, it is imperative to treat these with Agrocide 26, a new gammexane formulation now just available on the local market.

Treatment of beetle holes — As already stated adult beetles are usually speared or harpooned inside their holes at the base of the leaf stalks. It is essential that the holes in the palms be plugged with the mixture recommended above for crown treatment as other beetles have been observed to enter old holes on a number of occasions. It might also be useful to add a compatible fungicide to the mixture for in a number of cases a rot follows attacks of the beetle.

The use of trap logs.

After having seen the labourers search for grubs in trap logs, the

(9) 7th Annual Report (April 1951 — March 1952) p. 23.

(10) *Agric. J. Fiji* Dec. 1954, 25 no. 3 & 4, p. 87.

(11) " " " 1957, 28 no. 1 & 2, pp. 15-18.

author is of opinion that the procedure is fraught with the greatest danger. Instead of being traps, dead coconut trunks simply constitute infestation foci in the plantations. Scrupulous sanitation of the plantations should therefore be immediately resorted to and dead coconut trunks should be removed and burned at the earliest possible opportunity. Indeed not even a single husk should be left in the groves. Unless this be done and unless the recommendations made above be given effect to, the chances of eradication of *Oryctes rhinoceros* L. would be remote.

Biological control

Predatory beetles of the families Histeridae *Hololepta* (*Leionata*) and Elateridae (*Photophorus jansonii* and *Pyrophorus* spp.) could perhaps be obtained from New Zealand and Trinidad for introduction into Diego. The large carabid *Mecoderma spinifer* Broun and the huge Reduviid bug *Platypneris rhadamanthus* Gerst, which are respectively reported to attack the grub and adult beetle of *Oryctes*, could possibly help in the control of the rhinoceros beetle.

V — OTHER PROBLEMS

The vegetable garden — The island suffers from a great shortage of vegetables. Maize and sweet potato are grown on a small scale, but the former is parasitized by *Striga asiatica* O. Kuntze. and by a rust. The variety of sweet potato is not very palatable. The sphingid moth *Herse convolvuli* L., although present, is a minor pest of the plant.

Fruit trees — These are extremely scarce in Diego. At East Point, however, mango, jamalac, bread fruit, hog plum, jackfruit, bilimbi, papaw, seem to thrive well. Citrus plants apparently suffer from deficiency diseases. A few scale insects were also found. The insects could be controlled with insecticides.

Pesticides are not used against vegetable and fruit pests. In view of this, it is suggested that one of the employees of the Company should follow certain selected lectures in Pathology and Entomology at the College of Agriculture. Perhaps employees taking their leave could be given an extra 6 months for such training.

Improvement of soil — Considerable benefit should be derived from a visit to the island by a qualified soil chemist.

Flies and Mosquitoes — Owing to the high temperature and humidity, flies and mosquitoes breed in enormous numbers. The effect of countless bites from mosquitoes must be very depressing. It was noted that in addition to wells, coconuts eaten by rats and invariably containing rain water, bred legions of larvae. To check mosquitoes, disused wells should be sprayed with D. D. T. at regular intervals. Where practicable, fallen nuts should be burnt. Reduction of the fly population by the use of malathion could also be tried.

VI - SUMMARY

Nut production in the atoll of Diego Garcia is falling. This is caused by a number of factors : the groves are old and need replanting ; rats also destroy about a quarter of the crop ; but the greatest damage is caused by the rhinoceros beetle, *Oryctes rhinoceros* L., which kills about 1/3 of the seedlings being replanted. Insecticidal treatment is recommended to prevent damage to the young palms ; improved sanitation of the groves would probably reduce larval population to a very low level.

VII - ACKNOWLEDGEMENTS

The writer wishes to record his thanks to Mr. G. Lanier, the Manager of Diego Garcia and to his staff for the kindness shown to him during his stay in the island and for their assistance in supplying some of the data presented in this report. It is his pleasant duty also to tender sincere thanks to Mr. J. Lamusse, Secretary of Diego Ltd., and to Captain d'Argent of the M. V. "SIR JULES" who spared no effort to make his visit an agreeable one.

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Annex 18

Marcel Merle, “Les plébiscites organisés par les Nations Unies”, *Annuaire français de droit international*, Vol. 7 (1961)

LES PLÉBISCITES ORGANISÉS PAR LES NATIONS UNIES

MARCEL MERLE

Le droit des peuples à disposer d'eux-mêmes a été inscrit, en 1945, parmi les buts fondamentaux que l'Organisation des Nations Unies se proposait d'atteindre. On ne saurait pourtant affirmer que le comportement des Etats membres se soit toujours inspiré de cet idéal. Alors que le règlement des litiges territoriaux consécutifs aux traités de paix de 1919 avait donné lieu à de nombreux plébiscites souvent placés sous les auspices de la Société des Nations (1), les changements de frontières intervenus depuis 1945 n'ont été, en règle générale, ni précédés ni suivis par la consultation des populations intéressées. Certes, la pratique du plébiscite ou du referendum (2) n'a pas été complètement abandonnée. La France a organisé, en 1947, un plébiscite dans les communes de Tende et de La Brigue cédées par l'Italie en vertu du traité de paix de 1947; elle a accepté un referendum pour trancher le sort de la Sarre, en 1955. A ces exemples, on peut ajouter celui du referendum constituant du 28 septembre 1958 qui a permis aux territoires d'outre-mer rattachés à la France, d'opter individuellement entre l'appartenance à la Communauté et l'indépendance. Mais ce ne sont là que des exemples isolés par rapport aux nombreuses circonstances dans lesquelles le sort de populations a été décidé impérativement par des tiers ou par des gouvernements non régulièrement mandatés à cet effet.

En face de ce déclin du droit des peuples à disposer d'eux-mêmes dans la pratique des Etats, il est à première vue remarquable de constater que l'Organisation des Nations Unies a eu plusieurs fois recours à la solution du plébiscite pour fixer le sort de certains territoires. Quatre plébiscites ont été organisés par les Nations Unies. Le premier a eu lieu au Togo sous administration britannique le 7 novembre 1959; le second dans la partie septentrionale du Cameroun sous administration britannique le 7 novembre 1959;

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(1) Cf. « Plébiscites exécutés depuis 1920 sous le contrôle d'organisations internationales », Mémoire préparé par le Secrétariat des Nations Unies, Doc. A/C/4/351 du 20 février 1957.

(2) Les deux termes ont une signification très différente en droit constitutionnel, mais on peut les considérer comme synonymes en droit international.

le troisième dans les deux parties du Cameroun sous administration britannique les 11-12 février 1961; enfin, un plébiscite a été organisé le 9 mai 1961 dans le Samoa occidental placé sous l'administration de la Nouvelle-Zélande. A ces quatre exemples, il convient de rattacher, pour des raisons qui seront exposées plus loin, le contrôle exercé par les Nations Unies sur les élections législatives qui ont eu lieu le 27 avril 1958 au Togo sous administration française, ainsi que le contrôle des élections générales et du referendum qui ont eu lieu en septembre 1961 au Ruanda-Urundi sous administration belge.

Dans des différentes circonstances, l'intervention des Nations Unies a permis d'obtenir une consultation dont les résultats, sauf dans un cas, n'ont pu être contestés; les vœux exprimés par les populations intéressées ont servi de base à l'Assemblée générale de l'O.N.U. pour déterminer le statut juridique ou territorial de ces collectivités; quant au seul cas dans lequel la solution adoptée à la suite de la consultation populaire a été contestée, le grief essentiel est tiré du comportement de la puissance administrante avant le plébiscite, des conditions mêmes dans lesquelles elle a appliqué les principes posés par l'Assemblée générale et, au fond, du degré d'aptitude de la population à se prononcer en connaissance de cause.

Le succès obtenu dans les autres expériences, en dépit de la complexité des intérêts en présence et des contestations qui les ont généralement précédées, mérite de retenir l'attention. Il faut cependant relever que si l'O.N.U. a pu faire appliquer et respecter le droit des peuples à disposer d'eux-mêmes, c'est parce que son action s'est déroulée dans un contexte particulièrement favorable: les territoires intéressés étaient placés sous le régime de tutelle, c'est-à-dire que leur sort dépendait étroitement des décisions prises par l'Assemblée générale des Nations Unies. Il était donc facile à cette dernière de décider le recours au plébiscite et de fixer, souverainement, l'objet et les modalités de la consultation ainsi que d'interpréter les résultats du vote. D'autre part, la présence, sur le territoire où le plébiscite devait avoir lieu, d'autorités locales dépendant, plus ou moins directement, de la puissance administrante était de nature à favoriser considérablement la tâche des Nations Unies qui allaient pouvoir limiter leur intervention sur le terrain à des opérations de consultation et de contrôle. Le succès de toute la procédure semble donc étroitement conditionné par l'existence du régime de tutelle qui, pour être l'enjeu de ces différents plébiscites, n'en a pas moins fourni à l'organisation internationale le fondement juridique et les moyens matériels de son intervention. C'est ce que montre l'examen des phases successives de l'action des Nations Unies dans le déclenchement, le déroulement et l'interprétation du plébiscite.

I

LE DÉCLENCHEMENT DU PLÉBISCITE

Le chapitre XII de la Charte des Nations Unies ne contient aucune disposition particulière concernant la levée de la tutelle. Ce problème délicat peut cependant être résolu par référence à deux dispositions générales. L'article 76 précise que les fins du régime de tutelle sont les suivantes :

b) ... « favoriser également leur évolution (des territoires) progressive vers la capacité à s'administrer eux-mêmes ou l'indépendance compte tenu des conditions particulières à chaque territoire et à ses populations, des aspirations librement exprimées des populations intéressées et des dispositions qui pourront être prévues dans chaque accord de tutelle. »

De ce texte il ressort 1) que le régime de tutelle a un caractère provisoire et qu'il doit tendre à la réalisation de l'indépendance, 2) que les populations intéressées doivent être consultées préalablement à la levée de la tutelle, 3) que l'autonomie ou l'indépendance ne pourront être accordées à chaque territoire qu'en fonction de ses « conditions particulières » — ce qui suppose l'appréciation individuelle et discrétionnaire du stade d'évolution et de maturité justifiant la levée éventuelle de la tutelle (réserve faite du cas où le terme du régime de tutelle a été fixé d'avance, comme cela s'est produit pour la Somalie).

L'article 85 déclare par ailleurs :

« en ce qui concerne les accords de tutelle relatifs à toutes les zones qui ne sont pas désignées comme zones de tutelle stratégique, les fonctions de l'Organisation, y compris l'approbation des termes des accords de tutelle et de leur modification ou amendement, sont exercées par l'Assemblée générale. »

On peut considérer qu'en l'absence de toute disposition expresse en sens contraire la compétence de l'Assemblée générale s'étend, *a fortiori*, à l'hypothèse de la levée de la tutelle.

De la combinaison des articles 76 et 85 de la Charte, il ressort donc que l'Assemblée générale a qualité pour 1) apprécier si le degré d'évolution atteint par le territoire justifie ou non la levée de la tutelle, 2) consulter les populations intéressées sur leurs préférences.

Le fondement juridique de l'intervention des Nations Unies est donc incontestable et c'est bien à l'Assemblée générale qu'il appartient d'exercer les prérogatives attribuées par la Charte à l'Organisation des Nations Unies. Certes, l'Assemblée n'intervient pas seule. Elle est, en ce domaine comme en tout ce qui touche le régime de tutelle, assistée par le Conseil de tutelle. Ce dernier ne s'est pas contenté d'un rôle secondaire. Les missions de visite qu'il a envoyées dans les différents territoires ont étudié sur place le degré de maturité des populations et formulé des avis très précis et fortement motivés sur l'opportunité ainsi que sur les conditions juridiques et matérielles de la consultation envisagée. D'autre part, les puissances administrantes ne sont

pas demeurées inactives : ce sont elles, dans le cas du Togo et du Cameroun, qui ont soulevé le problème de la cessation du régime de tutelle. La Grande-Bretagne a invoqué un argument irréfutable : le Togo et le Cameroun placés sous sa responsabilité étaient administrés, conformément aux termes mêmes des accords de tutelle, comme partie intégrante de la Côte de l'Or et de la Nigéria. L'indépendance de ces deux colonies de la Couronne devait forcément remettre en question le mode d'administration des territoires sous tutelle qui leur étaient associés, sinon même le maintien de la tutelle. Au-delà de ces arguments d'ordre juridique, il semble d'ailleurs que les puissances administrantes aient été désireuses de se décharger de la lourde responsabilité que constituait pour elles l'administration des territoires sous tutelle.

Initiatives individuelles, enquêtes approfondies ont donc précédé, dans chaque cas, l'intervention de l'Assemblée générale. C'est cependant elle qui a statué en dernier ressort, sans toujours tenir compte des avis qui lui avaient été communiqués. La responsabilité assumée en la matière par l'Assemblée générale apparaît considérable. Elle concerne : 1) l'opportunité de l'organisation du plébiscite, 2) la nature de la consultation envisagée, 3) les modalités de la consultation.

1) *L'opportunité de l'organisation du plébiscite.*

La question ne se poserait pas si l'O.N.U. avait fait automatiquement procéder à un plébiscite dans tous les cas de levée de tutelle. Or, l'Assemblée générale n'a exigé aucun plébiscite préalablement à la levée de la tutelle sur la partie du Cameroun confiée à l'administration de la France ni sur le Tanganyika sous administration britannique.

L'explication de cette différence de traitement ne peut pas être trouvée dans l'identité de situation des territoires où un plébiscite a été organisé : dans deux cas (Togo et Cameroun britanniques) le problème à résoudre était l'option entre le maintien de la tutelle ou le rattachement à un territoire voisin sur le point d'accéder à l'indépendance; mais dans les deux autres cas (Togo français et Samoa occidentale), l'option proposée était identique à celle qui aurait pu être proposée aux habitants du Cameroun français ; indépendance pure et simple ou maintien de la tutelle.

La confrontation entre ces différentes situations permet de rendre compte de la jurisprudence de l'Assemblée générale. Celle-ci décide de procéder à un plébiscite en fonction de deux considérations différentes.

a) Il y a d'abord lieu à un plébiscite si le statut envisagé pour le territoire comporte une solution autre que l'indépendance pure et simple. Tel était le cas pour le Togo britannique à qui l'on voulait donner à choisir entre le maintien de la tutelle et le rattachement à la Côte de l'Or indépendante, et pour le Cameroun britannique au sujet duquel on a envisagé successivement l'option entre le maintien de la tutelle et le rattachement au Nigéria (plébiscite).

cite au Cameroun septentrional en date du 7 novembre 1959) puis l'option entre le rattachement au Nigéria ou à la République indépendante du Cameroun (plébiscites dans les deux parties du Cameroun les 11 et 12 février 1961). L'importance de l'enjeu paraît à cet égard une justification suffisante du plébiscite. Les populations ne peuvent être affectées d'office à telle ou telle collectivité étatique. La consultation préalable doit leur permettre de fixer librement leur destin en tant que collectivité nationale.

b) Mais il y a également lieu à plébiscite dans le cas où les populations n'ont pas été en mesure de se prononcer librement sur leur sort — même si la question du rattachement à un autre Etat ne se pose pas et même si les autorités en cause (dirigeants locaux et puissance administrante) sont d'accord pour demander la levée de la tutelle. Le critère adopté est ici purement formel et se ramène à l'exigence d'une consultation libre au suffrage universel des adultes.

La solution est particulièrement nette dans le cas du Samoa occidental. La puissance administrante (Nouvelle-Zélande) et les dirigeants samoans étaient d'accord pour l'accès du territoire à l'indépendance; mais la population locale n'avait jamais été consultée au suffrage universel ni par voie électorale ni par referendum ou plébiscite. Avant d'accorder la levée de la tutelle, l'Assemblée générale a estimé nécessaire d'organiser sous son contrôle un plébiscite au Samoa occidental.

De cette situation il convient de rapprocher celle du Togo sous administration française. Il n'y a pas eu, à proprement parler, de « plébiscite » dans cette partie du Togo. Mais l'Assemblée générale a été amenée à superviser les élections législatives organisées le 27 avril 1958 par les autorités togolaises et elle a donné à ce contrôle la même portée qu'à un plébiscite. Pour comprendre ce détour, il faut rappeler que le Conseil de tutelle avait refusé le 13 août 1956, d'assurer la surveillance du referendum projeté par la France et donnant aux Togolais le choix entre un nouveau statut et le maintien du régime de tutelle. Le referendum en question eut bien lieu le 28 octobre 1956 et donna une forte majorité en faveur de la suppression de la tutelle (3). Mais, comme la consultation avait eu lieu sous le contrôle exclusif des autorités françaises, l'Assemblée générale ne crut pas devoir accéder immédiatement à la demande de levée de la tutelle; elle décida d'abord d'envoyer sur place une Commission chargée d'examiner l'application du nouveau statut (Résolution 1046 (XI) du 23 janvier 1957), puis, à la demande des autorités locales soucieuses de sortir du provisoire, accepta de superviser les prochaines élections générales qui devaient avoir lieu en 1958. La Résolution 1182 (XII) du 29 novembre 1957 établit nettement un lien entre les élections sous le contrôle des Nations Unies et la levée de la tutelle puisque l'Assemblée générale priait :

(3) Cf. sur ce point : E. P. LUCE : « *Le referendum du Togo* ». Editions Pedone, 1958.

« le Conseil de tutelle d'examiner ces questions et de faire rapport à leur sujet à l'Assemblée générale lors de sa treizième session, afin qu'elle puisse, si la nouvelle Assemblée législative du Togo et l'autorité administrante le lui demandent, prendre une décision, compte tenu des conditions qui régneront alors, en ce qui concerne l'abrogation du régime de tutelle. »

Une interprétation identique de la portée de ces élections générales est donnée par le Commissaire des Nations Unies dans la conclusion de son rapport :

« Si, comme l'a maintes fois répété le gouvernement togolais au cours de nos discussions, ces élections n'étaient que la mise à exécution d'une réforme intérieure, c'est-à-dire l'application du suffrage universel au renouvellement de la Chambre des députés, et n'exigeaient aucune législation extraordinaire ou exceptionnelle, chacun cependant était convaincu qu'un événement historique était en marche qu'augurait la présence d'une mission de supervision des Nations Unies. Chacun avait de grandes appréhensions quant au résultat du scrutin et à ses répercussions sur l'avenir du territoire, selon le choix qui serait fait... Il n'y a pas le moindre doute dans mon esprit que le résultat d'ensemble des élections reflète fidèlement les vœux de la population du Togo quant à la désignation de ses élus à la Chambre des députés. Cette constatation est de la plus haute importance parce qu'elle signifie que la nouvelle Chambre a véritablement le droit de parler au nom du peuple togolais... Le scrutin du 27 avril peut être considéré comme un événement historique dans l'évolution du Togo vers la réalisation des fins du régime de tutelle. »

L'exemple du projet de supervision des élections générales au Ruanda-Urundi n'est pas moins caractéristique. Dans sa Résolution 1579 (XV), en date du 20 décembre 1960, l'Assemblée générale se déclare :

« Consciente de la responsabilité qui lui incombe de veiller à ce que la surveillance des élections par l'O.N.U. soit efficace et que les élections qui fourniront la base de l'indépendance du territoire se déroulent dans des conditions satisfaisantes de telle sorte que leurs résultats ne soient entachés d'aucun doute et ne puissent donner lieu à aucune contestation. »

Pour atteindre cet objectif, l'Assemblée générale a demandé le renvoi des élections prévues pour le mois de janvier 1961 et leur report à une date plus éloignée permettant à l'Assemblée générale de :

« superviser les élections qui doivent se tenir au Ruanda-Urundi en 1961 sur la base du suffrage universel et direct des adultes ainsi que les mesures préparatoires qui précéderont ces élections, telles que l'établissement des listes électorales, le déroulement de la campagne électorale et l'organisation d'un système de scrutin qui assure le secret du vote. »

Quant à la Résolution 1605 (XV) du 21 avril 1961, elle conteste la représentativité d'« organes de gouvernement qui ont été établis au Ruanda-Urundi par des moyens irréguliers et illégaux » et fonde explicitement la nécessité de l'intervention des Nations Unies sur l'obligation d'assurer une consultation régulière.

Dans ces trois cas, l'exigence de l'O.N.U. a donc porté sur la forme de la consultation. Le contrôle exercé par l'organisation internationale est destiné à garantir la régularité et la sincérité des opinions exprimées par la population — dès qu'un doute apparaît sur les conditions dans lesquelles cette population a été antérieurement consultée ou s'apprête à être consultée.

Cette interprétation peut être confirmée, *a contrario*, par l'exemple du Cameroun sous administration française. La Résolution 1349 (XIII), adoptée par l'Assemblée générale le 13 mars 1959, a fixé la levée de la tutelle au

1^{er} janvier 1960. Cette décision, qui ne comporte pas de recours au plébiscite ou à la supervision des élections par les Nations Unies, est longuement motivée par l'examen de la situation locale et par les garanties ou promesses fournies par les autorités camerounaises quant à l'existence ou au rétablissement des libertés fondamentales et à l'organisation de nouvelles élections générales immédiatement après l'indépendance. On peut estimer que l'Assemblée générale a interprété d'une manière trop optimiste la situation intérieure au Cameroun, mais la motivation de la décision prise fait nettement ressortir que les garanties exigées par les Nations Unies portent sur la liberté d'expression et sur la régularité du mandat en vertu duquel les autorités locales sollicitent l'indépendance. Si ces conditions sont déjà réunies, l'Assemblée générale le constate et consent à la levée de la tutelle sans autre formalité; si le doute subsiste quant à l'existence de ces conditions préalables, l'Assemblée générale intervient soit en organisant un plébiscite, soit en exigeant la supervision des élections.

En l'état actuel des choses, la jurisprudence de l'Assemblée générale de l'O.N.U. paraît donc bien commandée par un double souci : consulter les populations quand le sort de la collectivité en tant qu'entité politique distincte se trouve en cause; assurer la liberté d'expression dans tous les cas où la situation locale ne permet pas de dégager clairement la tendance dominante de l'opinion sur l'avenir du pays. Si tels sont les principes qui paraissent avoir guidé les choix de l'Assemblée générale, il convient de préciser que l'organe en question n'est aucunement lié, pour l'avenir, par les décisions précédentes. Dans la limite des principes très généraux posés par la Charte, l'Assemblée générale est libre d'apprécier souverainement chaque situation particulière et de décider de l'organisation d'un plébiscite.

Les initiatives prises par l'Assemblée générale quant à la nature et aux modalités de la consultation démontrent d'ailleurs l'étendue des pouvoirs de cet organisme et la liberté d'interprétation dont il dispose.

2) *La nature de la consultation.*

Il n'appartient pas seulement à l'Assemblée générale de décider de l'organisation d'un plébiscite. Elle peut et elle doit aussi déterminer l'objet de la consultation. La nature et le contenu des opérations placées sous le contrôle des Nations Unies varient en effet d'un cas à l'autre en fonction des options qui sont prises par l'Assemblée.

On a déjà observé que, dans le cas du Togo sous administration française, l'Assemblée générale s'est contentée de la supervision des élections générales, en se réservant le droit de fixer le sort définitif du territoire après consultation de l'autorité administrante et des autorités issues des élections contrôlées par les Nations Unies. Il s'agit, dans cette hypothèse, d'une consultation indirecte.

Dans les autres cas, les populations intéressées ont été directement consultées sur leur sort. Mais c'est l'Assemblée générale elle-même qui a fixé, pour chaque territoire, les termes de l'option proposée aux populations. Pour le Togo et le Cameroun sous administration britannique, la question posée concernait uniquement le statut international du territoire (maintien de la tutelle ou intégration à un Etat voisin). Dans le cas du Samoa occidental la consultation portait à la fois sur le statut politique interne, défini par la Constitution du 28 octobre 1960, et sur l'indépendance sur la base de ladite Constitution. Le plébiscite avait donc ici une double portée, constitutionnelle et internationale.

Le cas du Ruanda-Urundi est encore différent puisque la consultation placée sous le contrôle des Nations Unies avait un double objet : d'une part les élections générales au suffrage universel, d'autre part un referendum sur le point de savoir si les habitants du Ruanda désiraient conserver la monarchie.

C'est cependant dans le cas du Togo et du Cameroun sous administration britannique que l'Assemblée générale a pris les plus grandes responsabilités et, il faut bien le reconnaître, les plus grands risques. Les Togolais ont eu à choisir, le 9 mai 1956, entre le maintien de la tutelle ou le rattachement à la Côte de l'Or devenue indépendante. 42 % ont opté en faveur de la première solution et 58 % en faveur de la seconde. Les résultats auraient certainement été différents si l'Assemblée générale avait posé la question sous une autre forme pour tenir compte du courant favorable — au moins dans une partie du territoire — à la réunification des deux parties du Togo sous la forme d'un Etat indépendant.

Le choix exercé par l'Assemblée générale n'a pas été moins important pour la solution de l'affaire du Cameroun. Dans un premier plébiscite, qui n'a pu se dérouler qu'au Cameroun septentrional le 7 novembre 1959, l'option offerte portait sur le maintien de la tutelle ou sur le rattachement au Nigéria. La première solution l'emporta nettement par 70 546 voix contre 42 788. Or, le second referendum, qui a pu être organisé les 11 et 12 février 1961 dans les deux parties du Cameroun, ne comportait plus qu'une option entre le rattachement au Nigéria ou à la République du Cameroun. L'absence d'une tierce solution — en l'espèce l'indépendance pure et simple — a été considérée comme regrettable dans le rapport établi par le Commissaire des Nations Unies au sujet du Cameroun méridional :

« Au début de la préparation du plébiscite, des questions ont fréquemment été posées aux observateurs et au personnel du plébiscite touchant l'absence d'une troisième option prévoyant l'indépendance pure et simple du territoire... Il est certain qu'à ce moment là une partie considérable de la population aurait souhaité une option de cette nature... »

Il n'y a pas lieu de prendre parti ici sur l'opportunité des choix effectués par l'Assemblée générale entre les différentes solutions possibles. Il suffit de constater que les décisions prises par les Nations Unies ont orienté, dès le

départ, les différents plébiscites. Il n'était évidemment pas concevable, sous le prétexte d'appliquer le droit des peuples à disposer d'eux-mêmes, d'offrir aux populations consultées une gamme de solutions qui eût entraîné la dispersion des votes et la confusion des résultats. Aussi bien le point le plus délicat dans l'organisation d'un plébiscite n'est-il pas tant la décision de principe que la détermination des termes de l'option proposée aux électeurs. C'est bien l'Assemblée générale qui a tranché cette question capitale en fonction de l'interprétation qu'elle a donnée des intérêts majeurs des populations consultées.

3) *Les modalités de la consultation.*

L'Assemblée générale a également fixé, dans ses Résolutions, les modalités de la consultation. Certes, l'organisation du plébiscite incombe, comme nous le verrons, aux autorités locales. Mais l'intervention des Nations Unies a déterminé la procédure et le cadre de la consultation.

En ce qui concerne la procédure, l'exigence posée par l'Assemblée générale concerne la liberté d'expression mais aussi la définition du corps électoral. La règle générale est celle du suffrage universel des adultes (l'âge de la capacité électorale étant fixé à 21 ans). Cette initiative équivalait, pour la plupart de ces territoires, à une innovation révolutionnaire. Le cas est particulièrement net pour le Samoa occidental dont les dirigeants proposaient, conformément à la tradition locale, l'application d'un mode de suffrage restreint fondé sur le vote des seuls chefs de famille (*matai*). C'est d'ailleurs selon ce procédé qu'avaient été élus, en 1957, les membres de l'Assemblée législative responsable de l'élaboration de la Constitution soumise au plébiscite. L'Assemblée générale n'a pas été sensible à l'argument et elle a exigé, comme dans les autres plébiscites, que la consultation prévue ait lieu au suffrage universel direct des adultes. De ces décisions concordantes, on peut déduire que le recours à ce mode de suffrage constitue, au regard des Nations Unies, une condition nécessaire de l'exercice du droit des peuples à disposer d'eux-mêmes.

Mais il existait une autre difficulté à résoudre au sujet du mode de décompte des voix. Fallait-il considérer le territoire sous tutelle comme une entité et apprécier les résultats dans leur ensemble; ou bien pouvait-on diviser le territoire en plusieurs zones dont le sort individuel serait déterminé par le jeu des majorités? L'Assemblée générale a recouru successivement aux deux procédés. Dans le cas du Togo sous administration britannique, elle a refusé, contrairement aux conclusions de la mission de visite, de dénombrer séparément les voix dans le Nord et dans le Sud du pays. La solution unitaire a prévalu et tous les ressortissants du Togo ont suivi le sort fixé par la majorité de la population, bien que les habitants du Togo méridional aient manifesté leur hostilité à l'union avec la Côte de l'Or. Cette solution est

d'autant plus curieuse que l'Assemblée générale a adopté la solution inverse dans le cas du Cameroun : deux consultations distinctes ont été organisées le même jour, dans le Nord et dans le Sud et, sur le vu des résultats, le Nord a été rattaché au Nigéria et le Sud à la République du Cameroun. Si les résultats avaient été totalisés et considérés uniquement dans leur ensemble, comme au Togo, la solution du rattachement à la République du Cameroun l'eût emporté par 331 530 voix contre 244 037 (4).

On ne saurait mieux souligner l'importance des décisions prises par l'Assemblée générale. Encore une fois leur opportunité n'a pas à être appréciée ici. Mais si l'on se place au point de vue de l'efficacité, il est certain que l'intervention de l'Assemblée générale a permis de trancher des questions délicates au sujet desquelles les parties intéressées auraient eu beaucoup de mal à trouver un accord. L'utilité d'un arbitrage extérieur aux parties en cause est incontestable; mais un tel arbitrage n'aurait pu être obtenu si l'Assemblée générale n'avait pas été l'autorité qualifiée pour décider souverainement des conditions de cessation de la tutelle.

C'est également l'existence du régime de tutelle qui va faciliter l'exécution des opérations du plébiscite.

II

LE DÉROULEMENT DU PLÉBISCITE

Il ne suffit pas de décider de l'opportunité d'une consultation populaire, ni de fixer ses objectifs et ses modalités. Il faut encore en assurer l'exécution dans des conditions qui ménagent la liberté d'expression mais aussi le maintien de l'ordre public. Les difficultés à surmonter sont, par définition, redoutables puisque le plébiscite a précisément pour objet de trancher une contestation entre deux ou plusieurs solutions qui divisent l'opinion publique locale et qui suscitent la convoitise de tierces puissances. A ces obstacles qui tiennent à la nature même du plébiscite venaient s'ajouter, dans les cas qui nous intéressent, des difficultés particulières tenant à la nature du terrain et du milieu socio-politique : difficultés de communication, encadrement insuffisant des populations par une administration moderne, introduction de procédures électives dans des pays où l'éducation politique — sinon parfois l'instruction tout court — peut être notoirement insuffisante. La moindre erreur de manœuvre risque de provoquer des troubles graves et de fausser le résultat du scrutin.

Il était hors de question que les Nations Unies pussent affronter toutes

(4) On peut également signaler que dans la Résolution 1579 (XV) du 20 décembre 1960, l'Assemblée générale a pris d'avance position en faveur de l'union des deux parties du territoire du Ruanda-Urundi au stade de l'indépendance.

ces difficultés et prendre directement en mains l'organisation des plébiscites. Elles ont bénéficié du concours des autorités locales qui ont assumé la responsabilité de l'organisation juridique et matérielle de la consultation prescrite par l'Assemblée générale des Nations Unies. Dans la plupart des cas, c'est la puissance administrante qui est intervenue. Cela a parfois soulevé des difficultés : le Togo et le Cameroun sous tutelle britannique étaient administrés, en vertu des accords de tutelle, comme partie intégrante de la Côte de l'Or et du Nigéria. Or, ces deux territoires se trouvaient directement intéressés au résultat du plébiscite. Il fallait donc prendre une série de mesures pour éviter l'intervention et la pression des autorités et des forces politiques de la Côte de l'Or et du Nigéria et, pour cela, isoler tant bien que mal les territoires où le plébiscite devait avoir lieu. L'Assemblée générale a formulé des principes à cet égard et c'est principalement l'exécution de la résolution 1473 (XIV) par le Royaume-Uni que conteste la République du Cameroun. Mais quels que fussent les problèmes à résoudre, les puissances administrantes ne pouvaient esquiver une responsabilité étroitement liée à la mission qu'elles avaient reçue des Nations Unies. Elles ont pris les mesures législatives et réglementaires nécessaires, en désignant un haut fonctionnaire pour exercer la responsabilité principale de l'opération. Dans le cas du Togo, sous administration française, ces attributions ont été exercées par le Gouvernement et le Parlement togolais à qui la République française avait déjà délégué une partie de ses compétences. En aucun cas, les représentants de l'O.N.U. ne sont intervenus directement dans la préparation ni dans le déroulement du plébiscite ou des élections.

Leur rôle s'est limité à deux fonctions — au demeurant capitales : surveillance et consultation. Les deux fonctions sont étroitement liées dans la pratique, mais il est utile de les dissocier au stade de l'analyse pour bien comprendre en quoi a consisté l'intervention des Nations Unies dans la préparation et dans le déroulement de ces consultations.

1) *La mission de surveillance.*

Le Commissaire élu par l'Assemblée générale des Nations Unies et les membres de son personnel ont, avant toute chose, un rôle d'observation justifié par la nécessité de rendre compte à l'Assemblée générale des conditions dans lesquelles la consultation s'est déroulée. La surveillance porte aussi bien sur la phase préparatoire que sur les opérations directement liées au scrutin.

a) Au cours de la phase préparatoire, la surveillance doit tout d'abord s'exercer sur tous les mécanismes juridiques mis en œuvre : législation ou réglementation du droit de suffrage, du mode de scrutin, du découpage électoral, des garanties administratives et judiciaires offertes aux électeurs, aux partis et, éventuellement, aux candidats, etc. Cette tâche incombe plus spé-

cialement au chef de la mission, c'est-à-dire au Commissaire des Nations Unies, qui, pour recueillir plus facilement ces informations, doit rester en contact permanent avec les autorités qualifiées pour prendre ces mesures. Mais les textes et les règles de droit ne sont pas seuls en cause. Leur application soulève une masse de problèmes : il suffit de songer aux formalités d'inscription sur la liste électorale dans des pays où l'état-civil est à peine ébauché et où l'analphabétisme est encore largement répandu; il faut aussi vérifier sur place si les consignes destinées à assurer la liberté de propagande sont effectivement respectées, veiller à ce que les termes de l'option proposée à la population soient bien connus et aussi bien compris, etc. Pour toutes ces tâches, le Commissaire des Nations Unies est assisté d'un certain nombre d'observateurs répartis sur le terrain, dans des secteurs déterminés, dès l'arrivée de la mission des Nations Unies. Ces observateurs sont chargés de suivre dans le détail toutes les opérations préparatoires au plébiscite ou aux élections et de signaler immédiatement au Commissaire les incidents ou les anomalies qui peuvent se produire à l'échelon local. Grâce à ce réseau d'observateurs, la mission des Nations Unies peut, dans chaque territoire, avoir une vue précise et détaillée de la préparation au plébiscite.

b) Au stade final, c'est-à-dire au cours des opérations de vote et de dépouillement, la mission de surveillance revêt une importance beaucoup plus grande encore : il s'agit, pour les observateurs des Nations Unies, de contrôler la régularité du scrutin, de déceler les fraudes et d'éviter toute falsification des résultats. Le contrôle exige ici la présence physique des observateurs auprès des bureaux de vote et des centres de dépouillement. Bien que tous ces lieux ne puissent être visités le jour même du scrutin en raison du nombre insuffisant d'observateurs, le contrôle a été assez étendu pour que les Nations Unies aient, en général, une vue convenable de l'ensemble du scrutin.

Enfin, les observateurs des Nations Unies ont à rendre compte des réactions provoquées dans leurs zones respectives par l'annonce des résultats du scrutin.

La réunion de tous ces renseignements doit permettre à l'Assemblée générale de porter une appréciation solidement étayée sur la régularité et, par voie de conséquence, sur la validité du plébiscite. Aussi bien aurait-on pu, théoriquement, s'en tenir à ce stade de la surveillance du plébiscite par les agents des Nations Unies. Les Commissaires désignés par les Nations Unies ont cependant interprété leur mission d'une manière plus extensive; ils ont estimé qu'il ne suffisait pas de comptabiliser les irrégularités commises par les autorités responsables du plébiscite et qu'il valait mieux s'efforcer, dans toute la mesure du possible, de les prévenir afin de ne pas compromettre le résultat de l'opération. Cette conception de leur tâche a conduit les Commissaires au plébiscite — sous le couvert de la fonction consultative — à une coopération étroite avec les autorités locales.

2) *La fonction consultative.*

Les informations reçues par le Commissaire au plébiscite, dans le cadre de la mission de surveillance, permettent de déceler, au jour le jour, les irrégularités qui peuvent survenir dans la conception et dans l'exécution des opérations préparatoires au plébiscite. Il est dans la logique du système de contrôle que le Commissaire des Nations Unies porte au moins à la connaissance des autorités responsables les irrégularités commises par rapport aux prescriptions de l'Assemblée générale. Les groupes minoritaires ou les partis d'opposition n'ont d'ailleurs pas manqué d'alerter les agents des Nations Unies et de dénoncer devant eux les pratiques ou les règles qu'ils considèrent comme des manœuvres de la puissance administrante ou des autorités locales. Le Commissaire et ses adjoints se sont trouvés ainsi placés dans une position d'arbitre qui les a incités à intervenir activement dans la préparation de la consultation.

Cette intervention n'a jamais pris la forme d'une substitution aux pouvoirs des autorités compétentes pour organiser le plébiscite. Elle a revêtu, selon les cas, des modalités différentes.

Dans l'hypothèse la plus favorable, les autorités locales ont soumis au Commissaire les projets de lois ou de décrets et ont sollicité son avis avant de les publier — au besoin après rectification. Une coopération aussi étroite n'a pu toujours être réalisée. Quand les textes essentiels ou les mesures les plus importantes avaient été prises avant l'arrivée sur place de la mission des Nations Unies, il ne restait au Commissaire d'autre ressource que de critiquer les dispositions qui lui paraissaient contraires aux prescriptions formulées par l'Assemblée générale pour la conduite du plébiscite. Enfin, le Commissaire pouvait signaler aux autorités compétentes les incidents de toute nature survenant au cours de l'exécution des mesures législatives ou réglementaires, soit en attirant son attention sur l'inconvénient de telle pratique, soit en demandant des éclaircissements sur tel ou tel fait, soit en recommandant de prendre les dispositions nécessaires pour éviter le renouvellement de telle ou telle manœuvre.

Dans l'ensemble, les autorités locales ont accepté loyalement cette coopération, comme en témoigne l'abondante correspondance échangée avec la mission des Nations Unies. Les autorités locales n'ont pas toujours aligné leurs positions sur celles du Commissaire; mais elles l'ont fait dans la plupart des cas. Quand elles ont maintenu leur point de vue, elles ont été obligées de le justifier publiquement.

Le rôle de conseiller ou d'arbitre joué par le Commissaire a été poussé si loin qu'on a vu, dans certaines circonstances, les autorités locales se retourner vers lui pour lui demander d'intervenir en vue d'éviter des incidents qui auraient pu compromettre le succès du plébiscite. C'est ainsi que le Commis-

saire au Togo sous administration française a pu, sur requête formelle du gouvernement togolais, prévenir une grève générale que les syndicats menaçaient d'organiser pour protester contre la lenteur de la procédure d'inscription sur les listes électorales.

Si la coopération a été la règle au sommet, elle a été aussi pratiquée à la base. Les observateurs des Nations Unies ne se sont pas toujours contentés de surveiller passivement les opérations. On les a utilisés pour contribuer aux campagnes d'information destinées à éclairer les populations sur la portée du plébiscite; on a eu aussi recours à eux pour instruire de leurs devoirs les citoyens désignés pour constituer les bureaux de vote ou les équipes de scrutateurs. Ce sont là des tâches qui relèvent de l'assistance technique.

Qu'il s'agisse de la surveillance des opérations ou de la mission de contrôle et d'assistance, le contrôle exercé par les Nations Unies n'a pas été un vain mot. La présence et l'action positive du Commissaire et des observateurs ont garanti, aux yeux des populations, l'impartialité de la consultation et ont constitué un précieux facteur du maintien de l'ordre au cours de cette phase délicate où se jouait le destin du territoire. Mais elles ont aussi permis de fournir à l'Assemblée générale des éléments d'appréciation objectifs sur le déroulement et sur les résultats de la consultation. Il appartient en effet au Commissaire de présenter, sous forme de rapport synthétique, l'ensemble des observations faites au cours de sa mission. Les rapports constituent une précieuse source de documentation, grâce à une relation détaillée des événements et aux appréciations qui sont portées sur l'enchaînement des faits et sur le comportement des hommes. Mais ce rapport ne constitue qu'un élément du dossier. C'est à l'Assemblée générale et à elle seule qu'il appartient d'en tirer les conséquences politiques et juridiques.

III

L'INTERPRÉTATION DES RÉSULTATS

Dans les plébiscites ordinaires, le résultat du scrutin peut emporter de plein droit la décision. S'il y a eu contrôle international des opérations, la Commission compétente se borne à donner officiellement connaissance des résultats; l'exécution de la décision populaire incombe alors aux parties en cause qui devront régler entre elles les conditions dans lesquelles s'effectue la succession aux compétences territoriales.

Dans le cas des consultations supervisées par les Nations Unies, il en va différemment. Le choix populaire n'est qu'un élément de la situation. La décision finale appartient à l'Assemblée générale qui dispose d'un pouvoir discrétionnaire d'appréciation quant à la validité, à la signification et à la portée des résultats.

1) *Appréciation de la validité des résultats.*

Le rapport établi par le Commissaire au plébiscite contient normalement tous les éléments d'appréciation quant à la régularité et à la validité du plébiscite. Mais l'avis formulé par le Commissaire ne lie ni le Conseil de Tutelle ni l'Assemblée générale qui peuvent parfaitement se prononcer en sens contraire. En fait, cette situation ne s'est pas présentée. La conclusion des cinq rapports fournis par les Commissaires était favorable à la régularité et à l'impartialité des consultations. Le Conseil de Tutelle et l'Assemblée générale n'ont pas remis en question la validité des quatre plébiscites ni celle des élections générales au Togo sous administration française. Mais ils étaient en droit de le faire et il suffit d'imaginer une situation plus confuse ou un rapport aux conclusions plus hésitantes pour apercevoir l'importance du rôle de l'Assemblée sur ce point.

Mais il ne suffit pas de considérer les résultats comme régulièrement acquis; il faut encore en dégager la signification.

2) *Appréciation de la signification des résultats.*

La clarté des résultats obtenus par la méthode du plébiscite masque souvent des situations complexes qui laissent à une autorité extérieure et supérieure aux parties une marge importante d'appréciation. Les Commissaires des Nations Unies n'ont pas manqué de constater le trouble suscité auprès des électeurs par l'incertitude de tel ou tel choix qui leur était proposé. Ainsi les Togolais et les Camerounais sous administration britannique pouvaient légitimement s'interroger sur la portée exacte de l'union de leur territoire avec la Côte de l'Or, le Nigéria ou la République du Cameroun. Les modalités de cette union pouvaient varier sensiblement selon le rapport des forces politiques à l'intérieur des nouveaux Etats promus à l'indépendance ou selon l'aménagement interne (centralisation ou fédéralisme) qui prévaudrait dans ces collectivités de rattachement. De même les électeurs samoans pouvaient se demander quelle était la portée de la liaison établie par le plébiscite entre les deux questions qui leur étaient soumises puisque l'une portait sur le texte d'une Constitution et l'autre sur l'accès à l'indépendance sous le régime de cette Constitution. Sur ces divers points, l'Assemblée aurait pu intervenir pour préciser la signification du vote. Si elle ne l'a pas fait, c'est parce que de son avis les circonstances consécutives au plébiscite ont dissipé ou atténué rapidement les incertitudes qui pouvaient hypothéquer le résultat du scrutin. Mais il est au moins deux cas où l'Assemblée générale a tranché des questions litigieuses en imposant sa propre interprétation du plébiscite.

Pour le Togo sous administration britannique, on pouvait se poser la question de savoir comment interpréter un vote qui avait donné, dans le

Nord du territoire, une majorité pour l'union avec la Côte de l'Or et, dans le Sud, une majorité favorable au maintien du régime de tutelle. Le Commissaire des Nations Unies n'avait pas pris parti sur la question, se contentant de présenter le décompte des voix par circonscriptions. L'Assemblée générale, confirmant sa décision antérieure, a refusé de distinguer les votes du Nord et du Sud et n'a considéré que les résultats globaux favorables à l'union avec la Côte de l'Or. Une interprétation différente aurait aussi bien pu prévaloir.

Le second cas concerne l'interprétation, par l'Assemblée générale, des résultats du premier plébiscite organisé dans le Cameroun septentrional. Ayant à choisir entre l'union au Nigéria et le maintien du régime de tutelle, les électeurs s'étaient prononcés à une nette majorité en faveur de la seconde solution. Le Commissaire des Nations Unies a estimé, dans son rapport, que ce vote exprimait surtout une « protestation contre le système d'administration locale en vigueur au Cameroun septentrional » et que la population avait entendu manifester sa volonté de voir aboutir rapidement des réformes. Il n'empêche que les électeurs avaient formellement écarté la solution du rattachement au Nigéria. L'Assemblée générale, entérinant ici l'interprétation suggérée par le rapport du Commissaire au plébiscite, a estimé que ces résultats n'étaient pas décisifs et elle n'a pas hésité à organiser quelques mois plus tard dans le même territoire un nouveau plébiscite offrant aux électeurs le seul choix entre le rattachement au Nigéria ou à la République du Cameroun — c'est-à-dire excluant délibérément la solution en faveur de laquelle venait de se prononcer la majorité du corps électoral du Nord Cameroun.

L'Assemblée générale n'est donc pas liée par les résultats du vote — même quand ceux-ci expriment une opinion parfaitement claire. Elle peut faire prévaloir librement sa propre interprétation jusqu'à remettre en question le bien-fondé du choix qu'elle avait elle-même suscité.

3) *Décision finale.*

A plus forte raison, l'Assemblée est-elle seule compétente pour entériner le choix des populations et transformer celui-ci en une décision ayant autorité sur le plan international. Certes le fondement juridique de la décision prise demeure la compétence dont jouit l'Assemblée générale pour déterminer les conditions de la levée de la tutelle. Dans le cas du Togo sous administration française (Résolution 1253 XIII du 14 novembre 1958), l'Assemblée générale a simplement pris acte du fait que les conditions fixées par la Charte se trouvaient réunies et elle a laissé à la puissance administrante et aux autorités locales le soin de décider de la date à laquelle l'accord de tutelle cesserait d'être en vigueur. Mais dans le cas d'union entre un territoire sous tutelle et un Etat voisin, l'Assemblée générale a formellement

approuvé la mutation territoriale et chargé la puissance administrante de prendre les mesures nécessaires à son exécution. C'est ainsi que la Résolution 1044 (XI) en date du 13 décembre 1956 « approuve l'union du Togo sous administration britannique à une Côte de l'Or indépendante et invite en conséquence l'Autorité administrante à prendre les mesures nécessaires à cette fin » avant de statuer sur la levée de la tutelle.

La formule utilisée pour le Cameroun britannique associe expressément les mutations territoriales à la levée de la tutelle puisque l'Assemblée générale, dans sa Résolution 1608 (XV) du 21 avril 1961 :

« Décide que, les plébiscites ayant eu lieu séparément avec des résultats différents, l'Accord de tutelle... prendra fin... dans les conditions suivantes :

a) en ce qui concerne le Cameroun septentrional le 1^{er} juin 1961, au moment où le Cameroun septentrional s'unira à la Fédération de Nigéria en tant que province séparée de la Région nord de la Nigéria;

b) en ce qui concerne le Cameroun méridional, 1^{er} octobre 1961, au moment où le Cameroun méridional s'unira à la République du Cameroun. »

On peut donc affirmer que l'Assemblée générale, s'appuyant sur les résultats du plébiscite, a statué souverainement sur le sort des territoires dont elle avait jusqu'ici assuré la gestion sous le régime de la tutelle. Les populations ont bien été conviées à faire connaître leurs préférences. Mais c'est l'Organisation des Nations Unies qui a seule qualité pour provoquer la consultation, en contrôler le déroulement et en interpréter, politiquement et juridiquement, les résultats.

L'Assemblée générale a ainsi affirmé dans ce domaine son pouvoir de décision. Elle procède à un véritable arbitrage politique sans chercher à obtenir le consentement des parties en cause. Elle se considère comme l'autorité qualifiée pour décider souverainement des conditions de cessation de la tutelle.

Dans le cas du plébiscite concernant le Cameroun sous tutelle britannique, la solution adoptée par l'Assemblée a soulevé une vive opposition; lorsque le rapport du Commissaire des Nations Unies fut examiné par le Conseil de tutelle le 10 avril 1961 le représentant de la France a indiqué son intention de demander l'invalidation du plébiscite au Cameroun septentrional. Devant la Quatrième Commission le Ministre des Affaires étrangères de la République du Cameroun a critiqué le comportement du Royaume-Uni qui n'ayant pas, avant la consultation populaire, procédé à la séparation administrative du Cameroun septentrional d'avec le Nigeria qu'avait prescrite l'Assemblée générale, avait, de ce fait affecté les résultats du plébiscite; celui-ci, en effet, s'était déroulé en présence de fonctionnaires et de policiers nigériens.

Cependant par 59 voix contre 2 et 9 abstentions la Commission devait se prononcer pour le projet de résolution entérinant les résultats du référendum. La France, le Cameroun, des Etats africains d'expression française avaient été absents lors du vote pour marquer leur protestation.

En séance plénière le 21 avril 1961 des protestations solennelles s'élevèrent contre la décision de l'Assemblée générale prise par 64 voix contre 23 avec 10 abstentions et proclamant le rattachement à la Nigeria.

La République du Cameroun a alors décidé de saisir la Cour internationale de Justice sur la base de la clause de juridiction obligatoire contenue dans l'accord de tutelle du 13 décembre 1946 relatif au Cameroun sous administration du Royaume-Uni, avant l'expiration de la validité de celui-ci. Le 31 mai 1961 il a formé une requête contre le Royaume-Uni dans laquelle sont invoqués tout à la fois des manquements à l'accord de tutelle et à la résolution 1473 (XIV) relative à la séparation administrative du Cameroun septentrional et de la Nigeria. Certains griefs se rapportent directement au plébiscite : « les conditions fixées par le paragraphe 4 de la même résolution visant l'établissement des listes électorales ont été interprétées de manière discriminatoire » ; « les actes des autorités locales pendant la période précédant le plébiscite et durant les opérations électorales ont modifié le déroulement normal de cette consultation et ont entraîné des suites contraires à l'accord de tutelle ».

La Cour doit donc se prononcer sur la question de savoir si le Royaume-Uni a ou non respecté certaines obligations résultant de l'accord de tutelle. Sans doute la résolution de l'Assemblée générale fixant le sort du territoire sous tutelle n'est elle pas soumise à la censure de la Cour, mais la République du Cameroun, en contestant la légalité du comportement de la puissance administrante peut espérer un arrêt qui déciderait que le plébiscite a eu lieu dans des conditions contraires aux principes posés par l'Assemblée générale elle-même. C'est la première fois que la Cour est appelée à connaître au contentieux d'une affaire qui concerne un domaine dans lequel l'Assemblée générale possède un pouvoir de décision. Si juridiquement la constatation de l'irrégularité du comportement britannique ne peut affecter la décision politique prise par l'Assemblée, elle ne devrait pas manquer de comporter des conséquences sur le plan politique, tout au moins dans les rapports entre les Etats directement intéressés.

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L'O.N.U. est trop décriée aujourd'hui pour qu'on ne souligne pas les expériences où son action a été bénéfique. Il semble que tel ait été dans l'ensemble le cas pour l'organisation de plébiscites ou la supervision d'élections dans les territoires sous tutelle. Des mutations territoriales ou politiques ont pu être accomplies sans trouble grave. Le fait est d'autant plus remarquable que les populations consultées sur leur sort faisaient pour la plupart l'apprentissage des mécanismes élémentaires de la démocratie.

Mais si les initiatives prises par les Nations Unies ont abouti à des résultats heureux, il ne faut pas oublier les conditions dans lesquelles ces expé-

riences ont eu lieu. Les territoires sous tutelle constituaient un terrain particulièrement favorable : l'Assemblée générale est maîtresse de leur sort, au moins en ce qui concerne les conditions de la levée de la tutelle; les puissances administrantes, soucieuses d'être déchargées de leurs responsabilités, ont coopéré de bonne grâce avec l'O.N.U. pour organiser ces plébiscites; enfin les populations locales se sont vu offrir en général des solutions qui, sous une forme ou sous une autre, constituaient pour elles une promotion conforme au mouvement général vers l'indépendance. Le succès réel des plébiscites s'explique donc bien plus par la technique du régime de tutelle — dont ils constituent la phase ultime — que par la vocation propre des Nations Unies à arbitrer les litiges politiques ou territoriaux qui subsistent à l'heure actuelle dans le monde. Aussi bien l'O.N.U. a-t-elle échoué dans l'entreprise lorsqu'il s'est agi d'organiser des consultations en Hongrie ou au Cachemire, sans avoir obtenu l'accord préalable des Etats ou des forces politiques intéressées. Aucune résolution n'a pu être adoptée pour le Cachemire et la résolution adoptée pour la Hongrie le 9 novembre 1956 est restée lettre morte.

C'est pourquoi il n'est pas possible de tirer de ces expériences isolées des conclusions trop optimistes. L'O.N.U. n'a réussi à mener à bien ces plébiscites que parce qu'elle avait la faculté de les entreprendre et la possibilité de les faire exécuter. Elle ne dispose malheureusement, à l'heure actuelle, ni de l'autorité morale ni de la force matérielle qui lui permettraient d'imposer son concours et son arbitrage à des parties récalcitrantes. Le droit des peuples à disposer d'eux-mêmes est un idéal respectable. Sa mise en œuvre, qui aboutit généralement à remettre en question l'ordre existant, exige cependant un degré de solidarité et une discipline collective qui ne semblent pas encore être atteints au sein de l'Organisation des Nations Unies.

ANNEXE DOCUMENTAIRE

TOGO SOUS ADMINISTRATION BRITANNIQUE

Texte de base : Résolution 944 (X) prise par l'Assemblée générale le 15 décembre 1955.

Date du plébiscite : 9 mai 1956.

Questions posées :

- 1) Voulez-vous l'union du Togo sous administration britannique à une Côte de l'Or indépendante ?
- 2) Voulez-vous la séparation du Togo sous administration britannique de la Côte de l'Or et le maintien du régime de tutelle en attendant que l'avenir du territoire soit définitivement fixé ?

Résultats du plébiscite :

- pour l'union avec la Côte de l'Or : 93 095 voix.
- pour le maintien du statu quo : 67 492 voix.

Rapport établi par M. Espinosa y Prieto, Commissaire au plébiscite, Document A/3173 du 5 sept. 1956.

CAMEROUN SOUS ADMINISTRATION BRITANNIQUE

I. Plébiscite au Cameroun septentrional

Texte de base : Résolution 1350 (XIII) adoptée par l'Assemblée générale le 13 mars 1959.

Date du plébiscite : 7 novembre 1959.

Questions posées :

- 1) Désirez-vous que le Cameroun septentrional fasse partie de la région du Nord de la Nigéria lorsque la Fédération nigérienne accèdera à l'indépendance ?
- 2) Préférez-vous que l'avenir du Cameroun septentrional soit décidé plus tard ?

Résultats du plébiscite :

- pour le rattachement : 42 788 voix.
- pour le maintien du statu quo : 70 546 voix.

Rapport établi par M. Djalal Abdoh, Commissaire au plébiscite, Document A/4314 du 2 décembre 1959.

II. Plébiscites au Nord et au Sud Cameroun

Textes de base :

- pour le Cameroun méridional : Résolution 1352 (XIV) adoptée par l'Assemblée générale le 16 octobre 1959.
- pour le Cameroun septentrional : Résolution 1473 (XIV) prise par l'Assemblée générale le 12 décembre 1959.

Date du plébiscite : 11 et 12 février 1961.

Questions posées :

- 1) Désirez-vous accéder à l'indépendance en vous unissant à la République camerounaise indépendante ?
- 2) Désirez-vous accéder à l'indépendance en vous unissant à la Fédération nigérienne indépendante ?

Résultats du plébiscite :

- Cameroun septentrional :
 - + rattachement au Nigéria : 146 296.
 - + rattachement à la République camerounaise : 97 659.
- Cameroun méridional :
 - + rattachement au Nigéria : 97 741.
 - + rattachement à la République camerounaise : 233 571.

Rapport établi pour les deux plébiscites par M. Djalal Abdoh, Commissaire des Nations Unies, Document provisoire T/1556 du 3 avril 1961.

SAMOA OCCIDENTAL

Texte de base : Résolution 1569 (XV) adoptée par l'Assemblée générale le 18 décembre 1960.

Date du plébiscite : 9 mai 1961.

Questions posées :

- 1) Approuvez-vous la Constitution adoptée le 28 octobre 1960 par la Convention constitutionnelle ?
- 2) Désirez-vous que, le 1^{er} janvier 1962, le Samoa Occidental devienne un Etat indépendant sur la base de cette Constitution ?

Résultats du plébiscite :

- première question : 28 151 OUI.
4 453 NON.
- deuxième question : 26 766 OUI.
4 666 NON.

Rapport établi par M. Najmuddine Rifai, Commissaire au plébiscite, Document provisoire T/1564, du 23 juin 1961.

AUGMENTATION DES MEMBRES DU CONSEIL DE L'O.A.C.I.

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TOGO SOUS ADMINISTRATION FRANÇAISE

Texte de base : Résolution 1182 (XII) adoptée par l'Assemblée générale le 29 novembre 1957.

Date des élections : 27 avril 1958.

Résultat des élections : le Comité de l'Union togolaise (C.U.T.) remporte 29 des 46 sièges. Ce parti s'était abstenu de prendre part aux élections de 1955 et au referendum de 1956.

Rapport établi par M. Max H. Dorsinville, Commissaire des Nations Unies. Document A/3957 du 23 octobre 1958.

RUANDA-URUNDI

Textes de base : Résolutions 1579 (XV) et 1605 (XV) adoptées par l'Assemblée générale les 20 décembre 1960 et 21 avril 1961.

Dates de la consultation (élections et referendum) :

— Burundi : 18 septembre 1961.

— Ruanda : 25 septembre 1961.

Questions posées au referendum (Ruanda) :

1) Désirez-vous conserver l'institution du Mwami au Ruanda ?

2) Dans l'affirmative, désirez-vous que Kigeli V reste le Mwami du Ruanda ?

Résultats de la consultation : le rapport du Commissaire des Nations Unies n'a pas encore été publié. Des informations publiées dans la presse, il ressort que la population du Ruanda s'est prononcée à une nette majorité contre le maintien de la monarchie.

AUGMENTATION DU NOMBRE DES MEMBRES DU CONSEIL DE L'O.A.C.I.

R. H. MANKIEWICZ

AMENDEMENT DE L'ARTICLE 50, ALINEA A) DE LA CONVENTION RELATIVE A L'AVIATION CIVILE INTERNATIONALE

Comme nous l'avons relaté dans deux chroniques précédentes (1), les élections du Conseil de l'O.A.C.I. aux dixième et douzième sessions de l'assemblée (1956 et 1959) ont suscité des débats prolongés sur le sens et la portée de l'article 50, alinéa b) de la Convention de Chicago relative à l'aviation civile internationale. Finalement, lors de sa douzième session, l'Assemblée a temporairement modifié son règlement intérieur pour que l'élection

(1) Cet *Annuaire*, 1956, p. 646 ss.; 1959, p. 549 ss.

Annex 19

Rosalyn Higgins, *The Development of International Law through the Political Organs of the United Nations* (1963)

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THE DEVELOPMENT OF
INTERNATIONAL LAW THROUGH
THE POLITICAL ORGANS OF
THE UNITED NATIONS

BY

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*FOR MY HUSBAND
AND MY PARENTS*

practice as shown in the Congo operation, based as it is on Article 40. The matter may be restated as follows:

If a matter is giving rise to apprehension relating to the maintenance of peace and security, but is a potential threat rather than an actual threat, and is causing international friction rather than a breach of the peace, then—in spite of an objection under Article 2(7)—the Security Council may recommend measures under Chapter VI, for the question has become one of international concern; if the question has given rise to a finding under Article 39, then enforcement measures under Chapter VII may be ordered, and Article 2(7) ceases to be operative. If there has been a finding under Article 39, and the Security Council decides to make recommendations or to apply provisional measures under Article 40 rather than to order an enforcement action under Articles 41 and 42, then the situation—being one which is 'ripe for enforcement action', even though such action has not been ordered—also becomes unfettered by the reservation in Article 2(7). However, if there is no finding, implied or express, under Article 39, and there is only a question of international friction, no recommendations under Chapter VII may be made in the face of an objection on grounds of domestic jurisdiction; though in certain circumstances, where the element of international concern becomes pronounced, action may be available to the Council under Chapter VI.

d. That the United Nations may always act where a question of self-determination is involved

In comparatively recent times a new claim is being made by those who support the extension of the influence of the United Nations in certain matters traditionally within the reserved domain. This claim asserts that the right to self-determination is a legal right, backed by a legal obligation, and not merely a 'pious hope, devoid of legal substance'. In the contemporary world situation, where anti-colonialism has assumed vital dimensions, this claim has become exceedingly significant, and merits detailed consideration.

Article 1 of the Charter of the United Nations, which sets out the Purposes and Principles of the Organization, declares as the second of these the development of 'friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples . . .'. And again, Article 55 considers that friendly relations between nations are 'based on respect for the principle of equal rights and self-determination of peoples'; while in Chapter XI, which is concerned with Non-Self-Governing Territories, Article 73 notes that members assuming responsibility for such territories are 'to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions'.

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The question has therefore arisen of how far these articles may be cited as authority for the taking of action of various kinds by the United Nations in the face of an objection based on Article 2(7). In other words, does the existence of a 'self-determination' element in a situation otherwise internal give that situation the requisite international element to remove it from the domain of questions 'essentially within the domestic jurisdiction'? The answer to this problem must in turn depend on whether the self-determination provisions in the Charter give rise to international legal rights and obligations, or whether they are merely generalized aims.

If such a right does exist, it must be acknowledged to be a fairly new one. The Aaland Islands dispute, though not directly in point,⁴⁰ tends to support this; and the report of the Commission of Jurists, dealing with the substance of the dispute, observed that positive international law did not recognize the right of self-determination of peoples to separate themselves from the state to which they belonged.⁴¹ Nor, it would seem, did it recognize the right of self-determination of peoples to free themselves from the rule of those states by whom they were colonized, even if they did not 'belong' to such states.

The practice of the United Nations in this complex area of international affairs is very revealing and its importance can hardly be exaggerated. By resolution 545 (VI) the Assembly requested the Commission on Human Rights to draw up recommendations concerning 'international respect for the self-determination of peoples'. Accordingly, the Commission on Human Rights adopted two resolutions⁴² which came before the Assembly for adoption at its seventh session. After a discussion in which objections were raised on the grounds of Article 2(7), the General Assembly agreed to⁴³ an amended version of the first of these resolutions. The preamble referred to the provisions on self-determination in Articles 1(2) and 55, and paragraph 2 of the operative part stated that:

2. The States Members of the United Nations shall recognize and promote the realization of the right of self-determination of the peoples of Non-Self-Governing and trust territories who are under their administration and shall facilitate the exercise of this right by the peoples of such territories according to the principles and spirit of the Charter of the United Nations in regard to each territory and to the freely expressed wishes of the peoples concerned, the wishes of the people being ascertained through plebiscites or other recognized democratic means. . . .⁴⁴

40. This dispute arose between Sweden and Finland over title to the Aaland Islands which were under the *de facto* rule of Finland. The Swedish Govt declared that the peoples of those islands wished to join Sweden, and therefore requested a plebiscite. Finland asserted that as the islands came under its territorial sovereignty, the matter was one of domestic jurisdiction.

41. *ENOT* (1920), Spec. Suppl. 3, pp. 3-19.

42. *ESCOR*, 14th sess., Suppl. 4 (E/2256), paras. 75-91.

43. By 40 votes to 14, with 6 abstentions.

44. GA res. 637 A (VII).

Thus the argument that the manner in which a state applied the principle of self-determination fell essentially within the domestic jurisdiction failed to hold sway;⁴⁵ and the United Nations found that it was not debarred by Article 2(7) from recommending that a member state organize a plebiscite to determine the aspirations of a minority group.⁴⁶ Events had already moved far since the report on the Aaland Islands dispute.

Meanwhile the Assembly requested the Commission on Human Rights to continue preparing its recommendations on this topic.⁴⁷ The Commission then submitted its recommendations for the examination of the Social Committee of the Economic and Social Council.⁴⁸ One of the recommendations urged the Assembly to establish a Special Commission to examine any situation resulting from an alleged denial or inadequate realization of the right of self-determination, 'which falls within the scope of Article 14 of the Charter and to which the Commission's attention is drawn by any ten members . . .'.⁴⁹ This proposal met some opposition on the grounds that it would constitute an interference in a matter of domestic jurisdiction, and the matter was referred back to the Commission on Human Rights for consideration in the light of this objection.⁵⁰

During this reconsideration some representatives asserted that the realization of self-determination fell essentially within the domestic jurisdiction of states,⁵¹ being a matter of the political structure of states. It was also observed that both Article 1(2) and Article 55 referred to the 'principle' of self-determination, and not to the 'right' of self-determination.⁵² These delegates thought it significant that no Charter article granted the Assembly competence to implement this 'principle' in Article 2(1), although by contrast, implementation of the purpose of Article 1(1) was provided for by Article 11, and implementation of that of Article 1(3) was provided for by Article 13. However, these objections were strongly opposed,⁵³ and the Commission on Human Rights reaffirmed its previous recommendation,⁵⁴ which was duly sent on to the General Assembly by the Economic and Social Council.⁵⁵ The General Assembly was also asked to consider a draft resolution of the United States which, noting that differences of opinion had been revealed, requested that the General Assembly set up an Ad Hoc Commission to conduct a study of the concept of self-determination.

The Assembly eventually dealt with the matter at its twelfth session,

45. E/AC. 7/SR.292, p. 5.

47. By GA res. 637 C (VII).

49. Art. 14 allows the Assembly to act not only in situations likely to impair friendly relations between nations, but also in situations likely to impair 'the general welfare'—a much more broad authorization.

50. By ECOSOC res. 545 G (XVIII).

51. E/AC. 7/SR.326, p. 11; E/CN. 4/SR.503, p. 8.

52. E/CN. 4/SR.505, p. 5.

54. *ESCOR*, 20th sess., Suppl. 6 (E/2731 & Corr. 1), pp. 30-31.

55. By ECOSOC res. 586 D (XX).

46. *GAOR*, 7th sess., 3rd Cttee, 445th mtg, para. 29.

48. *ESCOR*, 18th sess., no. 7 (E/2573), ann. IV F.

53. E/CN. 4/SR.500, p. 15.

where it adopted a resolution repeating the terms of Article 2(1) and stating that disregard for the right of self-determination (the word 'right' was used in preference to 'principle') undermines the basis of friendly relations among nations. Thus the relationship between self-determination and legitimate international concern is spelled out. This relationship is a vital one, because the principle of self-determination and the maintenance of international peace and security are inseparable: people seeking independence from those unwilling to grant it, or in any event unwilling to grant it on the terms demanded, are likely to disturb the peace. This highlights in acute form the difficulty that the Charter fails entirely to provide for the enforcement of that peaceful change which justice requires. The operative part of the resolution declares that:

(a) Member States shall, in their relations with one another, give due respect to the right of self-determination;

(b) Member States having responsibility for the administration of Non-Self-Governing territories shall promote the realization and facilitate the exercise of this right by the peoples of such territories.⁵⁶

For several years the agenda of the General Assembly included an item entitled 'Violation by France in Morocco of the principles of the United Nations Charter and the Declaration of Human Rights'.⁵⁷ The representative of France consistently maintained that the question of Morocco was a matter of domestic jurisdiction, while certain others contended that Moroccan sovereignty had been recognized by France in signing the Act of Algeciras and the protectorate treaty, and that certain measures of the French Administration in that territory were contrary to the principle of self-determination.⁵⁸ Moreover, it was contended that the situation in Morocco was a 'menace to international peace in that part of the world'. The resolution adopted by the General Assembly at its seventh session, on the recommendation of the First Committee, appealed for a continuation of negotiations and referred to Article 1(2) of the Charter, which mentions self-determination, as well as to the Charter provisions for the maintenance of peace.⁵⁹ The following year, in spite of objections raised on the grounds

56. GA res. 1188 (XII). Further consideration of this question led to the establishment of a Commission to conduct a survey of rights to permanent sovereignty over natural wealth and resources (GA res. 1314 (XIII)). Discussion of the finding of the Commission that such permanent sovereignty was a concomitant right of self-determination is beyond the scope of this Part.

57. For a useful discussion on legal aspects of this problem see DeJany, 'Competence of the GA in the Tunisian-Moroccan Questions', 47 *Proc. ASIL* (1953), 53. A valuable contribution to the study of the political background has been made by Atyeo, 'Morocco, Tunisia and Algeria before the UN', 6 *Middle Eastern Affairs* (1955), 22.

58. GAOR, 7th sess., ann., a. i. 65, pp. 1-5 (A/2175 & Add. 1 & 2).

59. Res. 612 (VII).

- of Article 2(7), the First Committee adopted a draft resolution⁶⁰ which stated that:

The General Assembly, . . . *Recognizing* the right of the people of Morocco to complete self-determination in conformity with the Charter, *Renews* its appeal for the reduction of tension in Morocco and urges that the right of the people of Morocco to free democratic political institutions be ensured.

However, this draft resolution failed to obtain the necessary two-thirds majority in the Assembly, and hence was rejected.⁶¹ The issue was never again clearly posed in this case,⁶² as by the next year Franco-Moroccan negotiations were in fact imminent, and at the Assembly's eleventh session Morocco was admitted to membership.

Similar issues were presented by the **Tunisian question**. At its seventh session the General Assembly was presented with a complaint that the French Administration in Tunisia had violated human rights and the principle of self-determination. Again, it was contended that France had undertaken to respect Tunisian sovereignty in signing the protectorate treaties.⁶³ The French delegation protested on grounds of Article 2(7), and boycotted the discussions of the First Committee.⁶⁴ The General Assembly, on the recommendations of that Committee, eventually adopted resolution 611 (VII),⁶⁵ which referred to Article 1(2), *inter alios*, and expressed the hope that the parties would continue negotiations 'on an urgent basis with a view to bringing about self-government for Tunisians in the light of the relevant provisions of the Charter of the United Nations . . . '.

The following year the First Committee adopted a draft resolution which referred in unequivocal terms to the right of self-determination.⁶⁶ However, this resolution failed to obtain the necessary two-thirds majority in the Assembly.⁶⁷ At the ninth session, those states requesting the inclusion of the Tunisian item upon the agenda now categorized it as 'a threat to world peace'.⁶⁸ As negotiations between the parties were now in progress, the Assembly postponed consideration of the item.⁶⁹ At the eleventh session Tunisia was admitted to membership in the United Nations.

- Although in both these cases the strongly worded resolutions of the First Committee citing a right to self-determination failed to be adopted in

60. GAOR, 8th sess. a.i. 57, p. 6 (A/2526), para. 11.

61. Ibid. plen., 455th mtg, 32-22-5.

62. Though two further resolutions were in fact adopted by the Assembly: 812 (IX) & 911 (X).

63. GAOR, 7th sess., ann., a.i. 60, p. 1-4 (A/2152).

64. Ibid. p. 5 (A/C.1/737).

65. By 44 votes to 3, with 8 abstentions.

66. GAOR, 8th sess., ann., a.i. 56, p. 5 (A/2530, para. 7).

67. Ibid. plen., 457th mtg, para. 152. There were 31 votes in favour, 18 against, and 10 abstentions.

68. Ibid. 9th sess., ann., a.i. 57, pp. 1-3 (A/2683).

69. By res. 813 (IX).

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plenary, it is significant that they only failed through inability to muster a two-thirds majority. Already a simple majority in plenary believed such resolutions to be valid, and the implications of this trend have been sustained.

In 1955 the question of Algeria—alleging a threat to the peace and breach of the Charter provisions on self-determination⁷⁰—came before the Assembly, where, after its inclusion upon the agenda,⁷¹ it was decided to proceed no farther.⁷² When the question was brought before the Security Council, and violation of human rights was added to the charges,⁷³ the Council decided, by 7 votes to 2, with 2 abstentions, not to include the matter in its agenda.⁷⁴ In both organs France contended that the matter was one of domestic jurisdiction, as Algeria was part of metropolitan France—an argument it has consistently maintained. The failure of the Council to include the matter in its agenda at this stage was partly because of weight given to this argument, and undoubtedly partly for reasons not based on Article 2(7).⁷⁵ The points raised on the question of self-determination are very instructive, however. Some claimed that Article 2(7) was an overriding provision, applying to all aspects of the Charter, including that of self-determination.⁷⁶ On the other hand certain members felt that a principle which was enunciated in the Charter could not fall essentially within the domestic jurisdiction.⁷⁷

At the eleventh session of the Assembly, a resolution was before the First Committee which requested France to recognize the right of Algeria to self-determination; to negotiate peaceful settlement with the Algerian nationalists; and to accept the aid of the Secretary-General in conducting negotiations. This resolution was defeated,⁷⁸ and two more moderate resolutions went before the plenary meeting.⁷⁹ When neither of these received a two-thirds majority, the co-sponsors joined in framing a new resolution, which merely expressed the hope that a 'peaceful, democratic and just solution will be found'.⁸⁰ Even less was achieved by the twelfth session of the Assembly: the First Committee had been unable to reach agreement on a resolution to present for adoption,⁸¹ and the Assembly

70. *GAOR*, 10th sess., ann., a.i. 64, p. 1 (A/2924 and Add. 1).

71. Against the recommendation of the Gen. Cttee (*GAOR*, 10th sess., plen., 530th mtg, paras. 219 & 223).

72. See res. 909 (X).

73. S/3609, 13 June 1956.

74. *SCOR*, 11th yr, 730th mtg, para. 85.

75. *Ibid.* paras. 32-34, 43-49, 69-72, 81-84.

76. *GAOR*, 10th sess., 529th mtg, paras. 154-7; & *SCOR*, 11th yr, 730th mtg, para. 61.

77. *GAOR*, 10th sess., 529th mtg, paras. 175-7. 78. A/C.1/L.165.

79. A/C.1/L.166 & A/C.1/L.167.

80. GA res. 1012 (XL).

81. A 17-state draft resolution (A/C.1/L.194) recognizing the principle of self-determination for Algeria and calling for negotiations was modified by amendments (passed very narrowly) which substituted for the principle of self-determination the recognition that 'the people of Algeria were entitled to work out their own future in a democratic way' and proposed 'effective discussion' instead of 'negotiations' (A/C.1/L.196). The modified resolution failed to be carried.

merely noted that good offices had been offered, and hoped that a solution would be reached.⁸² Undeterred, by 1958 the Afro-Asian states were demanding the right of the Algerian people to independence⁸³—a stronger term than self-determination. (A Haitian amendment having been rejected, the First Committee adopted the resolution. The resolution was rejected by the Assembly, which failed by a single vote to provide the necessary two-thirds majority.)

But behind the failure of the Assembly to pass a resolution favouring the right of self-determination for Algeria an interesting trend was taking place. The voting records show that not only was the cause of Algeria gaining in support, but that so was the idea that there might be a legal right to self-determination in these circumstances, even in spite of objections based on domestic jurisdiction.⁸⁴

The year 1959 saw something of a change in the situation, as by the time the Assembly convened, President de Gaulle had already announced proposals for the self-determination of Algeria—without conceding at all the right of the United Nations to consider the matter.⁸⁵ Inevitably, many states now decided to abstain on any resolution, feeling that the progress made should not be jeopardized by putting France in a position of pressure.⁸⁶ Other countries, such as Portugal and Spain, continued to oppose a resolution on grounds of Article 2(7). Because of these factors the resolution recommended by the Political Committee reverted to the concept of 'self-determination', rather than 'independence'. Although the resolution was carried in Committee, the prospects of success in plenary were negligible, and a new resolution, merely calling for the holding of talks to arrive at 'a peaceful solution on the basis of the right to self-determination' was put to the vote. It failed to be carried.⁸⁷ None the less, the principle of self-determination had now been accepted by all parties, and all the resolutions being put forward—which all gained simple majorities in the Assembly—referred to the right of self-determination, and ignored argument based on Article 2(7).

The situation was solidified at the fifteenth session of the Assembly, when the General Assembly formally recognized the right of the Algerian people

82. Res. 1184 (XII).

83. A/C.1/L.232.

84. An analysis of the voting trends between 1955 and 1958 may be found in Alwan, *Algeria before the UN* (1959), at 67. He estimates that the number of supporters for Algerian self-determination increased by 15 per cent in this period. This writer, agreeing with the trend, none the less feels that those figures have failed to take into account the increases in membership during this time, and that they consequently fail to reflect accurately the changes of view within the Organization on the Algerian question.

85. For a useful discussion see Rossi & Sohn, 'Is France Right about Algeria in the UN?', *For. Pol. B.*, 15 Nov. 1955, pp. 35-37.

86. See A/C.1/PV.1076, espec. per Iceland and Denmark and Italy.

87. Draft res. A/L.276 (GAOR, 14th sess., 856th mtg.).

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to self-determination.⁸⁸ The basis of Assembly action, however, remained unclear, for while the right to self-determination was unequivocally recognized, the Assembly classified the situation as one constituting a threat to international peace and security—a position which would grant the Security Council exemption from a reservation of domestic jurisdiction, and which introduced for the Assembly a strong element of 'international concern'.

At the sixteenth Assembly, there were no opposing votes to a similar resolution⁸⁹—similar, and yet extremely significant. This resolution carried no mention of a threat to the peace in the Algerian situation: rather, it referred to the recent Assembly resolution calling for an end to colonialism,⁹⁰ and to the recognition of the right of self-determination and independence for Algeria. It declared itself concerned with the 'just implementation' of this right, and asserted that the United Nations had a role to play in securing it. The Assembly called for a resumption of negotiations. Thus the basis of the Assembly resolution, which is addressed to two specific parties, lies squarely on an international legal right to self-determination, and, by implication, the inapplicability of Article 2(7) to any situation concerning this right. At the seventeenth session of the General Assembly Algeria, having gained its independence, was admitted to membership.

In its early stages, those who would have had the General Assembly deal with the **Cyprus question**—'Application, under the auspices of the United Nations, of the principle of equal rights and self-determination of peoples in the case of the population of the island of Cyprus'⁹¹—encountered much the same sort of difficulties as those which had arisen in the early stages of the Algerian question. The United Kingdom representative claimed that the matter fell essentially within his country's jurisdiction, as Cyprus was a British possession.⁹² This proposition received a certain amount of support, although others thought that a question of self-determination could not be essentially domestic.⁹³ Interestingly, some representatives draw a distinction between minorities living within the metropolitan boundaries of states, and the peoples of Non-Self-Governing Territories.⁹⁴ They claimed that the realization of the rights of the latter—though not of the former—was a matter of international concern governed by the provisions of Chapter XI. They thus acknowledged merit in France's denial of international competence in the Algerian question on the grounds that

88. Res. 1573 (XV). It was adopted 63–8–27. Interestingly, the opposing votes were largely made up of the states of the French Community in Africa, together with S. Africa and Portugal. Spain, Belgium, the UK, and the USA abstained.

89. Res. 1724 (XVI). There were 38 abstentions.

90. Res. 1514 (XV). See below, pp. 100–4.

91. The question was raised by Greece (GAOR, 9th sess., ann., a.i. 62, p. 1 (A/2703)).

92. GAOR, 9th sess., 477th mtg, para. 119; Gen. Cttee, 93rd mtg, paras. 15–27.

93. GAOR, 9th sess., 1st Cttee, 751st mtg, para. 32; 752nd mtg, para. 7; 10th sess., plen., 521st mtg, paras. 112 & 113.

94. GAOR, 9th sess., 1st Cttee, 750th mtg, para. 31.

* Res
1514

Algeria was a metropolitan territory. In the intervening seven years less and less emphasis has been put on this distinction, and with good reason. For a state to declare an overseas possession, whose population is of a different race and often in highly organized opposition, to be part of the metropolitan area may well be arbitrary and at variation both with the facts and with common sense. The claim has been heard more recently from Portugal about Angola,⁹⁵ but, with the exception of South Africa, has received virtually no support. At some time in the past it may well have been an accurate factual description for colonial Powers to describe overseas possessions as part of the metropolitan territory. However, the factual relationship of these overseas possessions to the administering state has undeniably changed, and a claim that Article 2(7) applies to the situation must be rejected as being too much at variance with reality. As facts can make new law, so can they unmake old law.

In any event, when the question of Cyprus first arose, the Assembly was reluctant, both at its ninth and tenth sessions, to consider the problem. At the former, a resolution was adopted⁹⁶ deciding not to do anything further at the present time (though there was some unresolved controversy as to whether this decision did or did not prejudice the question of the Assembly's competence),⁹⁷ and the following year the Assembly decided not to include the item upon its agenda.⁹⁸ The fact that the Greek demand for Cyprus independence was in reality aimed at *enosis* (union) of Cyprus with Greece undoubtedly influenced the voting at this stage. Some representatives agreed that there was a right of self-determination, but thought that the present case involved not the independence of the Cypriot people but a change of sovereignty from British to Greek hands, and hence should not be discussed.⁹⁹ Certain other states thought that Article 2(7) was an attribute of sovereignty; that Cyprus was being administered under Article 73; and that the rights flowing from administration were not the same as those flowing from sovereignty. In other words, Article 2(7) was only available to a state in relation to its homeland.¹

By the following year the situation in Cyprus had deteriorated and the United Kingdom requested that the Greek complaint, together with a complaint of its own charging support for terrorism, should be discussed.² The United Kingdom representative took the opportunity to voice the opinion that the question of the circumstances in which the principle of self-

95. S/4993, pp. 134-9.

96. Res. 814 (IX).

97. GAOR, 9th sess., 514th mtg, paras. 258, 266, 272, & 286.

98. Ibid. 10th sess., 521st mtg, para. 167. Again, the decision was based on a variety of reasons: some thought the Assembly had no competence, while others thought Art. 2(7) could not apply, but that it was inopportune to discuss the Cyprus question for political reasons.

99. e.g. per Colombia (GAOR, 9th sess., Gen. Cttee, 93rd mtg).

1. See statements of representatives of Greece and Ecuador (ibid. 1st Cttee, 751st mtg).

2. Ibid. 11th sess., Gen. Cttee, 107th mtg, & A/3120/Add. 1.

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determination should be applied in any of the territories of a member state was clearly an internal matter for the state itself.³ Ultimately the General Assembly adopted a resolution calling for the resumption of negotiations and a 'peaceful, democratic and just solution'.⁴

In 1957 the contention was voiced that the phrase 'self-determination of peoples' used in Article 1(2) referred only to the freedom of sovereign peoples to choose a government, and that neither that article nor any other provision in the Charter justified rebellion on the part of Non-Self-Governing Territories.⁵ A resolution before the Assembly urging negotiations to be resumed with a view to self-determination failed to obtain a two-thirds majority.⁶ In 1959 a resolution expressing confidence in a peaceful, just, and democratic solution was adopted without objection.⁷

It must therefore be conceded that, on the face of it, the practice of the United Nations in the case of Cyprus did little to advance a notion of the right of self-determination, and the inapplicability of Article 2(7). However, the motives behind the restrained behaviour of the Assembly rested on a variety of factors, including apprehension at the terrorism on the island of Cyprus, the belief that the Greek interest in the question prevented it from being a matter of self-determination, and the opinion that little progress would be made by condemnation.

The history of the drafting of **International Covenants on Human Rights** is also of interest to our discussion. Some representatives to the Third Committee contended that the inclusion in the Covenants of a provision on the right of self-determination would be incompatible with Article 2(7) of the Charter.⁸ Nevertheless, the following text was adopted⁹ for both draft Covenants:

1. All peoples have the right to self-determination. . . .

3. All the States Parties to the Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust territories, shall promote the realization of the right of self-determination, and shall respect that right in conformity with the provisions of the United Nations Charter.¹⁰

Presentation of the completed Covenants—including this article—to the Assembly, has been postponed from year to year, and the reactions of the Assembly as a whole are still not available. However, the significance of the adoption of such an article by a Committee which has run into so much stormy weather in its work cannot be ignored, and nor can its implications

3. Ibid. 847th mtg.

4. Res. 1013 (XI), by 57-0-1.

5. Per Argentina (*GAOR*, 12th sess., 1st Cttee, 921st mtg) and per Spain (ibid. 927th mtg).

6. *GAOR*, 12th sess., plen., 731st mtg. The voting was 31-23-24.

7. Res. 1287 (XIII).

8. *GAOR*, 10th sess., ann., a.i. 28 (pt 1), p. 11 (A/2910/Add.2). See also *note verbale* of 20 July 1955 from Govt of Australia to the S-G (ibid. 3rd Cttee, 645th mtg, para. 5).

9. By 33-12-13 (*GAOR*, 10th sess., 3rd Cttee, 676th mtg, para. 27).

10. Ibid. ann., a.i. 28 (pt 1), p. 30 (A/3177, para. 77).

in relation to Article 2(7). By the time the Covenants are ultimately presented to the Assembly, the 'anti-colonial' majority is likely to be firmly entrenched, and it is very probable that these articles will be adopted.

All these cases which we have discussed, then, show a trend towards acknowledging self-determination as a legal right; and, moreover, a legal right based on provisions in an international instrument, and hence beyond the scope of the domestic jurisdiction reservation. The trend towards this position accelerated sharply in 1960, when a Declaration on the Granting of Independence to Colonial Countries and Peoples was adopted by Assembly resolution by 90 votes to none, with 9 abstentions. By this the General Assembly declared that:

2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

3. Inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence.

4. All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected.

5. Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories, which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom.¹¹

How strong the wording of this resolution is needs no underlining. In it the right of self-determination is regarded not as a right enforceable at some future time under indefinite circumstances, but as a legal right enforceable here and now. Paragraph 3 does not overtly state that inadequacy of preparedness shall not be grounds for refusing independence—rather it declares that this inadequacy shall not be used as a 'pretext' for delaying independence. Yet in reality, as the good faith of the colonial Power cannot be proved—and in the present political climate the onus is always on it to do so—the Declaration is widely taken to mean that all territories, no matter how unready, are entitled to independence. That this makes some worrying inroads upon the traditional criteria for statehood has already been mentioned in Chapter II. Even for a commentator favourably disposed towards a liberal interpretation of the right of self-determination this resolution has many undesirable aspects, and the total lack of opposition displayed reflects sadly upon the failure of those governments (such as that of the United Kingdom) who most loudly insist upon Big Power responsi-

11. Res. 1514 (XV).

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bility to vote against resolutions which they do not support when public opinion is mounted against them. (Parenthetically, it may be observed that the United Kingdom has followed a similar course in the Security Council resolutions on the Congo, frequently abstaining on—instead of voting against—resolutions which its later behaviour has revealed it to dislike. Though the grounds for disapproval of the resolutions seem less justified in that case, the principle remains the same.) The decision of the nine abstaining nations not to vote against the resolution rested on a variety of factors, high among them the fact that a large group of newly independent states had just been admitted to the United Nations, and unnecessary alienation of these countries was to be avoided. Moreover, Chairman Khrushchev was in New York conducting a remarkable propaganda campaign, and indeed it was he who had manoeuvred the Western colonial Powers into this position by sponsoring the Declaration. None the less, it must be acknowledged that there *were* no opposing votes, and that the number of abstentions was very low. The resolution must be taken to represent the wishes and beliefs of the full membership of the United Nations.

Nor has it been forgotten since. We have noted above¹² that the Algerian resolution of 1961—which for the first time unequivocally recognizes the Algerian right to self-determination—bases itself on the Declaration of the granting of independence. So does resolution 1650 (XVI) on the status of Algerian prisoners to France. So does the Security Council resolution of 9 June 1961 on Angola.¹³ It is significant that in the debates on this last-mentioned question, the representative of the Soviet Union was of the opinion that the reaffirmation by the Security Council of Assembly resolution 1603 (XV) on Angola, which in turn was based on the Granting of Independence resolution, had the effect of making that resolution mandatory. Further evidence that this resolution was not meant as a mere moral declaration is to be found in the decisions of the General Assembly on 27 November 1961¹⁴ to create a seventeen-member committee to make recommendations on the implementation of the 1960 Declaration. All states administering trust and Non-Self-Governing Territories were called upon to 'take action without further delay with a view to the faithful application and implementation of the Declaration'. The resolution was adopted by 97-0, with 4 abstentions (France, South Africa, Spain, and the United Kingdom). In view of the lack of opposition registered both to the 1960 Declaration and to this resolution, it seems academic to argue that as Assembly resolutions are not binding nothing has changed, and that 'self-determination' remains a mere 'principle', and Article 2(7) is an effective defence against its implementation. To insist upon this interpretation is to

12. Above, p. 97 (GA res. 1724 (XVI)).

13. S/4835.

14. Res. 1654 (XVI).

fail to give any weight either to the doctrine of *bona fides*,¹⁵ or to the practice of states as revealed by unanimous and consistent behaviour.

The development of the legal right of self-determination is being clearly shown by the case of Southern Rhodesia. There are, it should be said at this stage, two separate, though related, aspects to the Southern Rhodesia problem before the United Nations: the first of these concerns the implementation of Article 73(e) of the Charter, and obligations for the transmission of information by the United Kingdom under that Article; the second is about the right of the territory to independence. In other words, one aspect of the question is about what the United Kingdom can legally be expected to do, and the other is about the wishes of the peoples of Southern Rhodesia. It is the latter aspect which is relevant for our present discussion: the Rhodesian situation in the light of Article 73 will be discussed below. The Special Committee of Seventeen set up a sub-committee to report on Southern Rhodesia,¹⁶ and after talks with United Kingdom officials, this sub-committee presented its report.¹⁷ The report endorsed a three-Power resolution submitted by Ethiopia, Liberia, and Tunisia,¹⁸ which considered that the territory of Southern Rhodesia has not attained self-government, and that the Assembly should take action to urge its conviction that the 1961 Constitution should be revised without delay. An Ethiopian resolution was also forwarded to the Assembly for consideration.¹⁹ These in turn were noted in the report of the Special Committee,²⁰ and all these documents were put before the Assembly at its resumed sixteenth session. On 28 June the General Assembly adopted a thirty-eight Power resolution²¹ which had been based on the reports of the sub-committee and Committee of Seventeen. This resolution expressly refers to the failure of the United Kingdom to fulfil the requirements of paragraph 5 of the Declaration on the granting of independence (resolution 1515 (XV)), and affirms that Southern Rhodesia is not self-governing. It requests the United Kingdom to convene a constitutional conference to formulate a new Constitution to replace that of 6 December 1961, and urges that the rights of the majority be ensured on the basis of 'one man, one vote'.²² The Assembly indicates in this resolution what it understands by 'self-deter-

15. The Netherlands Govt has shown both this good faith and the importance which it attributes to the 1960 Declaration by its statement with regard to the granting of independence to West Irian (A/4915, 9 Oct. 1961).

16. Under GA 1754 (XVI) the Committee was asked to consider whether the territory of Southern Rhodesia 'has attained a full measure of self-government'.

17. A/AC.109/L.9.

18. A/AC.109/L.4/rev. 3.

19. A/AC.109/L.12.

20. A/5124.

21. Res. 1747 (XVI). The resolution was passed by 73-1 (S. Africa), with 27 abstentions (including Australia, New Zealand, Belgium and the USA). The UK did not participate in the vote.

22. This provision was adopted at the suggestion of Bulgaria as an amendment to the original draft resolution (A/L.387).

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mination' by underlining that 'the vast majority of the people of Southern Rhodesia have rejected the Constitution' and that there exists a 'denial of equal political rights and liberties to the vast majority of the people of Southern Rhodesia'. At its seventeenth session the Assembly reiterated the right of Southern Rhodesia to self-determination, and urged the release of Mr Nkomo and other political leaders from detention.²³

These resolutions—though the United Kingdom rejected their validity, and took no part in the vote—clearly indicate that the great majority of states in the United Nations believe that a legal right of self-determination exists, and that neither Article 2(7) nor indeed domestic constitutional issues in general, can impede the implementation of that right and United Nations jurisdiction for that purpose. So irrelevant has Article 2(7) become to the Assembly in this context that it finds it permissible not just to call for negotiations for self-determination, but to make detailed observations on specific national constitutions and recommendations for their improvement. While the sub-committee on Southern Rhodesia had cautiously stated that it was not for it to say what the basis of an agreed Constitution should be,²⁴ the Assembly unequivocally called for:

the convening of a constitutional conference in which there shall be full participation of representatives of all political parties, for the purpose of formulating a constitution for Southern Rhodesia . . . which would ensure the rights of the majority of the people, on the basis of 'one man, one vote'.²⁵

It therefore seems inescapable that self-determination has developed into an international legal right, and is not an essentially domestic matter. The extent and scope of the right is still open to some debate. We would suggest that at the present stage of development of international law the matter has become an international one within the following conditions: the Assembly may not prescribe an exact time for the granting of independence to a particular territory, though it may urge that this occur speedily. This may be deduced from the rejection by the Assembly of two Soviet proposals, the first of which²⁶ would have proclaimed 1962 as 'the year of elimination of colonialism', and the second of which²⁷ would have had the seventeen-member committee make recommendations 'on the immediate application of the Declaration and the completion of its implementation' by the seventeenth session. Until the 1960 Declaration on the granting of independence international jurisdiction in matters of self-determination was never claimed without there being offered an alternative ground of international jurisdiction to rebut any contention of *domaine réservé*. We have seen from the cases discussed above that this most frequently occurred in the form of references to the breach of human rights, or to international friction. While

23. Res. 1755 (XVII).

24. UNR, June 1962, p. 8.

25. Res. 1747 (XVI), para. 26.

26. A/L.355.

27. A/L.366 & Addenda.

several of those resting on a breach of the 1960 Declaration still mention these alternative grounds of jurisdiction, there is a movement away from this tendency—the sixteenth session resolution on Southern Rhodesia being a case in point. Indeed, it would seem that legally this is no longer necessary—not, it must be emphasized, because the 1960 Declaration has binding authority (it has not), but because that Declaration, taken together with seventeen years of evolving practice by United Nations organs, provides ample evidence that there now exists a legal right of self-determination. Moreover, within certain limits, it is a right which does not admit of the reservation of Article 2(7). It should also be added that a denial of self-determination is now widely regarded as a denial of human rights, and as such a fitting subject for the United Nations.

— If United Nations practice indicates that such a legal right does exist, does it tell us anything about the nature of the right? Most importantly, to what unit does the concept of self-determination apply? If the international order is not to be reduced to a fragmented chaos, then some answer must be provided to this question. The present stage of development of international law and relations, as exemplified by United Nations practice, does allow certain tentative observations to be made. Self-determination refers to the right of the majority within a generally accepted political unit to the exercise of power. In other words, it is necessary to start with stable boundaries and to permit political change within them. That the right of self-determination operates within generally accepted political units is an essential premise, for several reasons—first, without this qualification, all is in flux, and there is no constant factor at all; second, to withdraw this proviso would encourage impermissible use of force across state boundaries, an outcome which the United Nations can hardly encourage; and third, by and large the emergent states seem content so far to accept the colonial boundaries imposed on them. Indeed, there has been little sympathy shown by the Afro-Asians for those of their own group who have shown reluctance to build within the colonial frontiers which they have inherited. The failure of Morocco to attract any substantial support for her territorial claims in Mauritania, and the isolated position of Iraq in her claims to Kuwait may be cited as cases in point. Katangese aspirations to independence have similarly been repudiated by the Afro-Asians. This is, inevitably, to simplify the matter: the Iraqi and Moroccan claims, no matter what their merit, encroached upon the territory of potential new nations within striking distance of independence from colonialism. If an emergent state attempted to come to statehood with an extension to its colonial boundaries which marked a territorial gain from the colonial Power itself, and not from some other Afro-Asian country, it might well receive widespread support. But, for geographical reasons, this possibility does not arise, and in the event the fixed boundaries are acceptable. As for Katanga, the real basis of Afro-

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Asian objections to its attempted secession lies in the role played by Western financial and mercenary interests, not in the sanctity of frontiers. None the less, the principle remains: for one reason and another, the idea that self-determination is to take place within acknowledged political units is widely accepted. It may be observed in this context that operative paragraph 4 of the Declaration on the granting of independence, after declaring that dependent peoples shall exercise their right to complete independence free from repressive measures and armed attack, goes on to state: 'and the integrity of their national territory shall be respected'.

If, then, the right of self-determination is the right of the majority within an accepted political unit to exercise power, there can be no such thing as self-determination for the Nagas. The Nagas live within the political unit of India, and do not constitute the majority therein. Their interests are to be safeguarded by Indian obligations on human rights and the protection of minorities. There is, however, a right of self-determination for Southern Rhodesia in so far as it refers to the right of the majority of peoples to exercise governmental control proportionate to their numbers.

Reference here to the rights of majorities is to be taken to mean the right of each man to one vote,²⁸ rather than the *a priori* right of the majority to constitute the government. Self-determination does not necessarily involve the adoption of the Western system of parliamentary democracy, and if the representatives of the majority which constitute the government become impotent, and are replaced by one person (as, for example, in the French Fifth Republic), the continuing opportunity for universal suffrage nevertheless prevents this from being classified as a denial of self-determination.

The term 'self-determination' is at the present time being used to cover several similar, but not identical, situations. Traditionally this term referred to the desire of a race for independence, to the desire to take over the powers of government and remove the foreign ruling groups. So indeed was the desire of Cyprus to be free from British domination. However, it should perhaps be asked whether the same term 'self-determination' is really applicable to situations such as Southern Rhodesia, where the ejection of the foreigner is not paramount but the attainment of power is. Both governing and governed in Southern Rhodesia are Rhodesians; whereas in Cyprus the governed were Greek and Turkish Cypriots while the governing were English, and very much 'foreigners to be ejected'. It would perhaps be preferable to refer to the Cyprus type of situation (as it evolved after insistence on *enosis* was withdrawn) as a claim to independence, and the Rhodesian type as a claim to self-determination: this would represent a departure from the traditional use of the terminology, but would have the merit of greater

28. The Bulgarian amendment to the 16th sess. Assembly resolution on Southern Rhodesia, which introduced a clause to this effect, was adopted by 55 votes to 1 (S. Africa), with 42 abstentions. Portugal and the UK did not participate in the voting.

descriptive precision. So far United Nations practice, however, refers to both types of situations as 'self-determination'; moreover, recently there has been a tendency to use the terms 'self-determination' and 'independence' interchangeably, though it is quite possible for an independent state to deny the right of self-determination to its peoples. An example of this confusion of terminology may be seen by comparing paragraphs 2 and 3 of the Declaration of 1960.

The theory of self-determination represents an important movement away from the old legal view under which international law rights pertain only to states and governments, and not to groups or individuals. Given the present political climate, the right of self-determination is likely to continue to be presented in a racial context; though there is no inherent reason why the principle should not apply in a religious or purely party political situation.

e. That a reservation of domestic jurisdiction is inapplicable where United Nations action is occurring within a country at its own request

Under Articles 41 and 42 the Security Council may order United Nations enforcement measures. Obviously, the permission of the state against which these measures are directed is not required. It has been customary to obtain permission from a non-aggressor for United Nations para-military action in its territory,²⁹ though the broad wording of Article 39 may make this less legally necessary than is commonly supposed. The rights and duties of both the United Nations and the host country may then be laid down in a Status of Forces Agreement, and this was in fact the case with the United Nations Emergency Force.³⁰

So far, so good. However, a new claim has been raised in the case of the Congo, where the circumstances with regard to the presence of United Nations troops are similar, but not identical. It has been argued by some that in this case the request for United Nations military action has come from the Congo itself (whereas after Suez it was not specifically requested by Egypt), and that once this general invitation has been made to the United Nations, that body is rendered incapable of contravening the domestic jurisdiction of that state, so long as it acts within the fulfilment of its mandate, and not *ultra vires*. Given the fact that the United Nations is in the Congo at the request of that Government, it is argued, Article 2(7) ceases to be relevant to its actions. This view, it seems, has been widely offered by certain United Nations personnel in Leopoldville.

There seems little to justify this viewpoint, and much to condemn it, both legally and politically. The United Nations is clearly in the Congo at

29. See 2nd Rep. of S-G on the Plan for UNEF (A/3276).

30. A/3526.

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the request of the Government of that country.³¹ Domestic jurisdiction therefore becomes irrelevant so far as the presence of United Nations troops on Congo soil is concerned. However, practice shows clearly that *beyond this point* domestic jurisdiction has been in no way considered irrelevant by the United Nations troops in the Congo (ONUC). On the contrary, both ONUC and the Secretary-General have been at great pains to point out that their actions do not constitute an interference in the domestic affairs of the Congo; they have not suggested that they are not bound by considerations of Article 2(7) of the Charter. In so far as ONUC has a mandate to fulfil, it may be performing roles in certain areas normally reserved to the exclusive jurisdiction of the state:

the United Nations Force under the Resolution is dispatched to the Congo at the request of the Government and will be present in the Congo with its consent . . . it may be considered as serving as an arm of the Government for the maintenance of order and protection of life—tasks which naturally belong to the National authorities and will pass to such authorities as soon as, in the view of the Government, they are sufficiently firmly established. . . .³²

This does not mean, however, that the sovereign right of domestic jurisdiction can be safely—or legally—ignored by the United Nations at will. Beyond these rights of action expressly or by reasonable implication designated to it for the fulfilment of its mandate, ONUC remains bound by the provisions of Article 2(7). Where a right of action claimed is ambiguous or uncertain, the Security Council will be called upon to clarify the position in a new resolution. Even within the circumscription of fulfilling its mandate,³³ ONUC's freedom of action is tempered by a basic condition—and one that has been made clear from the outset and acknowledged all through—namely, that: 'The Force . . . [cannot] be permitted to become a party to any internal conflict. A departure from this principle would seriously endanger the impartiality of the United Nations and of the operation.'³⁴

The question of what action within normally domestic domains can be understood to be essential to ONUC in the fulfilment of its mandate—that is to say, what action has been *requested by implication* by the Congo—is obviously one of interpretation. This interpretation, as has been succinctly and convincingly explained by the late Secretary-General, can ultimately be gauged only by good faith:

the host government, when exercising its sovereign right with regard to the presence of the force, should be guided by good faith in the interpretation of the purpose of

31. SC res. S/4382.

32. 1st Rep. by S-G on the Implementation of SC res. S/4387 of 14 July 1960 (S/4389, p. 3).

33. In this case, the provision of military and technical assistance until such time as the national security forces are able to fulfil their tasks: (SC res. S/4387); and the evacuation of foreign military and para-military personnel, not in the employment of the Central Govt (SC res. S/4741).

34. S/4389, p. 3.

the Force, [and] the United Nations, on its side, should be understood to be determined by similar good faith in the interpretation of the purpose when it considers the question of the maintenance of the Force in the host country.³⁵

Even with good faith on both sides, the precise delimitation of ONUC's mandate in the Congo is hard to ascertain. If the host country and the visiting force disagree as to what is an interference in domestic affairs, is the view of the host country to prevail? Congo practice strongly indicates a negative answer—the United Nations has insisted upon retaining its own right to interpret in the absence of either clear directives or an impartial third-party adjudication. Great confusion has arisen over what is the ONUC's proper role in the Congo. During the period when both Kasavubu and Lumumba were claiming to lead the only legal government, each complained that the United Nations was not acting specifically in support of his own Government,³⁶ and that United Nations troops were merely standing by when actions detrimental to his own Government occurred. At the same time as being accused of omission, ONUC was also accused of commission in supporting the rival régime.³⁷ This type of accusation was frequently heard about the radio station and airfield at Leopoldville. The United Nations maintained the position that these were being used by both sides to fan unrest and violence, and that if it were to fulfil its mandate, it was necessary at times to control both of these strategic points. This policy met with opposition not only from the rival Congolese Governments but also from the USSR, which during this period demanded that all airports and radio stations should be placed at the disposal of the Lumumba faction.³⁸ It will be recalled that eventually the radio station was reopened when a guarantee was received for the curtailment of inflammatory broadcasts; and the airfields were opened for all civilian, humanitarian, and peaceful purposes.³⁹

Similar problems arose with regard to United Nations protection of personnel, and insistence upon the observance of the rule of law in these matters. Thus Kasavubu objected that Ghanaian troops had prevented Lumumba, whom he had arrested, from being brought before a magistrate. The lack of a warrant for such action did not deter him from accusing ONUC of interference in the internal affairs of the country.⁴⁰ Yet when

35. *Ibid.*

36. See e.g. S/4417/Add. 6, which contains an analysis of past procedures, and links the role of UNOGIL in the Lebanon as authority for the position that the UN cannot take sides in an internal conflict, but can only aid the state against external interference. This interpretation of the ONUC role was frequently denied by Lumumba (S/4417/Add. 7).

37. 'Whereas, on the pretext that the "Internal Affairs" of the country are involved, the United Nations remains inactive in the face of this situation and moreover the unwarranted occupation of the national airfields is preventing the legal government from accomplishing the task of safe-guarding the unity of the country and restoring order . . .' (A/4518). The UN is thus pincered between objections of omission and commission.

38. S/4497.

39. S/4505/Add. 1.

40. S/4520.

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Lumumba voluntarily withdrew from United Nations protection, the Organization was largely held responsible for his murder.⁴¹

The mutual 'dismissals' of Kasavubu and Lumumba also occasioned grave difficulties over the interpretation of domestic jurisdiction. Whether Kasavubu's dismissal of Lumumba was or was not valid depended upon an interpretation of the *Loi fondamentale*. After an initial suggestion that Kasavubu had the right to dismiss Lumumba,⁴² the United Nations then adopted the preferable position that its role was not to interpret the constitutional law of the country, and it refused publicly to pass judgement on the matter. The United Nations has consistently adhered to this position, endeavouring to deal with all the various factions in the Congo; indeed, such a position logically flows from the avowed impartiality of ONUC in the domestic affairs of the Congo. However, the resolution of November 1961 may justify some concern on this point, for operative paragraph 8 states that 'all secessionist activities against the Republic of the Congo are contrary to the *Loi Fondamentale*.'⁴³ It will be noted that the secession is not declared illegal because it is fomented by foreign elements (which is surely the crucial point), but rather because it is contrary to the Basic Law. The United Nations has thus taken it upon itself to pass judgement on the *Loi fondamentale*. The only defence that can be raised in favour of this paragraph is that it must be read in context, and as the rest of the resolution is full of references to the illegal actions of the mercenaries in Katanga, this particular paragraph must be taken to embrace this element. One can only regret that it is necessary to raise such defensive arguments, for inevitably the paragraph gives support to those who insist that the United Nations wants to end the Katanga secession and not merely to expel the foreign elements from influence in Katanga so that the Congolese may negotiate among themselves.

Many of these difficulties in interpreting the scope of the obligation to respect the domestic jurisdiction of the Congo have been resolved by the emergence of a comparatively strong central government which commands legal and effective authority. This in turn has led to the co-operation of the Congo Government with the United Nations, and hence the claim of domestic jurisdiction by that Government had been made less and less frequently.

41. Yet see S/4571, ann. I & II, which contains an appeal by the S-G to Kasavubu to apply the rule of law, emphasizing that he is not interfering in internal affairs. Military action by the UN to enforce this would, however, have been regarded as interference by the S-G. With regard to the arrest of certain members of the Kivu Govt who had declined UN protection, it was explained that once they had departed 'voluntarily or not, but while not being under UN protection, ONUC could not pursue and join battle with an ANC unit. That would have constituted a military initiative and an act of intervention, both of which are forbidden by the mandate of the force as laid down by the Security Council' (S/4630).

42. Which caused an objection from Lumumba to the effect that 'It is not for the Secretary-General of the United Nations to interpret the Basic Law, that is the responsibility of the Congolese Parliament' (S/4498).

43. SC res. S/5002.

Moreover, ordinances have been promulgated by the Central Government explicitly giving the United Nations certain powers of arrest which would otherwise have had to be implied. In addition, any conflict over spheres of authority in Katanga has been avoided by the enactment of an ordinance expelling all non-Congolese serving in the Katanga forces not under contract with the Central Government and requesting the assistance of the United Nations in putting this into effect.⁴⁴

The United Nations is under no legal obligation not to interfere in Katangese internal affairs. The right to the reservation of domestic jurisdiction in certain fields is one which is available to the legitimate government of the state, and not to its provincial authorities. Hence the control of radio station and airport of Elisabethville, done with the consent of the Central Government, cannot be said to constitute an infringement of Article 2(7).

f. That the General Assembly has authority to determine the territories to which Chapter XI of the Charter applies

There has been a long-standing controversy in the United Nations as to the point at which United Nations interest in Non-Self-Governing Territories becomes an interference in the domestic affairs of an administering state. The provisions covering Non-Self-Governing Territories are to be found in Chapter XI of the Charter.

In 1946 the Secretary-General invited members to transmit their views on the factors to be taken into account in determining which territories were non-self-governing under Chapter XI, and to enumerate any such territories under their jurisdiction.⁴⁵ In reply, certain members thought that the term 'non-self-governing' should be defined, and suggested relevant criteria. Others thought that the determination of the territories to which any definition would apply was a matter solely for the decision of the administering state concerned.⁴⁶

Because much opposition was expressed to any formal definition of 'non-self-governing',⁴⁷ the Assembly merely passed a resolution listing 74 Non-Self-Governing Territories in respect of which members had agreed to supply information under Article 73(e).

In 1948, during a discussion in the Special Committee on Information transmitted under Article 73(e), the Soviet representative declared that

44. "These actions gave the United Nations legal rights within the Congo corresponding to the terms of the aforementioned resolution [i.e. that of 21 Feb. 1961] (Rep. of Officer-in-Charge, S/4942).

45. By letter of 29 June 1946 (A/74), under GA res. 9(1).

46. *NSGTs: Summaries of Information transmitted to the Secretary-General during 1946* (1947), pp. 132-7. The response to the request for a listing of territories was good.

47. In Sub-Committee II of the 4th Cttee, in the 4th Cttee, and in plenary (GAOR, 1st sess., pt 2, 4th Cttee (pt 3), pp. 8-9).

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information transmitted by the Netherlands in respect of Indonesia was invalid, as Indonesia was an independent state. Though the issue was not decided upon, the Committee feeling it lacked competence, the point was made by some states—and disagreed with by others—that the determination of territories for purposes of Article 73(e) was reserved to the administering Power, and any attempt to perform this right by the Assembly would involve a decision on a constitutional relationship within the domestic jurisdiction of the metropolitan Power concerned.⁴⁸

In 1948 the Assembly adopted an Indian proposal that administering states of Non-Self-Governing Territories should inform the United Nations of any change in the status of such a territory which caused it to consider that the transmitting of information under Article 73(e) was no longer necessary.⁴⁹ Objections on grounds of domestic jurisdiction were raised by several administering states;⁵⁰ and were reiterated in communications to the Secretary-General.⁵¹ In 1949 the Soviet Union went so far as to assert that information had to be continued until the Assembly formally decreed that Article 73(e) no longer applied to the territory.⁵²

The resolution passed at the fourth session of the Assembly clearly indicated the international responsibility of the Organization when it stated that it was for the Assembly:

to express its opinion on the principles which have guided or which may in future guide the Members concerned in enumerating the territories for which the obligation exists to transmit information under Article 73(e) of the Charter. . . .⁵³

It also provided for a Committee to be set up:

to examine the factors which should be taken into account in deciding whether any territory is or is not a territory whose people have not yet attained a full measure of self-government.

Those supporting the resolution in the face of objections on domestic jurisdiction grounds insisted that under the Charter *all* members of the United Nations had a responsibility towards the Non-Self-Governing Territories. They also asserted that the Assembly must have the right to determine whether 'constitutional considerations' for not transmitting information were valid or not.⁵⁴

48. Rep. of Spec. Cttee (GAOR, 3rd sess., Suppl. 12 (A/593), pp. 1-2). A similar objection by the USSR was raised in 1949 (ibid. 4th sess., Suppl. 14 (A/923), pp. 2-3). For discussion on the point see A/AC.28/SR 6 & 8.

49. Res. 222 (III).

50. GAOR, 3rd sess., pt 1, 4th Cttee, p. 84 (per Belgium); p. 85 (per Australia); pp. 86-87 (per France); pp. 87-88 (per New Zealand); and ibid. plen., pp. 383-4 (per UK).

51. A/915.

52. Rep. of Spec. Cttee (GAOR, 4th sess., Suppl. 14 & A/AC 28/SR 2 & 4).

53. Res. 334 (IV).

54. GAOR, 4th sess., 4th Cttee, pp. 178 f., 181-5; ibid. plen., pp. 451-3 & 458-9.

In 1951 the Special Committee on Information did adopt a report on the factors to be taken into account when determining whether a territory was non-self-governing.⁵⁵ However, from the discussions it was clear that it was conceded that it was not the task of the Committee to decide whether the inhabitants of any specific territory were non-self-governing, nor to pronounce on who had authority to make that decision.⁵⁶ These factors were incorporated into an Assembly resolution,⁵⁷ which offered them for comment, and called for further study on them by an Ad Hoc Committee.

The Ad Hoc Committee similarly did not deal with the problem of where the authority lay to determine that a territory was no longer non-self-governing. By resolution 648 (VII) the Assembly provided that the factors could serve as a guide both for the Assembly and for those members administering Non-Self-Governing Territories.

Yet another study was made by an Ad Hoc Committee, and at the eighth session of the General Assembly a resolution was adopted which now stated unequivocally that the annexed list of factors could be used so that 'a decision may be taken by the Assembly on the continuation or cessation of the transmission of information required by Chapter XI of the Charter'.⁵⁸

Thus, after full inquiry, study, and discussion, the Assembly gradually resolved by evolution through a series of resolutions the problem of whether the determination of the territories to which Chapter XI applies is a matter of domestic jurisdiction. Both its resolution of 1953 and its consistent practice subsequently indicate that this can no longer be regarded as an exclusively domestic prerogative. At its eighth session the Assembly, in agreeing with a communication from the United States that Puerto Rico was non-self-governing, reiterated its right to pass on this point;⁵⁹ and this practice was repeated in the cases of Greenland,⁶⁰ Netherlands Antilles and Surinam,⁶¹ and Alaska and Hawaii.⁶² In each case, the relevant resolution contained the following preambular paragraph: 'Bearing in mind the competence of the General Assembly to decide whether a Non-Self-Governing territory has or has not attained a full measure of self-government as referred to in Chapter XI of the Charter'. Separate voting on this paragraph has consistently prevailed over opposition by a minority of states.⁶³

55. Rep. of Spec. Cttee (GAOR, 6th sess., Suppl. 14 (A/1836), p. 4).

56. Though some views on this question have been assembled by the Secretariat, in a memo. A/AC.35/L.30 & Add. 1, 10 Apr. 1951.

57. Res. 567 (VI).

58. Res. 742 (VIII). (Italics added.)

59. Res. 748 (VIII).

60. Res. 945 (X).

61. Res. 849 (IX).

62. Res. 1469 (XIV).

63. For examples of which, see GAOR, 8th sess., 4th Cttee, 355th mtg, para. 55; 356th mtg, paras. 10-12, 18 f., 30 (re Puerto Rico); 9th sess., 4th Cttee, 430th mtg, paras. 22, 25 & 28 (re Greenland); 10th sess., 4th Cttee, 523rd mtg, para. 42 & 528th mtg, paras. 34, 36, 50 & 59 (re Antilles and Surinam). The states raising such opposition have been limited to Australia, Belgium, France, Netherlands, New Zealand, Sweden, and the UK—the penultimate being the only non-colonial Power.

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The 1960 Declaration on the Granting of Independence to Colonial Countries has consolidated even more the practice of the Assembly on this question. The Special Committee of Seventeen which was set up to examine the progress in the implementation of this Declaration decided in March 1962 to consider whether Southern Rhodesia was in fact self-governing. The Committee noted that it was acting in accordance with the General Assembly resolution of 23 February 1962 which stated that it 'was mindful of the fact that the indigeneous inhabitants have not been adequately represented in the legislature and not represented at all in the government'.⁶⁴

The Committee appointed a sub-committee to examine the question. The United Kingdom has insisted throughout that the Committee's action is *ultra vires*, that Southern Rhodesia has been fully self-governing since 1923, and that the United Kingdom Government is neither bound, nor constitutionally able, to submit information to the Assembly on that territory. The sub-committee found that Southern Rhodesia has not attained self-government.⁶⁵ This finding was endorsed by the Special Committee⁶⁶ and unequivocally confirmed by the General Assembly in its resolution 1747 (XVI). This resolution 'affirms that the Territory of Southern Rhodesia is a Non-Self-Governing Territory within the meaning of Chapter XI', and based this finding on the view that 'the vast majority of people of Southern Rhodesia have rejected the Constitution of 6 December 1961' and that 'equal political rights and liberties [are denied] to the vast majority of the people of Southern Rhodesia'. It may thus be seen that the Assembly has little doubt that it is authorized to pronounce on the applicability of Chapter XI of the Charter, and to comment on the relevant criteria for decision.

g. That the United Nations is entitled to request political information on Non-Self-Governing Territories under Article 73(e) X

In a report of 31 October 1946⁶⁷ the Secretary-General submitted to the Assembly⁶⁸ a summary of the information submitted to him under Article 73(e),⁶⁹ together with the suggestion that an ad hoc committee of experts should be appointed to study the information. The colonial Powers opposed this suggestion on the grounds that the creation of such a committee would infringe their domestic jurisdiction under Article 2(7). The French delegate declared that:

64. Res. 1754 (XVI).

65. A/AC.109/L.9.

66. A/5124.

67. *NSGTs: Summaries of Information transmitted to S-G during 1946*, ch. VI.

68. In accordance with GA res. 9(1).

69. Art. 73(e) provides that members assuming responsibility for the administration of NSGTs shall 'transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible . . .'

Chapter XI was a Declaration involving an obligation but not providing for a medium of implementation. The only definite obligation imposed by the Charter was the transmission of specified information and it was silent as to what was to be done with such information. . . .⁷⁰

This viewpoint hardly seems to be in conformity with the principle of effectiveness in the interpretation of a treaty—a principle of no little importance when the treaty also happens to be an international constitutional instrument. Warning had already been given by the Secretary-General that:

the transmission of such information cannot be regarded as a mere formality. Its purpose and value depend on the contribution which can be made through it to an understanding and to the implementation of the principles . . .⁷¹

The Philippine viewpoint seems more closely to conform to this aim, for that delegate suggested that a course of action which was not expressly prohibited was to be permitted if it was consistent with the objective in view. He thought:

It would be absurd to require the submission of information on dependent territories unless such information could be utilized for the promotion of the well-being and advancement of their inhabitants . . . [If] there was a lacuna in Chapter XI . . . [it] could be remedied by a reasonable interpretation, in keeping with the principle that any restrictive construction of an international agreement which would nullify or circumvent its manifest purpose should be rejected.⁷²

The United Kingdom thought that the information would be better studied by the Secretariat, as the proposed committee would have a political character.⁷³ Others, however, thought that the Secretariat would be inhibited in making recommendations or pointing out shortcomings.⁷⁴ This latter view seems to have prevailed, for by resolution 66 (1), the Assembly decided to create the Ad Hoc Committee on Information.

The Ad Hoc Committee rapidly came face to face with the problem of whether political information was to be submitted under Article 73(e). Paragraph (e) refers to economic, social, and educational conditions, and no explicit mention is made of political conditions. However, several states thought that economic and social factors could not in reality be separated from political factors. The Committee arrived at the conclusion that the voluntary transmission of political information was in conformity with Article 73 and was to be encouraged.⁷⁵ When its report was considered by

70. *GAOR*, 1st sess., pt 2, 4th Cttee, pt 3, p. 27.

71. *NSGTS: Summaries of Information, &c*, 1946, pp. 144-5.

72. *GAOR*, 1st sess., pt 2, 4th Cttee, pt 3, pp. 34-55.

73. *GAOR*, 1st sess., pt 2, 64th mtg, p. 1359.

74. *Ibid.* pp. 1365-6.

75. A/385, p. 18.

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the Fourth Committee of the Assembly, the representative of the USSR contended that voluntary transmission of information was inadequate,⁷⁶ and recommendation and criticism on such information could not infringe the sovereign rights of the Administering Power. Others found significance in the fact that the possibility of transmitting political information had been discussed at San Francisco⁷⁷ and rejected; though the Indian delegate asserted that the reason for the non-inclusion of this provision in Article 73(e) lay elsewhere.⁷⁸ By a majority of one vote a Soviet amendment 'recommending' (in contradistinction to 'encouraging') the transmission of such information was adopted.⁷⁹ When the matter arose in plenary session, states were heard to argue that the 'interests of the inhabitants' mentioned in paragraph 1 of Article 73 required that the United Nations demand political information.⁸⁰ Pakistan contended that the relations between Non-Self-Governing Territories and colonial Powers went beyond the scope of domestic jurisdiction⁸¹—a view disputed by Belgium.⁸²

The Assembly rejected the revised draft resolution of the Fourth Committee, and adopted the original draft resolution of the Ad Hoc Committee.⁸³ The transmission of political information was thus to be encouraged, but remained voluntary. It also set up a Special Committee to examine and report on the information, overriding the objection of certain states that this would constitute an interference in their domestic affairs. Of the eight administering authorities, three—Belgium, France, and the United Kingdom—did not act upon the recommendation of the Assembly, and continued to limit the information they sent to subjects listed explicitly in Article 73(e). In 1948 the General Assembly adopted resolution 327 (IV), by which it expressed the hope that those who were not transmitting political information would do so. Significantly, however, an amendment was rejected by which the transmission of political information would have been made obligatory.⁸⁴ In 1954, by resolution 848 (IX), the Assembly again urged the voluntary transmission of political information, and went on to state that the principles and objectives of Article 73 'relate to the political as well as the economic, social and educational advancement of the peoples concerned'. And again, in 1959, resolution 1468 (XIV) referred to the 'inextricable relationship between developments in political and functional fields'—though it still fell short of suggesting that the transmission of political information is obligatory. No doubt it was to be expected that this legal

76. *GAOR*, 2nd sess., 4th Cttee, p. 34.

77. See memo. A/C.4/104.

78. Namely, in the fact that the word 'political' has been claimed by the US delegate to have a special meaning in his country, referring to political parties (*ibid.*, p. 11).

79. *GAOR*, 2nd sess., 4th Cttee, ann. 4(h).

80. Per Colombia, *ibid.* plen. mtgs, vol. ii, ann. 14, pp. 689–92.

81. *Ibid.* vol. i, p. 701.

82. *Ibid.* pp. 671–2.

83. GA res 144(II).

84. A/AC/28/W.16 & Rev. 1.

distinction between what is desirable and what is obligatory would become blurred; and in April 1962 the Committee on Information from Non-Self-Governing Territories for the first time examined information on political and constitutional developments.⁸⁵ The United Kingdom, while continuing to maintain that the transmission of political information was not legally required, in September 1961 offered to transmit such information about its dependencies as a gesture of goodwill.⁸⁶ Portugal refused to take a similar position, and indeed, has been unco-operative on the transmission of any adequate information on her territories. Resolution 1542 (XV) of the Assembly had reminded Portugal that it was obligated to transmit information, and pending the fulfilment of this obligation, authority was given to a committee of seven members to examine 'such information as is available', and to formulate observations and recommendations. The report of this Committee⁸⁷ has not hesitated to examine political matters, though it remains unclear whether its parent body, the Committee on Information, now believes there to be a legal duty on the part of the Administering Authority to transmit developments on constitutional matters. It seems at the present moment that there is no clear duty to do this, no matter how desirable the practice would be; but that the Assembly has in part circumvented this difficulty by authorizing various bodies to examine such information as they themselves can obtain. The authority for this is felt to lie in the 1960 Declaration on colonialism, which expressly refers to political aspirations in Non-Self-Governing Territories.

The United Kingdom, notwithstanding its gesture of goodwill on this question, has insisted that it is unable to supply constitutional information on Southern Rhodesia, as that territory is fully self-governing. It has been emphasized that the United Kingdom is not *unwilling* to provide reports—though it believes it is not legally bound to do so—but rather that it is unable to do so, as it lacks authority over Southern Rhodesia for this purpose. The Assembly adopted the findings of the Committee of Seventeen that this territory is in fact 'a Non-Self-Governing Territory within the meaning of Chapter XI',⁸⁸ and, by implication, the United Kingdom is considered to retain the customary obligations of an Administering Authority. It is perhaps significant that in the voting on this particular resolution the other members of the British Commonwealth—including Australia, Canada, and New Zealand—merely abstained, and did not either vote against the resolution or refuse to participate in the voting. Yet such states can hardly be accused of ignorance of the special relationship between the United Kingdom and Southern Rhodesia.

85. See *UNR*, June 1962.

86. See Lord Home's speech to the GA on 27 Sept. 1961, reprinted in *The Times*, 28 Sept. 1961.

87. A/5160.

88. Res. 1747 (XVI).

Annex 20

Oscar Schachter, “The Relation of Law, Politics and Action in the United Nations”, *Recueil des Cours*, Vol. 109 (1963)

THE RELATION OF LAW,
POLITICS AND ACTION IN THE
UNITED NATIONS

BY

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THE HAGUE ACADEMY OF INTERNATIONAL L

PUBLICATIONS

"The Development of International Law through the Legal Opinions of the United Nations Secretariat", 25 *British Yearbook of International Law* (1948), p. 91.—"The place of Law in the United Nations", 1950 *Annual Review of UN Affairs* (New York), p. 205.—"The Charter and the Constitution", 4 *Vanderbilt Law Review* (1951), p. 643.—"Problems of Law and Justice", 1951, *Annual Review of UN Affairs*, p. 190—"Law and Flexibility", 1952 *Annual Review of UN Affairs*, p. 173.—"Legal Aspects of Space Travel", 1 *Journal of British Interplanetary Society* (January 1952), p. 14.—"Who Owns the Universe?" in *Across the Space Frontier* (Viking, 1952).—*"The Role of International Law in the United Nations"*, New York Law Forum (January 1957).—"A Legal Order for Outer Space", New York "Bar Bulletin", Vol. 16, no. 1 (June 1958).—"The International Official in a Divided World", *Proceedings, American Society of International Law* (1959), p. 344.—"Private Foreign Investment and International Organization", *Cornell Law Quarterly*, Vol. XLV, no. 3 (Spring 1960).—"The Enforcement of International Judicial and Arbitral Decisions against States", 54 *American Journal of International Law* 1 (January 1960).—"The Question of Treaty Reservations at the 1959 General Assembly", 54 *American Journal of International Law* 372 (April 1960).—"Promoting the Rule of Law", IV *The Hyphen (India)* 53 (September 1960).—"Legal Aspects of the United Nations Action in the Congo", 55 *American Journal of International Law* 1 (January 1961).—"Legal Issues relating to the Congo and the Secretariat", *Annual Review of UN Affairs, 1960-1961*, p. 142.—"Dag Hammarskjöld and the Relation of Law to Politics", 56 *American Journal of International Law* 1 (January 1962).



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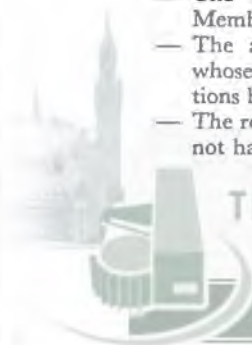
CHAPTER I: *Law and the Process of Decision in the Political Organs of the United Nations* 171-184

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II

LAW AND THE PROCESS OF DECISION IN THE
POLITICAL ORGANS OF THE UNITED NATIONS
(CONTINUED)

IN the previous lecture, I endeavoured to show some ways in which the process of decision in the political organs is influenced by, and in turn influences, the normative conceptions of the international community. In the present lecture I shall continue with this theme and consider several problems which arise as a consequence of this interaction of law and politics and which bear especially on the complexities of interpretation and implementation of the Charter.

THE DIFFERENCE BETWEEN INTERPRETATION AND RECOMMEN-
DATION

It is perhaps useful at the outset to emphasize the distinction between the interpretation of the Charter and resolutions that are purely recommendatory. Typically, the U.N. political organs, in accordance with the Charter, submit "recommendations" to Governments, but an examination of such recommendations reveals that many of them are accompanied by assertions of legal rights and obligations under the Charter. Such assertions of law are advanced in the process of reaching recommendations; they may be stated in the resolutions or they may be implied from the consensus expressed in the debates. It is evident that these assertions are not themselves recommendatory; they are expressed by States or adopted by the organs as authoritative precepts derived from the Charter or accepted rules of international law. Frequently they set forth limitations on the competence or authority of the organs or procedures which they must follow; in some cases they are legal determinations of a



substantive character which specify obligations of Members.¹

The question of primary interest to the international lawyer has generally been the extent to which the interpretations reached by, or within, the political organs are to be regarded as legally authoritative when the organ has not been accorded the competence to make binding decisions. In considering this, one might start with the principle that an "authentic" interpretation of a treaty by the parties is legally binding on them to the same degree as the treaty itself.² I believe it is generally accepted that this conclusion would hold for an interpretation of the Charter adopted by all the Members (or even "by the overwhelming majority" except for some abstentions) in the General Assembly; the interpretation would be characterized by international lawyers as having the same legal force and effect as the Charter itself.³ Moreover, there would seem to be no substantial reason why this conclusion would not be applied in cases where a virtually unanimous consensus in a matter of Charter interpretation is made known through statements and actions expressed separately by Governments either within or outside the United Nations, even though no vote is taken.⁴

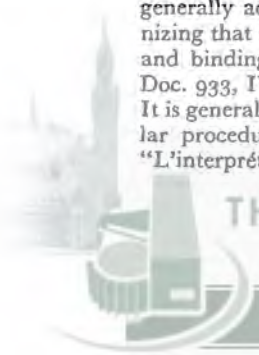
1. *The Repertory of Practice of United Nations Organs* (U.N. Secretariat publication No. 1955 V. 2) contains for each article of the Charter the decisions and relevant statements on the meaning of that article. Examples of resolutions that assert substantive obligations based on the Charter may be found, inter alia, in regard to apartheid, colonialism, use of nuclear weapons, outer space, and sovereignty over natural resources. They will also be found in connection with specific disputes and situations involving peace and security. See R. Higgins, *The Development of International Law Through the Political Organs of the United Nations* (1963); Castaneda, "The Underdeveloped Nations and the Development of International Law", 15 *Int. Org.* (Winter 1961) 38, 44-48.

2. Oppenheim (Lauterpacht 7th ed.) *International law*, vol. 1, p. 857. Kelsen, *The Law of the United Nations* (1950) pp. xiii et seq.

3. See, Lachs "The Law in and of the United Nations" in 1 *Indian Journal of International Law* (April 1961) p. 429, 439. See Castaneda, op. cit. n. 1.

4. In the oft-quoted statement on the interpretation of the Charter made at the San Francisco Conference, it is said that if an interpretation "is not generally acceptable it will be without binding force", thus in effect recognizing that an interpretation receiving general approval will be authoritative and binding. See Report of the Rapporteur of Committee IV/2, UNCIO Doc. 933, IV/2/42, Vol. 13 p. 710.

It is generally agreed that authentic interpretation does not require a particular procedure. See Oppenheim n. 9 supra, Lachs n. 10 supra, Ehrlich, "L'interprétation des traités", 24 *Recueil des Cours* (1928) p. 36.



However, when the proceedings do not reveal a general consensus, and particularly when there is a substantial difference in points of view, the foregoing analysis does not apply. The usual distinction then drawn is that between an interpretation of a treaty which is considered to be binding because it has been accepted by all of the parties and an interpretation which is rejected by some and therefore would be regarded as effective only if the treaty should be amended accordingly.⁵ This point is often bolstered by emphasizing that the political organs have not been granted authority to adopt binding decisions except in the limited cases covered by Chapter VII and certain organizational matters such as admission of members and financial assessments.⁶

I do not wish to take issue with this conclusion, but I would observe that it does not entirely settle the question of the authority of such interpretation. There are two qualifications to be considered. In the first place we must take account of generally accepted practice regarding the competence of the organs to decide definitively certain issues. For example, the right of the United Nations General Assembly to determine which territories fall within the scope of Article 73 has received such continuing support that it may now be regarded as fairly well settled.⁷ My point here is that when the practice of states in the United Nations has served by general agreement to vest in the organs the competence to deal definitively with certain questions, then the decisions of the organs in regard to those questions acquire an authoritative juridical status even though these decisions had not been taken by unanimous decision or "general approval".⁸

5. See San Francisco statement on interpretation referred to *supra* n. 4 which states that an interpretation that has not been generally accepted would require a Charter amendment in order to be made binding.

6. I.C.J. Advisory Opinion of July 20, 1962 on "Certain Expenses of the United Nations." I.C.J. Reports 1962 p. 151 and Written Statements, I.C.J. Doc. 62/21.

7. U.N. Repertory of Practice (1955). Vol. IV, Study on Article 73, especially paras. 226 et seq. See also M.K. Nawaz, "Colonies, Self-Government and the United Nations", Indian Year Book of International Affairs (1962) pp. 3-47.

8. I.C.J. "Competence of the General Assembly for the Admission of a State to the United Nations," I.C.J. Reports 1950 pp. 8-9. For what appears



In this way evolutionary growth in regard to fields of competence has an important positive effect on the law-making potentialities of the organs.⁹

The second qualification relates to the significance of conflicting interpretative positions which have not been resolved by a competent organ or in a clearly evidenced general consensus. It seems plain to me that such positions when taken by governments are not and should not be regarded as irrelevant to the meaning of the Charter norms. Official positions of States announced in the General Assembly or Security Council regarding their understanding of the obligations of the Charter cannot be considered in legal effect as no more than judgments of private persons. They constitute evidence of contemporaneous construction by the parties that is entitled to weight in determining the meaning and effect of a treaty provision. This is in line with accepted doctrine, expressed by the International Court of Justice in several cases recognizing that the views of the parties as to the meaning of an international instrument even if not binding are relevant evidence of the correct legal interpretation of the instrument.¹⁰

CRITERIA FOR CHOOSING BETWEEN CONFLICTING INTERPRETATIONS

If the interpretative statements of Governments have evidentiary value but are in disagreement, what criteria are available and appropriate for evaluating them and choosing between them? Such choices are of course often made: they are made by Governments in the political organs when faced with conflicting interpretation; they may on occasion be made by judicial tribunals; and they are of course frequently made by legal scholars who scrutinize and appraise positions from a relatively

to be a contrary view, see Separate Opinion of Sir Percy Spender, relating to "Certain Expenses of the United Nations" Opinion. I.C.J. Reports 1962 pp. 186-197.

9. Cf. De Visscher, *Theory and Reality in Public International Law* (Eng. trans. 1957) p. 253.

10. I.C.J. Advisory Opinions on South West Africa, I.C.J. Reports 1950 p. 128; and on Competence of the General Assembly for the Admission of a State, *ibid* p. 8; and I.C.J. Judgments in Iranian Oil Company Case, I.C.J. Reports 1952 pp. 106-107.



"disinterested" point of view. Each of these "decision-makers" will see the problem from a different perspective arising from the difference in their roles but all will be concerned with the criteria that may properly be employed in reaching an "interpretative" decision and justifying it to others. The last point warrants emphasis; for it must be borne in mind that even if a government decides (or thinks it does) for reasons of immediate advantage, it will still be required to justify that decision in terms of criteria and principles acceptable to others in the political organs and in the international community generally.

It is of course impossible to consider criteria and principles of interpretation without examining more closely than we have yet done the various types of norms contained in the Charter and the diverse questions of meaning and specification which they present. As a preliminary observation I would note that the application of all general propositions—whether legal or not—to diverse facts and events has necessarily a substantial degree of uncertainty or ambiguity; such general propositions have what logicians aptly describe as "an open texture". That of course does not imply that they are without any clear meaning; normally there will be some central cases in respect of which everyone may be expected to agree that the proposition applies. But there will also be, inevitably, an outer area of uncertainty—that is, there will be cases in regard to which there exist reasons for both asserting and denying that the general rule applies.¹¹

While this is true of many norms of the Charter, it is essential in considering the criteria of interpretation to bear in mind the great differences that exist in these norms in regard to their degree of generality and the nature of the choices they require. To show this, it seems convenient to employ four categories which serve roughly to bring out these differences: they are "rules", "principles", "standards" and "doctrine" (or "general theory").¹² These are not, of course, hard and fast categories or

11. H.L.A. Hart, *The Concept of Law* (Oxford 1961) p. 119. Cf. Cardozo, *The Paradoxes of Legal Science* (N.Y. 1928) pp. 4-7.

12. The first three categories are those employed by Hardy Dillard in his various discussions of the normative hierarchy. See Dillard in 91 *Recueil des Cours* (1957) pp. 477 et seq.



refined from a logician's standpoint; they are simply terms which are commonly used and which suggest distinctions which are germane to the task of interpretation.

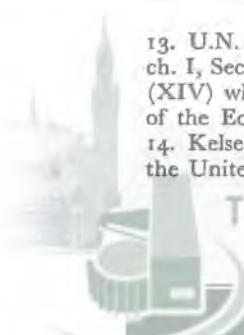
THE SPECIFIC "RULES"

The first category—the "rules"—refers to the norms which have relatively precise and explicit terms and which are generally intended to be applied without discrimination as to individual characteristics. In the Charter most of such specific rules concern procedure and organizational activities. Typical examples are those relating to composition of the organs: "the General Assembly shall consist of all Members . . .", "the Economic and Social Council of eighteen Members elected by the General Assembly", or on voting "Each Member shall have one vote." In these rules the terms used have generally accepted definitions in the context of U.N. procedures and other Charter definitions. Much as it may be desired, an increase in membership of the Economic and Social Council is not considered admissible under the existing Charter provisions; the text is regarded as explicit and conclusive on this point.¹³

What is important to bear in mind is that in saying a rule is regarded as "explicit", we mean that in point of fact its meaning is taken for granted at a particular time. It is, so to speak, a given datum, not subject to question at that time. But this does not mean that its "explicit" meaning may not be challenged, or indeed changed in another context. In the history of the United Nations many apparently precise rules have been interpreted anew in new situations.¹⁴ Even a rule as explicit as that providing for a two-year term for non-permanent Members of the Security Council has on occasion been modified in practice; and the express requirement of a "concurring" vote of a Perma-

13. U.N. General Assembly Official Records XIII Session Supp. No. 3, ch. I, Sec. VI. See also General Assembly resolutions 1300 (XIII) and 1404 (XIV) which recognize the necessity of an amendment to increase the size of the Economic and Social Council.

14. Kelsen op. cit. n. 2 at p. 244-5. Also cf. Robinson "Metamorphosis of the United Nations" 94 *Recueil des Cours* pp. 547-559 (1958).



nent Member has been interpreted to apply only if the Member actually casts an affirmative or negative vote and not if it abstains. But even in citing these examples, one should observe that in both situations, there was general support for the interpretation.

Other cases can be cited where majorities considered themselves clearly restricted by specific rules and required to reject proposals otherwise desired. My main point in this connection is not that specific "rules" do not require interpretation but rather that they contain key terms and expressions, the meaning of which is taken for granted in almost all cases which arise. (This is perhaps another way of saying their terms are definite and specific but it also suggests that such "precision" is always open to question.) We would be closing our eyes to a significant difference in practical interpretation if we ignored this large category of "specific" rules and treated the problem which they present as essentially no different from that raised by the more general norms.

THE GENERAL PRINCIPLES

The category of "principles" includes, of course, the broadly stated precepts of Article 2 of the Charter—such as the obligation to settle disputes by peaceful means, the prohibition against the use of force, the duty to refrain from assisting a State against which the U.N. is taking preventive or enforcement action. Article 2 is not the only source of authoritative principles; they are found throughout the Charter, although not expressly designated as such. There are also general principles of law accepted as binding; such are the obligation to carry out agreements and the duty to make reparation for breach of obligations. All of these principles are invoked and appealed to as "law" in the same way as "rules", except that they are generally treated as higher in the normative hierarchy. However, the significant difference for the decision-maker arises from the much greater "generality" of the principles. Their key terms are often highly abstract—hence, applicable to an indeterminate series of events, which may be viewed as extending outward from a



"core meaning". Consider the various connotations which concepts like "force" and "political independence" can have in ordinary political usage. There are undoubtedly some core cases which everyone would say fall within those terms but in a large number of other situations there can be arguments for and against inclusion.¹⁵ Does "force" embrace economic boycott or financial support of subversive movements? Is "political independence" interfered with by "force" when an unpopular de jure government facing an insurrection receives foreign military support?

Moreover, because principles are general and fundamental, they tend to clash with each other in specific cases—thus every principle in the Charter can be paired off with a contrary or opposing principle in the context of a particular situation. (This, by the way, would not be true of the category of "rules"—there are no contraries in the Charter of specific precepts such as "each member shall have one vote".) Even the salient rule against force is "balanced by" the right of self-defence and collective enforcement measures and the most fervent supporters of the principle of self-determination have recognized the opposing claims of the obligation of peaceful settlement and the principle of "territorial integrity". This characteristic opposition of principles is not, as some have suggested, the result of political confusion or defective drafting; on the contrary, it is a desirable and necessary way of expressing the diverse and competing aims and interests of mankind. An attempt to eliminate such inconsistencies can only result in an artificial emphasis on some abstractions and a suppression of valid and basic human values.¹⁶

From the standpoint of the "law-applying function", it is

15. See Repertory of U.N. Practice (1955) and Supp. No. 1 (1958) on Article 2 (4); Report of the Secretary-General of the U.N. on "The Question of Defining Aggression" General Assembly Official Records VII Session, Annexes to Agenda Item 54 pp. 17-81 (1952). McDougal and Feliciano, *Law and Minimum World Public Order* (Yale 1961) pp. 121-206. J. Stone, *Aggression and World Order* (London, 1958).

16. O. Schachter, "Dag Hammarskjöld and the Relation of Law to Politics" 56 *Am. J. Int. Law* (1962) pp. 1, 3-5. For a wider conception of "polarity" in a philosophic context, see M. R. Cohen, *Reason and Nature* (N.Y. 1931) p. 165.

apparent that the opposition and indeterminacy of the principles of the Charter call for a frame of reference that is quite different from that required in deciding the issues presented by specific rules. The importance of "dictionary" and "ordinary" meaning is greatly reduced, often indeed they have little significance; emphasis necessarily shifts to an assessment of a complex factual situation and a consideration of the consequences of a decision in the light of more basic values that are regarded as implicit in the Charter.

THE CATEGORY OF "STANDARDS" AND THE FACTS OF THE CASE

I have referred to a third category of norms as "standards". In this context, it refers to highly general prescriptions which involve evaluating the individual features of events. By contrast rules (and to some degree principles) assume a relatively uniform application, irrespective of individual characteristics. "Standards" in this sense are common in both public and private domestic law; notable examples are: "due care", "reasonable rates", "unfair competition", "good moral character". They are used to judge conduct of a kind which does not seem susceptible of treatment under more specific criteria and requires that each case be judged largely on its own facts.¹⁷ The Charter of the U.N. contains a number of these concepts: "good faith", "peace-loving", "with due regard to equitable geographical distribution." The organs may also be obliged to apply "standards" which are not expressly stated in the Charter but are necessarily implied by a principle or rule.

A good example of this is presented by the principle or right of self-determination. Neither the Charter nor "logic" provides specific criteria to determine what group or what territorial unit is entitled to exercise that "right" (recall the issues over Katanga, Cyprus, West Irian, Togo).¹⁸ The organs must therefore—if they are to apply the principle of self-determination in specific cases—determine which territorial entity or group of persons is

17. See Dillard *op. cit.* n. 12.

18. U.N. Repertory of Practice (1955) and Supp. No. 1 (1958), Articles 1 (2) and 55. See also Eagleton, "Self-Determination in the United Nations" 47 *Am. J. Int. Law* (1953) 88.



the "appropriate" or "reasonable" unit in that case. The fact that a standard of this kind is used rather than a definition or rule shows that it has not been found possible to stipulate in advance which elements are decisive—in other words, that the judgments of what unit is appropriate for the purpose of self-determination depend so much on the individual and contingent facts of the case that it cannot be expected that a general formula will provide an adequate basis for decision.¹⁹ It is evident that the problem of applying standards of this type to particular circumstances cannot be resolved by appeal to textual meaning or on the basis of legal formulae; it necessarily requires consideration of the basic aims of the Charter and of the "felt necessities of time and place". Obviously this has significance for determining which organ can best apply standards and what frame of reference is appropriate.

THE SIGNIFICANCE OF "DOCTRINE" AND "GENERAL THEORY" OF THE CHARTER

We have not quite exhausted the classes of norms relevant to the interpretation concerning Charter principles. For over and above rules, principles and standards, there is a still more generalized category that may aptly be described as "doctrine" or "general theory" which comes into play particularly in cases of conflict between competing principles and in giving concrete meaning to broad concepts of the Charter. The influence of "general theory", in this sense, has been apparent in some of the great constitutional debates in the U.N.—for example that which took place in 1950 on the Uniting for Peace resolution or that in 1960 and 1961 on the legitimacy of the Congo operation. In the first case, the opposing positions were based in part on broad theoretical conceptions of the Charter which were at odds with each other: one could roughly be described as a collective security position, emphasizing the primacy of the responsibility to take "collective measures", the other treating as essential the unanimity rule of the Security Council and

19. Cf. General Assembly Official Records 12th Session, 3d Committee Meetings 820-825 (1957); 13th Sess., 3d Comm. Meetings 886-893 (1958).



perhaps described as a type of balance of power conception.²⁰ Both of these theoretical constructions were justified by their respective advocates in terms of the essentials of Charter doctrine and therefore implicitly presented as governing the choice between competing interpretations.

In the second of the examples mentioned, that relating to the Congo operation, the different doctrinal conceptions of the Charter that seemed pertinent in the context of that debate were emphasized in Mr. Hammarskjöld's last Annual Report.²¹ He referred to one as a "static" conception in which the Organization was essentially "conference machinery" for the solution of conflicts of interest and ideology through expanded diplomatic facilities. In the opposing doctrine the Organization was also a "dynamic instrument of Government" through which international executive action would be undertaken on behalf of all Members in implementation of the purposes and principles of the Charter. Mr. Hammarskjöld went on to suggest these two different conceptions would lead to different emphasis and different interpretation of the major precepts of the Charter.

It may perhaps be questioned whether these and other *theoretical concepts* are appropriately classified as "legal" norms since they are not formulated as such in the Charter. But are not constitutions generally considered to have certain underlying and implicit premises, which are literally extra-constitutional, but which provide a "higher-law" rationale to justify choices between competing principles?²² (The concepts of popular sovereignty or of inalienable natural rights are obvious exam-

20. General Assembly Official Records, 5th Sess., 279, 280th meetings (Sept. 1950). See also Ruth B. Russell, "The Management of Power and Political Organization" in *International Organization*, vol. XV, No. 4, Autumn 1961, p. 630.

21. "Introduction to the Annual Report of the Secretary-General on the work of the Organization, 16 June 1960-15 June 1961", Gen. Assem. Off. Rec., 16th Sess., Supplement 1 A (1961).

22. There are several references in opinions of the United States Supreme Court to the underlying premises or "inherent limitations" of constitutional provisions. Chief Justice Hughes stated "Behind the words of the constitutional provisions are postulates which limit and control". *Principality of Monaco v. Miss.* 292 U.S. 313, 322 (1934). See also Marshall, C.J. in *Fletcher v. Peck* 10 U.S. 87 (1810).



ples). Concepts of this character play so significant a role that it would be myopic to exclude them from the categories of Charter norms.

THE COMPLEXITY OF THE INTERPRETATIVE TASK

No doubt these four categories of legal norms can be refined by further logical and syntactical analysis and replaced by more precise classification. Yet our analysis is sufficient to show that the organs face widely diverse tasks when they are called on to apply the "law of the Charter" to a complicated political situation. Certainly the words of the Charter must be the starting point, but as we have seen, in relatively few cases can the words provide a substantial part of the answer. In most cases the dictionary and the texts themselves can do little to resolve the issues which are presented as a result of generality, indeterminacy, conflicts and inconsistencies of the Charter norms. It is apparent from the various types of norms that the range of relevant considerations will vary considerably from problem to problem, but it is also clear that in a great many cases the organs have to evaluate complex situations in terms of a diversity of factors, including some which clearly involve judgements of "reasonableness", importance, intent, expectations and "necessity". Perhaps most important as we have seen is the requirement that the process of interpretation must include in many cases an assessment of the consequences of a decision on the major purposes of the Charter.²³ For this reason, a constitutional instrument like the Charter should not be subject to the restrictive interpretation appropriate to "bargaining treaties of the traditional type" where the contracting parties acted in terms of precise interests on a basis of reciprocity. As Charles de Visscher has put it, "always of capital importance in the interpretation" of a treaty such as the Charter "is the master idea or fundamental conception" that led to its conclusion, and he cites by way of example of such fundamental conceptions "the

23. ICJ Advisory Opinion on Reparation for Injuries, ICJ Reports, 1949, p. 174; Advisory Opinion on the International Status of South West Africa (July 11, 1950), ICJ Reports, 1950, p. 128.



Annex 21

Non-Aligned Movement, *Extracts from Selected Non-Aligned Movement Declarations* (1964-2012)

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/5763
29 October 1964
ENGLISH
ORIGINAL: ENGLISH/FRENCH

Nineteenth session

LETTER DATED 28 OCTOBER 1964 FROM THE PERMANENT REPRESENTATIVE
OF THE UNITED ARAB REPUBLIC TO THE UNITED NATIONS ADDRESSED TO
THE SECRETARY-GENERAL

I have the honour to enclose the text of the Declaration entitled "Programme for Peace and International Co-operation", adopted by the Second Conference of Heads of State or Government of Non-Aligned Countries, held in Cairo from 5 to 10 October 1964.

In view of the fact that the Declaration deals with items of which the United Nations is seized and which also appear on the provisional agenda of the forthcoming regular session of the General Assembly, I should be grateful if you would have the text of this Declaration circulated as a document of the General Assembly.

(Signed) Mohamed Awad EL KONY
Permanent Representative of
the United Arab Republic to
the United Nations

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64-22893

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**CONFERENCE OF HEADS OF STATE
OR GOVERNMENT OF NON-ALIGNED
COUNTRIES**

Cairo — October 1964



NAC-II/HEADS/5
10 October 1964
ORIGINAL: FRENCH/ENGLISH

PROGRAMME FOR PEACE AND
INTERNATIONAL CO-OPERATION

Declaration as Adopted by the
Conference

NAC-II/HEADS/5

Page 25

VIII

MILITARY PACTS, FOREIGN TROOPS & BASES

The Conference reiterates its conviction that the existence of military blocs, Great Power alliances and pacts arising therefrom has accentuated the cold war and heightened international tensions. The Non-Aligned Countries are therefore opposed to taking part in such pacts and alliances.

The Conference considers the maintenance or future establishment of foreign military bases and the stationing of foreign troops on the territories of other countries, against the expressed will of those countries, as a gross violation of the sovereignty of States, and as a threat to freedom and international peace. It furthermore considers as particularly indefensible the existence or future establishment of bases in dependent territories which could be used for the maintenance of colonialism or for other purposes.

Noting with concern that foreign military bases are in practice a means of bringing pressure on nations and retarding their emancipation and development, based on their own ideological, political, economic and cultural ideas, the Conference declares its full support to the countries which are seeking to secure the evacuation of foreign bases on their territory and calls upon all States maintaining troops and bases in other countries to remove them forthwith.

The Conference considers that the maintenance at Guantanamo (Cuba) of a military base of the United States of America, in defiance of the will of the Government and people of Cuba and in defiance of the provisions embodied in the Declaration of the Belgrade Conference, constitutes a violation of Cuba's sovereignty and territorial integrity.

NAC--II/HEADS/5

Page 26

Noting that the Cuban Government expresses its readiness to settle its dispute over the base of Guantanamo with the United States on an equal footing, the Conference urges the United States Government to negotiate the evacuation of this base with the Cuban Government.

The Conference condemns the expressed intention of imperialist powers to establish bases in the Indian Ocean, as a calculated attempt to intimidate the emerging countries of Africa and Asia and an unwarranted extension of the policy of neo-colonialism and imperialism.

The Conference also recommends the elimination of the foreign bases in Cyprus and the withdrawal of foreign troops from this country, except for those stationed there by virtue of United Nations resolutions.

NAM Summit Declaration, 7-12 March 1983, New Delhi

EXTRACT

**IX. MAURITIAN SOVEREIGNTY OVER THE CHAGOS ARCHIPELAGO, INCLUDING
DIEGO GARCIA**

81. The Heads of State or Government expressed, in particular, their full support for Mauritian sovereignty over the Chagos archipelago, including Diego Garcia, which was detached from the territory of Mauritius by the former colonial power in 1965 in contravention of United Nations General Assembly resolutions 1514(XV) and 2066(XX). The establishment and strengthening of the military base at Diego Garcia has endangered the sovereignty, territorial integrity and peaceful development of Mauritius and other States. They called for the early return of Diego Garcia to Mauritius.

NAM Summit Declaration, 1-6 September 1986, Harare, Zimbabwe

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EXTRACT

status of the island, as the self-determination referendum held on 22 December 1974 remains the only valid consultation applicable to the entire archipelago.

IX. MALAGASY ISLANDS

136. Regarding the Malagasy Islands - Glorieuses, Juan de Nova, Europa and Bassas da India - the Heads of State or Government reaffirmed the vital need to preserve the unity and territorial integrity of the Democratic Republic of Madagascar. In this connection, they strongly urged all the parties concerned to begin negotiations without delay in accordance with the pertinent resolutions and decisions of the United Nations, the Movement of Non-Aligned Countries and the Organization of African Unity, in particular United Nations General Assembly resolution 34/91 and resolution 784 of the thirty-fifth Ministerial Conference of the Organization of African Unity.

X. MAURITIAN SOVEREIGNTY OVER THE CHAGOS ARCHIPELAGO, INCLUDING DIEGO GARCIA

137. The Heads of State or Government fully supported Mauritian sovereignty over the Chagos Archipelago, including Diego Garcia, which was detached from the territory of Mauritius by the former colonial power in 1965 in violation of United Nations General Assembly resolutions 1514 (XV) and 2066 (XX). The establishment and strengthening of the military base at Diego Garcia has endangered the sovereignty, territorial integrity and peaceful development of Mauritius and other States. They called for the early return of Diego Garcia to Mauritius.

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Nairobi Declaration, 4-7 September 1989, Belgrade

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MAYOTTE, MALAGASY ISLANDS AND CHAGOS ARCHIPELAGOS

Recalling the full support of the Movement of Non-Aligned Countries to the sovereignty of the Islamic Federal Republic of the Comoros over the Island of Mayotte, to the sovereignty of the Democratic Republic of Madagascar over the Malagasy Islands of Glorieuse, Juan de Nova, Europa and Bassas da India, and to Mauritian sovereignty over the Chagos Archipelago, including Diego Garcia,

Emphasizing their conviction that concrete action with a view to finding a solution to these problems would contribute to reinforcing peace and international security in the region,

The Heads of State or Government of Non-Aligned Countries:

1. - Reaffirmed that the Comorian Island of Mayotte, which is still under French occupation, is an integral part of the sovereign territory of the Islamic Federal Republic of the Comoros:

- Took note of the dialogue between the French authorities and the Islamic Federal Republic of the Comoros on this issue;

- Expressed their active solidarity with the people of the Comoros in their legitimate efforts to recover the Comorian Island of Mayotte and to preserve the independence, unity and territorial integrity of the Comoros;

- Called on the Government of France to respect the just claim of the Islamic Federal Republic of the Comoros to the Comorian Island of Mayotte, in accordance with its undertaking given on the eve of the archipelago's independence, and they categorically rejected any new form of consultation which might be organized by France on the Comorian territory of Mayotte concerning the international juridical status of the island, as the self-determination referendum held on 22 December 1974 remains the only valid consultation applicable to the entire archipelago.

2. - With regard to the Malagasy Islands of Glorieuse, Europa, Juan de Nova and Bassas da India - reaffirmed that it is imperative that the unity and territorial integrity of the Democratic Republic of Madagascar be safeguarded. To that end, they strongly urged all parties concerned to begin negotiations without delay in line with the pertinent resolutions and decisions of the United Nations, the Movement of Non-Aligned Countries and the Organization of African Unity, in particular United Nations General Assembly Resolution 34/31 of 12 September 1979 and of Resolution 701 of the Thirty-Fourth Session Conference of the Organization of African Unity.

3. - Expressed their full support for Mauritian sovereignty over the Chagos Archipelago, including Diego Garcia, which was detached from the territory of Mauritius by the former colonial power in 1965,

- Expressed their concern over the strengthening of the military base at Diego Garcia, which has endangered the sovereignty, territorial integrity and peaceful development of Mauritius and other States. They called once again for the return of Diego Garcia to Mauritius without delay.

/...

NATH Summit Declaration, 7-6 September 1992, Jakarta
EXTRACT

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NAC 10/Doc.2/Rev.2

benefit of its long-suffering people. While deploring the present internal hostilities against the legitimate government of Afghanistan and the atrocities inflicted upon the innocent people, they hoped that conditions for holding free and fair elections could be restored as soon as possible, so that a permanent government which reflects the wishes and aspirations of the people and ensures political, economic and social stability, can be formed. The Heads of State or Government called upon the international community to participate actively and generously in the reconstruction of Afghanistan and to increase humanitarian and financial aid for the speedy, voluntary and safe return of Afghan refugees to their homeland.

NEW CALEDONIA

9. The Heads of State or Government recognized that the South Pacific is one of the regions of the world that contains many of the remaining Non-Self-Governing Territories and reiterated the position they adopted at the Ninth Summit Conference concerning the inalienable right of the people of New Caledonia to self-determination in accordance with the United Nations Charter and General Assembly resolutions 1514 (XV) of 14 December 1960 and 1541 (XV) of 15 December 1960.

10. They noted the positive measures undertaken by the French authorities in cooperation with the local inhabitants to promote the political, economic and social development of the Territory in order to lay the groundwork for the peaceful transition to independence, and were encouraged by the constructive activities undertaken by all parties involved, including the tireless efforts and support of the South Pacific Forum for the realization of the independence of New Caledonia.

11. They further called on all parties involved to continue their efforts towards providing the necessary framework for the exercise of the right to self-determination and at the same time safeguarding the rights of all New Caledonians.

MAYOTTE, MALAGASY ISLANDS AND CHAGOS ARCHIPELAGO

12. The Heads of State or Government reaffirmed their full support for the sovereignty of the Islamic Federal Republic of the Comoros over the islands of Mayotte and reiterated their solidarity with its people for the protection and preservation of the sovereignty.

/...

independence, unity and territorial integrity of their country. They noted the ongoing dialogue between the French Government and the Islamic Federal Republic of Comoros. In this context, they urged the Government of France to honour its commitments under the referendum held in the Archipelago on 22 December 1974. They further urged the colonial power to expedite the process of negotiations with a view to ensuring the reintegration of Mayotte into the Islamic Federal Republic of Comoros.

13. The Heads of State or Government reaffirmed their support for the sovereignty of the Democratic Republic of Madagascar over the Malagasy Islands of Glorieuses, Juan de Nova, Europa and Bassas Da India. They took note of the ongoing dialogue between France and the Malagasy authorities. They expressed their solidarity with the Government of the Republic of Madagascar in its efforts to preserve the sovereignty and territorial integrity of the Malagasy Islands.

14. The Heads of State or Government reiterated their full support of the sovereignty of Mauritius over the Chagos Archipelago, including Diego Garcia, and called upon the former colonial power to return the Chagos Archipelago without delay.

INDIAN OCEAN

15. The Heads of State or Government reiterated the position taken at Summit Conferences and Ministerial meetings of the Non-Aligned Countries on the Declaration of the Indian Ocean as a Zone of Peace and the determination to continue their efforts to achieve the goals contained therein and as considered at the Meeting of Litoral and Hinterland States held in 1979. They noted that efforts by the Non-Aligned Countries and others to convene a conference on the Indian Ocean continue to be impeded, although important progress has been made in the Ad Hoc Committee on the Indian Ocean. The recommendations of the Ad Hoc Committee relating to the complex ramifications of the issues involved and differing perceptions on these issues as well as the Ad Hoc Committee's future role should be addressed comprehensively by the 48th session of the UNGA (1993) with a view to convening, as early as possible thereafter, the conference in Colombo with the participation of the permanent members of the United Nations Security Council and the Major Maritime Users of the Indian Ocean.

NAHA Summit Declaration, 18-20 October 1995, Cartagena, Colombia

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EXTRACT

Angola

168. They welcomed the positive advances made in the implementation of the provisions of the Lusaka Protocol, with a view to the restoration of peace and stability in Angola. They urged the Security Council to implement what has been agreed upon resolution 976 (1995), which provides for the dispatch of military components of UNAVEM III, since the conditions for their deployment are now propitious. They exhorted Member States to give a positive response to the call made by the Secretary-General to contribute to the full implementation of the Lusaka Protocol. They commended the resolution by the Angolan National Assembly to review the constitution with a view to granting to Mr. Jonas Savimbi, the UNITA's leader, one of the post of the vice-president of the Republic and called upon both parties to honour the compromises subscribed to by them in the Lusaka Protocol so that peace and stability can be instaurated in Angola. They commended the Geneva Conference on Humanitarian Assistance to Angola and the Brussels Round Table on the National Programme for Community Rehabilitation and Reconciliation and called upon the international community to provide the pledged funds on a predictable and timely basis.

South Africa

169. The Heads of State or Government extended their heartfelt welcome and congratulations to South Africa on its return to the community of nations when it joined the Movement of Non-Aligned Countries at the Ministerial Conference in Cairo in July 1994. They emphasized the fundamental role that the Movement played from the beginning of the struggle against the racist regime of South Africa. They paid a warm and special tribute to President Mandela for his untiring struggle and capacity to lead his people, and his country peacefully toward democracy under a Government of National Unity. They also commended the people of South Africa for their role in overcoming the legacy of apartheid and in the reconstruction of their nation under new non-racial and politically pluralist realities.

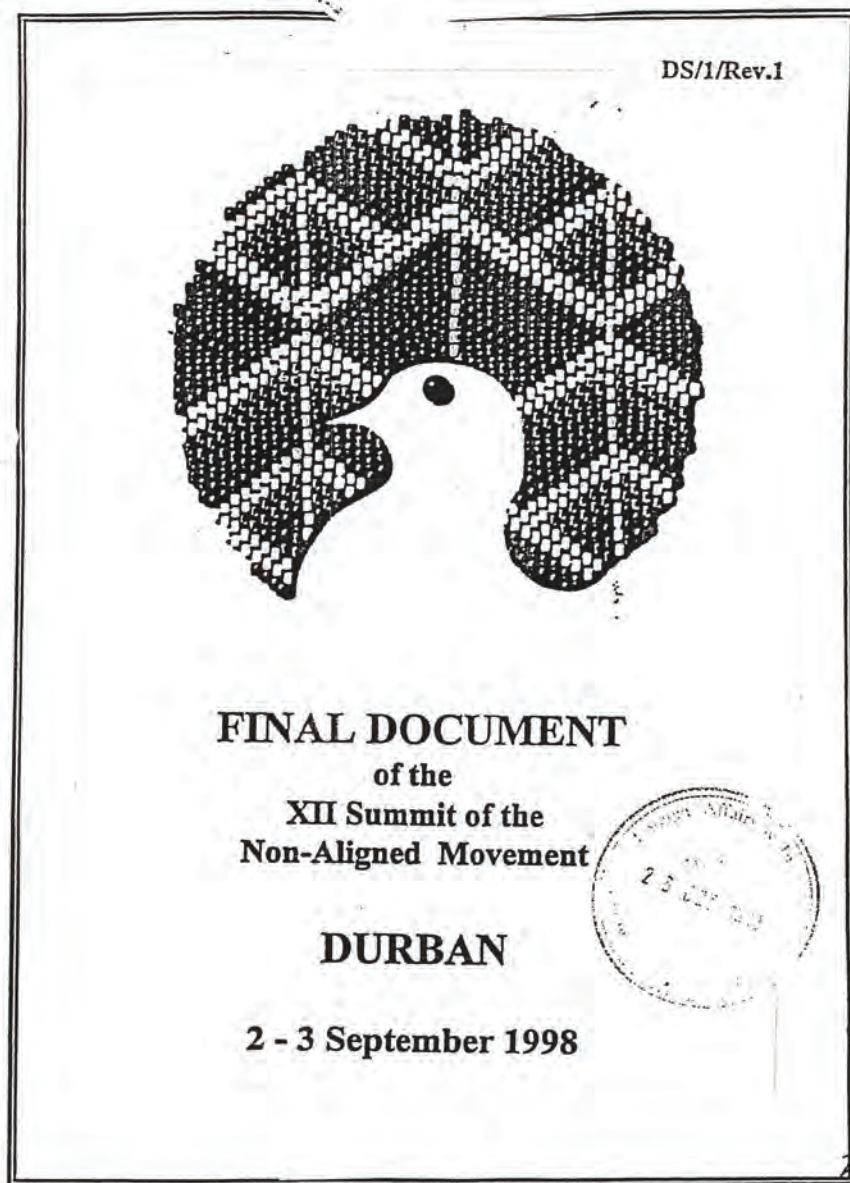
Mayotte

170. They reiterated the unquestionable sovereignty of the Islamic Federal Republic of the Comoros over the Island of Mayotte, as well as the fulfillment of the commitments acquired prior to the referendum of 22 December 1974 regarding respect for the unity and territorial integrity of the Comoros. They urged the Government of France to accelerate the process of negotiations with a view to ensuring the effective and early return of the Island of Mayotte to the Comoros, in accordance with United Nations General Assembly resolution 49/18 of 6 December 1994, and other resolutions adopted by the General Assembly on this matter.

→ **Chagos Archipelago**

171. The Heads of State or Government reiterated the support of the Non-Aligned Movement for the sovereignty of Mauritius over the Chagos Archipelago, including Diego Garcia, and called on the former colonial power to pursue the dialogue with the Government of Mauritius for the early return of the Archipelago. In this respect, they noted with satisfaction the initiation of certain confidence-building measures by the two parties.

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ANGOLA

224. The 'Heads of State' or Government examined the situation prevailing in Angola in the framework of the implementation of the Lusaka Protocol. They commended the Government of Angola for the flexibility and political will demonstrated, aiming at a long and lasting peace in that country.
225. The Heads of State or Government held the leadership of UNITA, and specifically Mr Jonas Savimbi, personally accountable for the resumption of hostilities and deteriorating security situation in Angola, as evidenced by their persistent refusal to conform to the relevant decisions of the United Nations Security Council, regarding the Implementation of the Military and Political Aspects of the Lusaka Protocol, particularly the demobilisation and disarmament of its troops, as well as the extension of State administration. In this regard, they strongly condemned UNITA for its acts of armed aggression and re-occupation of the territory already handed over to the State Administration thus creating an unfortunate outflow of refugees to the neighbouring countries and displaced persons, and called once again on the Leaders of UNITA to undertake the total and unconditional demobilisation of their troops in accordance with the provisions of the Lusaka Protocol.
226. The Heads of State or Government appealed to the international community, in particular the United Nations Security Council to use all its power with a view to obliging UNITA to conform the provisions of the Lusaka Protocol. They also reiterated their appeal to the international community to increase the amount of humanitarian relief provided to the needy population as well as assistance for economic and social rehabilitation of Angola.

CHAGOS ARCHIPELAGO

227. The Heads of State or Government reaffirmed that Chagos Archipelago, including Diego Garcia, is an integral part of the sovereign territory of the Republic of Mauritius. In this regard, they reiterated their call to the former colonial power to pursue constructive dialogue expeditiously with Mauritius for the early return of Chagos Archipelago, including Diego Garcia, to the sovereignty of the Republic of Mauritius.

NAAM Summit Declaration, 20-25 February 2003, Kuala Lumpur

EXTRACT

A/57/759
S/2003/332

parties, in accordance with the United Nations Charter and relevant United Nations resolutions, or any other political solution agreeable to the parties, in accordance with the United Nations Charter and relevant United Nations resolutions.

→ **Chagos Archipelago**

184. The Heads of State or Government reaffirmed that Chagos Archipelago, including Diego Garcia, is an integral part of the sovereign territory of the Republic of Mauritius. In this regard, they again called on the former colonial power to pursue constructive dialogue expeditiously with Mauritius for the early return of Chagos Archipelago, including Diego Garcia, to the sovereignty of the Republic of Mauritius.

Sudan

185. The Heads of State or Government welcomed the signing on 22 July 2002 of the Machakos Protocol between the Government of the Sudan and the Sudan Peoples' Liberation Movement, which represents a significant breakthrough on major issues and a major step towards the realization of a just and lasting peace in the Sudan. In connection with that signing, they paid tribute first of all to the parties, the ongoing efforts by the Intergovernmental Authority on Development (IGAD), led by Kenya, as well as the efforts exerted by other facilitators including the IGAD Partners Forum (IPF) and appealed to the parties to continue to work for a successful conclusion of a comprehensive and lasting peace.

186. Encouraged by those positive developments, the Heads of State or Government urged the international community to support efforts aimed at achieving peace in the Sudan. In this regard, they further urged the international community to provide assistance to meet the economic and developmental needs, including the reconstruction and rehabilitation of areas affected by the conflict, after the realization of peace in the Sudan.

ASIA

Situation between Iraq and Kuwait

187. The Heads of State or Government welcomed the assurances given by the Republic of Iraq to respect the independence, sovereignty and security of the State of Kuwait and to ensure its territorial integrity within its internationally recognised border with a view to steer away from any action that might lead to a recurrence of the 1990 events. They called for the adoption of policies that would set the aforementioned guarantees in an operational framework of good intentions and good neighbourly relations. In this regard, the leaders stressed the significance of halting negative media campaigns and statements toward the creation of a favourable environment that would reassure the two countries of their commitment to the principles of good neighbourliness and non-interference in domestic affairs.

EXTRACT

NAM 2006/Doc.1/Rev.3
Original: English

**14th SUMMIT CONFERENCE OF HEADS OF STATE OR
GOVERNMENT OF THE NON-ALIGNED MOVEMENT**
Havana, Cuba
11th to 16th of September, 2006

FINAL DOCUMENT

Havana, Cuba
16 September 2006

Chagos Archipelago

155. The Heads of State or Government reaffirmed that Chagos Archipelago, including Diego Garcia, is an integral part of the sovereign territory of the Republic of Mauritius. In this regard, they called on once again the former colonial power to pursue constructive dialogue expeditiously with Mauritius with a view to enable Mauritius to exercise its sovereignty over the Chagos Archipelago.

EXTRACT

NAM2009/FD/Doc.1
Original: English



**XV SUMMIT OF HEADS OF STATE AND
GOVERNMENT OF THE NON-ALIGNED
MOVEMENT**

**Sharm el Sheikh, Egypt
11th to 16th of July 2009**

FINAL DOCUMENT

16 July 2009

206 The Heads of State and Government *welcomed* the deployment of the Lebanese Armed Forces in the region south of the Litani River, such that there will be no weapon or authority other than that of the Lebanese State as stipulated in the Taef National Reconciliation Document, and *called on* States to expedite their contribution to Lebanon as requested by Security Council Resolution 1701 (2006).

207 The Heads of State and Government *expressed* full support for the Seven-Point Plan presented by the Lebanese Government, and *emphasized* the importance of the contribution of the United Nations in settling the issue of the Sheba'a Farms in accordance with the proposal mentioned in the aforementioned Seven-Point Plan and with UNSCR 1701 (2006), and called upon all relevant parties to cooperate with the United Nations to reach a solution to the Sheba'a Farms issue which protects Lebanon's sovereign rights including water rights in that area.

208 The Heads of State and Government called for a generous contribution to the ongoing humanitarian relief efforts, and *urged* the international community to support Lebanon on all levels to assist the Lebanese in facing the tremendous burden resulting from the human, social and economic tragedy, and in enhancing the Lebanese national economy.

209 The Heads of State and Government held Israel responsible for the loss of lives and suffering as well as the destruction of properties and infrastructure in Lebanon, and demanded Israel to compensate the Republic of Lebanon and its people for the losses sustained resulting from Israel's aggression in 2006.

210 The Heads of State and Government welcomed the establishment of diplomatic relations between the Republic of Lebanon and the Syrian Arab Republic in order to strengthen their brotherly relations.

211 The Heads of State and Government, pursuant to the failure of other means, *emphasized* the necessity of resolving the Arab-Israeli conflict based on relevant UN Resolutions leading to the establishment of a just, lasting and comprehensive peace in the Middle East as was called for by the Arab Peace Initiative of Beirut in 2002.

Africa

212 The Heads of State and Government welcomed the decisions by the thirteenth ordinary session of the Heads of State and Government of the Assembly of the African Union held from July 1-3, 2009 in Sirte, Libya and expressed their support for effective implementation of the decisions to promote peace, stability and socio-economic development in Africa

Chagos Archipelago

213 The Heads of State and Government *reaffirmed* that Chagos Archipelago, including Diego Garcia, is an integral part of the sovereign territory of the Republic of Mauritius. They noted that the former colonial power, the United Kingdom, and Mauritius held a first round of talks on the Chagos Archipelago issue in January 2009, and welcomed the initiative to pursue the dialogue through other rounds of talks. They called on the United Kingdom to expedite the process with a view to enable Mauritius to exercise its sovereignty over the Chagos Archipelago.

Lesotho

214 The Heads of State and Government, recalling the principles of the Movement on democracy, condemned the heinous attempt to assassinate the democratically elected Prime Minister of the Kingdom of Lesotho, Mr. Pakalitha Mosisili, on the 22nd April, 2009. And they

EXTRACT

NAM 2011/Doc.1/Rev.1
Original: English



**XVI Ministerial Conference and
Commemorative Meeting
of the Non-Aligned Movement**

Bali – Indonesia
23 – 27 May 2011

Final Document

EXTRACT

NAM 2011/Doc.1/Rev.1
Original: English

Chagos Archipelago

260. The Ministers reaffirmed that the Chagos Archipelago, including Diego Garcia, which was unlawfully excised by the former colonial power from the territory of Mauritius in violation of UN Resolutions 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965, forms an integral part of the territory of the Republic of Mauritius.

261. The Ministers further noted with grave concern that despite the strong opposition expressed by the Republic of Mauritius, the United Kingdom purported to establish a 'Marine Protected Area' around the Chagos Archipelago, further impeding the exercise of the sovereignty and territorial integrity of the Republic of Mauritius over the Chagos Archipelago in accordance with UN General Assembly resolution 2066(XX) as well as the right of return of Mauritian citizens who were forcibly removed from the Archipelago by the United Kingdom.

262. Cognizant that the Government of the Republic of Mauritius is committed to taking all appropriate measures to protect the legitimate rights of the Republic of Mauritius under international law with regard to its sovereignty and territorial integrity over the Chagos Archipelago, the Ministers resolved to fully support such measures including any action that may be taken in this regard at the United Nations General Assembly.

EXTRACT

NAM 2012/CoB/Doc.1



**Ministerial Meeting
of the Non- Aligned Movement
Coordinating Bureau**

Sharm El Sheikh – Egypt

7 – 10 May 2012

**SHARM EL SHEIKH
FINAL DOCUMENT**

283. The Ministers supported the efforts of the Lebanese Government to save Lebanon from all threats to its security and stability, and expressed their understanding to the policy the Government pursues vis-a-vis the developments in the Arab region.

Africa

284. The Ministers acknowledged the decisions by the seventeenth ordinary session of the Heads of State and Government of the Assembly of the African Union held from 30 June – 1 July 2011 in Malabo, Equatorial Guinea, and expressed their support for effective implementation of the decisions to promote peace, stability and socio-economic development in Africa. The Ministers also acknowledged the decisions by the Eighteenth ordinary session of the Heads of State and Government of the Assembly of the African Union held from January 29 – 30, 2012 in Addis Ababa, Ethiopia, which was convened under the theme “ Boosting Intra-African Trade”.

- Chagos Archipelago

285. The Ministers reaffirmed that the Chagos Archipelago, including Diego Garcia, which was unlawfully excised by the former colonial power from the territory of Mauritius in violation of international law and UN Resolutions 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965, forms an integral part of the territory of the Republic of Mauritius.

286. The Ministers further noted with grave concern that despite the strong opposition expressed by the Republic of Mauritius, the United Kingdom purported to establish a marine protected area around the Chagos Archipelago, further infringing upon the territorial integrity of the Republic of Mauritius and impeding the exercise of its sovereignty over the Chagos Archipelago as well as the exercise of the right of return of Mauritian citizens who were forcibly removed from the Archipelago by the United Kingdom.

287. Cognizant that the Government of the Republic of Mauritius is committed to taking all appropriate measures to affirm the territorial integrity of the Republic of Mauritius and its sovereignty over the Chagos Archipelago under international law, the Ministers resolved to fully support such measures including any action that may be taken in this regard at the United Nations General Assembly.

Libya

288. The Ministers expressed their support for the sovereignty, unity, independence and territorial integrity of Libya , and for the efforts made by Libya in cooperation with the United Nations in order to build a state based on the foundations of democracy, pluralism and respect for human rights and fundamental freedoms.

Somalia

289. The Ministers *reaffirmed* their respect for the sovereignty, territorial integrity, political independence and unity of Somalia, consistent with the Charter of the United Nations.

290. The Ministers welcomed the positive political and security developments, and progress made in the Djibouti peace process, including the appointment of H.E. Abdiweli Mohamed Ali as the Prime Minister of the Transitional Federal Government (TFG) of Somalia and assured their commitment and support.

Annex 22

Robert Newton, *Report on the Anglo-American Survey in the Indian Ocean*, C.O. 1036/1332
(1964)

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SECRET

Mr. Watts
418

1964

Sir,

(17) In accordance with Mr. Cumming-Bruce's Secret letter DEF 127/123/05, of the 26th June I was appointed Colonial Office Member of the joint Anglo-U.S. survey party carrying out a survey of certain islands in the Indian Ocean. My duties were -

- (a) to accompany the survey party to the islands to be surveyed and to investigate the possibility of resettlement on these or other islands;
- (b) to provide liaison between the survey party and the civil governments and to give political advice to the Commanding Officer of H.M.S. DAMPIER and the survey party;
- (c) to assess the impact of military plans upon the civil population of Diego Garcia and the other islands surveyed;
- (d) in the light of military plans to make proposals -
 - (i) for the resettlement of any of the civil population who may be required to leave the islands where they now live;
 - (ii) for the compensation of private interests which may suffer as the result of military development;
 - (iii) for the further administration of the islands detached from Mauritius and the Seychelles.
- (e) to consult as may be necessary with the Governors of Seychelles and Mauritius on the foregoing matters;
- (f) to report factually as soon as possible after the conclusion of the survey party's visit to the islands, and thereafter as soon as a definite programme of military development has been prepared by the British and American military authorities to report on compensation and the administrative measures to be taken for the civil population of Chagos, with estimates of the cost thereof.

2. I arrived in London on the 14th July. On the 15th July I attended a meeting at No. 7 North Audley Street where I met the following members of the survey party.

BRITISH

Mr. M. Pollock, Technical Adviser, Store Dept. M.O.D.
Mr. A. Kravis, Marconi Company.

UNITED STATES

Commander H.S. Hart, U.S.N.
Commander D.B. Feinman, U.S.N.
Lt. Colonel Gale, U.S.A.A.F.

/Lt. R.R. GARDEN, U.S.N

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2) DEF 127/123/03.
THE RT. HON. DUNCAN SANDYS, M.P.

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SECRET

Lt. R.R. Carden, U.S.N.
 Master Chief Electronics Technician R.M. Young, U.S.N.
 Chief Radioman M.E. James, U.S.N.
 Mr. R.L. Clinkenbeard, Communications Engineer.
 Mr. G.M. Marks, Communications Engineer.
 Mr. W.P. Dayton, Communications Engineer.

3. My itinerary was as follows:

16th July.	Left Mildenhall for Aden by U.S. Aircraft
17th July.	Arrived Aden.
19th July.	Arrived Can. Embarked on H.M.S. DAMPIER,
19th-20th July.	Commander M.J. Baker, R.N.
21st July.	Arrived Diego Garcia.
23rd July.	at Diego Garcia.
25th-26th July.	Left Diego Garcia for Can.
26th July.	Left Can for Diego Garcia.
27th July.	at Diego Garcia.
28th July.	Left Diego Garcia. Short visit to Egmont.
	Peros Banhos.
	Left Peros Banhos for Salomon. Short visit
	to Salomon.
29th-31st July.	Left Salomon for Diego Garcia.
31st July.	at Diego Garcia.
2nd August.	Left Diego Garcia for Can.
3rd August.	Arrived Can.
8th August.	Left Can for Agalega.
9th August.	Short visit to Agalega.
10th-11th August.	Arrived Coetivy.
13th-15th August.	Des Roches.
	at Farquhar Island while H.M.S. DAMPIER
	proceeded to Diego Suarez for refuelling.
15th August.	Left Farquhar Island for Mahe, Seychelles.
17th August.	Arrived Mahe.
17th-25th August.	at Mahe.
25th August.	Left Mahe by U.S. amphibian aircraft for Mombasa.
	Arrived Mombasa.
25th-28th August.	Mombasa.
28th August.	Left Mombasa for Nairobi and London.
29th August.	Arrived London.

3. On arrival at Diego Garcia, on the 19th July, H.M.S. DAMPIER began arrangements to land the United States survey team and also survey parties from the ship. These teams remained on the island until the 31st July. The ship's doctor, Surgeon Lieutenant McClean also stayed on the island during this period to give medical and dental treatment. His interest in the people and his knowledge of French were of great assistance to me as he was able to confirm and supplement my own impressions of life on the island.

4. Mr. Pollock and Mr. Kravis together with six members of the United States survey team were landed at Can on the 2nd August in order to return by air for Europe. W/Cdr. J.R.C.H. Graves, Air plans 2 and Mr. A. McClaren, M.P.B.F.(W.D.I.), joined the ship on the same day.

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5. On each of the islands visited I had discussions with the Manager, my object not only being to obtain information about the demographic and economic position on the island but also to assess the extent to which the population, particularly in Diego Garcia, was a specialised community that had evolved to meet the conditions of each island, and therefore whether the transfer of labour from one island to another was a practical possibility. I also paid a short visit to the Egmont atoll to form an impression whether the atoll could be reinhabited. All the managers readily gave me the information I required to the best of their ability though on some of the islands it was unfortunate that on account of the exigencies of DAMPIER'S programme my visits were not as long as I should have liked. I do not, however, believe that curtailed visits have led to the omission of any important information or have affected the validity of impressions formed during the survey. My visit to Farquhar Island was necessitated by a signal from the Colonial Office to the effect that Mr. Paul Moulinié, Managing Director of Chagos Agalega Ltd. was on the island and, since it was unlikely that he would return to Mahé in time, it was suggested that I should visit him on Farquhar.

6. While on Mahé His Excellency the Governor kindly arranged for me to see Mr. André Delhomme, the owner of Coctivy. I also had discussions with Mr. Jeffrey, the acting Colonial Secretary, with the Attorney-General and the acting Financial Secretary.

7. It was impossible to conceal the fact that the survey was a joint Anglo-American operation. By the time we left Diego Garcia there was gossip to the effect that we had come to investigate the possibility of a base on the island. On Mahé, where DAMPIER remained for a short visit from the 17th-19th August, there were suggestions that it was intended to construct an American base for nuclear submarines in that part of the Indian Ocean. This suggestion was not taken amiss by property owners who have expressed concern over events in Zanzibar and fear what, in their view, might happen if there were a withdrawal of British interest in the Indian Ocean. I took the line with island managers that in a scientific age there was a growing need for accurate scientific surveys, even in the Indian Ocean, and I made vague allusions to developments in radio communications. Since I had to make investigations into the possible cost of acquiring Diego Garcia and Coctivy, and since R.A.F. surveys of Aldabra and Coctivy were matters of common knowledge, I told Mr. Moulinié and Mr. Delhomme that we were investigating possibilities of developing aircommunications which might also involve improved radio communications. Mr. Moulinié will certainly be informed by his managers that there were Americans in the party so I told him that we had American experts with us. The American members of the party behaved with admirable discretion and were kept out of sight during DAMPIER'S brief visit to Diego Suarez for refuelling. They were introduced to the island managers as civilians but before the end of the survey work on Diego Garcia the manager himself had come to learn that some of the Americans were serving officers. This was probably due to some unguarded remark by some member of one of the shore parties.

8. The survey was a practical exercise in Anglo-American co-operation. Cordial and friendly relations were established at the outset and retained throughout the survey. I should like to express my deep appreciation of the helpfulness and courtesy of Commander Baker, and the officers and ship's company of H.M.S. DAMPIER. It cannot have been easy to absorb a comparatively

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large party of strangers on a small ship but we were made welcome and given all the help and guidance we required. I should also record that the manager of Diego Garcia paid a warm and well-deserved tribute to the behaviour of the shore parties from H.M.S. DAMPIER during ten days on the island. The manager himself gave willing assistance to the survey parties. H.M.S. DAMPIER and the American members of the expedition gave in return assistance in the form of repair work, supplies and entertainment.

9. On the 2nd September I submitted a draft report at the Colonial Office in order to give some advance indication of my recommendations.

10. I now have the honour to submit my final report. Broadly, my conclusions are as follows:-

- (i) There should be no insurmountable obstacle to the removal, resettlement and re-employment of the civilian population of islands required for military purposes;
- (ii) Insofar as the islands have a distinctive social and economic life of their own, this life is Seychellois and not Mauritian;
- (iii) None of the islands, whether dependencies of Mauritius or of the Seychelles, is administered in the modern sense. All, including Aldabra, would benefit from closer administration from the Seychelles;
- (iv) The Oil Islands should be transferred to the Seychelles and the islands required for military purposes should become direct dependencies of the Crown. All the islands should be administered by a Commissioner responsible to the Governor of the Seychelles as High Commissioner. The opportunity should be taken to include in the duties of the former the administration of the main islands of the Seychelles group other than Mahé.

11. I have also made recommendations regarding the price that might be offered for the acquisition of Coetivy by the Crown. I have made suggestions, which are necessarily tentative, for the financial basis of negotiations for the acquisition of Diego Garcia and Aldabra. Aldabra should not present any special problems other than the protection of the atoll's unique wild life.

12. In conclusion I wish to record my gratitude for the kindness and hospitality of the Governor of the Seychelles and Lady Oxford, and for the trouble taken by Mr. Jeffrey, Acting Colonial Secretary of the Seychelles, and other officers of the Seychelles Government, in giving me information and advice. I am grateful for information supplied by the Governor of Mauritius. My thanks are also due to the American personnel responsible for installations on Mahé and for the kindness with which they arranged my transport from Mahé to Mombasa.

I am, Sir,

Your obedient servant,

(Robert Newton)

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E.65

Report on the Anglo-American Survey
in the Indian Ocean, 1964.

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Introductory

1. The Anglo-American survey of Islands in the Indian Ocean was concerned with dependencies of the Governments of Mauritius and the Seychelles. During the first part of the survey, from the 17th - 31st July, investigations were conducted into conditions in the Chagos Archipelago particularly on the island of Diego Garcia which was regarded as the most promising for technical purposes. After disembarking some of the original survey party at Gan, on the 2nd August, and embarking two additional British members, H.M.S. Dampier visited the island of Agalega, a dependency of Mauritius, and Coetivy, Des Roches and Farquhar between the 3rd - 15th August. The last three are dependencies of the Seychelles. All the islands are virtually in private ownership.
2. For the purpose of this report the islands were visited in order to determine the implications on the civilian population of strategic planning, and especially to assess the problems likely to arise out of the acquisition of the islands of Diego Garcia and Coetivy for military purposes. The problem was primarily one of the practicability of providing continued and congenial employment and of evaluating the social and economic consequences of moving island communities. It was also necessary to consider the future administration of the dependencies of Mauritius and, to some extent, of all the smaller islands in the Indian Ocean now administered from Mahe or Mauritius.
3. Following these investigations, including discussions in the Seychelles, certain broad conclusions have been reached. These are:-
 - (i) There should be no insurmountable obstacle to the removal, resettlement and re-employment of the civilian population of islands required for military purposes;
 - (ii) In so far as the islands have a distinctive social and economic life of their own, this life is Seychellois and not Mauritian;
 - (iii) None of the islands, whether dependencies of Mauritius or of the Seychelles, is administered in the modern sense. All, including Aldabra, would benefit from closer administration from the Seychelles;
 - (iv) The Oil Islands now dependencies of Mauritius should be transferred to the Seychelles and the islands required for military purposes should become direct dependencies of the Crown. All the islands should be administered by a Commissioner responsible to the Governor of the Seychelles as High Commissioner. The opportunity should also be taken to include in the duties of the former the administration of the main islands of the Seychelles group other than Mahe.
4. Recommendations have also been made regarding the price that might be offered for Coetivy, and more tentative suggestions made for the basis of negotiations for the acquisition of Diego Garcia, if these islands are required for military purposes. It is understood that the only islands likely to have a strategic interest are Coetivy, Diego Garcia and Aldabra.
5. For the purposes of this report the islands forming the dependencies of Mauritius are collectively described as the Oil Islands, a convenient term in current use which prevents confusion with other dependencies of Mauritius such as the Saint Brandon Archipelago and Rodrigues.

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PART I

The Oil Islands of Mauritius

6. In 1962 a company known as Chagos Agalega Ltd. was formed in Mahe to acquire the interests of the Mauritian companies which at that time owned the islands of the Chagos Archipelago and Agalega in the Indian Ocean. These islands, collectively known as the Oil Islands, are dependencies of Mauritius. They include:

(1) Diego Garcia

a narrow V-shaped island over 30 miles long from tip to tip, some 11 square miles in area and with some 6,000 acres of coconut plantations. 1,174 miles from Mauritius; 1,010 miles from Mahe. Population: 172 Mauritians, 311 Seychellois.

(2) Peros Banhos

a large atoll of 32 islands enclosing a lagoon of some 120 square miles with administrative headquarters at Ile du Coin. 1,344 miles from Mauritius; 960 miles from Mahe. Population 291, all Mauritians except for about 30 Seychellois.

(3) Salamon

an atoll of 11 islands totalling some 2,000 acres with administrative headquarters on Ile Bodan. 1,384 miles from Mauritius; 990 miles from Mahe. Population: 205 Mauritians; 14 Seychellois.

(4) Exmont or Six Islands

although at one time there were said to be seven islands in this group there are now indeed six. In recent years Takamaka has become joined to South East island by a sandbank about one hundred yards long on which coconut palms, *Veloutier* (*Ternstroemia argentea*) and *Bois manioc* (*Scaevola frutescens*) have become established. These islands are uninhabited, densely overgrown and are infested by large crabs. The anchorage is bad. 1,250 miles from Mauritius.

(5) Agalega

Agalega consists of two islands, North and South, joined by a sandbank about $1\frac{1}{2}$ miles long which can be crossed on foot at low tide. North Island is seven miles long and between one and 4 miles wide. South Island is four miles long and three miles wide at its broadest part. The two islands contain about 4,000 acres planted with coconut. There are plans to increase the coconut plantations by at least 1,000 acres on North Island. Agalega lies within the cyclone belt and has at times suffered severe damage from storms. Anchorage facilities are poor. Agalega is about 360 miles from Mahe and 580 miles from Mauritius. Population 371, about 90% Seychellois.

Population

7. In 1964 the composition of the population of the Oil Islands was as follows:-

(1) Diego Garcia

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(a) Mauritians				
Administrative	2 men	2 women	total	4
Meteorological station	6			6
Labourers	48	39		87
Children	41 boys	33 girls		74
Unemployed	1 man			1
	98 males	94 females		172
(b) Seychellois				
Administrative	5 men	3 women		8
	5 boys	5 girls		10
Labourers	156 men	64 women		220
	32 boys	41 girls		75
	198 males	113 females		311
(2) Peros Banhos				
Administrative	1 man	3 women	total	4
Labourers	77 men	62 women	"	139
Children	81 boys	65 girls	"	146
Unemployed	1 man	1 woman	"	2
	160 males	131 females		291

About 30 of the inhabitants were said to be Seychellois. Of the children, 8 boys and 5 girls were employed in light labour.

(3) Salamon				
(a) Mauritians	51 men	52 women	total	103
Children (sexes not differentiated)				102
(b) Seychellois	7 men	2 women		9
Children (sexes not differentiated)				5
			total	219

(4) Agalega				
	165 men	61 women		226
	65 boys	73 girls		138
	7 men unemployed			7
				371

About 90% of the island's population was said to be Seychellois.

<u>Population Summary</u>			<u>1964</u>	<u>1960</u>
Diogo Garcia			483	428
Peros Banhos			291	374
Salamon			219	198
Agalega			<u>371</u>	<u>428</u>
			1,364	1,428

8. At the time of the Anglo-American survey the island managers could not readily provide details of the population in the same form on each /island.

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island. It was not always possible to undertake special investigation in the time available. The details as given may be regarded as sufficiently accurate.

Exports

9. The exports from the Oil Islands are primarily copra and other coconut products. For this reason the way of life and economy of the inhabitants pertain to the Seychelles rather than to Mauritius. Copra exports are now at the following level:

Diego Garcia	731 tons per annum
Peros Banhos	180 tons per annum
Salamon	360 tons per annum
Agalega	638 tons per annum

Acquisition by Chagos Agalega Ltd.

10. The Oil Islands were purchased by the Chagos Agalega Co., in 1962, for Rs.1,500,000. The previous owners were two closely associated companies in Mauritius. Diego Garcia Ltd. owned Diego Garcia, Peros Banhos and Salamon. Agalega Ltd. owned Agalega. These companies shared a common chairman, board of directors and administrative organisation. Through their subsidiary the Diego-Agalega Shipping Company Ltd. they owned and operated the M.V. 'Sir Jules' of 711 tons. A second subsidiary, Innova Ltd. operated a factory in Port Louis producing refined oil and soap.

11. By 1958 the Mauritian companies were in debt to the extent of Rs.1,374,873 and were experiencing great difficulty in obtaining further credit. They accordingly sought financial assistance from the Government of Mauritius. It was in consequence of this approach that Mr. Lucie Smith then Director of Agriculture in Mauritius, reported in 1959 on the coconut industry in the island. The islands appear to have been inefficiently administered by the Mauritian Companies. It is also possible that their financial troubles were in great measure due to the cost of operating the "Sir Jules", which is said to have amounted to Rs.700,000 per annum. No help was forthcoming from the Government of Mauritius. It appears that the directors welcomed the opportunity to rid themselves of a financial embarrassment which could otherwise be remedied only by the additional capital and improved business capacity which were not forthcoming. Accordingly they readily accepted an offer of Rs.1,500,000.

12. According to its articles of association, the Chagos Agalega Co. was formed to acquire Agalega, Diego Garcia, Salamon, Peros Banhos and the Egmont Atoll. It has a share capital of Rs.750,000 in Rs.1,000 units. 250 shares are held by the Colonial Steamship Co. of Mauritius and 200 by Mr. Paul Moulinie, of Mahe. Other shares are held as follows:-

Mrs Therese Moulinie	47
Miss Cecile Frichot	3
Mr. Paul Chenard de la Girodias	150
Mrs Alice Frichot	10
Mr. Noel Frichot	10
Mr. Robert Bouille	6
Mr. Ernest Bouchereau	25
Mr. Marc Veevers-Carter	39
Mr. Maximo Jumeau	10

220 shares are in fact held by members of the family of Mr. Paul Moulinie or his business associates in addition to the 200 shares held by /Mr. Moulinie

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Mr. Moulinie himself. According to the Articles of Association no shares shall be offered to the public. Shareholders may dispose of shares to other shareholders or to their own wife, husband or children. They may be sold to members of the public only with the permission of the directors and if the shareholders have refused to buy. The Board consists of seven members, two are Mr. Moulinie and a person appointed by him. Two are appointed by the Colonial Steamship Co. as long as the company shall continue to hold one-third of the share capital.

13. The acquisition of any of the Oil Islands for military purposes, and changes in their administration, will almost certainly involve repercussions in the local politics of Mauritius and the Seychelles. Not everything that Mr. Moulinie said in the course of two days' conversation should be accepted at its face value; but his plans and negotiations in the past two years will certainly be used for bargaining purposes. For this reason Mr. Moulinie's version of his negotiations and plans is set out in paragraphs 14-18 below. It is important to emphasise that there is no evidence that Chagos Agalega Ltd. has yet embarked on the capital expenditure required for the realisation of Mr. Moulinie's plans. It is by no means certain that the capital will be forthcoming. It is also probable that some of Mr. Moulinie's associates would be glad to accept a capital appreciation and to be rid of a possibly embarrassing speculation.

Political and Commercial Factors

14. Mr. Moulinie, a member of the Seychelles Legislative and Executive Councils, has recently been canvassing the possibility of administrative and economic union between the Seychelles and Mauritius. He sees in such a union the prospect of commercial profit for himself and his associates because he hopes that it would lead to an increase in the carrying trade and passenger traffic between the islands which would justify the acquisition of a second motor vessel by the Colonial Steamship Co. to supplement the M.V. "Mauritius". This second ship would be available to carry to New Zealand the guano or rock phosphate extracted by Mr. Moulinie in St. Pierre and would enable extraction to be increased from about 5,500 tons to about 7,000 tons per annum. Further, Mr. Moulinie has in mind a scheme by which the Seychelles should obtain rice through Mauritius, thus providing cargoes. In return for this business Mauritius should provide Seychelles with 1,000 tons of sugar a year at the price paid by consumers in Mauritius plus freight at 2 cts. per lb. Plans under consideration include the encouragement of the tourist trade from Reunion, Madagascar, Mauritius and South Africa by the construction of an air strip and a hotel in Ile Farquhar. The development of Diego Garcia would form a major part of the plans for the development of the whole complex of islands. Diego Garcia would be rehabilitated, the population could be increased to about 4,000, and business with the island would spread the cost of more regular transport between the Oil Islands and the main island groups in the Indian Ocean. The plans depend on the economics of improved communications and especially on an increased demand for passages and freight.

15. Schemes on these lines have been discussed recently between Mr. Moulinie, Mr. Paturotu (Minister for Trade and Industry in Mauritius, Mr. Maingard (of Rogers & Co.), Mr. Ringadoo (Minister for Education in Mauritius) and with various other people in Mauritius. Mr. Moulinie produced copies of the some of the relevant correspondence on the subject during recent months, together with a copy of a French translation of the paragraph in the Economist of the 4th July about Anglo-American strategic interests in the Indian Ocean. It would have been most useful to have had a conversation with Mr. Rene Maingard. It is possible that the proposals have not been received with the enthusiasm described by Mr. Moulinie himself. According to his account an influential

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and potentially vocal group in the Seychelles and in Mauritius have plans for commercial development in both the Seychelles and Mauritius in which Diego Garcia is expected to play an important part. It has been suggested by Mr. Moulinie that Mr. Ringadoo sees in such plans an opportunity to provide employment and increased trade. It would be in accordance with Mr. Ringadoo's character, and in no way imply criticism of him, if he were vigorously to follow up these suggestions. It is clear that Mr. Moulinie, and possibly his associates in Mauritius, had already by the time of the survey made up their minds to profit from any new interest in the area on the part of H.M.G.

16. There is no evidence that Mr. Moulinie's projects have received any influential support in the Seychelles or that the idea of closer union with Mauritius would be welcome in the ruling circles in Mahe. Proposals to improve trade and business contacts with Mauritius would be examined on their merits as a business proposition.

Mr. Moulinie's Report

17. Mr. Moulinie himself made a careful inspection of all the islands in the Chagos Archipelago in March 1963. His conclusions are as follows:-

(a) Diego Garcia

Very badly neglected and mismanaged. Capable of producing 1,500 tons of copra within the next ten years and of reaching a peak of 3,000 tons a year. Labour should be retained at its present level for the time being but 10 good tractors are required. The island should be divided into eight sections to ensure improved maintenance and supervision. The island contains about 250,000 trees of which about 50% require complete rehabilitation at a cost of about Rs.200,000. 800 head of cattle could be maintained on the existing pasture and three times as many with the introduction of elephant grass. Some 60% of the island is suitable for maize cultivation which should be planted extensively pending replanting with coconuts. In general the soil on Diego Garcia is about the best seen on any coral island. The island could support a population of some 4,000 people. Its copra should be produced for the European market.

(b) Peros Banhos

A labour force of 80 is adequate for the whole atoll if supervision is improved and good overseers placed on the principal islands. Production from the atoll should be at the rate of 850-900 tons of copra a year.

(c) Salomon

Improved cultivation methods and supervision should bring production to 225-250 tons of copra a year and ultimately to about 400 tons. The islands could also grow maize as animal food and perhaps for the labourers. The labour force should be kept at the existing level.

(d) Edmont

The atoll could produce rather more than 150 tons of copra a year. On one of the islands, Cipaille, some 15,000-20,000 tons of guano could be extracted before the coconut plantations are rehabilitated.

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(e) Three Brothers

Perhaps more than 40,000 tons of guano on this island of 20-30 acres.

(f) Engle Island

Fifteen men under a good overseer could obtain 7-8 tons of copra per month. The cost of rehabilitating the settlement to make it habitable would be about Rs.25,000. More than half this amount would be repaid from the fallen coconuts.

18. Mr. Moulinie's report should not be accepted as an objective appraisal of economic prospects. No serious attempt has been made to estimate costs. It is essentially a prospectus designed to raise capital for a speculation. According to remarks made on Mahe some at least of the shareholders are concerned at the prospect of relatively heavy expenditure before they can expect an adequate return. No balance sheets have been published and no directors' meeting has been held for over a year. Mr. Moulinie himself claimed that Diego Garcia made a net profit of Rs.90,000 in 1963, but this cannot at present be substantiated and in any case it is uncertain what return this represents on the capital employed.

19. Report by Dr. Octave Wiehe C.B.E.

Dr. Wiehe visited the islands in 1961. Estimates made on the basis of his report indicate that within five to twelve years the copra production could be increased to:

Agalega	700 tons	(638)
Diego Garcia	1,400 "	(731)
Peros Banhos	550 "	(180)
Salamon	350 "	(260)

The current production figures are given in brackets.

20. Defence Interest in Diego Garcia

Judging by the comments of the Service officers and technicians taking part in the survey the island is eminently suitable for the various purposes under consideration. These include the construction of an airstrip and its appurtenances covering an area of approximately $2\frac{1}{2}$ miles x $\frac{3}{4}$ miles; the construction of naval storage tanks and jetty requiring 41 acres; receiving and transmitting radio installations; recreational facilities, housing and administration. It would appear that the greater part of the area from Marianne to Eclipse Point will be required for the transmitter, airstrip and ancillary installations. The most suitable site for the receiver will be at, or near, South Point. A strip of land half a mile long from Observatory Point will be required for the storage tanks and jetty. The whole of the main settlement at East Point will be required for the administrative headquarters, living quarters and for recreational facilities. If the impressions of the officers and technicians are confirmed, and if the necessary decisions are taken by the British and American Governments, the whole of Diego Garcia will be required for defence purposes. This will involve the eviction of the existing civilian population.

21. Implications of the acquisition of Diego Garcia for defence purposes

Diego Garcia is still in the state described by Mr. Lucie-Smith when he visited the island in 1959. The hot and humid climate, with an annual rainfall of 99", has created the luxuriant vegetation that is

/characteristic

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characteristic of that island alone among the occupied islands of the Chagos Archipelago. Behind an almost continuous belt of Bois manioc (*Scaevola frutescens*) and Veloutier (*Tornefortia argentea*) there is a thick growth of coconuts palms and forest trees, ferns, bushes, lianas and rotting stumps and debris. The area of clean coconut plantations is small and even that compares unfavourably in appearance with the plantations on other islands. Mr. Lucie-Smith commented in paragraph 162 of his report that "the cultivations at Diego are in so deplorable a state that there is hardly a normal palm in the entire island, while the whole matter is complicated by the massive infestation of the Rhinoceros Beetle". In paragraph 163 Mr. Lucie-Smith referred to the possibility that Diego Garcia might be thought "a doubtful proposition in view of the bad condition of the coconuts, the overgrown state of the island and the problematic control of the Rhinoceros Beetle. His suggestion that coconuts in the oil islands, especially in Diego Garcia, represent a natural secondary plant community rather than a cultivated plantation crop is strengthened by comparison with the admirable cultivation and flourishing appearance of the plantations on islands such as Farguhar or Des Roches. Mr. Moulinie's impressions are much the same. Nevertheless, Mr. Lucie-Smith considered that with an expenditure of some Rs.5.1 million over five years, better methods of cultivation and more mechanisation the island could be made into a highly profitable concern. In general the conclusions of Mr. Lucie-Smith, Mr. Moulinie and Dr. Octave Wieho coincide.

22. Diego Garcia is already making some progress as compared with conditions under the former owners. Exports of copra increased from 521 tons in 1962 to 677 tons in 1963. 430 tons were exported to the end of July and were expected, with every justification, of reaching over 700 tons by the end of the year. The exploitation of guano has ceased. Exports are now confined to copra and other coconut products, mainly to Mauritius. The copra is exported to the United Kingdom.

(a)

Exports from Diego Garcia to Mauritius 1963-1964

March 1963	227 tons copra
	62,000 coco barbes
	8,320 brushes
	12,000 brooms
October 1963	425 tons copra
	77,000 tons coco barbes
	13,000 brushes
	1,000 brooms
April 1964	273 tons copra
	80,000 coco barbes
	35 tons coconut oil

(b)

Exports from Diego Garcia to Mahe

February 1963	75 tons copra
July 1963	33 tons copra

Coco barbes are coconuts as sold in grocer's shops. The coconut oil - shipped to Mauritius in April 1964 was expressed on the island and was a trial shipment.

23. Today on Diego Garcia an average of 8,000 coconuts is required to produce a ton of copra, as compared with 8,500 in the past - though this is not necessarily a proof of improved cultivation. Some of the younger

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plantations were being properly manured. Young palms are beginning to be productive. There are plans for the introduction of cattle. The net profit in 1963 is said by Mr. Moulinie to have been some Rs.90,000 in contrast to a loss of Rs.53,427 in 1955-56 and Rs.196,356 in 1957-58, and to a small profit of Rs.5,868 in 1956-57. No figures have been made available to confirm or explain the alleged profit in 1963.

24. The total population of Diego Garcia in 1964 was 483, comprising 311 Seychellois and 172 Mauritians or Illois. In 1958 the population of the island was 589. In 1960 was 428. In 1963 it had fallen to 422. The decline in 1964 as compared with 1958 was not due to any marked difference in the labour force. Mr. Lucia-Smith recorded a total of 216 male labourers in 1958. In 1964 the total was 205. The present manager, Mr. Pouponneau complained about the great difficulty in recruiting labour. He said that the neglected state of the island, especially the unkept bush area about Marianne and Belipse Point, was due to lack of labour. In Mr. Moulinie's view what is required is more mechanization and improved supervision. Labour in Diego Garcia is recruited from Mauritius and the Seychelles. All the Seychellois labourers are under contract, married men for two years and bachelors for 18 months. 7 Mauritians were also under contract. It is noteworthy that in the better managed islands belonging to the Seychelles there were no serious complaints about the difficulty of obtaining labour from the Seychelles though there were suggestions, of very doubtful validity, that the American installations were attracting labour at the expense of the islands. Diego Garcia, however, is undoubtedly suffering from rivalry between Mauritians and Seychellois, and from bad management. Mr. Moulinie complained of the campaign directed against his company which was said to be impeding recruitment in Mauritius. Mauritian officers on the island spoke of the deliberate "Seychellization" of Diego Garcia. There is certainly little trace of the sense of a distinct Diego Garcian community described by Sir Robert Scott in his book "Limuria". Sir Robert Scott holds that "the physical characteristics of the island have made the Diego Garcians more down and hard-headed than the residents in the other islands." They are said to be "more diligent in supplementing their basic rations and their cash resources than the other islanders." In the postscript to his book Sir Robert Scott discusses the impact of change and makes a plea "for full understanding of the islanders' unique condition, in order to ensure that all that is wholesome and expansive in the island societies is preserved."

25. Sir Robert Scott's visits took place nearly ten years ago. It is already apparent that already little is left of the distinctive life of Diego Garcia which he described. Judging by conversations with the manager, and with others on the island, most of the inhabitants of Diego Garcia would gladly work elsewhere if given the opportunity. The doctor on Pampier, Surgeon-Lieutenant Maclean, who spoke French well and spent ten days on the island, endorsed these comments on Sir Robert Scott's observations. At the time of the survey there was little evidence of any real sense of a distinct community evolved by the special local environment. Since four-fifths of the labour force are Seychellois under 2-year or 18-month contracts, the evocation of a distinctive attitude to life from the appearance of a chance-met individual on Diego Garcia is hazardous. Difficulties in establishing the paternity of some children was a further indication of a loose social structure - since it could not be attributed to the evolution of a matriarchal society. There are grounds for the conclusion that life on Diego Garcia evolved to meet the special conditions of the 19th century and that attachment to the island in recent years was fostered by the easy-going ways of the old company rather than to the island itself. The impact of the new company has loosened the old ties, and if there is a distinctive way of life on the islands it is Seychellois rather than Mauritian being African in origin and evolved round the coconut palm.

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26. Of the total population of Diego Garcia, perhaps 42 men and 36 women, with 154 children, might be accepted as Illeis. According to the manager 32 men and 29 women made relatively frequent visits to relatives in Mauritius and perhaps no more than 3 men and 17 women, including a woman of 62 who had never left Diego Garcia, could really be regarded as having their permanent homes on the island. The problem of the Illeis and the extent to which they form a distinct community is one of some subtlety and is not within the grasp of the present manager of Diego Garcia. But it may be accepted as a basis for further planning that if it becomes necessary to transfer the whole population there will be no problem resembling, for instance, the Hebridean evictions. Alternative employment on a new domicile under suitable conditions elsewhere should be acceptable.

27. Wages for the ordinary labourer on Diego Garcia amounted to Rs.18 per month and women received Rs.10.50. Bonuses amount to Rs.6.0 per month and Rs.2 per month in addition are paid to newly engaged Mauritians in lieu of the customary issue of bouillon. A day's work is based on an allotted task which can be completed between 10.0 a.m. - 11.0 a.m.

28. The costs of acquisition

It has not been possible to produce informed estimates because the basis of estimates has been either the conditions of bankruptcy revealed by Mr. Lucie-Smith or Mr. Moulinie's plans. In the Seychelles the acquisition of a coconut estate is based on the 10 years purchase of the net profit plus the purchase on valuation of installations and building and compensation for young trees not in bearing. Compulsory acquisition also involves compensation for loss of development potential. Diego Garcia was bought as a speculation from a bankrupt company that had lost interest in the oil islands. It was acquired by Chagos Agalega Ltd. very cheaply. The islands' recent financial history has been a story of losses and its development potential has still to be proved. Mr. Moulinie repeatedly emphasized in conversation that in his view Diego Garcia was the key to the economic development of Chagos. The other islands, especially Agalega, which lies in the cyclone zone, are said to be regarded by new company as marginal. Plans for the development of the Oil Islands by Chagos Agalega Ltd. depend primarily on Diego Garcia which, according to Mr. Lucie-Smith, could achieve an annual production of some 3,400 tons of copra and according to Mr. Moulinie might provide a livelihood for a population of 4,000.

29. To attempt to frame a rough estimate of the cost of the acquisition of Diego Garcia in the present circumstances therefore involves a valuation of what was recently a bankrupt concern with a potential value depending almost wholly on still hypothetical circumstances and on relatively large capital expenditure. Two years after the Chagos Agalega Co. acquired the island there are few signs of improvement as compared with the conditions described by Mr. Lucie-Smith, though there are some. Moreover in Mr. Moulinie's mind the full exploitation of the island is part of a comprehensive plan for the economic development of the Oil Islands and other islands in the Indian Ocean, this development envisages the construction of an air strip and a hotel on Farguhar Island. Some form of union between Mauritius and the Seychelles, and the enlistment of interest on the part of Mauritian Ministers, are also contemplated by Mr. Moulinie.

30. Mr. Moulinie himself gave no indication of any willingness to suggest a possible basis for negotiation. He will undoubtedly consult Mr. Maingard as soon as possible and he will certainly attempt to derive full advantage from H.M.G.'s interest in the island. The company's accounts are not available. In these circumstances it seems that an offer from a potential purchaser must be forthcoming before any progress is made. The price of coconut land in the Seychelles varies /between

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between Rs.1,000 and Rs.500 an acre according to its situation and accessibility. Accepting 6,000 acres as the area under coconuts in Diego Garcia an offer of Rs.500 an acre would amount to Rs.3,000,000 or \$225,000.

31. Any such offer would be generous. If Diego Garcia were to export 800 tons of copra annually at an average price of £65 a ton and allowing 70% as representing fair costs of production, ten years purchase of the profit would be of the order of £156,000. Mr. Moulinie has estimated that the number of coconut palms on Diego Garcia might amount to 250,000 trees of which 2% might be young trees or 6,250. Many of these trees may never be productive on account of bad planting, disease and pests. A purchase price of Rs.3,000,000 would in practice represent a very adequate offer to include young trees, buildings and loss of development potential, in so far as it is most unlikely that any development will be undertaken in the next few months. It would be optimistic to assume that Diego Garcia is likely to produce 1,000 tons of copra a year in the near future despite Mr. Moulinie's estimate that "Diego could easily bounce to the 1,500 tons per year within the next ten years." A purchase price on the basis of Rs.500 per acre should be regarded as in fact covering the full value of the island including compensation for young trees, buildings and development potential.

32. Mr. Moulinie and his associates, however, are in the position of owning property which, in the eyes of the purchaser, might be regarded as having unique advantages. To acquire the property under the Land Acquisition Ordinance of Mauritius would involve the consent of Mauritian Ministers which would not necessarily be forthcoming, especially if it were represented to them that Mauritius was being deprived of opportunities for improved trade and employment. It is very possible that Mr. Moulinie has over-emphasized the interests of Mauritius in his plans, perhaps to assist him to drive a bargain; but the correspondence he has conducted during the past few months strongly suggests that it would be prudent to foresee the possibility of opposition organised specifically in order to extract better terms or subsidiary advantages. The Governor of Mauritius will be in a position to advise on this point.

33. Re-employment and resettlement of the Labour Force

Acquisition of Diego Garcia for defence purposes will imply the displacement of the whole of the existing population of the island. If the administrative and meteorological staff are disregarded the numbers involved will be approximately

	Men	Women	Children	Total
Mauritius	49	39	74	172
Seychellois	156	64	73	293

All the Seychellois males and 7 Mauritians are under contract.

34. It is assumed that neither the Government of Mauritius nor the Government of the Seychelles should be put to additional expenditure by reason of defence plans in the Indian Ocean which might result in loss of revenue, unemployment or relatively expensive resettlement. Employment for the existing population of Diego Garcia in other islands is a practical possibility, especially if there is more intensive and more diversified development. Further employment, though not necessarily for the existing population, will also be provided if labour from Mauritius and the Seychelles is employed on constructional work. Suggestions were made by members of the survey team that it might

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be necessary to employ Pakistanis, as on Gan. This recourse should be a last resort if the employment of Mauritians and Seychellois proves impracticable, and then only after adequate explanations. There is, however, no reason in principle why the bulk of the labour force from Diego Garcia should not be employed on other islands.

35. H.M.G. should therefore accept in principle responsibility for facilitating re-employment of the Mauritians and Seychellois on other islands and for the re-settlement in Mauritius and the Seychelles of those unwilling or unable to accept re-employment. Settlement schemes would have the additional advantage of retaining the Diego Garcia labourers as a community subject to supervision and guidance. Very few are wholly ignorant of life in the main islands and the conditions of the Black River area of Mauritius might well be suitable for dispossessed Ileois. Even so, some guidance will be required. The cost will be relatively heavy. In the Seychelles, where it is considered that land settlement should be based on 5-acre plots, the capital cost of the acquisition of land the provision of access and services might amount to Rs.2,000 an acre. The resettlement of the adult Seychellois from Diego Garcia might therefore cost something of the order of Rs.1,500,000 for land to settle about 150 households and perhaps Rs.300,000 for housing at Rs.2,000 per house, some £135,000 in all. The resettlement of Mauritians would involve much smaller numbers, say 50 families; but costs per head would be higher. It would be wise for planning purposes, and subject to the provision of detailed estimates, to envisage a total of £200,000 for resettlement in both islands. This sum would of course be substantially reduced if alternative employment on the other islands can be provided.

36. Resettlement on other islands in the Chagos Archipelago and on Agalega will require further detailed investigation on the spot before the problem can be usefully discussed. Mr. Moulinie has plans for increasing his labour force, especially on Agalega. All labourers are under contract. As far as the Seychellois are concerned there is no reason why they should not accept work either in the islands owned by the Chagos Agalega Ltd. or elsewhere on islands controlled by Mr. Moulinie. A handful of Ileois might be reluctant to move - this will have to be determined by a detailed survey - but might well accept transport to, and houses on, other islands if they do not wish to return to Mauritius. Mr. Moulinie's plans for the other islands could provide work for all.

37. Those of the dispossessed labourers who are beyond working age should be paid a pension. The present rate in Mauritius is Rs.22 a month. There is no old age pension in the Seychelles.

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PART II

Coetivy

38. An island about 6 miles long and $1\frac{1}{2}$ miles wide under the administration of the Seychelles. It is owned by Mr. Andre Delhomme, of Mahe. The island is almost entirely planted with coconuts. Coetivy has been surveyed by the R.A.F. The island comprises some 2,000 acres of coconut plantations. Its yield over the past ten years is as follows:-

Year	Average price f.o.b.	Tons
1954	£74	319.136
1955	£50	325.416
1956	£52	312.515
1957	£51	295.886
1958	£58	300.657
1959	£38	304.265
1960	£71	328.388
1961	£60	295.216
1962	£59	268.749
1963	£67	277.564

Costs of acquisition

39. Mr. Andre Delhomme has had in mind for some time the possibility of selling the island, particularly after the R.A.F. survey. Mr. Delhomme, like others in the Seychelles, is worried by the recent developments in Zanzibar. He fears that H.M.G. has no serious interest in the future of the Seychelles and he would welcome the assurance to be derived from the British or allied activity in this part of the Indian Ocean. In April 1964, Mr. Delhomme suggested negotiations on the lines that:-

- (1) If Coetivy were to become an R.A.F. Base he would not seek compensation for the necessary felling of coconut palms;
- (2) He himself should remain the owner of the island which should be leased to the government, either to the Government of the Seychelles or to H.M.G. in London for 30-50 years at a rent based on the local value of 150 tons of copra, after deduction of export duty, and providing that the rent is also free of income tax.

Mr. Delhomme suggested that the exemption from Income Tax would represent the equivalent compensation for compensation normally paid for the felling of coconut palms. He pointed out that such compensation is exempt from Income Tax.

40. Exemption from Income Tax in the manner proposed is clearly undesirable in principle and would be unsatisfactory in practice. This was indicated to Mr. Delhomme at a discussion in Mahe on the 18th August. At this discussion, however, Mr. Delhomme expressed his willingness to sell the island. It also emerged in due course, that he would accept a price of Rs.2,500,000 or £187,500.

41. The average net profit of Coetivy during the past five years amounts to Rs.145,000 per annum, an income representing a return of 6% on a capital of Rs.2,500,000. These figures are supported by the balance sheets for the past five years which have been checked by the Income Tax authorities in the Seychelles for the purpose of this report and which may be summarised as follows:-

Financial position of Coetivy 1959-64.

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	Expenditure Rs.	Income Rs.	Net Rs.
1959	135,123	354,406	218,983
1960	160,866	811,242	150,376
1961	114,784	221,136	106,352
1962	107,814	199,315	91,501
1963	117,751	259,856	142,105
	1,345,955	636,638	709,317
Average	269,191	127,328	141,863

Good coconut land such as exists at Coetivy would fetch Rs.2,000 an acre in Mahe. But Coetivy is 160 miles from Mahe. The price proposed amounts to Rs.1,250 an acre for 2,000 acres comprising coconut plantation in excellent condition. It appears reasonable in all the circumstances. It is therefore recommended that if it is decided to proceed with defence plans on the island negotiations should begin with an offer of Rs.2,500,000. The Seychelles Government at present derives Rs.11,138 a year from Coetivy in the form of 5% export duty.

4.2. Labour on Coetivy

Apart from the administrative staff the population of Coetivy consists of a labour force made up as follows:-

married men	25
single men	36
married women	25
boys	13
	91

There are also 47 children.

4.3. Conditions of employment

Married men are under contract for two years; single men for eighteen months. Labourers' wages are:-

Men	Rs.15	and Rs.1.50 bonus per month
Boys	Rs.7.50 and	and 75 cts. bonus
Women	Rs.7	and Rs.1.50 bonus

Women are employed in cleaning duties, which are not particularly arduous. Carpenters are paid Rs.45 a month and Rs.1.50 a day for overtime after 4 o'clock. The head carpenter is paid Rs.60 per day. Masons are paid Rs.45 a month and Rs.1.75 a day after 4.0 p.m. Foremen are paid Rs.38-Rs.50 a month according to their length of service. Some have worked on the island for 40 years. Rations and rent free houses are provided. As in the other islands under the Government of Seychelles, and in marked contrast to the Mauritian Oil Islands, there were no complaints about the difficulty of obtaining labour.

4.4. Re-employment and re-settlement

Men such as these are more likely to be readily employed elsewhere than are the labourers on Diego Garcia. Mr. Duhomme himself owns the neighbouring island of Des Roches, with a population of 91, as well as property elsewhere in the Seychelles islands. If, however, there is any difficulty in obtaining alternative employment the provision of a resettlement scheme is essential. The British Government should not be exposed to charges of adding to local economic difficulties by the removal of some 90 men and women from useful employment without assisting them to find a niche in the main islands. It is, however,

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quite impracticable at this stage to guess at the financial implications. In principle there should be no obstacle to providing alternative employment on other islands for labourers no longer required on Coetivy especially if they are given priority over other Seychellois seeking employment on the islands.

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PART IIIAldabraFinancial

45. Aldabra does not present any serious financial problems in so far as this inquiry is concerned. The island was not visited by H.M.S. Dampier during the Anglo-American survey. Aldabra is leased by the Government of the Seychelles for a term of thirty years renewable at the option of the lessee at a rent of Rs.6,666.67 p.a. The agreement requires South Island to be retained as a nature reserve. According to Clause 21 of the agreement the lessor has a right to secure possession if the islands are required for a public purpose. Public purpose includes Admiralty and W.D. requirements.

Nature conservancy

46. It is unfortunate that Aldabra, as Darwin once pointed out, is the last refuge of the giant-turtles of the Indian Ocean which elsewhere have been exterminated in accordance with man's customary methods of exploitation. In this respect the island is unique. The ornithology of the island is also of considerable interest, particularly in view of the abundance of the Sacred Ibis (*Threskiornis aethiopicus*) and the presence of the Flamingo (*Phoenicopterus ruber*). According to the Smithsonian Institute's "Preliminary Field Guide to the Birds of the Indian Ocean (Washington, 1963)" some species of birds on the islands still retain a primitive tameness which would handicap their survival if the islands were developed on modern lines. It is not intended to imply that the conservation of unique fauna should outweigh essential strategic requirements, still less that the R.I.A.F. would not take an enlightened view of its responsibilities for the protection of local fauna. If adequate precautions are taken, the use of the atoll for military purposes would facilitate the enforcement of preservation measures attempted or contemplated by the Seychelles Government, including the effective preservation of the green turtle.

47. Adequate nature conservancy on Aldabra requires a detailed study of fauna and avifauna, especially the ecology of the tortoises. It will also require rigid measures against the introduction of dogs, cats and rats on the lines adopted recently for St. Kilda. It is imperative that these measures are taken before large-scale constructional works are begun and that they should be based on a detailed ecological study. The Director General of the Nature Conservancy Trust might be consulted.

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PART IV

AdministrativeThe administrative future of the Islands

48. The following proposals for the administrative future of the islands are based on the assumption that it is essential to remove them from the unpredictable course of politics that tends to follow independence. The islands should therefore become direct dependencies of the British Crown. Similar action has been taken by the French in the off shore islands of Madagascar, Glorieuse, Tromelin and Juan de Nova which, it appears, are now the property of Metropolitan France.

49. Until recently the Oil Islands of Mauritius have been of little interest to Mauritians except to the commercial companies who were so unsuccessfully exploiting them. This lack of interest was apparent at the time of the examination of the problem undertaken in Mauritius some five years ago. Conditions in Mauritius have obviously changed a great deal in recent years. It appears, as explained in paragraphs 14-15 of this report, that some Ministers and business men in Mauritius are beginning to regard the Oil Islands as potentially valuable assets. Hence there is a risk that to remove the islands from the jurisdiction of Mauritius would give rise to considerable political difficulties. The issue is primarily one of relative advantages and disadvantages in regard to long-term strategy and is not a matter that can be examined in this report. It can be summarised in the question, how far adverse, but doubtless temporary, reactions in Mauritius should outweigh the need for security of tenure in certain of the islands, or at least in Diego Garcia. A further issue is the assessment of the extent to which Mauritius might embrace H.M.G.'s existing interests in the island before they can be replaced. Stated thus, the problem may appear over-simplified. The final decision cannot be independent of any obligations or commitments that H.M.G. might have towards Mauritius arising out of past history or any beneficial interest of Mauritius in the Oil Islands.

50. The islands under discussion and their population are:-

	<u>Mauritians</u>	<u>Seychellois</u>	<u>Total</u>
Diego Garcia	172	211	483
Peros Banhos	269	14	283
Salomon	205	14	219
Agalega	37	301	371
Egmont	-	-	-
	<u>683</u>	<u>640</u>	<u>1,356</u>

The Egmont atoll is uninhabited. It is capable of rehabilitation and resettlement.

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51. These islands came under the British Crown in 1810 after the conquest of Mauritius. As Sir Robert Scott has pointed out, "it is doubtful whether the French governors had a very clear notion of the number and situations of the islands for which they were assumed to be responsible". Since 1810 the Oil Islands have been administered, more or less, by Mauritius. The Seychelles and the Amirantes group became a separate colony by Letters Patent in 1903. Coetivy and the Farquhar islands were added to the Seychelles by Letters Patent in 1908 and 1921 respectively.
52. The administrative connection of the islands with Mauritius is tenuous. The replies to questions in the Mauritius legislature on the 19th May and 2nd June, 1964, indicate that knowledge of the islands is fragmentary and that effective governmental contact does not exist. Governors visit them from time to time whenever a frigate has been available. Magistrates from Mauritius make visits of inspection about once a year in accordance with the Courts Ordinance of 1945. It is their duty to ensure that the prescribed conditions of employment are observed, to enquire into grievances and generally to ensure that the islands are properly administered. Technical officers pay infrequent visits. The Government of Mauritius maintains meteorological stations in Diego Garcia and Agelege, both of which are in the cyclone zone, and also provides school-teachers, midwives and dispensers on the main islands of each group. Administration in any practical sense is confined to the paternal responsibility of the manager of each island. In general it is adequate for the needs of the islands though too much depends on the personality of each manager. Sir Robert Scott comments that "the general well-being of the communities derives from their own sense of order and capacity to produce and from the ability of their managements to keep them welded together". This comment suggests that the island communities have not yet successfully evolved their own way of life and self-discipline. It is indeed the ability of the management that is the predominant factor in establishing an ordered life and it is probably some lack of managerial ability that is the cause of much of the palpable malaise in Diego Garcia today.
53. The islands are in fact estates organised and administered on much the same principles as were, for example, the German plantations in the Cameroons some thirty years ago. The essential difference between the Oil Islands and the German plantations of thirty years ago is that the former are so inaccessible to the supervisory administration. Apart from the occasional visit of a warship their contacts with Mauritius are confined to the visits of the M.V. "Mauritius" about twice a year. The schooner "Le Perle", which used to form another link between Mauritius and its dependencies, is now Seychelles owned and calls, under the name of "Isle of Farquhar", perhaps once every two and a half months. The only regular link between the islands was the motor vessel "Sir Jules" which was sold because it was too expensive to maintain, an indication that effective control on the islands by means of regular visits is not yet a commercial proposition.
54. The direct interests of Mauritius in the Oil Islands are confined to the livelihood they provide for some 683 Mauritians, men and women and children. They are a source of business and profit to a Mauritian company - the Colonial Steamship Co. They provide some coconut palm

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products for the Mauritian consumers. They are also essential points in the weather reporting system in the Indian Ocean. Their reports are of crucial value in warning Mauritius of the formation and course of cyclones. The islands have not hitherto been a factor in Mauritian politics and until recently no Mauritian has expressed any interest in them. Few Mauritians welcome posting to the islands and there is only one Indian among the Mauritian population, the respected and devoted Mr. Salsiman, dispenser on Diego Garcia.

55. Such Mauritian interests in, and connections with, the Oil Islands as exist are no conclusive reason for the retention of Mauritian administration, especially if it could be guaranteed that the islands would provide a source of employment and supply for Mauritians to the same extent as obtains to-day; and provided that the maintenance of the meteorological stations are ensured.

56. The islands are at present being drawn more closely into the the Seychelles sphere of influence. Only one of the Managers is not a Seychellois. Labour is being brought increasingly from the Seychelles, partly because it is said that Mauritians do not now wish to work on the islands. If this objection exists it is perhaps due in part to dislike of the new company. It is also probable that the amenities of life in Mauritius, with its cinemas and shops, exercise a powerful attractive force. Out of about 505 male labourers in the Oil Islands some 325 are Seychellois and 180 are Mauritians.

57. The pull of the Seychelles is likely to continue with the advent of Chagos-Agalega Ltd. Mr. Moulins has stated his intention of recruiting 800 additional Seychellois, partly for new development work and partly to replace Mauritian labour. Mr. Moulins himself has pointed out that at least 50% of the Oil Islands copra is not up to the Seychelles quality. He took the initiative in recommending that to encourage improvement and development, the export duty on copra sent through Mahé should be waived for five years and then should be subject to a maximum of 5% instead of 9%. Recently the duty has been reduced to 5% for the outer islands, including Coetivy. For these reasons, and until recently, Mr. Moulins has urged that the Seychelles should administer the Oil Islands of Mauritius.

58. The way of life on the Oil Islands and the economy on which that way of life is based are certainly Seychellois rather than Mauritian. For this reason, and because the Seychelles understand coconuts as Mauritius understands sugar, though perhaps not to the same degree of technical excellence, there are good grounds for recommending the transfer of the islands to the Seychelles. The features of island life emphasised by Sir Robert Scott are primarily Seychellois, judging by conditions on the other islands for which the Seychelles Government is responsible. Sir Robert Scott's comment, "the existence of small communities in which a rhythm of life proper to a past age has persisted, by reason of their remoteness and lack of incentive to change" is as applicable to the Seychelles as to Diego Garcia or Agalega. There is nothing in the Oil Islands remotely resembling life in modern Mauritius. Diego Garcia and Farquhar Island, Des Roches and Agalega, are one world with the Seychelles.

59. If the Oil Islands were transferred to the Seychelles the transfer could be justified by the greater security given to any defence interests

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established there and because it would be a transfer of like to like. Personalities and politics in Mauritius do not offer a firm basis for strategic planning. It does not now appear that the Seychelles are likely to be as immune to change and to unpredictable policies as has hitherto been assumed. This comment is not intended to attach undue weight to the views and fears of property owners upset by the fate of Zanzibar. But if there is constitutional advance in the Seychelles, and if direct British control is relaxed, it would be idle to pretend that stability in the islands can be assumed.

Administrative Recommendations

60. It is therefore recommended that the Oil Islands should become direct dependencies of the British Crown and administered under the authority of the Governor of the Seychelles as High Commissioner. The opportunity should be taken to arrange for the closer administration of the smaller island dependencies of the Seychelles in the Amirantes and elsewhere.

61. If Diego Garcia, Coetivy and Aldabra are required for military purposes the two former will have no problems of civilian administration other than the recruitment and employment of labour as at Gan. Aldabra is a large atoll where only one island would be required by the R.A.F. and there would be much advantage of an opportunity to make effective the attempts of the Seychelles Government to preserve wild life, including the Green turtles as well as the tortoises. Both the Governments of Mauritius and the Seychelles will in any case retain an interest in labour recruited from the islands and must be satisfied that the terms of employment are properly observed. This should be one of the duties of the future administration of the islands.

62. The administration of the Oil Islands of Mauritius that is the Chagos Archipelago and Agalega, should be combined with that of the outlying islands of the Seychelles. It also appears that Praslin and La Digue in the main Seychelles Group require closer supervision. If an officer were appointed as Commissioner for the Crown's possessions in the Indian Ocean, Chagos, Aldabra, and Coetivy, he should be stationed at Mahé and in return for suitable information from the Seychelles he should also hold the post of Civil Commissioner for the outlying islands in addition to being Commissioner of the Crown Islands. Transport could be based on existing means, by schooner and the M.V. Mauritius, and on R.A.F. aircraft. Commercial / schooner communications are highly uncertain and slow. There is abundant need in this part of the Indian Ocean for a modern schooner-type vessel to be used for transport of a High Commissioner based on Mahé, as well as for the various technical experts required by the islands. Such a vessel could be used for fisheries control and research and might also be chartered from time to time by private individuals or firms.

63. If administrative proposals on these lines are not adopted Aldabra, Diego Garcia and Coetivy would have to be administered by a Service Officer in much the same manner as is Gan. The remaining islands would have to be placed directly under the Governor of the Seychelles, as Governor, to be administered or left alone in much the same manner as the Amirantes and Farquhar islands are treated to-day.

64. The Seychelles will in any case require relatively substantial assistance from H.M.G. before they can be regarded as having an economic base, however, insubstantial, for further economic advance and some degree

/of autonomy.

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of autonomy. Their isolation and the uncertainty of air communications are not only seriously limiting factors but are a reproach in an age when air transport has become the normal means of transport in the interior of Australia or the Far North of Canada. As a subsidiary issue further consideration should be given to the possibility of an air link between Mahé and Coetivy by commercial air lines to enable tourists to reach the Seychelles.

65. The foregoing paragraphs are primarily concerned with the Seychelles connection and are perhaps liable to the criticism that insufficient attention has been paid to the position of Mauritius. Judging by the history of the Mauritian companies in recent years the islands have not been a source of profit to Mauritius. They have also provided more or less unwilling exile for a few Mauritian officers. They have offered livelihood to some Mauritians who might otherwise have been unemployed or under-employed in Mauritius.

Constitutional issues

66. According to precedents, if these are still valid, the transfer of the islands from Mauritius to the Seychelles will require the assent of Mauritian Ministers. In 1906, after some three years of correspondence between Mr. Joseph Chamberlain and the Governor of Mauritius, Lord Elgin enquired whether any serious opposition was to be anticipated if the proposal for the transfer of Coetivy were placed before the Council of Government. Only if Sir Charles Boyle was of the opinion that the Council would receive the suggestion of transfer favourably, or at least without any strong opposition, would the Secretary of State give further consideration to the matter. In 1921 Sir Hesketh Bell reported that the Council of Government had recommended that "the Farquhar Islands should cease to be a dependency of the colony of Mauritius and should be transferred to, and form part of the Seychelles." The Letters Patent of 13th January 1908 expressly cited the fact that the Council of Government of Mauritius had by resolution recommended the transfer of the island of Coetivy. The Letters Patent of the 2nd December 1921 made a similar reference when the Farquhar Atoll was transferred to the Seychelles. Unless the constitutional position has been changed in recent years it appears that the Mauritian Ministers should be formally consulted. These, of course, are problems requiring legal advice and the views of the Governor of Mauritius. They are mentioned merely as an indication of some of the subsidiary problems which the proposal to transfer the islands will inevitably entail.

Compensation for Mauritius

67. In any event it would scarcely be politic to deprive Mauritius of its dependencies without some *quid pro quo*. In strict terms of compensation it is doubtful whether it would be possible to base any case for Mauritius on the grounds of loss. H.M.G. should assume responsibility for Mauritians evicted from the islands and likely to lose their traditional livelihood. The cost of transfer to other islands and of the construction of houses should be borne by H.M.G. as part of the disturbance element in compensation due to the Company. Otherwise the cost of resettlement in Mauritius should be met. Payments, of this nature however, are obligations towards private persons rather than to the Government of Mauritius.

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Since the Mauritian objections to the transfer may be based on the loss of some economic potential, H.M.G. might well offer a contribution towards capital works likely to be of commercial value to Mauritius; for example, the payment of a capital sum towards the improvement of labour facilities at Port Louis on the improvement of Plaisance Airport. Any such payment should be entirely *ex gratia*.

Meteorological Services

68. The continued existence of meteorological services on Diego Garcia and Agalega will be essential for Mauritius and for the Mascarene islands generally. It is to be assumed that such services will be retained on Diego Garcia by the British or U.S. authorities. If so there must be a firm undertaking to continue weather reports to Mauritius on at least the present basis. The Government of Mauritius should also be reimbursed the full capital cost of its station on Diego Garcia if this is replaced by British or U.S. government installations.

69. There would appear to be no reason why the Mauritius Government should not retain staff and equipment on Agalega even if that island were transferred to the Seychelles. It is possible that it may be necessary for H.M.G. or the Government of the Seychelles to provide transport for staff in the event of sea communications between Agalega and Port Louis becoming even more tenuous than is the case at present.

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PART VProcedural

70. As soon as the final decisions have been taken it is essential that negotiations should be opened with Mr. André Delhomme and the Chagos Agalega Company as soon as possible. The management of both groups of islands will require time to reduce and eventually to terminate their operations. Chagos Agalega Ltd., should not be provided with an opportunity to increase their capital commitments as a bargaining factor.

71. Defence plans on Diego Garcia will probably require a year of preliminary works, such as detailed surveys, before constructional work can begin. This should give time for the evacuation of the island and the gradual cessation of the existing labour contracts. It is probable that the full period of evacuation can be extended over two years.

72. It would be advisable to appoint a Commissioner for the islands at the outset in order to supervise the arrangements for evacuation, to act as a liaison officer between the constructional organisations and the governments of the Mauritius and the Seychelles, especially in regard to the employment of labour, and to prepare the figures on which the final costs of resettlement and other forms of compensation should be based. This officer should be based on Mahé and it would be convenient if he were to be the future Commissioner for the Crown Islands and the outlying islands of the Seychelles. The whole project will inevitably give rise to innumerable minor problems and difficulties as well as detailed enquiry on the spot. It is essential that these matters should be handled by a suitable administrative officer with direct contact with the governments of the Seychelles and Mauritius.

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PART VISummary

73. This report, while attempting to set out the various problems which the execution of the schemes now under consideration will involve, cannot pretend to attempt any detailed estimate of the costs. The cost of acquiring Diego Garcia certainly cannot be estimated since it depends on the extent to which the owners of the island can use the bargaining strength of their position. Further, the indirect costs, in the form of resettlement and pensions, the costs of future administration and of direct or indirect compensation to Mauritius and the Seychelles can be accurately assessed only after negotiations and discussions with the governments and individuals concerned have been directed specifically to these objectives.

It is clear that expenditure must envisage for planning purposes:

- (1) the direct cost of acquisition;
- (2) resettlement of dispossessed labour unable or unwilling to find work in other islands;
- (3) pensions for islanders beyond active work;
- (4) reimbursement to the Seychelles of revenue lost in copra export duty;
- (5) the cost of an *ex gratia* grant to Mauritius in the form of a development grant in return for the transfer of the Oil Islands;
- (6) the salary and allowances of a Commissioner of the Islands and the provision of the necessary transport;
- (7) the reimbursement to the Government of Mauritius of capital expenditure in installing a meteorological station on Diego Garcia and perhaps on Agalega.

If offers of Rs.2,500,000 for Coetivy and Rs.3,000,000 for Diego Garcia were accepted the cost of the acquisition of the two islands would amount to £412,500. Resettlement costs, subject to detailed estimates, should not cost more than £200,000. Pensions should not exceed £1,000 a year initially. The figures suggested for resettlement and pensions are generous.

74. Resettlement schemes on the scale indicated may not be necessary since there should be no obstacle in principle to the transfer of labour from Diego Garcia and Coetivy to other islands. Chagos Agalega Ltd. have under consideration plans for the development of Agmont, Three Brothers and Eagle Island. According to the manager of Agalega it is at present planned to increase the labour force on Agalega to over 500. Resettlement on Mauritius or Mahé need not therefore involve more than a small residue of the existing population of the islands acquired for defence purposes. It is essentially a question of negotiation and enquiry which should be begun as soon as practicable.

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75. It has not been attempted to do more than set out in general terms the problems involved and to suggest the lines on which further action might be taken. The cost will depend on direct negotiations with the owners of the islands and with the governments of Mauritius and the Seychelles and on further investigations by the appropriate officers of the two governments.

76. It has been possible to suggest the basis of a firm offer for the acquisition of Coetivy. The basis of an offer for Diego Garcia has also been proposed in the absence of any suggestions, however tentative, from the Company and without the benefit of balance sheets. The financial basis for the purchase of Diego Garcia is indeed peculiarly difficult because the island was acquired as a speculative take-over of a bankrupt concern and its economic value is still largely potential.

77. The acquisition of Diego Garcia and Coetivy cannot be regarded as a matter affecting only the present owners of those islands and their employees. Some *quid pro quo* on the lines suggested in this report, and subject to the views of the Governor, may be required to make the transfer of the Oil Islands acceptable to Mauritius. As regards the Seychelles, this government cannot be expected to absorb any adverse economic and administrative consequences without assistance. Any cessation of recruitment for work on the islands caused by the redistribution of Seychelles now under contract on Diego Garcia and Coetivy must affect the Seychelles. Defence plans for the outlying islands could also be more easily defended and made acceptable if they were to be accompanied by measures for the economic and social advancement of the Seychelles; but any such measures should be regarded as a separate issue.

Robert Newton,
23rd September, 1964.

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Annex 23

United Kingdom, *“British Indian Ocean Territory 1964-1968: Chronological Summary of Events relating to the Establishment of the B.I.O.T. in November 1965 and subsequent agreement with the United States concerning the Availability of the Islands for Defence Purposes”*, FCO 32/484 (1964-1968)

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Reference.....

FC031484

British Indian Ocean Territory 1964-1968

Chronological Summary of Events relating to the Establishment of the B.I.O.T. in November, 1965 and subsequent agreement with the United States concerning the Availability of the Islands for Defence Purposes.

Purpose of the Paper

This paper gives a chronological summary of the history of the B.I.O.T. from the time when it first began to take shape as an idea, up to the end of 1968 approximately. The aim is to provide a convenient reference paper on questions relating to the B.I.O.T. and on the arrangements for joint defence facilities made with the United States. Throughout the paper references are given, where necessary, to the relevant F.O., C.O., and other sources. Annexed is a list of basic documents and reference papers under various headings.

Introductory Historical Note.

The British Indian Ocean Territory was established by Order in Council on 8 November, 1965. It comprises the Chagos Archipelago (the principal island of which is Diego Garcia), formerly administered by the Government of Mauritius; and the Farquhar Islands, Aldabra Group and the Island of Desroches, all formerly administered by the Government of Seychelles.

The B.I.O.T. was established primarily on the prompting of the United States because of its lack of bases or support points between the Mediterranean and the Pacific. The American idea of using British islands in the Indian Ocean for defence purposes goes back at least to 1962. The Chinese attack on India in 1962 had shown a need for facilities in the Indian Ocean area, and the impending British departure from Aden and elsewhere reinforced this need. In 1963 American proposals began to take definite shape.

In creating this new territory the intention was to make available for joint British and U.S. defence purposes islands with few or no permanent inhabitants, under direct British administration. In this way maximum security of tenure and freedom from political pressures could be expected. The U.K./U.S. Exchange of Notes, constituting an Agreement for the availability of the islands for defence purposes by both Governments, was made on 30 December, 1966.

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BRITISH INDIAN OCEAN TERRITORY.Chronological Summary of Events leading to its
creation in November 1965; and subsequent
Events relating to the establishment of U.K./U.S.
Defence Facilities

1. 1962-63
In October, 1962, the Minister of Defence (Mr. Thorneycroft) in conversation with the U.S. Defence Secretary, Mr. Robert S. McNamara, agreed to study use of British bases in time of war by U.S. forces. In April, 1963, the State Department proposed that the possible strategic use of certain small British-owned islands in the Indian Ocean should be discussed. The F.O. replied in July that they would welcome such talks and proposed that they be held in London. In August the State Department expressed interest in establishing a military communications station on Diego Garcia and asked to be allowed to make a survey. They were put off, since at the time elections were impending in Mauritius, and the time was therefore not suitable.
References to these exchanges is to be found in the brief dated 11 December 1963 prepared by the PUSD for the Foreign Secretary's use with the U.S. Secretary of State, Mr. Dean Rusk at a NATO meeting.
2. 11 December 1963
U.S. Ambassador leaves memorandum with Foreign Office stating that U.S. would like to have further discussions on all "Indian Ocean problems including the Island Base question and communications facilities on Diego Garcia". Memorandum also referred to U.S. intention that a small Naval Carrier Force should pay periodic visits to the Indian Ocean area, beginning early in 1964 (the first visit took place in April 1965).
DEF 355/235/02
3. 19 December 1963
Mr. Rusk, U.S. Secretary of State on visit to London discusses facilities in Indian Ocean with Foreign Secretary. Foreign Secretary again suggests early discussions in London.
DEF 127/123/03 No. 15.
FOP. WP2/83 G. Item 3.
4. 30 January 1964
Memorandum received by Foreign Office from U.S. Embassy setting out proposals. These recommend that HMG should acquire certain islands, compensating and resettling the inhabitants as necessary; U.S. first requirement would be "austere" support facilities on Diego Garcia with Aldabra next as a possible staging post.
DEF 127/123/03 No. 15.
DPW 121/12 encl.

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5.	25/27 February 1964.	<p>Official talks in London. U.S. team led by Mr. J. Kitchen, Deputy Assistant Secretary for Politico-Military Affairs, State Department. Agreement reached on:-</p> <ul style="list-style-type: none"> (i) an early joint survey of certain islands, to consider their suitability from defence angle and necessary resettlement and administrative arrangements; (ii) U.S. to pay for construction and maintenance of facilities, allowing the U.K. joint use. First requirement was for Diego Garcia. (iii) U.K. to provide the land, and security of tenure, by detaching islands and placing them under direct U.K. administration. Also to be responsible for payment of compensation to Mauritius and Seychelles Governments and to land-owners and displaced inhabitants. (iv) Should the U.K. wish to construct facilities the two Governments would consult each other. 	<p>DEF 127/123/03 No. 38 (Agreed U.K.-U.S. memorandum)</p> <p>DPa 121/35 Annex.</p>
6.	26 March 1964	<p>B.B.C. express interest in Aldabra as site for a medium wave relay station broadcasting to East and Central Africa, and wish to make exploratory visit.</p> <p><i>(Note - BBC joined in Survey made in Sept 1966 - See item 61 below)</i></p>	<p>INF 108/217/01 - letter from Sir Berensford Clark, B.B.C., to R.H. Young, C.O. of 26 March, 1964.</p>
7.	April 1964	<p>Articles appear in British press on possible development of Anglo-American bases in Indian Ocean.</p>	
8.	2 April 1964	<p>Soviet representative, during discussion on Aden in U.N. Committee of 24, stated that the British were constructing a chain of strategic bases in the Indian Ocean, Gan and Aldabra being specifically mentioned.</p>	<p>U.N. document A/AC.109/PV 239 of 2.4.64.</p>
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- 23 April 1964. In recommendation to Ministers that the proposals resulting from the U.S./U.K. meetings of February 25-27 should be approved, it was emphasized that the cost of defence arrangements in the Far East were out of proportion to the British stake in investment and trade in the area. Our effort was deployed less in defence of British interests than in support of the U.S., the Commonwealth and the free world. By persuading the United States to associate themselves more with Britain by using existing strategic facilities or developing new ones in places where there was no anti-colonial bias, or better still no inhabitants, our burden might be reduced. U.S. initiative in the Indian Ocean should be welcomed.
10. 27 April 1964. Conversation at State Department between Foreign Secretary and Secretary of State. Mr. Rusk confirmed U.S. agreement to establishing defence facilities in Indian Ocean, and expressed readiness to go ahead on Diego Garcia as soon as British approval received.
11. 6 May 1964. Ministers approved in principle proposals for development of joint facilities on lines set out in memorandum agreed at U.K./U.S. talks in February (see Item 5 above). Further decisions would be taken when the results of the survey were known and an estimate of costs made. Agreed that, after consulting the U.S. Government, Mauritius Ministers and Seychelles Executive Council should at suitable time be informed in general terms about proposed detachment of islands.
12. 29 June 1964. Mauritius Governor on instructions consults Premier and finds him favourably disposed to provision of facilities but with reservations on detachment. Dr. Ramgoolam expressed preference for long-term lease, and right to benefits from any minerals which might be found. He had no objection to the survey.
13. 13 July 1964. Governor informs Mauritian Council of Ministers (Mauritius telegram No. of 15 July, 1964) of proposed survey (but does not mention detachment) following U.K./U.S. discussions about facilities in the Indian Ocean. Governments of Mauritius and Seychelles would be consulted after the survey. There was no significant reaction from the Council of Ministers.

Z 3/119 G -
D.O.(O)(64)23 of
23 April 1964,
Memo. by F.O. C.O.,
and M.O.D.

Z 3/119/G

Z 3/146/G -
D.O.P(64) 20th
Meeting.
Z 3/160/G.
(U.N.Considerations)

DEF 127/123/03 No.191 -
Mauritius telegram 83
of 1.7.64.

DEF 127/123/03
No.233

/Dr. Ramgoolam

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| 14. | 13 July 1964 | <p>Dr. Ramgoolam, in London for the Commonwealth Prime Ministers' Meeting, informed of this action on 13 July; he told fellow Mauritius Ministers who were in London with him.</p> <p>Similar action was taken in Seychelles with the Executive Council, who raised no objection to the survey.</p> | <p>DEF 127/123/03
No. 231</p> |
| 15. | Mid-July/
mid-August
1964 | <p>Survey by joint U.K./U.S. team in H.M.S. Dampier of Chagos Archipelago (includes Diego Garcia) Agalega, Coetivy, Desroches and Farquhar Islands.</p> | |
| 16. | | <p>A report (dated 7 September, 1964) on the survey was subsequently submitted by Mr. Robert Newton, a former Colonial Secretary of Mauritius, who had been appointed by the Colonial Office as member of the survey team. Mr Newton concluded, <u>inter alia</u>:-</p> <ul style="list-style-type: none"> (i) that no insurmountable obstacle existed to the removal, resettlement and re-employment of the civil population of any islands required for military purposes; (ii) that the life of the islands was more orientated socially and economically to Seychelles than to Mauritius; (iii) there was a need for closer administrative control of all the islands, administration in the past having been very tenuous. | <p>DEF 127/123/05
Z 4/134/G -
Newton Report.</p> |
| 17. | 29 August 1964 | <p>News break\$ in "Washington Post". Substantially accurate report appears, pinpointing Diego Garcia as site for base.</p> <p>Many reports elsewhere in world press commenting on proposals; some critical comment, particularly in African and Asian papers.</p> | <p>Z 4/112 - Washington
telegram 3049 of
29 August 1964.</p> <p>Z 4/116
Z 4/117</p> |
| 18. | 8 October 1964 | <p>Non-Aligned Conference in Cairo condemns Indian Ocean island bases. Hostile speech by Tanzanian and other representatives.</p> | <p>Z 4/139</p> |

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| 19. | 23 November, 1964. | In view of press reports appearing in Britain and Mauritius about defence facilities in the Indian Ocean the Officer Administering the Government in Mauritius informs Ministers on instructions that the results of the survey are still being examined, and that the Premier would be consulted before any announcement was made either in London or Washington. | DEF 127/123/03
No. 303.
Z 4/147 |
| 20. | 3 December 1964. | Mr.E.H. Peck (F.O.) visiting Washington tells State Department that it is essential to know soon exactly what are U.S.requirements, since only one bite can be taken at the problem. State Department ascribe delay to the Pentagon. | DEF 127/123/03
No. 325.
Z 4/153 -
Letter from
Mr.D.G.Forster, British
Embassy, Washington, to
Mr.C.M.Rose, F.O.
No. 11911/64 of
4 December 1964. |
| 21 | 14 January 1965 | American proposals for use of islands received by Foreign Office. These comprised:-

(i) Definite military plans for Diego Garcia; Detachment should include the entire Chagos Archipelago, primarily in the interests of security and in order to have other sites available for future contingencies.

(ii) Though nothing specific was yet planned for Aldabra, its obvious potential usefulness and the joint long-term U.S/U.K. interest recommended it for inclusion in any "detachment package".

(iii) Coetivy, Agalega, Farquhar, Desroches and Cosmoledos should be included in the order listed on a "precautionary planning" basis. | Z 4/3/G.
DEF 127/123/03
No. 328 -
Letter from Mr.George
Newman, U.S. Embassy,
to Mr.G.G.Arthur, F.O. |
| 22. | 10 February 1965. | In answer to F.O. request for clarification, U.S. proposals were elaborated. The main points now were:-

(i) Diego Garcia was a definite requirement. Detachment of the rest of the Chagos was "not regarded as essential" but considered "highly desirable".

(ii) Some potential for Aldabra (in view of previous U.K. interest) as a staging post. | Z 4/11/G
DEF 127/123/03
No. 358 E. |

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- (iii) "No reason to re-locate population prior to Island coming into use to meet a requirement. This would apply to other islands of the Chagos Archipelago so long as our activity was confined to Diego Garcia."
- 23 22 March, 1965 Foreign Secretary meeting with Mr. Rusk at State Department. Mr. Rusk said U.S. would like to go ahead, and detailed talks were needed. Z 4/22.
- 24 5 April 1965 P.Q. (Mr. James Johnson) asking what approaches regarding facilities for "Anglo-U.S. bases" have been made to the Mauritius Government. Answer given was that "the Premier of Mauritius was consulted in July last about the joint survey of possible sites for certain limited facilities that was then about to begin. In November the Council of Ministers, who had been kept informed, were told that the results of the survey were still being examined and that the Premier would be consulted again before any announcement was made in London or Washington."
- PAC 93/892/01
No. 24
- Hansard
Vol.
Cols.
- 25 12 April 1965 Ministers accept general lines of U.S. proposals, but decide to seek an American contribution to the cost of detaching the islands. Z 4/27 - American proposals set out in OPD(65)68 of 7 April 1965.
- 26 15 April 1965 Prime Minister tells Mr. Rusk in Washington that HMG wishes to press ahead, despite possible political embarrassment in U.N. and elsewhere. But heavy expenditure was involved not only in compensating local interests, but in compensating Mauritius and Seychelles Governments for detachment; HMG would wish to discuss this and other questions further with the U.S. Government. PAC 93/892/01
No. 38.
- 27 30 April 1965 Formal request to U.S. Government to help over cost of detaching the islands (memorandum delivered to State Department by British Embassy). State Department point out that this request was a departure from the understanding reached in February 1964 (see Item 5 above). Z 4/44/G - F.O. telegram 3582 to Washington and Washington telegram 1166 of 30 April to F.O.

/ 28.

SECRET

		SECRET	Reference.....
28	9 May 1965	News leak. "Washington Post" publishes rather accurate report of proposals for "bases in Indian Ocean" including names of islands, amount of compensation, etc.	
29.	14 May 1965	Official U.K./U.S. talks in London. Explanation given to Americans that because of defence review obliged to ask for contribution to cost of detachment. Americans agreed to explore possibility of contributing to this by offsets in U.S./U.K. Research and Development programmes. Great secrecy was essential since Congress would be unlikely to agree to any appropriation of funds.	Z 4/62/G PAC 93/892/01 No. 82 E - Record of conversations headed by Mr. G.H. Peck (FO) and Mr. J. Kitchen. (Spide Depr.)
30.	24 June 1965	U.S. Government agree to contribute up to half of estimated cost of £10 m. of detaching islands by offsets on R and D. programmes. <i>(See Annex for main references to Secret Financial Agreement with United States)</i>	Z 4/89/G PAC 93/892/01 No. 145 E - Memorandum delivered to F.O. by U.S. Embassy.
31.	5 July 1965	Instructions sent to H.M. Representatives in Commonwealth and certain other countries to approach Governments and inform them of detachment proposals (following securing agreement by Mauritius and Seychelles to detachment).	
32.	19 July 1965	Governors Mauritius and Seychelles instructed to communicate proposals for detachment, full details of compensation, etc., to the Council of Ministers and Executive Council respectively.	Z 4/116/G. PAC 93/892/01 No. 186 - C.O. telegram 198 to Mauritius: 219 to Seychelles.
33.	23 July 1965	Governor Mauritius (Sir J. Rennie) reports first reaction of Ministers to detachment of Chagos. Reaction guarded and time asked to consider further.	Z 4/123 PAC 93/892/01 No. 193
34.	26 July 1965	Seychelles Executive Council response to detachment lukewarm but reasonably satisfactory: would accept if generous terms offered (airfield on Mahé and adequate compensation to land-owners, inhabitants, etc.)	Z 4/12/G PAC 93/892/01 No. 202
35.	26 July 1965	New agreement signed by HMG with Maldives covering Gan.	

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Reference.....

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|-----|----------------------|--|--|
| 36 | 30 July 1965 | Governor informed that Mauritius Council of Ministers sympathetically disposed to defence facilities proposals, but object in view of likely public opinion, to detachment and prefer long-term lease of islands. Also asked for safeguards for minerals, oil and fishing rights, meteorological, air and navigational facilities and provision for a defence agreement with U.K. as well as British help in obtaining trade (sugar) and other concessions from U.S. | PAC 93/892/01
No. 205 -
Mauritius telegram
No. 175. |
| 37. | 13 August 1965 | Governor on instructions explains objections to lease to Mauritius Ministers, who say they would like to pursue discussions in London during the Constitutional Conference. | PAC 93/892/01
No. 225 -
Mauritius telegram
No. 188. |
| 38 | 14 August 1965 | Indian Government express to High Commission in New Delhi their opposition to foreign military bases in the Indian Ocean as likely to lead to international tension; they would not object to arrangements freely entered into, but object to detachment of islands unilaterally before Mauritius and Seychelles have achieved independence. | Z 4/152 |
| 39 | 7 September 1965 | Mauritius Constitutional Conference opens in London. Time-table fixed for independence; question of defence agreement and British aid in internal security problems also discussed. | |
| 40 | 13 September 1965 | Mauritian Premier in conversation with Colonial Secretary (Mr. Greenwood) again expressed preference for lease as against detachment. | PAC 93/892/01
No. 255 - Record
of meeting at
Colonial Office. |
| 41 | 16 September
1965 | Ministers, receiving report of Colonial Secretary on discussions with Mauritian Ministers, agree that provision might be made for reversion of Chagos islands to Mauritius if at some future time no longer required by the U.K. and the U.S. | Z 4/173/G
PAC 93/892/01
No. 260 -
OPD(65) 39th Meeting. |

/42

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	SECRET	Reference
42. 16 September, 1965	<p>American Embassy hand P.O. three draft texts of agreements covering:</p> <ul style="list-style-type: none"> (1) use of defence facilities in the Indian Ocean; (2) U.S. financial contribution (secret 4 — see item 20 above); (3) Seychelles Satellite Tracking Station. <p><u>NOTE:</u> The Seychelles Tracking Station began operations in 1963 under an interim working agreement. British help in obtaining Seychelles acceptance of this station was regarded by the Americans as part of a package deal for U.S. financial assistance towards cost of detaching islands.</p>	<p>PAC 93/892/01 No. 251 E.</p>
43. 23/24 September, 1965	<p>Official U.K./U.S. talks in London. Mr. J. Kitchen made it clear that Americans wanted an "Ascension-type" agreement with once-for-all compensation. Texts of three agreements were considered.</p>	<p>Z 4/190 Final amended record of meeting.</p>
44. 23 September, 1965.	<p>Meeting at Lancaster House between Mauritian Ministers and British representatives led by Colonial Secretary. (At previous meeting on 20 September Mauritians did not give way on question of detachment) Agreement reached, subject to consent of full Council of Ministers being secured on return of Premier to Mauritius, on detachment of Chagos Islands, subject to eight conditions of which the principal were:-</p> <ul style="list-style-type: none"> (a) a defence agreement with Mauritius; (b) undertaking to consult together in the event of a "difficult internal security situation" arising in Mauritius; (c) compensation up to £3 m. over and above direct compensation to land-owners and cost of re-settlement of others affected; (d) navigational, meteorological, and emergency landing facilities in Chagos Islands "to remain available as far as practicable"; (e) reversion of the islands to Mauritius if need for facilities disappear, and reversion to Mauritius Government of benefits for any minerals or oil discovered "in or near the islands"; 	<p>Z4/181/G PAC 93/892/01 No. 276 - Final version of record of meeting.</p> <p style="text-align: right;">/NOTE</p> <p style="text-align: center;">SECRET</p>

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Reference.....

NOTE: Mauritian agreement to the record of the meeting of 23 September, with its enumeration of conditions, was not secured until 4 October. Final version incorporated Mauritian amendments and additions.

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| 45 | 23 September 1965 | Ministers consider terms of the agreement with Mauritius. The Mauritians must be reminded that the decision whether or not to retain the islands (see (e) in item 44 above) was one for the U.K. and U.S. Governments, and that it was not open to Mauritius in any way to raise the matter nor press for their return. | Z 4/173/G
PAC 93/892/01 No.266 -
OPD(65) 41st Meeting. |
| 46 | 6 October 1965 | Instructions sent to the Governor, Mauritius, to secure formal agreement of the Mauritius Government that they would take the necessary legal steps to detach Chagos on the conditions agreed on 23 September. | Z 4/181/G.
PAC 93/892/01 No.278 -
C.O. Despatch No.
423 to Mauritius. |
| 47 | 20 October 1965 | Instructions to Governor, Seychelles, to confirm agreement of the Executive Council to detachment of Aldabra, Farquhar and Desroches. | Z 4/189/G.
PAC 93/892/01 No.292 -
C.O. telegram No. 338
to Seychelles. |
| 48 | 1 November 1965 | Seychelles Executive Council confirm their agreement to detachment of islands, in return for promise of an airfield on Mahe, compensation to land-owners and resettlement of inhabitants. | PAC 93/892/01 No.308 -
Seychelles telegram
No. 306. |
| 49 | 5 November 1965 | Mauritius Council of Ministers confirm agreement to detachment of Chagos islands. | PAC 93/892/01
No. 314. |
| | | <u>NOTE:</u> On 12 November three Ministers of PMSD (Franco-Mauritians <i>party</i>) resigned, not over principle of detachment, but because they considered compensation inadequate. | Z 4/228 - Mauritius
telegram No. 229 of
18 November. |
| 50 | 8 November 1965 | The British Indian Ocean Territory Order 1965 promulgated by Order in Council. Establishes the new territory consisting of the Chagos Archipelago, Aldabra, Farquhar and Desroches, and provides for its administration by a Commissioner (presently the Governor of Seychelles) and an Administrator with power to make laws, etc. | British Indian Ocean
Territory Order 1965
(1965 No. 1920) |

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/51.

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Reference.....

51. 10 November 1965. *Arranged*
Parliamentary Question (Mr. James Johnson) on the use of the Indian Ocean islands for defence. Colonial Secretary replies: "With the agreement of the Governments of Mauritius and Seychelles new arrangements for the administration of certain islands in the Indian Ocean were introduced by Order in Council made on the 8th November. The Islands will be called the British Indian Ocean Territory. It is intended that the islands will be available for the construction of defence facilities by the British and U.S. Governments, but no plans have yet been made by either Government. Appropriate compensation will be paid".
52. 17 November 1965 B.I.O.T. question discussed in Fourth Committee of the United Nations. Z 4/222-UKMIS, New York telegram 2971 of 16 November.
53. 23 December 1965 U.S. Government inform HMG that they see no foreseeable use for Diego Garcia in the calendar year 1966 calling for removal of the inhabitants. Z 4/236 See letter of 31 December from G.C. Arthur, F.O. to H.P. Hall, C.O.
54. 16 December 1965 U.N. General Assembly, at 20th Session in New York, passes:
(a) Resolution 2066(XX) - this included a paragraph inviting the Administering Power to take no action to dismember the territory of Mauritius nor violate its territorial integrity;
(b) Resolution 2069(XX) - this included Seychelles in the list of non-self-governing territories but made no reference to detachment of islands. (An attempt to include in the Resolution two short paragraphs calling for removal of bases from the islands and opposing any bases in the future, was defeated.)
55. 8 March 1966 Mr. Healey in Defence Debate said:-
"..... we plan, when confrontation *[with Indonesia]* is brought to an end Note: ended in July 1966 that it must be a major objective to reduce the level of our forces in the Far East to that once planned by the previous Government before confrontation began;"
Hansard Vol. 725
8 March, 1966.
Cols 2045-6.

/56.

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Reference.....

56 10 June 1966

Ministers decide that Aldabra is a suitable site for a staging post in the Western Indian Ocean and that the U.S. Government be approached to share the facilities and pay half the estimated cost of £18 m. Also decided that a further survey be carried out to find the best location for an airfield and make a more accurate costs estimate. Such a staging post was consistent with the Defence Review philosophy of having means of reaching trouble spots in an emergency rather than maintaining large forces in overseas bases.

ZD 4/34/G -
Memorandum
OPD(66)65
"Defence
Facilities in
the Western
Indian Ocean".

NOTE: A two-months survey of Aldabra had previously been made in 1962 by an RAF/MOD Engineering party.

57 15 June 1966

At meeting of Parliamentary Labour Party motion calling for reduction of East of Suez commitments by 1969/70 rejected by 225 to 54 votes.

58 15 July 1966

United States Government asked to share construction costs on Aldabra and to join in survey of the island likely to take place in September.

ZD 4/45/G. -
Letter of 15 July,
1966, from
N.C.C. Trench,
British Embassy,
Washington to
Jeffrey C. Kitchen,
State Department.

59 22 June 1966

In reply to Parliamentary Question Defence Secretary states that no investigations had been made into a site for a Polaris submarine base in the Indian Ocean. In Supplementaries he said there were no plans to put Polaris boats East of Suez.

60 12 August 1966

United States Government accept in principle jointly financed staging facilities on Aldabra and agree to participate in survey. At same time U.S. Government request HMG's concurrence and participation in an early survey of Diego Garcia.

ZD 5/57 G. -
Letter from
J. Kitchen, State
Department of
12 August to
N.C.C. Trench,
British Embassy,
Washington.

61 19 September 1966

Aldabra survey begins by joint Ministry of Defence, Ministry of Public Building and Works, B.B.C., and U.S. team. British members include scientific representatives from Royal Society and British Museum in view of interest in preservation of the fauna and flora of Aldabra (home of the Giant Tortoise, Frigate bird, etc.)

/ 62.

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Reference

HMG agree to American survey of Diego Garcia; party will include two British observers.

"U.S. position paper" defining American position on the drafts of the three agreements (See item 42 above).

ZD 4/77/G - Letter
from J. Kitchen,
State Department to
G.G.Arthur, F.O.

U.K./U.S. talks between officials in London. Final agreement reached on text of Exchange of Letters, B.I.O.T defence arrangements, finance and Seychelles tracking facility. Americans agreed that while the original intention was to use islands for defence needs free of inhabitants, situations might arise when it was feasible to make use of islands without either partial or total removal of inhabitants. These cases should be decided on their merits at the time. Both sides also agreed to bear in mind the general interest in preservation of wild life in developing defence facilities.

ZD 4/107 -
Agreed "negotiating
record".

In reply to Parliamentary Question
Defence Secretary says:
"..... we have no programme for
creating bases in the British Indian
Ocean Territory. For so long as I
have been Secretary of State there has
never been a concept of island bases.
There has been an idea of establishing
certain staging and other military
facilities in certain territories in
the Indian Ocean".

Meeting at Ministry of Defence with U.S. Naval C-in-C. Europe, Admiral Thach. Admiral Thach says that U.S. requirement in Diego Garcia is for aircraft stop-over and ship refuelling facilities. Progress with satellite communication had removed the need for a communications station. It was agreed that the American survey party for Diego Garcia in mid-1967 should be transported in HMS Vidal. The Admiral asked whether the Royal Navy were interested in sharing in the construction and use of facilities at Diego Garcia. Chief of Naval Staff, Admiral Sir Varyl Begg, replied that he was unable to say at this stage, but he was interested in the survey.

ZD 4/121/G.

167

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		<div>SECRET</div> <div>Reference.....</div>
67	30 December 1966	<p>Following U.K.-U.S. Agreements signed:-</p> <ul style="list-style-type: none"> (a) U.K./U.S. Exchange of Notes concerning the Availability for Defence Purposes of the British Indian Ocean Territory (b) Secret Exchange of Notes covering agreement on financing (c) Exchange of Notes on Seychelles Satellite Tracking Facility. <p>(Defence and Tracking Station Agreements were published on 25 January, 1967 - see item 74 below.)</p> <div>ZD 4/128</div>
68	27/28 February 1967.	<p>Defence Statement (Cmd. 3203) with exposition of East of Suez policy. Following end of "confrontation" "..... We are examining what benefits we would get from a new staging airfield in the B.I.O.T. These arrangements would offer us greater flexibility in our future defence planning, particularly in relation to the Far East" (Page 7 of Cmd. 3203).</p> <p>Followed by Defence Debate in Parliament, in course of which the Minister of Defence referred to the survey of Aldabra "..... to see whether we required it in order to increase the flexibility of our airforce. We have found that it will be suitable and the cost of developing it will be very small, although there are certain problems; for example the Royal Society are very concerned to preserve the wild population"</p> <div>Hansard 28 February 1967 Col. 393</div>
69	28 February 1967	<p>Aldabra: Prior to release of a statement to the press on 23 February by the Royal Society and other scientific bodies, the Ministry of Defence assured the Royal Society that the scientific case will be fully considered before any decision is taken on defence work on Aldabra.</p> <div>QC 10/3 No. 13. ZD 1/2/3 No. 13.</div>
70	20 March 1967	<p>Purchase of freeholds of islands in B.I.O.T. completed. In answer to Written Parliamentary Question Minister of Defence stated on 17 April that after negotiations with the owners, the freeholds have been purchased outright for £1,013,200.</p> <div>SECRET</div>

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Reference.....

- 71 March 1967
 Diego Garcia. U.S. state that if survey by team on H.M.S. Vidal satisfactory, they planned to start work in second half of 1968. Facilities to be constructed included P.O.L. storage, 8,000 ft. airstrip and communications facilities. U.S. Government enquire if HMG. are interested in sharing these facilities.
 HMG reply that they see "no over-riding U.K. requirement" on Diego Garcia at present.
- 72 3 March 1967.
 Aldabra. Campaign by scientific bodies and nature preservation organisations in U.K. and U.S. against use of Aldabra gathers strength. Letter received by Commonwealth Office from Royal Society enclosing detailed memoranda giving case for complete conservation; also enclosing report by Dr. Stoddard (one of the members of the 1966 expedition) and other documents.
 QC 10/3 No. 27.
 QC 10/8 No. 5.
- 73 6 April 1967
 Indian Minister for External Affairs reiterates in the Lok Sabha Indian opposition to military bases in the Indian Ocean area. Concern is also expressed at the possibility of nuclear weapons in the area.
- 74 24 April 1967
 Publication of:-
 (1) U.K./U.S. Exchange of Notes "concerning the Availability for Defence Purposes of the British Indian Ocean Territory".
 Cmnd. 3231
 Treaty Series
 No.15 (1967)
 (2) U.K./U.S. Exchange of Notes on the Seychelles Tracking Station and Telemetry Facilities in the island of Mahe in the Seychelles.
 Cmnd. 3232
 No. 16 (1967)
- 75 22 May 1967
 President and other representatives of Royal Society meet Minister of Defence to express their opposition to the Aldabra project. Mr. Healey replied that alternatives were being considered, but none seemed practicable.
 ZD 11/2/5 No. 52
 QC 10/3 No. 40
 and 40 A.

/ 76.

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		SECRET Reference	
76	19 June 1967.	U.N. Special Committee ("on the Situation with regard to the Implementation of the Declaration of the Granting of Independence to Colonial Countries and Peoples") at its 537th meeting held at Bar-es-Salaam "deplore the dismemberment of Mauritius and Seychelles and declare that the establishment of military installations in the territories violates U.N. resolutions and constitutes a source of tension."	ED 1/2/2 No. 143
77	27 July 1967	Supplementary Statement on Defence Policy (Cand 3357). Malaysian and Singapore Bases to be wound up by the middle 1970s: "..... however we are therefore planning to maintain a military capability for use, if required, in the area"	Cand. 3357
78	June/July 1967	Survey (engineering and hydrographic) of Diego Garcia by H.M.S. VIDAL, with U.S./Royal Navy teams, as well as four scientists. A continuation of work done by the survey team on H.M.S. DAMPIER in 1964.	
79	28 July 1967	Aldabra. Ministers approve proposals for an airfield on Aldabra subject to satisfactory outcome of negotiations with U.S. on cost sharing.	ED 1/2/2 No. 1979 QC 10/3 No. 49.
80	July 1967/ March 1968.	Aldabra. Expedition organized by Royal Society begins work. Includes some American scientists. Some scientists to remain on island until March 1968.	ED 1/2/2 No. 217 Note dated 18 October 1967 by Commissioner, BIOT, on the expedition.
81	16 August 1967	Aldabra. Letter from Minister of Defence to U.S. Defence Secretary conveying HMG's decision to go ahead with staging post on Aldabra, and asking if U.S. are prepared to participate. Followed by talks with U.S. officials.	QC 10/3 No. 74.
82	19 August 1967	In United Nations, report of Sub-Committee I of Fourth Committee affirms the right of the inhabitants of the British Indian Ocean Territory, "whatever their origin, to choose their own form of government"; U.K. condemned for violating territorial integrity of Mauritius and Seychelles and planning the establishment of bases.	/83.
		SECRET	

		SECRET	Reference.....
83	August/September 1967	Aldabra. Pressure by Royal Society, supported by American Academy of Scientists, Smithsonian Institution and other learned bodies, continues, and uncompromising opposition expressed to military use of Aldabra. It is argued that the ecology of the island has already been disturbed by humans more than was realized, and that the island was a unique natural laboratory.	QC 10/3. No. 134 - Letter to Commonwealth Office from Royal Society.
84	19 September 1967.	Aldabra. Mr. Kitchen of State Department visiting London has talks with officials. U.S. interest in Aldabra project apparently continues, but U.S. authorities wished to know what the British strategic requirement was, and why no other island was considered suitable. He mentioned Farquhar.	QC 10/3 No. 85. ZD 11/2/3 No. 150
85	29 September 1967	Minister of Defence meets Mr. McNamara at Ankara. Mr. McNamara agreed that though there was no overriding case for constructing facilities on Aldabra, its use would give "a useful additional option" to both Governments at reasonable cost. Mr. Healey undertook to let Mr. McNamara have a note on the latest situation regarding the opposition by scientific bodies. He said that a decision regarding Aldabra would be made about 12 October.	QC 10/3 No. 101 - Record of meeting. QC 10/3 No. 106 - Note on the attitude of scientific bodies.
86	25 October 1967	Aldabra. Adjournment Debate in House of Commons. The interest by scientific bodies and others was ventilated. The Under-Secretary of State (RAF) said: "As to the 'base' question, there would be no intention of stationing strike or operational forces there. Facilities would not be adequate for this. Therefore it would not be a base any more than Gan. A base is a place where operational forces are resident, and from which the logistic support they need for operations, which is important in the amount of land required, can be provided. Aldabra would not be in this category"	Hansard Vol. 751. No. 245 Cols. 1829/1852.
87	18 November 1967	Devaluation of the Pound.	
88	23 November 1967.	Prime Minister (Mr. Wilson) in Economic Debate announces defence cuts, including decision "not to proceed with the Aldabra project, the estimated cost of which was £16 m. with completion early in 1971.	/89
		SECRET	

		SECRET	Reference
89	27 November 1967	<p>Defence Secretary states in House of Commons decision not to proceed with Aldabra. He said cost in 1968 would have been about £4 m., and more in later years. Other factors (not mentioned in the House) were apparent wavering of interest on the part of the Americans, partly due to wrangle with Congress about defence expenditure, the mounting scientific opposition in both countries, and evidence of bird strike hazard.</p>	<p>Hansard 27/11/67 Cols. 65-66.</p>
90	23 November 1967	<p>Mr. McNamara informed that because of defence economies, HMG were unable to go ahead with Aldabra, which was "a marginal option".</p>	<p>QC 10/3 No. 153 - Letter from Minister of Defence, Mr. Healey, dated 13 November 1967.</p>
91	10 January 1968	<p>Americans request permission to conduct survey of Farquhar to study feasibility for airstrip and small naval facility. British participation welcomed. American interest in Farquhar seems to have developed owing to decision not to go ahead with Aldabra.</p>	<p>ZD 1/2/7 - No.33 and 34 QC 10/16, No. 2.</p>
92	26 January 1968	<p>The British Indian Ocean Territory (Amendment) Order 1968 made (1968 No. 119). This Order corrected certain minor inaccuracies in the description of the Chagos Archipelago (omission of Nelson Island), and the Aldabra Group in the British Indian Ocean Territory Order, 1965.</p>	
93	5 March 1968	<p>Agreement given to U.S. request for survey of Farquhar. HMG would like to participate. Agreed that survey involved no follow-on commitment on either Government.</p>	<p>ZD 1/2/7 No. 42.</p>
94	12 March 1968	<p>Mauritius becomes independent.</p>	
95	29 March 1968	<p>120 'Ilois' (i.e. adults and children of Mauritius origin born in the Chagos Islands) wishing to return to the Chagos find no employment offered on the plantations. Mauritius authorities maintain that they should be resettled in the Chagos at HMG's expense.</p>	
		SECRET	

		SECRET		Reference.....
96	5 2 July 1968	Diego Garcia. U.S. Government inform HMG that they wish to proceed with establishment of facilities there and hope, if Congress approves appropriations, to begin work on the site in late Spring 1970.		ZD 1/2/8 N°
		The question of removing and re-settling the approximately 400 inhabitants of Diego Garcia and the question of the national status of the 'Ilois' under study in London.		HPN 18/1 N° 9 Note on the problem by East Human Dept dated 24 Oct. 1968
97	1 August 1968	Commissioner of BIOT expresses his views on problem of the inhabitants of Diego Garcia and their resettlement.		QC 10/16. No. 46.
98	13 August 1968	United States still interested in survey of Farquhar, but trouble over transport arrangements for the survey group, (which would include British representatives).		ZD 1/2/7 N° 72
99	September 1968	HMG agrees to U.S. request to set up geodetic satellite tracking station on Diego Garcia. Equipment due to arrive in November.		
100	23 September 1968	Farquhar. Americans decide to cancel survey. Among reasons given political embarrassment of staging through Mombasa and transport difficulties. Question of reviving project later left open.		ZD 1/2/7 No 81-82.
101	3 3 September 1968	Formal approval given by HMG to U.S. construction of facilities on Diego Garcia. <i>Reply refers to resettlement problem. H. Hois 9 others there, 1 is British. This + answers have full right of access on terms to be agreed.</i>		ZD 1/2/8 N° 75 Letter from Mr A. Brooke-Tenney F.O to Mr R. L. Spiers, American Embassy.
102	2 October 1968	Signal (Australia) Petroleum Co., of Sydney, N.S.W., a subsidiary of Signal Petroleum Co. of Los Angeles, apply to Commissioner, BIOT., for permission to explore for hydrocarbon in the Chagos Archipelago and to undertake preliminary geophysical work, an aerial magneto-meteorological and marine seismic survey.		HPN 12/1
		SECRET		

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Reference.....

3
102

September

Mauritius Government make representations on resettlement of Ilois - claim cost of "resettlement" was agreed to by HMG at Lancaster House meeting 25 September 1965 (see Item 44 above).

QC 18/2 No. 32.

104

November 1968

Consideration being given to establishing 100 Ilois and their families from Mauritius to the Chagos to maintain the viability of the copra plantations.

HPN 18/1 No. 6.
Analysis of the problem by Administrator, BIOT, 17.10.68

U.S. Government told that we saw no objection in the medium term to maintaining and expanding plantations in Peros Banhos, and Salamon Islands, which are 120 miles distant from Diego Garcia.

105

22 November 1968

U.S. "would interpose no objection to use of Peros Banhos and Salamon Islands for resettlement of workers on Diego Garcia, with the understanding that any similar persons elsewhere in the Chagos Archipelago can also be transferred to Peros Banhos and Salamon Islands the U.S. has no current plans for the use of those two islands..... Currently our planning is limited to a most austere facility on Diego Garcia"

HPN 18/1 No. 25

106

25 November to
18 December 1968

Official visit by Foreign Secretary (Mr. M. Stewart) to Pakistan and India.

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Reference.....

ANNEX #1

List of Useful References

These references are listed under the following headings:-

General papers
 United Nations
 Secret Financial Agreement with the United States
 Diego Garcia
 Aldabra
 Farquhar
 Status of BIOT Inhabitants (Nationality)
 Reversion of Chagos Islands
 Compensation: Purchase of Islands and
 Resettlement of Population.
 Civil Aviation: Use of BIOT.
 Diego Garcia Meteorological Station
 Fishing Rights in Chagos Islands.

General Papers.File Reference

19 February
 1964

DP 24/64 (Final) "Defence Interests in the Indian Ocean" by the Defence Planning Staff. Includes detailed descriptions of each of the islands.

DFW 121/24

23 April 1964

D.O.(0)(64)23 "U.S. Defence Interests in the Indian Ocean". A copy of the paper prepared by the Foreign Office, Colonial Office and Ministry of Defence.

DEF 127/123/03
 No. 112

7 September
 1964

Newton Report (on the 1964 survey of Chagos Archipelago, Agalega, Coetivy, Desroches and Farquhar Islands). Examines problems of compensation, resettlement, administration, etc.

PAC 93/892/01
 No. 1. and
 Z 4/134/G.

7 April 1965

OPD(65)68. "Defence Facilities in the Indian Ocean". Useful memorandum by Foreign Secretary and Defence Secretary examining U.S. proposals for use of the islands.

PAC 93/892/01
 No. 28

16 December
 1966

U.K./U.S. Agreements on BIOT - Submission to the Foreign Secretary.

ZD 4/107

14 June 1967

"The BIOT - Links with Mauritius and Seychelles". Paper prepared by Research Department (Africa Section)

QC 10/9. No. 64

BIOT and the United Nations.

10 November
 1965

Brief for the handling of BIOT in United Nations.

F.O. telegram to
 UNIS, New York
 4361.

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	Reference	ANNEX
16 November 1965	Fourth Committee debates of 16 and 25 November 1965.	U.N. Documents A/C4/SR 1558 A/C4/SR 1570
16 December 1965	General Assembly Resolutions 2066(XX) and 2069(XX)	
26 April 1966	U.N. Secretariat Working Paper on "Mauritius, Seychelles and St. Helena".	U.N. Document A/AC.109/L.279.
29 April 1966	F.O. comments on A/AC.109/L. 279.	ZD 4/41
8 September 1966	IOC(66)136.Brief, prepared by Foreign Office with Commonwealth Office and Ministry of Defence on "Presentation of the BIOT in the U.N." A useful basic paper.	IRD 140/458/01 ZD 4/69
7 October 1966	Committee of 24 consider Subcommittee I's report A/AC 109/L 335 dealing with Mauritius and Seychelles.	
19 June 1967	Committee of 24's tour of Africa: Resolution adopted in final form deploring dismemberment of Mauritius and Seychelles.	ZD 1/2/2 No. 143
23 June 1967	U.N. Special Committee: Resolution on Dismemberment of Mauritius and Seychelles.	U.N. Document A/AC 109/L. 191.
30 November 1967	Notes on 1966 Brief ^{part 2} IOC(66)136 up-to-date. (Letter from Mr. N.D. Matthews, Commonwealth Office to Mr. B.L. Barber, UOMIS, New York.	ZD 1/2/2 No. 220
	<u>BIOT Secret Financial Agreement with the United States.</u>	
14 May 1965	U.K./U.S. talks to explore in what way the Americans could contribute.	Z 4/62/C.
24 June 1965	Americans indicate how they might contribute.	Z 4/69/G.
16 December 1966	Submission to Ministers on U.S./U.K. BIOT Agreements. (Annexed to this paper is a very useful list of the main references to the secret financial agreement).	ZD 4/123
SECRET		

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Reference.....

PANEX

14 August 1967

Formula agreed with the Americans about their financial contribution in the event of leakage or disclosure of the arrangement.

ZD 1/2/2
(Letter from
Mr. R.A. Sykes, F.O.
to Mr. A. Campbell
Ministry of Defence)

August 1967

Submission to Ministers on risks of disclosure of the financial agreement.

QC 10/4 No. 3.
and following
papers.

Diego Garcia.

4 September 1964

Report of survey (covering P.O.L. storage facilities) by Mr. Pollock, Department of Supply (Navy)

Z 4/121

11 Sept. 1967

11 September 1964

*Project Red Ship - long range report on 25
to National Public Defence & Security Policy 1967*
Communications survey (by
A. Kravis of Marconi Co. Ltd.)
co-opted team by Ministry of
Defence.

Z 4/132

8 Aug '68

*Wild Life Conservation - Report by Dr
DR S.H. Alder*
Aldabra.

ZD 1/2/6 No. 81 E

1967

M.P.B.W. feasibility study (based on 1966 Survey)

QC 10/8 No. 1.E.

1967

Aldabra: Report on further studies on construction of facilities.

QC 10/8 No. 81

3 March, 1967

Scientific interest in preservation of wild life. Letter from Royal Society to Commonwealth Office enclosing memorandum stating the case for conservation, report by Dr. D.R. Stoddart (member of 1966 expedition) and other documents.

QC 10/8 No. 5.

*ZD 1/2/7 No. 1
(Dr. Stoddart's report)*

26 July, 1967

OPD(67)57. Aldabra: Plan to develop airfield facilities.

ZD 1/2/3 No. 74

26 July, 1967

OPD(67)58. Memorandum on "Scientific implications of proposed Aldabra development".

QC 10/3 No. 46 B.
ZD 1/2/3 No. 75

18 October 1967

Note on Royal Society expedition to Aldabra 1967/1968 (prepared by Commissioner, BIOT, and annexed to his despatch No. BIOT/D/7).

ZD 1/2/2 No. 217

27 September 1967

Draft U.K./U.S. agreement on Aldabra (defence facilities) prepared by Ministry of Defence, in consultation with other Departments. Owing to the decision not to proceed with Aldabra, no agreement has been made.

ZD 1/2/3 No. 159

SECRET

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4.

Reference..... *ANNEX*Farquhar.10 January
1968American request for feasibility
survey.ZD 1/2/7
Nos. 33 and 34

4 April 1968

Report by Commissioner, BIOT,
(BIOT/SD/18) on facilities etc.,
on Farquhar, and notes on the
islands based on a visit by the
Commissioner in March, 1968.ZD 1/2/7
Nos. 51 and 53

29 July 1968

Informal U.K./U.S. meeting to
discuss matters regarding
proposed survey, and scientific
representation in the team.ZD 1/2/7
No. 62.

13 August 1968

Survey of Farquhar. Informal
U.K./U.S. discussions on
political and other problems.ZD 1/2/7
No. 72

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Reference..... ANNEX		
	<u>Status of BIOT Inhabitants (Nationality)</u>	
February/March 1966	The question of the 'Ilois' (Views of Commissioner, BIOT, telegrams No.2 Saving of 25 February and No. 4 Saving of 28 March).	ZD4/17
29 September 1967	Governor Mauritius (Sir John Rennie) gives his views on the status of the 'Ilois'.	QC 18/3
14 November 1967	Minute by Mr. D.G. Gordon-Smith, Legal Counsellor, C.O. on definition of 'Ilois'.	QC 18/3 No. 8.
5 March 1968	Further Minute by Mr.D.G. Gordon-Smith on status of 'Ilois'.	QC 18/3
4 June 1968 and 19 June 1968.	Commissioner, BIOT, reports on number of Ilois and their status, in Chagos Islands (BIOT/SD/24 and BIOT/SD/26).	QC 18/6
4 September 1968	Minute by Mr. J.H. Lambert (U.N. (Political) Department) on status of inhabitants and presentation in United Nations.	OP 4/580/2
23 October 1968	Minute by Mr. A.I. Aust, Assistant Legal Adviser, on status of inhabitants.	HPN 18/3
	<u>Chagos Islands: Reversion.</u>	
16 September 1965	OPD(65) 39th Meeting	Z 4/173 G PAC 93/892/01: No.260
23 September 1965	OPD(65) 41st Meeting	Z 4/173 G. PAC 93/892/01: No.266
23 September 1965	American views on reversion sought.	PAC 93/892/01: No.272
	<u>Compensation - Purchase of Islands and Resettlement.</u>	
25 February 1965	Letter from Mr. A.J. Fairclough, Colonial Office, to Mr. E.H. Peck, F.O., giving figures and estimates for purchasing islands and resettling population.	PAC 93/892/01: No.7.
SECRET		

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Reference... *ANNEX*

June 1965	Letter from G.P. Lloyd, OAG., Seychelles to Colonial Office, estimates cost of compensation and resettlement of BIOT inhabitants.	PAC 93/892/01. No.11
8 September 1966	IOC(66) 136. Brief on presentation of the BIOT in the U.N. This Brief also covers compensation and resettlement.	
3 June 1968	<i>Co BIOT's proposals for Resettlement of Change Population</i> <i>QC 18/2 No. 1920.</i> <u>Civil Aviation: Use of BIOT.</u>	
15 December 1965.	Note by Ministry of Aviation on use of BIOT by civil air services.	Z 4/237/G
15 December 1965.	Note of inter-departmental discussions on use of BIOT by civil aircraft.	Z 4/239/G
25 March 1966	OPD(o)(I.O.)(66)6. Note by Ministry of Aviation.	ZD 4/2/G.
10 November 1966	Board of Trade memorandum on legal aspects of use of BIOT airfields by civil aircraft.	ZD 4/104
	<u>Diego Garcia Meteorological Station</u>	
11 February 1965	Views of Governor, Mauritius, on the work of the Meteorological Station.	PAC 93/892/01 No. 2
11 February 1965	Minute by Mr. Terrell, C.O., on the functioning of the Meteorological Station.	PAC 93/892/01 No. 4.
23 February 1965	Inter-departmental meeting to discuss Meteorological Station.	Z 4/13/G
24 May 1965	United States' views on operation of the station (letter from Mr. Barringer, U.S. Embassy to Mr. Morland, F.O.)	Z 4/71
1 November 1965	Note of meeting at Ministry of Defence to discuss work done by station for W.M.O.	Z 4/214

SECRET

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Reference.....*ANNEX*.....Fishing Rights in the Chagos Archipelago.17 November
1965Views of Governor, Mauritius, on
general question of fishing rights.

Z 4/217

March 1966

Ministry of Defence and F.O. views
on fishing rights in BIOT.

Z D.4/14/G.

June 1966

Letter from Mr. A.J. Fairclough,
C.O., to Governor, Mauritius, on
arrangements for access to Chagos
Islands by fishing boats.

ZD 4/30

SECRET

Annex 24

Mauritius (Constitution) Order, 1964 (26 Feb. 1964)

SCHEDULE 2

Section 83.

APPOINTMENTS REFERABLE TO THE JUDICIAL AND LEGAL
SERVICE COMMISSION

SCHEDULE 3

Sections 77
and 89.

EMOLUMENTS OF CERTAIN OFFICERS

THE CONSTITUTION OF MAURITIUS

CHAPTER I

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS
OF THE INDIVIDUAL

1. It is hereby recognised and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, each and all of the following human rights and fundamental freedoms, namely—

Fundamental
rights and
freedoms of
the
individual.

- (a) the right of the individual to life, liberty, security of the person and the protection of the law;
- (b) freedom of conscience, of expression and of assembly and association; and
- (c) the right of the individual to protection for the privacy of his home and other property and from deprivation of property without compensation,

and the provisions of this Chapter shall have effect for the purpose of affording protection to the said rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

2.—(1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.

Protection of
right to life.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case—

- (a) for the defence of any person from violence or for the defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purpose of suppressing a riot, insurrection or mutiny; or
- (d) in order to prevent the commission by that person of a criminal offence,

or if he dies as the result of a lawful act of war.

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Concurrent appointments. 24. Subject to the provisions of this Constitution, whenever the substantive holder of any office constituted by or under this Constitution is on leave of absence pending relinquishment of his office—

- (a) another person may be appointed substantively to that office;
- (b) that person shall, for the purpose of any function attaching to that office, be deemed to be the sole holder of that office.

Grant of pardon, etc. 25.—(1) The Governor may, in Her Majesty's name and on Her behalf—

- (a) grant to any person concerned in the commission of any offence for which he may be tried in Mauritius or to any person convicted of an offence in any court in Mauritius a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence passed on that person in any court in Mauritius;
- (c) substitute a less severe form of punishment for that imposed by any sentence of any such court; or
- (d) remit the whole or any part of any such sentence or of any penalty or forfeiture otherwise due to Her Majesty on account of any offence in respect of which a person has been convicted by any court in Mauritius.

(2) The powers conferred upon the Governor by subsection (1) of this section shall, subject to any Instructions under Her Majesty's Sign Manual and Signet, be exercised by him in his discretion.

Public Seal. 26. The Governor shall keep and use the Public Seal for sealing all things that shall pass such Seal.

CHAPTER III

THE LEGISLATURE

Part I—The Legislative Assembly

Legislative Assembly. 27.—(1) There shall be a Legislative Assembly for Mauritius.

(2) The Legislative Assembly shall consist of—

- (a) the Speaker;
- (b) the Chief Secretary ex officio;
- (c) forty elected members; and
- (d) such nominated members not exceeding fifteen in number as the Governor may appoint.

The Speaker and the Deputy Speaker. 28.—(1) The Legislative Assembly shall—

- (a) at its first sitting after a general election and before it proceeds to the despatch of any other business; and
- (b) if the office of Speaker falls vacant at any time before the next dissolution of the Legislative Assembly, as soon as is practicable,

elect from among its members, other than members who are members of the Council of Ministers or Parliamentary Secretaries, a Speaker of the Legislative Assembly.

(2) A person shall vacate the office of Speaker—

- (i) upon ceasing to be a member of the Legislative Assembly otherwise than by reason of a dissolution of the Legislative Assembly; or

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and if, upon any question before the Assembly, the votes of the members are equally divided the motion shall be lost.

(2) (a) The Speaker shall have neither an original nor a casting vote; and

(b) any other person, including the Deputy Speaker, shall, when presiding in the Legislative Assembly, have an original vote but no casting vote.

49.—(1) Subject to the provisions of this Constitution and of the rules and orders of the Legislative Assembly, any member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Assembly, and the same shall be debated and disposed of according to the rules and orders of the Assembly. Introduction of Bills.

(2) Except on the recommendation of the Governor the Legislative Assembly shall not—

(a) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding in the Assembly, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of Mauritius or for altering any such charge otherwise than by reducing it or for compounding or remitting any debt due to Mauritius;

(b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the Assembly, is that provision should be made for any of the purposes referred to in paragraph (a) of this subsection; or

(c) receive any petition which, in the opinion of the person presiding in the Assembly, requests that provision be made for any of the purposes referred to in paragraph (a) of this subsection.

50.—(1) If the Governor considers that it is expedient in the interest of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of Mauritius as a territory within the Commonwealth, and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer) that any Bill introduced, or any motion proposed, in the Legislative Assembly should have effect, then, if the Assembly fail to pass such Bill or to carry such motion within such time and in such form as the Governor thinks reasonable and expedient, the Governor may, at any time that he thinks fit, and notwithstanding any provisions of this Constitution or of any rules and orders of the Assembly, declare that such Bill or motion shall have effect as if it had been passed or carried by the Assembly either in the form in which it was so introduced or proposed or with such amendments as the Governor thinks fit that have been moved or proposed in the Assembly, including any committee thereof; and the Bill or the motion shall be deemed thereupon to have been so passed or carried, and the provisions of this Constitution, and in particular the provisions relating to assent to Bills and disallowance of laws, shall have effect accordingly.

Governor's reserved power.

(2) The Governor shall forthwith report to a Secretary of State every case in which he makes any declaration under the provisions of this section and the reasons therefor.

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(3) If any Member of the Legislative Assembly objects to any declaration made under this section, he may, within seven days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting, and a copy of such statement shall, if furnished by such member, be forwarded by the Governor as soon as practicable to a Secretary of State.

(4) Any declaration made under this section other than a declaration relating to a Bill may be revoked by a Secretary of State and the Governor shall cause notice of such revocation to be published in the Gazette; and from the date of such publication any motion that is deemed to have been carried by virtue of the declaration shall cease to have effect and the provisions of section 38(2) of the Interpretation Act 1889(a) shall apply to such revocation as they apply to the repeal of an Act of Parliament.

(5) The powers conferred on the Governor by this section shall be exercised by him in his discretion.

Assent to
Bills.

51.—(1) A Bill shall not become a law until—

- (a) the Governor has assented to it in Her Majesty's name and on Her Majesty's behalf and has signed it in token of such assent, or
- (b) Her Majesty has given Her assent to it through a Secretary of State and the Governor has signified such assent by Proclamation published in the Gazette.

(2) When a Bill is presented to the Governor for his assent, he shall, acting in his discretion but subject to the provisions of this Constitution and of any Instructions addressed to him under Her Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents, or refuses to assent, to it, or that he reserves the Bill for the signification of Her Majesty's pleasure:

Provided that the Governor shall reserve for the signification of Her Majesty's pleasure—

- (a) any Bill by which any provision of this Constitution is revoked or amended or which is in any way repugnant to, or inconsistent with, the provisions of this Constitution; and
- (b) any Bill which determines or regulates the privileges, immunities or powers of the Legislative Assembly or of its members, unless he has been authorized by a Secretary of State to assent to it.

Disallowance
of laws.

52.—(1) Any law to which the Governor has given his assent may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever such a law has been disallowed by Her Majesty the Governor shall cause notice of such disallowance to be published in the Gazette and the law shall be annulled with effect from the date of the publication of that notice.

(3) The provisions of section 38(2) of the Interpretation Act 1889 shall apply in relation to the annulment of any law under this section as they apply in relation to the repeal of an Act of Parliament, save that any enactment repealed or amended by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made.

Oath of
allegiance.

53.—(1) Subject to the provisions of this section, no member of the Legislative Assembly shall be permitted to take part in the proceedings of the Assembly (other than proceedings necessary for the

(a) 52 & 53 Vict. c. 63.

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purposes of this section) until he has made and subscribed before the Assembly the oath of allegiance set out in schedule 1 to this Constitution.

(2) If, between the time when a person becomes a member of the Legislative Assembly and the time when the Assembly next sits thereafter, a meeting takes place of any committee of the Assembly of which such person is a member, such person may, in order to enable him to attend the meeting and take part in the proceedings of the committee, make and subscribe the oath of allegiance set out in schedule 1 to this Constitution before a judge of the Supreme Court and the making and subscribing of the oath in such manner shall suffice for all the purposes of this section.

(3) Where an oath of allegiance is made and subscribed before a judge of the Supreme Court under the provisions of subsection (2) of this section, the judge shall forthwith report to the Assembly through the Speaker or, as occasion may require, through the Deputy Speaker that the person in question has made and subscribed the oath of allegiance before him.

54. A law enacted under this Constitution may determine and regulate the privileges, immunities and powers of the Legislative Assembly and its members, but no such privileges, immunities or powers shall exceed those of the Commons House of Parliament of the United Kingdom of Great Britain and Northern Ireland or of the members thereof. Privileges of Legislative Assembly and members.

55.—(1) Subject to the provisions of this Constitution, the sessions of the Legislative Assembly shall be held in such place and begin at such time as the Governor by Proclamation published in the Gazette may appoint. Sessions.

(2) A session of the Assembly shall be held from time to time so that a period of twelve months shall not intervene between the date when the Assembly last sat in one session and the date appointed for its first sitting in the next session.

56.—(1) The Governor may at any time, after consultation with the Premier, by Proclamation published in the Gazette summon, prorogue or dissolve the Legislative Assembly. Prorogation and dissolution.

(2) The Governor shall dissolve the Legislative Assembly at the expiration of five years from the date when the Assembly first meets after any general election unless it has been sooner dissolved.

57. There shall be a general election at such time within three months after every dissolution of the Legislative Assembly, as the Governor by Proclamation published in the Gazette shall appoint. General elections.

CHAPTER IV

THE COUNCIL OF MINISTERS

58.—(1) There shall be a Council of Ministers for Mauritius. Council of Ministers.

(2) The members of the Council of Ministers shall be—

(a) the Premier;

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- (b) the Chief Secretary;
 - (c) not less than ten and not more than thirteen appointed members; and
 - (d) such temporary members as may be appointed under section 65 of this Constitution.
- (3) The members of the Council of Ministers shall be styled Ministers.

Exercise of
Governor's
powers.

59.—(1) Subject to the provisions of this section and save as otherwise provided by any Instructions given under Her Majesty's Sign Manual and Signet, the Governor shall consult with the Council of Ministers in the formulation of policy and in the exercise of all powers conferred on him by this Constitution or by any other law for the time being in force in Mauritius.

(2) The Governor shall not be obliged to consult with the Council of Ministers in any case which is of such a nature that, in his judgment, Her Majesty's service would sustain material prejudice if the Council were consulted thereon.

(3) The Governor may, but shall not be obliged to, consult with the Council of Ministers in the exercise—

- (a) of any power conferred on him by this Constitution which he is empowered or directed by this Constitution to exercise after consultation with any person or authority other than the Council;
- (b) of any power conferred on him by this Constitution or any other law which he is empowered or directed by this Constitution or such law to exercise in his discretion; or
- (c) of any power conferred on him by any law other than this Constitution which that other law, either expressly or by implication, empowers him to exercise without consulting the Council.

(4) Subject to subsection (8) of this section the Governor shall act in accordance with the advice of the Council of Ministers in exercising any power in the exercise of which he is obliged by this section to consult with the Council.

(5) Where the Governor is directed by this Constitution to exercise any power after consultation with any person or authority other than the Council of Ministers he shall not be obliged to exercise that power in accordance with the advice of that person or authority.

(6) Where the Governor is directed by this Constitution to exercise any power after consultation with any person or authority, the question whether he has so exercised that power shall not be enquired into by any court.

(7) The Governor shall not be obliged to consult with the Council of Ministers in any case in which, in his judgment, the urgency of the matter requires him to act before the Council can be consulted or the question for discussion is too unimportant to require their advice; but in any such case of urgency he shall, as soon as practicable, communicate to the Council the measures that he has adopted and the reasons therefor.

(8) If, in any case in which he is, in pursuance of this section, obliged to consult with the Council of Ministers, the Governor shall consider it expedient in the interests of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of Mauritius as a territory within

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the Commonwealth, and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer) that he should not act in accordance with the advice of the Council, then—

(a) he may, with the prior approval of a Secretary of State, act against that advice; or

(b) if, in his judgment, urgent necessity so requires, he may act against that advice without such prior approval, but shall, without delay, report the matter to a Secretary of State with the reasons for his action.

60.—(1) The Premier shall be appointed by the Governor, acting in his discretion, by instrument under the Public Seal. The Premier.

(2) Whenever the Governor has occasion to appoint a Premier he shall appoint to that office a member of the Legislative Assembly who appears to the Governor likely to command the support of the majority of members of that Assembly:

Provided that, if occasion arises for making an appointment to the office of Premier while the Legislative Assembly is dissolved, a person who was a member of the Legislative Assembly immediately before the dissolution may be appointed as Premier.

(3) The Governor, acting in his discretion, may remove the Premier from office if the Legislative Assembly passes a resolution declaring that it has no confidence in the Premier and the Premier does not within three days of the passing of such resolution either resign from his office or advise the Governor to dissolve the Legislative Assembly.

(4) The Premier shall also vacate his office—

(a) when, after a dissolution of the Legislative Assembly, he is informed by the Governor that the Governor is about to re-appoint him as Premier or to appoint another person as Premier; or

(b) if for any reason other than the dissolution of the Legislative Assembly he ceases to be a member of the Legislative Assembly; or

(c) if he resigns his office by writing under his hand addressed to the Governor.

61. The appointed members of the Council of Ministers shall be persons who are elected or nominated members of the Legislative Assembly and shall be appointed by the Governor, after consultation with the Premier, by Instrument under the Public Seal:

Appointed
members of
Council of
Ministers.

Provided that, if occasion arises for the appointment of a member of the Council of Ministers while the Legislative Assembly is dissolved, a person who was an elected or nominated member of the Legislative Assembly immediately before the dissolution may be appointed as a member of the Council of Ministers.

62.—(1) The Governor may, after consultation with the Premier, appoint such persons from among the elected or nominated members of the Legislative Assembly as he may deem expedient, to be Parliamentary Secretaries in relation to any subject or department the administration of which is charged upon, or assigned to, any member of the Council of Ministers, and a Parliamentary Secretary shall perform

Parliamentary
Secretaries.

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67. The Council of Ministers shall not be summoned except by the authority of the Governor, acting in his discretion: Summoning of Council of Ministers.
 Provided that the Governor shall summon the Council if the Premier so recommends.

68.—(1) There shall preside at all meetings of the Council of Ministers— Proceedings in Council of Ministers.

- (a) the Governor;
 - (b) in the absence of the Governor, the Premier; and
 - (c) in the absence of the Premier, such member of the Council as the Governor may either generally or specially appoint.
- (2) No business shall be transacted at any meeting of the Council of Ministers if there are less than five members of the Council present at the meeting and any member present has objected to the transaction of business on that account.

(3) Subject to subsection (2) of this section, the Council of Ministers shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Council (including any vacancy not filled when the Council is first constituted or is reconstituted at any time) and the validity of the transaction of business in the Council shall not be affected by reason only of the fact that some person who was not entitled to do so took part in those proceedings.

69.—(1) The Governor, acting in his discretion, may by directions in writing— Assignment of departments or subjects.

- (a) charge the Chief Secretary with the administration of any department or subject;
 - (b) declare which departments or subjects may be assigned to appointed members of the Council of Ministers.
- (2) The Governor may, after consultation with the Premier, by directions in writing charge any appointed member of the Council of Ministers with the administration of any department or subject during such time as it shall be declared, under paragraph (b) of subsection (1) of this section, to be a department or subject which may be assigned to appointed members of the Council of Ministers.

70. The Governor, acting in his discretion, may grant leave of absence from his duties to any member of the Council of Ministers. Leave of absence.

CHAPTER V

THE JUDICATURE

71.—(1) There shall be a Supreme Court for Mauritius. Supreme Court.
 (2) The judges of the Supreme Court shall be the Chief Justice, the Senior Puisne Judge and so many Puisne Judges as the Governor may subject to the provisions of this Constitution and any law, appoint.

72.—(1) Subject to the provisions of this Chapter, a judge of the Supreme Court shall hold office until he attains the age of sixty-two years: Retirement and resignation of judges.

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defray the cost of those emoluments shall be a charge on the revenues of Mauritius, and shall be paid thereout by the Accountant-General upon warrant directed to him under the hand of the Governor.

(2) Nothing in this section shall prevent the payment to the Governor or any other officer of any additional sums for which provision may be made from time to time.

90.—(1) In this Constitution, unless the context otherwise requires— Inter-pretation

"the Gazette" means the Government Gazette of Mauritius;

"the Governor" means the Governor and Commander-in-Chief for Mauritius and includes the officer for the time being administering the government and, to the extent to which a Deputy for the Governor is authorized to act, that Deputy;

"the island of Mauritius" includes the small islands adjacent thereto but does not include the Dependencies of Mauritius;

"Local Authority" means the Council of a town, district or village;

"Mauritius" means the island of Mauritius and the Dependencies of Mauritius;

"public office" means, subject to the provisions of subsection (3) of this section, an office of emolument under the Crown or an office of emolument under a Local Authority within Mauritius;

"public officer" means the holder of any public office and includes a person appointed to act in any public office;

"the Public Seal" means the Public Seal of Mauritius;

"the public service" means the service of the Crown in respect of the government of Mauritius;

"session" means the sittings of the Legislative Assembly commencing when the Assembly first meets after being constituted under this Constitution, or after its prorogation or dissolution at any time, and terminating when the Assembly is prorogued or is dissolved without having been prorogued;

"sitting" means a period during which the Legislative Assembly is sitting continuously without adjournment, and includes any period during which the Assembly is in committee;

(2) In this Constitution any reference to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or performing the functions of that office.

(3) (a) For the purposes of this Constitution a person shall not be deemed to be a public officer by reason of receiving—

(i) any salary or allowance as Speaker, Deputy Speaker, member of the Council of Ministers, a temporary member of the Council of Ministers, a Parliamentary Secretary, or as a member of the Legislative Assembly;

(ii) any salary or allowance as Mayor, Chairman or a member of a Local Authority, or as the Standing Counsel or the Attorney of a Local Authority;

(iii) a pension or other like allowance in respect of service under the Crown or under a Local Authority.

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(b) A provision in any law in force in Mauritius that an office shall be deemed not to be a public office for any of the purposes of this Constitution shall have effect as if it were included in this Constitution.

(4) In this Constitution, any power to make any proclamation or declaration or to give any direction shall include power to vary or revoke any such proclamation, declaration or direction.

(5) For the purposes of this Constitution the resignation of a member of any body or holder of any office established by this Constitution that is required to be addressed to any person shall be deemed to have effect from the time at which it is received by that person:

Provided that a resignation (other than the resignation of the Deputy Speaker) that is required to be addressed to the Speaker shall, if the office of Speaker is vacant, or the Speaker is absent from the island of Mauritius, be deemed to have effect from the time at which it is received by the Deputy Speaker on behalf of the Speaker.

(6) For the avoidance of doubt it is hereby declared that any person who has vacated his seat in any body, or has vacated any office, established by this Constitution may, if qualified, again be appointed or elected as a member of that body or to that office, as the case may be, from time to time.

(7) Save as in this Constitution otherwise provided the Interpretation Act 1889(a) shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting and in relation to Acts of Parliament of the United Kingdom.

THE SCHEDULES TO THE CONSTITUTION

SCHEDULE 1

Sections 19,
53 and 66.

OATH (OR AFFIRMATION) OF ALLEGIANCE

I, do swear (or do solemnly affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. (So help me God.)

OATH (OR AFFIRMATION) FOR THE DUE EXECUTION OF THE OFFICE OF GOVERNOR

I, do swear (or do solemnly affirm) that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the Office of Governor. (So help me God.)

OATH (OR AFFIRMATION) FOR THE DUE EXECUTION OF THE OFFICE OF MEMBER OF THE COUNCIL OF MINISTERS

I, do swear (or do solemnly affirm) that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of (So help me God.)

(a) 52 & 53 Vict. c. 63.

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Annex 25

U.K. Foreign Office, *U.S. Defence Interests in the Indian Ocean: Memorandum of U.K./U.S. London Discussions*, FCO 31/3437 (27 Feb. 1964)

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ANNEX I

U.S. Defence Interests in the Indian Ocean
Memorandum of U.K./U.S. London Discussions
February 1964

Official discussions between representatives of the U.K. and U.S. Governments took place in London from February 25-27, 1964. On the U.K. side, the Foreign Office, Commonwealth Relations Office, Colonial Office, Ministry of Defence and Service Departments took part. On the U.S. side, the Departments of State and of Defense and the military commands concerned were represented. A list of both delegations is at Annex A. The following is agreed between the two sides as recording the results of the discussions and recommendations to their respective governmental authorities for future action.

Background

2. The U.S. Government is considering a greater defense presence in the Indian Ocean area to complement (but not in any way to replace) the existing British effort in this area. U.S. participation is likely to mean over a period of time:-

- (a) Periodic visits by a U.S. task force into the Indian Ocean area
- (b) The installation of military communications and technical facilities on islands under British sovereignty
- (c) The development of austere base facilities to support U.S. forces which may be deployed in the area.

H.M.G. in the U.K. have welcomed this American initiative and agree that their joint basic objectives in the Indian Ocean area are first to deter Communist encroachment on countries bordering the Indian Ocean and second to have the capacity to deal firmly and rapidly with local disturbances in the area.

3. It was accepted by both delegations that the U.S. interest in developing a greater defense presence and support facilities in the area was conceived as a complement to the existing U.K. strategic posture, and would provide a valuable joint insurance in case of any loss or limitation of use of existing facilities.

Political reactions by countries on the periphery and presentation by both Governments to third countries of the American initiative

4. The two delegations agreed on a joint assessment (at Annex B) of the probable reactions of countries on the periphery to the American initiative and on the line which should be followed by both Governments in presenting this, as the need arises, to third countries.

5. As regards periodic visits of the task force, the U.S. delegation agreed to keep H.M.G. informed of U.S. general intentions and, in particular, to give as much notice as possible of requests to visit any U.K. bases.

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U.S. Interest in technical and support facilities

6. The U.S. delegation confirmed their positive interest in the development of a communications facility, subject to joint survey, in Diego Garcia in the Chagos Archipelago, which is now under the administration of Mauritius. They also expressed interest in the development of austere support facilities in Diego Garcia, and in a lower order of priorities possibly in Aldabra, the remainder of the Seychelles area, and the Cocos Keeling Islands (under Australian administration). Such facilities might include in the long-term:-

- (a) Stockpile area for substantial portion of an Army division plus other pre-stockage facilities.
- (b) Air base capable of supporting cargo, troop carrier, and tanker aircraft. Facilities to support antisubmarine patrol operations and air logistic operations. Parking area for two to four squadrons of aircraft.
- (c) Naval anchorage and base area to support a carrier task force, amphibious, and support ships.
- (d) Communications station.
- (e) Amphibious staging area.
- (f) Space tracking and communications facilities.
- (g) Fuel and ammunition storage.
- (h) Secondary support anchorages and logistic air strips.

The U.K. delegation reserved their position about the dimensions of any space tracking facilities which the U.S. might possibly propose to establish on Diego Garcia.

The U.S. delegation recognized that topography might preclude the location of facilities for the above objectives in one single island and, since the entry of their forces into the area in individual instances might be from either East or West, according to circumstances, envisaged the development of some support facilities at both extremes of the Indian Ocean, with, ideally, a principal base area in the center. The U.S. delegation emphasized that they wished to avoid the political problems arising from the development of military facilities in populated areas and to have assured security of tenure for at least 25 years.

Diego Garcia

7. Subject to survey, the U.S. delegation envisaged that if H.M.G. agreed, the most suitable arrangement would be that H.M.G. should be responsible for making available the necessary land, at H.M.G.'s expense. H.M.G. would also be responsible for any resettlement of population and compensation. For their part the U.S. Government would undertake to accept construction and maintenance costs of the facilities they would build and to share the facilities with the U.K. The two Governments would consult as necessary about

SECRET

establishment of any possible U.K. military facilities which might be required in the island.

8. It was agreed however by both delegations that it would be imprudent to undertake any survey until the constitutional future of Diego Garcia (together with the remainder of the Chagos Archipelago) was determined. The U.K. delegation undertook to recommend to H.M.G. that in the light of the joint strategic interest, the feasibility of the transfer of the administration of Diego Garcia (and the remainder of the Chagos Archipelago) and the Agalega Islands from Mauritius should be pursued as rapidly as possible and to inform the U.S. authorities if and when such transfer was effected.

9. When it is agreed that a survey can take place, this should be a joint project, under U.K. auspices, with the U.S. contingent of minimum size necessary. The U.K. would provide one of H.M. ships for the purpose.

Aldabra

10. The U.S. delegation expressed a possible interest in the eventual development of an air staging post in the Western Indian Ocean. Aldabra seemed a likely possible site for this. The U.K. delegation said there might well be a future U.K. requirement of a similar nature in this area and made available to the U.S. side a survey for a possible airfield, which had already been completed of Aldabra. Consideration of such a facility was agreed by both delegations to be a matter for further reference to governmental authorities.

Cocos/Keeling Islands

11. The U.S. delegation explained that they had already been advised informally by Australian authorities of interest in U.S. use of facilities to be developed in the Cocos/Keeling islands. It was agreed by both delegations that since the U.K. also shared a positive interest in facilities there, further approaches to the Australians might best be undertaken in concert by the U.K./U.S. At the same time a general explanation would be given to the Australians of the discussions held between the U.K. and the U.S. It was agreed that the U.K. and U.S. Governments would keep in close touch on this matter.

Summary of agreed recommendations

12. The U.K. delegation agreed to recommend to the U.K. governmental authorities that they should:-

- (a) Consider favourably the possibility of the development by the U.S. of such facilities on U.K. island possessions as they may require, on the following general principles:-
 - (i) H.M.G. should be responsible for acquiring land, re-settlement of population and compensation at H.M.G.'s expense.
 - (ii) U.S. Government should be responsible for all construction and maintenance costs.

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(iii) U.S. Government would share these facilities, during development and subsequently, with the U.K.

(iv) The two governments would consult as necessary about the establishment of any possible U.K. military facilities that might be required.

- (b) Pursue as rapidly as possible the feasibility of transfer of the administration of Diego Garcia (and other islands in the Chagos Archipelago) and the Agalega Islands from Mauritius.
- (c) As soon as politically practicable, facilitate a joint survey of Diego Garcia and any other islands under British sovereignty in the Indian Ocean area that the U.S. may require.

13. The U.S. delegation agreed:-

- (a) To recommend to the U.S. Government Authorities acceptance of the proposals set out in paragraph 12 above.
- (b) To consider further the location of a site for an air staging post in the Western Indian Ocean.
- (c) To consider further whether jointly to approach the Australian Government regarding possible use of facilities in the Cocos/Keeling Islands.
- (d) To communicate further with the U.K. regarding all the above.

London
27th February, 1964.

Annex 26

U.K. Foreign Office, Colonial Office and Ministry of Defence, *U.S. Defence Interests in the Indian Ocean*, D.O. (O)(64)23, FCO 31/3437 (23 Apr. 1964)

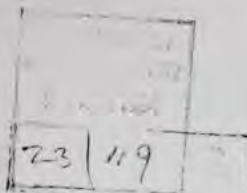
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& Mr. P. H. W. G.THIS DOCUMENT IS THE PROPERTY OF HER BRITANNIC MAJESTY'S GOVERNMENT

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& Mr. Arthur

D.O. (O)(64)23

23rd April, 1964

COPY NO. 3

CABINET

DEFENCE AND OVERSEA POLICY (OFFICIAL) COMMITTEEU.S. DEFENCE INTERESTS IN THE INDIAN OCEANMEMORANDUM BY THE FOREIGN OFFICE, THE COLONIALOFFICE AND THE MINISTRY OF DEFENCE

As a result of discussions between United Kingdom and United States officials in London, from February 25 - 27 a Memorandum (Annex I) was agreed for submission to Governments.

Background

2. The Americans have at present no forces or bases between the Pacific and Mediterranean, apart from a few naval vessels in the Persian Gulf. The United States Administration supports our position in Aden and Singapore. Their interest in the Indian Ocean area has gradually developed over the past few years and gained impetus as a result of the Chinese attack on India in 1962. They have, however, been restrained by considerations of finance and, although they showed interest in establishing certain technical facilities on islands in the area, it was not until December 1963 that their strategic interest took the positive and public form of a decision to deploy a naval task force into the Indian Ocean from time to time. Formal notification to Her Majesty's Government of this intention took place on December 11 last and on December 19 the Foreign Secretary told Mr. Rusk in London that Her Majesty's Government welcomed the American decision and also confirmed our readiness to receive a group of United States officials to discuss the development of support facilities on islands under British control.

Strategic Importance of the Indian Ocean

3. British strategy in this area has a three-fold aim:-

- (a) To prevent the spread of communism by supporting the Central and South-East Asia Treaty Organisations.
- (b) To protect vital British and Commonwealth interests, for instance in the Persian Gulf and Malaysia.
- (c) To maintain an effective presence over the whole area so as to prevent the development of a power vacuum.

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This strategy depends at present on our use of the main bases at Aden and Singapore and on our intermediate staging posts at Mesirah and Gan. Should any of these facilities be denied us we should, if we wish to maintain our strategic aims, have to reprovide the lost facilities elsewhere in the area. The possible construction of suitably placed United States facilities across the Indian Ocean which we should be able to use would therefore provide a very valuable insurance policy at a relatively small premium against possible loss or limitation of use of any of these facilities. A map of the area is at Annex II.

Analysis of United Kingdom/United States Discussions

4. The Americans, as shown in the Memorandum, contemplate a greater defence presence in the Indian Ocean to complement (but not in any way to replace) the existing British effort in the area. This is likely to mean over a period of time:-

- (a) Periodic visits by a naval task force;
- (b) the installation of military communications and technical facilities;
- (c) the development of base facilities (together with air staging posts) to support United States forces.

5. It being established that Her Majesty's Government had already welcomed American intentions, the joint aim in the discussions was to find common ground for the development of United States support facilities on British island possessions in such a way that the United Kingdom would also enjoy the strategic benefits. It seems clear that, even if their pace is slow, the Americans will definitely enter the area in one way or another, and it is therefore in the United Kingdom's long term interests to strike the best bargain possible for the benefit of both countries.

6. The principles of such a bargain which the two delegations agreed to recommend were that it would be Her Majesty's Government's responsibility to acquire land, resettle population and pay any necessary compensation. The United States Government would be responsible for all construction and maintenance costs. As regards joint use, the United States Government would share any facilities, during development and subsequently, with the United Kingdom, and the two Governments would consult as necessary about the establishment of any possible United Kingdom military facilities that might be required (i.e. separate facilities from those developed by the United States but in the same area).

7. From the defence point of view such a bargain should be extremely advantageous to the United Kingdom and the joint recommendations in paragraph 12 of the Memorandum have already been strongly endorsed by the Chiefs of Staff, though they point out that United Kingdom interests must be safe-guarded during negotiations. From the international political point of view, the proposals are also attractive. American interest in the area is likely to increase in any event, but as shown in Annex B of the Memorandum the Americans are favourably disposed to consultation with us on the political presentation of their actions. By offering our co-operation we shall be able to influence these in a direction favourable to the policies

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of Her Majesty's Government. This influence would, however, be weakened if we introduced unacceptable conditions before attempting to put into effect the recommendations in paragraph 12 of the Memorandum.

8. We must, nevertheless, not overlook the United Kingdom's reputation as a Colonial power. It would be imprudent to expose ourselves to international and local criticism of trafficking in Colonial territory without regard to the reasonable interests of the colonies concerned (Mauritius and Seychelles). On the other hand we must look to our broader responsibilities to our remaining Colonial territories all over the world. As explained above, the United States proposals, if put into effect, would provide a valuable alternative means of maintaining the free world's defence posture in the Indian Ocean and further East, which is essential if we are to continue to be responsible in the last resort for the maintenance of law and order in and defence of our remaining dependent territories in these areas.

Future Action by the United Kingdom

9. There are, however, as the Americans recognised, considerable local political and economic problems to be settled before we can authorise the Americans to make any surveys. The principle difficulty lies in the fact that the most suitable island for development as an American "austere" base is Diego Garcia in the Chagos Archipelago which, though about 1500 miles from Mauritius, is under Mauritius administration. We have to consider how best to arrange matters so that this island, if developed as a base, together with the surrounding Archipelago, can be freed from future political and economic encumbrances, which might nullify its strategic usefulness. We must also consider how best to proceed in order to avoid damaging our future political relations with an independent Mauritius, and, in particular, risking the security of our important Naval Communications station on that island.

10. The course which would best satisfy our major interests would appear to be to decide now to detach Diego Garcia (and other islands in the Chagos Archipelago), and possibly the Agalega Islands from Mauritius, well in advance of Mauritian independence, and to place these under direct United Kingdom administration. This could be done by Order in Council, which could provide for the new territory to be administered by a High Commissioner or Administrator who might be either a Service Officer (cf. the Sovereign Base Areas in Cyprus) or the Governor of the Seychelles or of Mauritius (preferably the former) in his personal capacity (cf. British Antarctic territory). When this has been done, or sooner if politically possible, we should be able to tell the Americans that we were in a position to arrange a joint survey. The Americans may however press us to arrange a survey more urgently, before the constitutional action has been taken. We should therefore proceed with that action as quickly as possible.

11. Formally, we have the constitutional power to take action without the consent of the Mauritius Government, although it consists almost entirely of elected Ministers. To do this, however, would expose us to criticism in Parliament and the United Nations and damage our future relations with

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Mauritius. Moreover, in as much as there would still be a local population, albeit very small in number, in the Chagos Islands other than Diego Garcia, we might be criticised for creating for strategic purposes a new Colony with a less advanced constitution than it theoretically enjoys as part of Mauritius, and with no prospect of evolution. But this criticism would lose most of its force if the action were accepted by Mauritian Ministers in advance. It is therefore desirable to secure their positive consent, or failing that, at least their acquiescence.

12. If we are to do this we are bound to take them reasonably fully into our confidence at the outset. We have promised the Americans that we will consult them before this is done and on the terms to be used. The Americans will be reluctant to accept that the Mauritians should be told about the extent of United States participation or about their specific strategic interests. In the short term it might at first sight appear that, if only to avoid the risk of premature leaks, and the consequent raising of the price, it would suit us better to confront the Mauritians with a fait accompli or at most tell them at the last moment what we are doing. But the Colonial Office are convinced, as is the Governor, that this would do lasting damage to our relations with Mauritius and would adversely affect the facilities which our Services now enjoy in Mauritius itself. We have considered whether the Americans' share in the enterprise could be concealed, but since it would eventually become known, we could be charged with duplicity and the damage would be as great and possibly greater. We might, however, be able to frame our explanation to the Mauritians in language which the Americans would accept and which would refer to the United Kingdom/United States joint interest in the Chagos Archipelago for the defence of the free world in which the Mauritians might, as future members of the Commonwealth, be expected to share. Such an explanation would eschew any particular description of the nature of the strategic facilities or their purpose.

13. It must be recognised that there will be a demand for compensation, not only to the private land owners in the Chagos Archipelago (a Seychellois consortium), but to the Mauritius Government as the price of their consent, and possibly to the Seychelles Government for loss of export duty on the copra which is exported through Seychelles. There will also be a sizeable problem of re-settling the inhabitants of Diego Garcia. Consideration of all three might best await the initial consultation with Mauritius and subsequent surveys. We do not envisage asking the Americans to accept any part of this bill.

14. There remains the question of Aldabra Island, which is at present under the administration of the Seychelles. In paragraph 13 of the Memorandum the Americans agreed to consider further the location of a site for a staging post in the Western Indian Ocean, to balance their separate interests in staging facilities, which we share, on the Australian-owned Cocos-Keeling Island in the Eastern Indian Ocean. The Americans considered Aldabra a potential site for the

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former purpose and were glad to receive a copy of the survey already made by the Air Force Department. If this idea were pursued, and we could achieve full and unimpeded use of Aldabra, it would be a most useful strategic asset to the United Kingdom on an eventual round Africa route to the Middle and Far East. The strategic importance of a staging post on Aldabra would be greatly increased if, after Mauritius gains independence, we found we could not rely on air staging facilities there in all circumstances. There would therefore be advantage in considering how best to ensure that Aldabra Island be retained indefinitely under Her Majesty's Government's direct control and at the same time encouraging the Americans to pursue their interest in Aldabra as an air staging post, which we would share. There might be advantage in detaching Aldabra from the Seychelles at the same time as we detach Chagos, and possibly Agalega from Mauritius but this needs further examination with the Governor.

Recommendation

15. The Committee is invited to recommend that Ministers:-

- (a) Approve the principles of the United Kingdom/United States Memorandum, provided that reasonable financial arrangements can be made;
- (b) invite the Foreign Secretary, in consultation with the Colonial Secretary, to seek American agreement to an approach to Mauritius Ministers on the lines of paragraph 12 above;
- (c) invite the Colonial Secretary, when this has been done, to consult the Mauritius Government with a view to detaching Diego Garcia (and other islands in the Chagos Archipelago) from the administration of Mauritius and retaining them under Her Majesty's Government's direct control;
- (d) invite the Colonial Office to arrange for similar action for the Agalega Islands to be considered;
- (e) invite the Foreign Secretary, in consultation with the Secretary of State for Defence, as soon as constitutional action for detachment is completed, or sooner if politically practicable, to arrange for a joint United Kingdom/United States survey of Diego Garcia and any other islands in the Chagos and Agalega Archipelagos which the United States may require;
- (f) invite the Colonial Secretary to consider detaching Aldabra also from the Seychelles administration;
- (g) invite the Colonial Office to produce as soon as possible an estimate of cost to Her Majesty's Government arising from land acquisition, resettlement of population and payment of compensation.

FOREIGN OFFICE, S.W.1.

April 24, 1964

Annex 27

United Kingdom, *Minutes from C. C. C. Tickell to Mr. Palliser: United States Defence Interests in the Indian Ocean*, FCO 31/3437 (28 Apr. 1964)

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Minutes

United States Defence Interests in the
Indian Ocean

We were brought in on the discussions on this subject at the beginning but so far as I know, we were not consulted about the attached paper by the Foreign Office, the Colonial Office and the Ministry of Defence which has now been circulated to the Defence and Overseas Policy (Official) Committee.

2. The paper is obviously a compromise between the desire of the Foreign Office and the Ministry of Defence to provide the facilities required by the Americans in the Indian Ocean and the reluctance of the Colonial Office to detach the islands in question from the administrative control of Mauritius and the Seychelles.

3. As a compromise document the arguments and counter-arguments are so carefully balanced that the final recommendations are muffled. The key recommendation is in paragraph 12: the implication there is that while we are prepared to give as convincing an explanation of our intentions as possible to the Mauritians we are presenting them with a fait accompli. It is however stated in paragraph 15(c) that the Colonial Secretary will be invited to "consult" the Mauritians on this point. I think we must be clear about this and give Ministers a firm recommendation.

4. If the Colonial Office take their stand on consulting rather than telling the Mauritians, I think a separate study should be made of the importance of our relations with Mauritius; their capacity to do us harm; and the usefulness of the facilities which the Services now enjoy there.

5. From the point of view of our foreign and defence policy, it seems hard to believe that the advantages we should gain from a joint Anglo-United States policy in the Indian Ocean could be outweighed by the disadvantage of having a row with Mauritius or the Seychelles.

C. C. C. Tickell
(C.C.C. Tickell)
April 28, 1964.

Mr. Palliser

P. Army

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Annex 28

Letter from George S. Newman, Counselor for Politico-Military Affairs, U.S. Embassy in London to Geoffrey Arthur, Head of the Permanent Under-Secretary's Department, U.K. Foreign Office (14 Jan. 1965)



EMBASSY
OF THE
UNITED STATES OF AMERICA

Enter
John

REC-11	London, W. 1.
ARCH-11	January 14, 1965
19 JAN 1965	
24/13	

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Dear Geoffrey:

I am writing to advise you of the results of the United States review of the joint U.S./U.K. survey of certain Indian Ocean Islands for military purposes.

After considering the report of the survey group, we have concluded that the areas having the most potential for U.S. military requirements are:

A. Diego Garcia. As you are aware, this site is required for establishment of a communications station and supporting facilities, to include an air strip and improvement of off-loading capability. We consider that detachment proceedings should include the entire Chagos archipelago, primarily in the interest of security, but also to have other sites in this archipelago available for future contingencies.

With respect to the communications station and supporting facilities, we would expect to initiate architectural, engineer and design work as quickly as the site was available for detailed topographical surveys. We anticipate that we will break ground late in calendar year 1966 for the permanent facilities, and have the station operational late in calendar year 1968. In the interim, should circumstances demand, we would wish to establish austere communications on a van-mounted, concrete-pad-supported basis within a period of three to five months, assuming satisfactory arrangements can be made for the support of 40 to 50 operating personnel.

B. Aldabra. Although nothing specific has been planned and no funding requests are scheduled by the U.S. at this time, the obvious potential usefulness of Aldabra as a staging area for air operations impels a strong recommendation, that in joint long-term U.S./U.K. interest, this island be included in any detachment package.

G. G. Arthur, Esquire,
Head, Permanent Under-Secretary's Department,
Foreign Office.

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C. Coetivy, Agalega, Farguahar, Ile des Roches, and Cosmoledo. Since we appreciate your desire to undertake all detachment proceedings at the same time, we strongly urge that your Government consider favorably the inclusion of all, or some of these islands, in the order listed. They too have military potential, and again over the long-term, we consider that our mutual security interests in the Indian Ocean justify detachment on a precautionary planning basis, particularly if the resulting political and financial burden is not disproportionate to the indicated long-range advantages of assuring the availability of these islands.

X We recognize the difficulties that Her Majesty's Government will face in undertaking the necessary steps to detach these islands. Accordingly, we will respond as fully and promptly as possible to any questions which you may have in order to facilitate the necessary decisions on your part. More specifically, we are prepared to meet with United Kingdom representatives on relatively the same representational level and basis as the meetings of last February, should your Government consider that this would be helpful in furthering our joint interest in moving this project forward rapidly.

Sincerely,

George E. Newman

George E. Newman, Jr.
Counselor for Politico-Military Affairs

Annex 29

Letter from N. C. C. Trench of the British Embassy in Washington to E. H. Peck of the U.K.
Foreign Office, FO 371/184522 (15 Jan. 1965)



January 15, 1965

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19 JAN 1965
24/2

Dear Ted,

As foreshadowed in Oliver Forster's letter 119101/656 of January 4 to Graham in P.U.S.D., Jeff Kitchen asked me to call today and read out to me the text of a State Department telegram instructing the American Embassy in London to speak to the Foreign Office about the islands in the Indian Ocean. In case it may be useful to you I enclose a copy of the substantive part of the telegram.

2. When asked to give an idea of your reactions I said that you would be glad that the State Department had finally induced the Pentagon to divulge their ideas in detail, but I thought you might find that the amount of real estate involved was rather formidable. To this Kitchen replied that the United States were only immediately interested in the first two items in the list, but he understood that we were interested in Agalega and it had been thought in the State Department that it might be helpful to us for the American list to include these two islands. From the wider point of view, he believed that in five or ten years' time the United Kingdom and United States might be very glad to have all the islands named available for use in case of need, and, since you had said that we could not take two bites at the cherry of detachment, it had been thought only prudent to include all groups that were likely to be useful in the long run.

3. Kitchen said that if, after all concerned in London had had time to digest the information conveyed by the Embassy, you thought that it would be helpful to have another meeting on the lines of that which you chaired last year, the State Department would be very willing to send a team to the U.K. In reply to a question about the timing for any such meeting, he said he was thinking in terms of talks on the subject before the end of February, should we decide that such talks were required.

4. A member of Kitchen's staff interjected that the State Department's telegram to their Embassy had not made clear that the Department of Defense would like the architectural and engineering design team necessary to undertake the preliminary planning on Diego Garcia, to reach the island before the end of May. Kitchen added in confidence that

E.H. Peck, Esq., C.M.G.,
Foreign Office,
London. S.W.1

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that as the Department of Defense had taken such an inordinately long time to formulate their requirements properly he did not think that it would matter too much if we said that this deadline was earlier than we could manage.

5. I asked whether the United States were still thinking in terms of "austere" installations and Kitchen said that they were. Something rather better than this would be required for the Communications station, but otherwise the need for austerity was very much in everyone's minds.

6. The question of adverse reactions in the United Nations or Africa did not seem to be worrying either Kitchen or Myers, who was also present. So far as the Committee of Twenty-Four is concerned, I gathered that its mandate would have to be renewed by the General Assembly, which could mean that the Committee would be in suspended animation for some time to come. In any case, Kitchen seems to believe even more strongly than before that a reference to the value of the proposed installations in support of possible future peace-keeping operations will soothe any savage breasts. He admitted, however, that recent events in the Congo might affect this.

Yours faithfully,
Nigel

(N.C.C. Trench)

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a. Diego Garcia - As Embassy aware this site required for establishment of communications station and supporting facilities, to include air strip and improvement of off-loading capability. Additionally consider that detachment proceedings should include entire Chagos Archipelago, primarily in interest security but also to have available other sites in Archipelago for future contingencies. With respect communications station and supporting facilities, we would expect initiate architect-engineer and design work as quickly as site available for detailed topographical surveys. We would expect break ground late calendar 1966 for permanent facilities, and have station operational late calendar 1968. In the interim, should circumstances demand, austere communications could be established on van-mounted concrete-pad-supported basis within period of 3 to 5 months assuming satisfactory arrangements can be made for support of 40-50 operating personnel.

b. Aldabra - While nothing specific planned and no funding requests scheduled by US at this time, obvious potential usefulness of Aldabra as a staging area for air operations impels strong recommendation that this island be included in any detachment package, in US/UK interest over long term.

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c. Coetivy, Agalega, Farquahar, Ile des Roches and Cosmoledos - Since UK intends quote single-bite unquote detachment proceedings (Deptel 3636), strongly urge Fonoff favorably consider stockpiling all or in order their listing some of these islands. They too have military potential and, again over long term, we consider our mutual security interests in Indian Ocean justify UK detach them on precautionary planning basis, particularly if resulting political and financial burden not disproportionate to indicated long-range advantages their availability.

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Annex 30

Letter from George S. Newman, Counselor for Politico-Military Affairs, U.S. Embassy in London to Geoffrey Arthur, Head of the Permanent Under-Secretary's Department, U.K. Foreign Office (10 Feb. 1965)



EMBASSY
OF THE
UNITED STATES OF AMERICA

London, W. 1.

February 10, 1965

24/11/G

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Dear Geoffrey:

In our meeting on January 26 you requested urgent answers, even on a partial or tentative basis, to a number of specific questions regarding proposed facilities in the Indian Ocean islands.

I have now been authorized to provide you the following responses, keyed to corresponding sections of your letter:

(a) The Chagos Archipelago and Diego Garcia

We would not regard the detachment of the entire Chagos Archipelago as essential, but consider it highly desirable. It appears to us that full detachment now might more effectively assure that Mauritian political attention, including any recovery pressure, is diverted from Diego Garcia over the long run. In addition, as indicated in my letter of January 14, full detachment is useful from the military security standpoint, and provides a source for additional land areas should requirements arise which could not be met on Diego Garcia.

(b) Aldabra

Our interest in Aldabra arises in large part from the strong interest initially expressed by the U.K. in the development of an air staging base there, and our conclusion that there is an increasing need for dependable long-term accesses to Africa south of the Sahara. We have no immediate requirement for other facilities on Aldabra, and cannot predict when we will be in a position to fund for the concerted development of the air staging base itself. The requirements for a communication station at Diego Garcia antedates specific interest in Aldabra and, although staging facilities if constructed at these sites would be mutually supporting, the initial mission at Diego Garcia does not depend upon any development at Aldabra.

Geoffrey G. Arthur, Esquire,
Head, Permanent Under-Secretary's Department,
Foreign Office.

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(c) Remaining Islands

(i) The priority order is based on the topographic and hydrographic data gathered in last summer's joint surveys, and the geographical position of the islands.

(ii) Taking the islands as a group, we consider them to have potential usefulness for airstrips, anchorages, Pol supply points, pre-positioning of material, and support of space programs. We have not identified particular objectives for individual locations, except in the sense of concluding that certain facilities would be excluded by physical characteristics such as space limitations or poor anchorage.

(iii) We do not have any schedule for facilities at these locations. This would depend upon the development of future military requirements.

(d) General

From our standpoint there would be no reason to relocate population prior to an island's coming into use to meet a requirement. This would apply to the other islands of the Chagos Archipelago so long as our activity was confined to Diego Garcia.

(e) Local Labor

We do not in principle exclude the use of local labor for construction work. As you will recognize, in practice the extent to which local labor can be used depends upon such factors as availability of appropriate skills, possible balance of payments considerations, and the value to the contractor of key personnel from his own staff.

I hope that this information will provide you sufficient basis for requisite political decisions within Her Majesty's Government, and with the governments concerned. Please let us know if you need anything further.

Sincerely,


George S. Newman

Counselor for Politico-Military Affairs

Annex 31

U.K. Foreign Office, Permanent Under-Secretary's Department, *Secretary of State's Visit to Washington and New York, 21 - 24 March: Defence Interests in the Indian Ocean*, Brief No. 14, FO 371/184524 (18 Mar. 1965)

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BRIEF NO. 14

SECRETARY OF STATE'S VISIT
TO WASHINGTON AND NEW YORK

21 - 24 MarchDEFENCE INTERESTS IN THE INDIAN OCEAN

RECEIVED IN ARCHIVE 14-37
20 MAY 1965
24/66

Discussions with the Americans have been going on for some time at the official level about the proposals for military facilities on one or more of the small island dependencies of Mauritius and the Seychelles. The United States Embassy have warned us that Mr. Rusk may ask the Secretary of State how the matter stands, since the American side are waiting for a reply to their proposals.

2. The background is as follows. Ever since the Chinese attack on India, and possibly even before that, the Americans have been conscious of a gap in their military dispositions in the Indian Ocean area. They have no forces continuously deployed between the Mediterranean and the South China Sea and no bases between the Mediterranean and the Philippines. In December 1963 they announced that a carrier task force would pay periodic visits to the Indian Ocean area. Her Majesty's Government welcomed this move, and two visits have since taken place. In February 1964 it was agreed between United States and British officials that, subject to the results of a survey, a United States military communications station and supporting facilities should be built on the island of Diego Garcia in the Chagos Archipelago, administered by Mauritius but over a thousand miles North-East of the main island. It was further agreed that this might turn out to be the beginning of a project on a wider scale with other facilities in the western part of the Indian Ocean (perhaps on Aldabra, an island administered by the Seychelles), with the possibility of more facilities

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in the eastern part of the Indian Ocean (perhaps in the Cocos-Keeling Islands, which are administered by Australia). The Americans were at pains to emphasise that this initiative was intended to complement, and not to replace, the British military effort in the area. They also made it plain that any islands chosen for military facilities must be free from local pressures which would threaten security of tenure, and that in practice this must mean that the islands would be detached from the administration of Mauritius (soon due for independence) and of the Seychelles (where pressure for independence is beginning to be felt).

3. It was agreed that the United States Government would pay for any facilities constructed, allowing us joint use at all times; while Her Majesty's Government would be responsible for making the chosen islands available and for paying the necessary compensation to local interests. These principles were subsequently approved by Ministers in London.

4. A joint Anglo-American survey of a number of likely islands, including Diego Garcia, was carried out from June to August 1964. The Premier of Mauritius (Dr. Ramgoolam) and the Executive Council of the Seychelles were consulted beforehand and raised no objection to the survey. An approach was also made to Dr. Ramgoolam about the possibility of detaching islands in the Chagos Archipelago from the Mauritius administration. His reaction was guarded. Rumours had for some time been current in the islands that the Americans proposed to build 'bases' in the area. At about this time there appeared a number of speculative stories in the world press. These in turn gave rise to unfavourable reactions from some of the governments of African and Asian countries bordering on the Indian Ocean, as well as from the Soviet Union, the United Nations, and the Cairo Conference of Non-Aligned Countries.

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The public line we took in reply was that certain communications and other facilities were a possibility but that no decision had been taken.

5. The American Embassy have recently produced proposals for the use for defence purposes of seven islands administered by Mauritius and the Seychelles, listed in three categories of priority. First comes Diego Garcia (where it is proposed to make a start as soon as possible on the construction of a communications station, together with an airstrip) and in the interests of security and future expansion, the rest of the Chagos Archipelago; second comes the island of Aldabra as a site for an air staging post, to be constructed at some time unspecified in the future; and thirdly, a list of five islands (Coetivy, Agalega, Farquhar, Ile des Roches, and Cosmoledos) which the Americans considered might be useful for unspecified defence facilities at some future date.

6. This is how the matter rests. Ministers will shortly be asked to reaffirm Her Majesty's Government's general support for this scheme and to agree that the Colonial Office should undertake the necessary constitutional steps in Mauritius and the Seychelles. Meanwhile the Ministry of Defence, in conjunction with other interested Departments, are calculating the cost of the acquisition of the islands chosen and assessing the military potentialities of each island. It is hoped that a paper will be circulated to Ministers within the next two or three weeks.

7. The Secretary of State will not wish to raise the subject, since we are not ready to give a substantive answer. If Mr. Rusk raises it, the Secretary of State can say that we regard the plan as an imaginative and valuable concept, that we are examining the American proposals as a matter of urgency, but that as Mr. Rusk will understand, there are a number of different - and difficult - aspects to be considered, and we are not quite ready to give a reply. If the Secretary

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of State is able to secure the agreement of the Colonial Secretary and the Defence Secretary, before he leaves for Washington, to his giving a more encouraging reply to Mr. Rusk, so much the better.

Permanent Under-Secretary's Department
18 March, 1965

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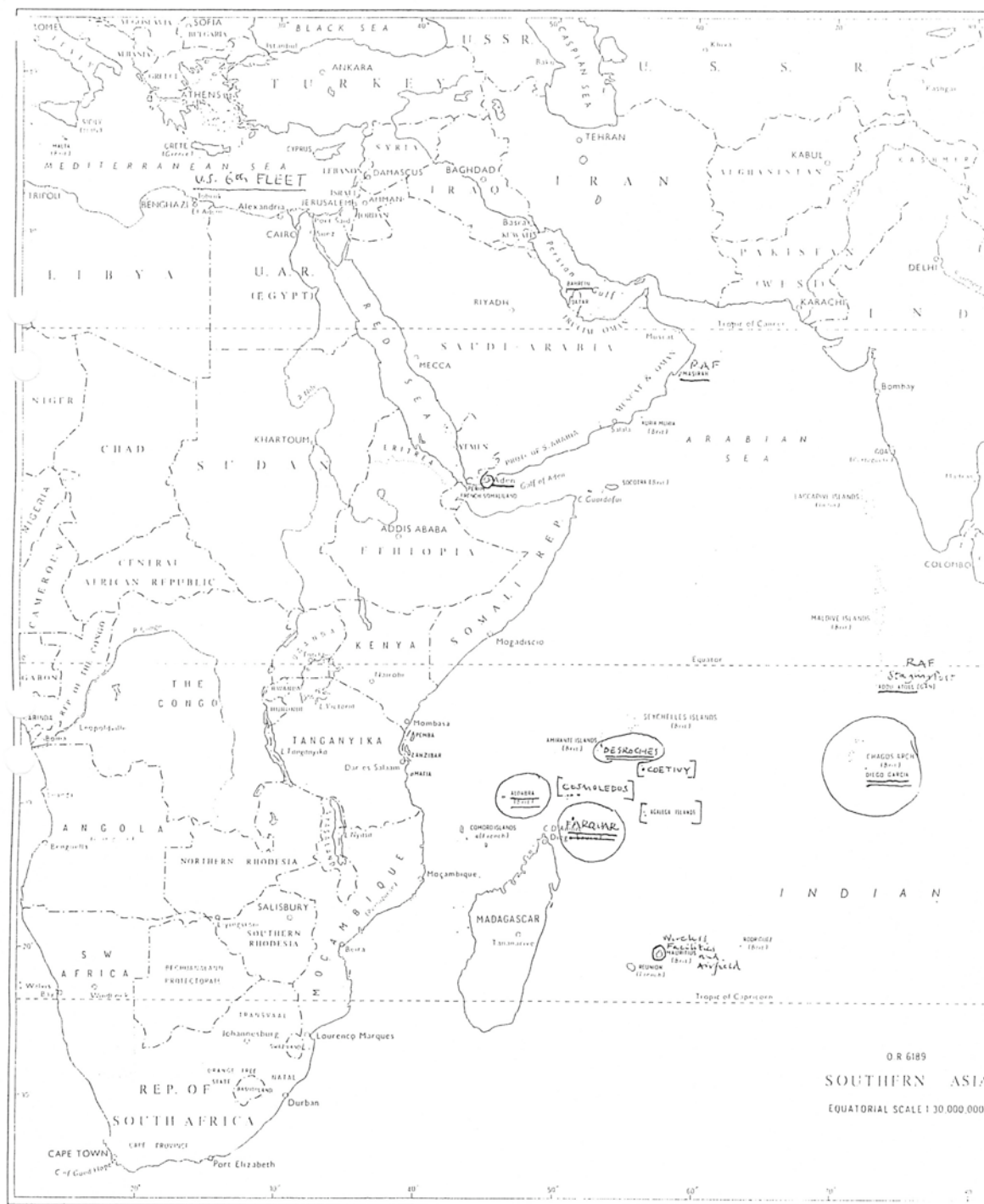
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ANNEX II



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Annex 32

U.K. Defence and Oversea Policy Committee, *Defence Interests in the Indian Ocean: Legal Status of Chagos, Aldabra, Desroches, and Farquhar* - Note by the Secretary of State for the Colonies, O.P.D. (65) 73 (27 Apr. 1965)

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O.P.D. (65) 73
 27th April, 1965

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CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

DEFENCE INTERESTS IN THE INDIAN OCEAN

Legal Status of Chagos, Aldabra,
Desroches and Farquhar

Note by the Secretary of State for the Colonies

At the meeting of the Committee on the 12th April I was invited to circulate a report on the status of the Indian Ocean islands which it is proposed should be made available for joint U.K./U.S. defence developments. This I now circulate at Annex.

2. The islands in question are the Chagos Archipelago (i.e. Diego Garcia, Six Islands, Peros Banhos, Salomon Islands and Trois Frères, including Danger Island and Eagle Island), the Aldabra Group, Desroches and Farquhar and, as the annexed report makes plain, they are all legally established as being parts of the Colonies of Mauritius or Seychelles. To separate them from Mauritius and Seychelles would require the making of amendments to existing constitutional instruments.

3. To establish the islands as a separate new administration would require a further and separate Order in Council.

A.G.

Colonial Office,
 Great Smith Street, S.W.1.

27th April, 1965 SECRET

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A N N E XNote on the Legal Status of the Islands of
the Chagos Archipelago, the Aldabra Group
and the Farquhar IslandsChagos Archipelago

There can be no legal doubts about the position over the Lesser Dependencies of Mauritius, which include the Chagos Archipelago. Section 90(1) of the Mauritius (Constitution) Order, 1964 defines Mauritius as meaning "the island of Mauritius and the Dependencies of Mauritius". "Dependencies" are defined in section 3(1) of the Mauritius Interpretation and General Clauses Ordinance, 1957, as being "Rodrigues and the Lesser Dependencies" commonly called the "Oil Islands". The "Oil Islands" are defined as including the islands of the Chagos Archipelago.

Aldabra Group, Desroches and the Farquhar Islands

2. There is also no doubt as to the legal status of these islands since they form part of the Colony of Seychelles by virtue of the definition of the boundaries of that Colony in clause 1(1) of the Seychelles Letters Patent of 15th March, 1948.

Separation

3. The separation of the Chagos Islands from Mauritius could best be achieved by an amendment of section 90(1) of the Mauritius Constitution Order in Council, 1964, so as to include a reference to the Dependencies by name; the Mauritius Interpretation and General Clauses Ordinance, 1957, should be amended accordingly. Separation of Aldabra, Desroches and Farquhar from Seychelles would necessitate suitable amendments being made to the Letters Patent.

New Administrative Unit

4. The establishment of a new administrative unit consisting of all these islands would require a prerogative Order in Council, perhaps containing a reference to the Colonial Boundaries Act, 1895, as an enabling power. This would probably best be on the model of the British Antarctic Territory Order in Council, 1962. This would establish the office of e.g. High Commissioner, allowing anyone

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(e.g. the Governor of Seychelles) to be appointed to this post, and would provide that he should exercise such functions as are conferred on him by the Order or assigned by Her Majesty. The High Commissioner could be empowered to make laws for the territory and to constitute offices.

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Annex 33

Telegram from the U.K. Foreign Office to the U.K. Embassy in Washington, No. 3582, FO
371/184523 (30 Apr. 1965)

SECRETFROM FOREIGN OFFICE TO WASHINGTON

Cypher/OTP & By Bag

FO(S)/CRO(S)/WH(S) DISTRIBUTIONNo. 358230 April, 1965D. 15.17 30 April, 1965IMMEDIATESECRET

Addressed to Washington telegram No. 3582 of 30 April,
Repeated for information Saving to U.K.Mis. New York No. 789

Defence Facilities in the Indian Ocean.

Please speak to Mr. Rusk or an appropriately senior member of the State Department, on the following lines.

2. As the Prime Minister has already told Mr. Rusk, we are anxious to press ahead with this project as rapidly as possible. We consider that the islands chosen for defence facilities to be developed either immediately or in due course, should be Diego Garcia and the rest of the Chagos Archipelago (Mauritius) and the islands of Aldabra, Farquhar and Des Roches (Seychelles). Agalega (Mauritius) and Cectivy and Cosmeledeas (Seychelles) should be dropped.

3. It is now clear that in each case the islands are legally part of the territory of the colony concerned. Generous compensation will, therefore, be necessary to secure the acceptance of the proposals by the local Governments (which we regard as fundamental for the constitutional detachment of the islands concerned) in addition to compensation for the inhabitants and commercial interests which will be displaced. The total may come to as much as £10 million. We should, therefore, like to discuss with the United States Government the possibility of a contribution to these costs from their side.

4. You should add that Her Majesty's Government are not finally committed at this stage. We are, however, ready to approach the Seychelles and Mauritius Authorities with firm proposals for the detachment of the islands listed above. Timing of such an approach is not yet finally decided because of Mauritius political considerations.

/5.

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SECRETForeign Office telegram No. 3582 to Washington

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5. Before making this approach it would be prudent to discuss what publicity line should be taken if the details should leak, and what approaches should be made in the capitals of the countries bordering the Indian Ocean who will be mainly concerned.

6. I should like to compare ideas with Mr. Rusk on this next week. It would be helpful if he could then give me at least a provisional answer to the suggestion in paragraph 3 above. Once a proposal is put to the Mauritius and Seychelles Authorities, a speedy (and therefore generous) settlement is most likely to be the best way of disarming criticism.

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Annex 34

Telegram from the U.K. Foreign Office to the U.K. Embassy in Washington, No. 3665, FO
371/184523 (3 May 1965)

SECRETFROM FOREIGN OFFICE TO WASHINGTON

Cypher/OTP

FO(S)/CRO(S)/WH(S)/DISTRIBUTIONNo. 3665
3 May 1965

B.1740 3 May 1965

IMMEDIATE
SECRETAddressed to Washington telegram No. 3665 of 3 May
Repeated for information to: U.K. Mission New York.

My telegram No. 3644 [of 1 May].

Answers to questions in your telegram No. 1666 are as follows:

Your paragraph 2. Constitutional conference has not been finally arranged but will probably take place in the autumn; Colonial Secretary has proposed September. Outcome is unlikely to take Mauritius further than full internal self-government. It is impossible to estimate when or indeed if Mauritius will achieve full independence. The great debate in Mauritius concerns the ultimate status of the island: both "Independence" and "Association" have strong support.

2. Figure of £10 million is an outside estimate given the need to reach a quick settlement. It consists of:

- (a) Resettlement and buying out commercial interests -
£4½ million,
- (b) Airfield in Mahé (thought necessary to secure Seychelles acceptance) - £2-3 million.
- (c) At least equal compensation for Mauritius (population 720,000 as against Seychelles 45,000) - £2-3 million.
- (d) Allowance for fact that this is likely to become a bargaining counter in constitutional negotiations in Mauritius unless it is settled speedily (and therefore generously) - say £2½ million.

3. Myers' point is a fair one. But economic difficulties (particularly in defence field) have increased since February 1964, and estimated compensation is much greater than we thought then. United States Embassy (Newman) are more relaxed about financial point and all we would like to propose at present is that a discussion on this might be initiated.

4. No objection to above figures being given to State Department but it must be understood that they are very rough approximations. Please let us know when Mr. Ruak would be ready to discuss. What are his plans between last day of S.E.A.T.O. for which we hope he will be present and the opening of the N.A.T.O. Council?

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Annex 35

Letter from D. J. Kirkness, PAC.93/892/01 (10 May 1965)

PAC.33/892/01

10th May, 1963.

You know of the proposals to detach certain islands from Mauritius and Seychelles for use for defence purposes. You are aware also that it is our view that willing acceptance in the two Colonies is essential to our object, and that in order to secure this it will be necessary to compensate the two Governments for their loss of territory. The likely form and scale of compensation were suggested in Mauritius telegram Personal No.75, which has been circulated.

2. I am writing now about the attribution to Votes of any expenditure of this kind. We think Ministers should be enabled to see the full financial effects quite clearly when they come to decide on the proposals as a whole. We have all along resisted the suggestion that expenditure on compensation should be met from Colonial Office Votes, or O.D.M. Votes covering expenditure on dependant territories, because we think that this would tend to mask the true cost of obtaining defence facilities by suggesting that compensation is a separate transaction necessary to meet some Colonial Office interest. There is in fact no Colonial Office interest in detaching these islands. If they were not wanted for defence purposes, we should have no reason for proposing either their detachment or these payments to Mauritius and Seychelles, which will be quite outside the normal pattern of our aid. Compensation will be part of the price of obtaining defence facilities which the United Kingdom needs, and it would be wrong, and would set an undesirable precedent, to treat it otherwise.

3. Insofar as it is possible to distinguish departmental interests within the policies of H.M.G. as a whole (and this distinction is of course implicit in the Vote system) the interest here is clearly a Ministry of Defence one. We therefore remain firmly opposed to meeting any part of the costs from Colonial Office or O.D.M. Votes, and hope it can now be accepted that the cost of compensation should be met from Defence Votes.

4. I am copying this letter to Wright, Ministry of Defence, Post, Foreign Office, Champion, C.R.O., and Burt, O.D.S.

(D.J. Kirkness)

S.L. Sharp, Esq.,
Treasury.

Annex 36

Note from Trafford Smith of the U.K. Colonial Office to J. A. Patterson of the Treasury, FO
371/184524 (13 July 1965)

SECRET

Enter

PAG 93/892/05

13th July, 1965

20/86

You wrote on 17th June about defence interests in the Indian Ocean. Since then we have, as you know, during the Oxford Conference, discussed with the Governors of Mauritius and Seychelles the implications of detaching the various Islands from Mauritius and Seychelles. We know from the memorandum which they submitted to the Foreign Office on the 24th June (see Arthur's letter to Wright of the 25th June) that the Americans wished to discuss with H.M.G. as soon as possible "the principles on which access to the Islands, following their detachment, would be available to the United States". Finally as you know we hope, subject to the views of my Secretary of State, to ask the Governor of Mauritius and the Acting Governor, Seychelles to begin discussions with their Governments in the week beginning the 19th July on the defence proposals as a whole (in fact the matter would be put to unofficials on 22nd July in Seychelles and on 23rd July in Mauritius when regular meetings of the Executive Council and of the Council of Ministers would take place). Before this is done we ought to try to provide some guidance on the implications of detachment and, so far as we can see them at this stage, on the sort of arrangements we envisage for the Islands concerned after detachment; in particular we ought to try to provide as full an answer as possible to the questions raised in Seychelles telegram No. 143. From several points of view therefore there is some urgency in clarifying our views on these matters.

2. As we see it questions arise under the following main heads:-

- (1) Legal
- (2) Administrative
- (3) Financial.

The views jointly agreed between the Colonial Office and the two Governors on the points arising under these heads are set out below.

3. We are all agreed that the Islands must be constitutionally separate from the Colonies of which at present they form part. As I think you know our idea is that the High Commissioner for the detached Islands should be the Governor of Seychelles wearing a separate hat. We are advised that the following action would be necessary:-

- (a) Chagos would be separated from Mauritius by an amendment of section 90(1) of the Mauritius Constitution Order in Council, 1964 so as to include a reference to the dependencies by /name;

J.A. Patterson, Esq.,
Treasury.

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name; the Mauritius Interpretation and General Clauses Ordinance, 1957 would be amended accordingly. Separation of Aldabra, Desroches and Farquhar from Seychelles would necessitate suitable amendments to the Letters Patent.

- (b) An Order in Council, similar in form to the British Antarctic Territory Order in Council, 1962 - copy attached - would be made to establish a separate territory.

As regards the Law which would apply in the detached Islands you will see that the British Antarctic Territory Order in Council provided for the previously existing law to continue to apply after the appointed day and gave the High Commissioner power to make laws. We could not follow this pattern precisely in the present case since we are advised that it would not be legally practicable for there to be two codes of law applicable in the detached islands - namely, Seychelles law in Aldabra, Desroches and Farquhar and Mauritius law in the Chagos archipelago. We therefore consider that the Order in Council should provide that the Seychelles Law will apply throughout the detached Islands from the appointed day.

As regards Diego Garcia we should have to work out in consultation with the Ministry of Defence, the Americans and the Governor how cases arising, once British and American service personnel started moving in, should be dealt with. In the interim, however, (as far as Diego Garcia is concerned) and indefinitely (as regards detached islands not at once required for defence purposes) the island managers at present possess magisterial powers and the High Commissioner could, whether by law or by administrative arrangement, make provision for this to continue and for cases requiring it to be handled by the Courts of Seychelles. Some of the islands in the Chagos Archipelago are at present visited by Mauritius magistrates and the High Commissioner would no doubt have to ensure that this continued, by arrangement with the Mauritius Government, at any rate until alternative arrangements were made.

4. As regards administration the present position is that the islands to be detached, and also those which will remain with Seychelles and Agalega which will remain with Mauritius, are barely administered. Broadly speaking such limited services as are provided, are provided by the island owners, though the Mauritius Government does we believe provide teachers and nurses in at any rate Diego Garcia and possibly in other islands of the Chagos Archipelago. Apart from this, however, the two Governments at present scarcely do more than arranging infrequent visits by the Governor and officials including medical officers and (in the Mauritius islands) magistrates. Seychelles has been actively considering improving matters (and they clearly should be improved - nurses and teachers on more of the islands are obvious needs) and Mauritius has been considering improving the administration of justice, but even so nothing very elaborate would be involved. As regards the detached islands our view is that, particularly as any or all of them may have to be evacuated at any time, there is no sense in setting up an elaborate administrative machine; we presume that the Ministry of Defence, who would no doubt have to finance whatever administration was established, would concur in this. Our suggestion would be that in the detached islands the level of services provided should, in the short term, remain precisely as it is at present and that, as regards any improvements to be made in the longer term, the detached islands should keep in step with what is done in the /remaining

it if we
manage
the administration
of services
in the
detached islands.

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remaining Seychelles islands; neither more nor less should be provided. This might involve the continued secondment of e.g. Mauritius teachers and nurses to certain of the detached islands, but the High Commissioner could no doubt make the necessary arrangements for this. As Seychelles improved its administration of its remaining islands some increase in costs in the detached islands would be involved; but the costs arising would in fact be negligible and any additional staff needed could be recruited in Seychelles by the High Commissioner. Similarly staff (e.g. medical staff) needed for periodic visits could be provided from Seychelles on loan; whether visiting magistrates were still borrowed from Mauritius or whether arrangements were made for Seychelles to find them is a matter the High Commissioner could sort out.

5. By far the most difficult administrative problem arising from detachment however will clearly be the resettlement problem which at present of course arises only in connection with Diego Garcia, involving about 400 people. We and the two Governors are agreed that our aims in this operation should be as follows:-

- ✓ (i) to resettle these people in other out-islands rather than in Mauritius or Seychelles themselves; this should cause a great deal less difficulty, making it easier for unofficals to accept our proposals as a whole, be more likely to be acceptable to the individuals concerned and finally be cheaper;
- ✓ (ii) not to resettle them on other detached islands if this can be avoided; this is obviously desirable so as to avoid increasing our problem in these islands if and when they are needed for defence purposes;
- ✓ (iii) to aim at resettling as many as possible (and certainly the Mauritians who are "ilecis") in Agalega. This is owned by the Chagos/Agalega Company which also owns Chagos; Mr. Moulins, the main shareholder, also owns Farquhar.
- (iv) to secure American agreement to providing employment on Diego Garcia for as many as possible of these to be resettled, for as long as possible, during the construction phase. This would have the effect of spreading out the resettlement operation and thus facilitating its smooth progress; it would also ease the difficulties of Seychelles in taking back any Seychellois who could not be resettled in Agalega since the longer they could stay on working in Diego Garcia the nearer would be the time than work on airfield construction in Mahé (assuming that this is agreed as part of the compensation to secure Seychelles acquiescence in the defence project) would be available for them (the Governor estimates that work on the ground might start 18-24 months after a decision to build an airfield were taken).

Why so long

6. We have considered the staff and other requirements of the resettlement operation. As far as we can judge at present these would in the main consist of:-

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- (i) staff - the High Commissioner would need one good expatriate administrative officer, together with a local assistant (who could be recruited in Seychelles) and supporting local staff for himself and the administrative officer;
- (ii) a ship to enable the detached islands to be administered (and which might also help with the resettlement operation); this would have to be large enough to cover over 2000 miles of open sea (from Mahé to Diego Garcia and back) and might cost as much as £150,000 (unless the Ministry of Defence could provide something suitable) though we have no firm figures yet; it could be crewed by Seychellois and serviced in Seychelles with major overhauls in Mombasa; there might however be some difficulty about finding a master mariner in Seychelles to command it.

We can foresee no need for separate buildings, telegraph facilities etc. for the High Commissioner and his staff. Existing facilities in Seychelles could be made use of and paid for. Per contra Seychelles might well wish to make some use of the ship in connection with their intention of improving services to their own remaining out-islands; it would no doubt be possible for this to be arranged in conjunction with the resettlement operation and the High Commissioner could make a suitable charge to Seychelles for this assistance.

7. As regards financial matters the revenue deriving from these islands consists essentially of export duty on their copra shipped out through Seychelles and company tax on the profits of Moulinsie's Seychelles-registered company. It would be impossible in practical terms to separate this revenue out, and we think we should allow Seychelles to keep this revenue as an offset against the cost of services they will be providing for the detached islands. The cost of such services as the High Commissioner has to provide direct would be met from U.K. funds. It is relevant that all the detached islands, apart from Aldabra which is Crown land, are owned either by the Chagos/Agalega Company, which is registered in Seychelles, or by individuals resident in Seychelles. Against this background we have, in consultation with the two Governors, considered the financial problems with particular reference to the questions asked by Lloyd in the fourth paragraph of his telegram No. 143. These are:-

- (a) whether we propose to settle the compensation figure at the time when an island is actually required for defence purposes or now, in advance?
- (b) whether islands now forming part of Seychelles may benefit from facilities provided by the Seychelles Government (e.g. agricultural bank loans, fertilizer subsidies etc., and will pay Seychelles taxes).

8. The first question to consider is whether it is in our interest that development of detached islands not immediately required, should be encouraged. It is, of course, obvious that if the islands were developed this would mean that compensation, if paid when they were later required for defence purposes, would be higher than if they had been neglected; and this applies a fortiori if Government had actually encouraged development. The continued active encouragement of long term development would therefore be a short sighted policy. On the other hand, it may well be that the Americans will not require the islands, other than

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for ship
money
expatriate
the revenue
now; but
leave the
institutions
until
we need
them

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than Diego Garcia, for some years to come, and some limited development which might result in increased employment opportunities, could facilitate the smooth solution of the resettlement problem.

9. Against this background our conclusions were:-

- (i) no taxes should be levied by the High Commissioner in the detached islands; correspondingly no development incentives should be provided by the High Commissioner;
- (ii) the Government of Seychelles should be free to continue to raise revenue in relation to commercial activities which continue in those of the detached islands which are not at once needed for defence purposes; it would continue, e.g. to levy export duties on the products of the islands which were exported through Seychelles and to tax the island owners; one consequence of this would be that the budgetary deficit position of Seychelles would not be adversely affected at this stage by the detachment operation;
- (iii) no long-term development incentives (e.g. tax remission for replanting) would be given to the owners of the detached islands which were not immediately needed.
- (iv) short-term development incentives (e.g. temporary tax holidays and fertilizer subsidies) would be given in relation to the detached islands which were not immediately needed. Full scale incentives both short and long-term would be given to the Chagos/Agalega Company in relation to Agalega; if necessary, amendments to Seychelles law to make this possible would have to be made. We are advised that despite the fact that Agalega is Mauritius territory arrangements of this sort would not be ultra vires.
- (v) the points covered in (iii) and (iv) above would have to be covered in agreements over compensation negotiated with the Island owners. Bearing in mind (ii) above one of the conditions of the agreements would have to be that the Company would continue to be registered in Seychelles and that the produce would continue to be exported through either Seychelles or Mauritius as in the past;
- (vi) if conditions on these lines were imposed we might have to recognise that compensation for the Island owners might have to be paid over at the time of detachment, rather than when the islands were actually taken for defence use. In negotiation with the Island owners we should at least have to leave this possibility open. In these circumstances the former owners might continue to run the detached islands not immediately required as agents for the High Commissioner.

10. Two further points remain. In the first place, particularly as we could want help from Mr. Boulton and the Chagos/Agalega Company in resettlement on Agalega and bearing in mind that a good deal of development has already gone into some of the detached islands which they own, and that further long-term development plans which they have would have to be given up /except

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(except in Agalega), we should have to recognise that these factors would have to be taken into account in fixing compensation and we should have to authorize the Acting Governor when he consults his unofficials about the defence proposals as a whole to make plain to Mr. Moulinie that these factors would be taken into account.

11. The second point concerns the position of Agalega. Newton in his report recommended that, in any case, this should be detached from Mauritius and attached to Seychelles. This would make sense, particularly as we would press the Chagos/Agalega Company to resettle labour from Diego Garcia there. Sir John Bennie thinks that it could well be raised in Mauritius and the Mauritius Government might well think that to disembarrass themselves of the problem of administering a single remaining out-island would make sense. If this were proposed from Mauritius there would be no objection to going ahead with this change as a separate exercise from the detachment operation.

12. For the reasons given at the beginning of this letter there is great urgency about reaching at least provisional conclusions on these matters. I hope that you and Harris (O.R.M.), Walsh Atkins (C.R.O.), Peck (P.O.) and Wright (M.O.D.) to whom this letter has been copied can let me know by noon on Friday, 15th July that you agree to what is proposed. If there are any difficulties I suggest that we should meet at 3 p.m. on Friday to try and sort them out so that we may decide what guidance to telegraph to, in particular, the Acting Governor Seychelles.

(Stafford Smith)

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STATUTORY INSTRUMENTS

1962 No. 400

SOUTH ATLANTIC TERRITORIES

The British Antarctic Territory Order in Council, 1962

Made - - - - 26th February, 1962

Laid before Parliament 2nd March, 1962

Coming into Operation 3rd March, 1962

At the Court at Buckingham Palace, the 26th day of February, 1962

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the British Settlements Acts, 1887 and 1945(a), the Colonial Boundaries Act, 1895(b), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the British Antarctic Territory Order in Council, 1962. Citation and commencement.

(2) This Order shall come into operation on the third day of March, 1962, and shall be published in the Falkland Islands Government Gazette.

2.—(1) In this Order—

"the British Antarctic Territory" means all islands and territories whatsoever between the 20th degree of west longitude and the 80th degree of west longitude which are situated south of the 60th parallel of south latitude;

"the Territory" means the British Antarctic Territory. Interpretation.

(2) The Interpretation Act, 1889(c), shall apply, with the necessary modifications, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting and otherwise in relation to Acts of Parliament of the United Kingdom.

3. On the day of the commencement of this Order all the islands and territories whatsoever which were immediately before such commencement comprised in the Dependencies of the Colony of the Falkland Islands as defined in the Letters Patent dated the 21st day of July, 1908(d), and the 28th day of March, 1917(e), and are situated south of the 60th parallel of south latitude between the 20th degree of west longitude and the 80th degree of west longitude shall form a separate colony which shall be known as the British Antarctic Territory. British Antarctic Territory to be a separate colony.

4. There shall be a High Commissioner for the Territory who shall be appointed by Her Majesty by Commission under Her Majesty's Sign Manual and Signet and shall hold office during Her Majesty's pleasure. Establishment of office of High Commissioner.

(a) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7. (b) 58 & 59 Vict. c. 34.
(c) 52 & 53 Vict. c. 63. (d) Rev. VII, p. 583. (e) Rev. VII, p. 585.

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Powers and
duties of
High Com-
missioner.

5. The High Commissioner shall have such powers and duties as are conferred upon him by or under this Order or any other law, and such other powers and duties as Her Majesty may from time to time be pleased to assign to him, and, subject to the provisions of this Order and any other law by which any such powers or duties are conferred, shall do or execute all things that belong to his office according to such instructions, if any, as Her Majesty may from time to time see fit to give him.

Oaths to be
taken by
High Com-
missioner.

6. A person appointed to hold the office of High Commissioner shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and an oath for the due execution of his office in the form set out in the Schedule to this Order.

Discharge of
High Com-
missioner's
functions
during
vacancy, etc.

7.—(1) Whenever the office of High Commissioner is vacant or the High Commissioner is absent from the Territory or is from any other cause prevented from or incapable of discharging the functions of his office, those functions shall be performed by such person as Her Majesty may designate by Instructions given under Her Sign Manual and Signet or through a Secretary of State.

(2) Before any person enters upon the performance of the functions of the office of High Commissioner under this section he shall take and subscribe the oaths directed by section 6 of this Order to be taken by a person appointed to the office of High Commissioner.

(3) For the purposes of this section—

(a) the High Commissioner shall not be regarded as absent from the Territory, or as prevented from, or incapable of, discharging the duties of his office, during his passage from any part of the Territory to another or to any other British territory south of the 50th parallel of south latitude, or while he is in any part of the last mentioned territory; and

(b) the High Commissioner shall not be regarded as absent from the Territory, or as prevented from, or incapable of, discharging the functions of his office at any time when an officer is discharging those functions under section 8 of this Order.

Discharge of
High Com-
missioner's
functions
by deputy.

8.—(1) The High Commissioner may, by Instrument under the Public Seal of the Territory, authorize a fit and proper person to discharge for and on behalf of the High Commissioner on such occasions and subject to such exceptions and conditions as may be specified in that Instrument such of the functions of the office of High Commissioner as may be specified in that Instrument.

(2) The powers and authority of the High Commissioner shall not be affected by any authority given to such person under this section otherwise than as Her Majesty may at any time think proper to direct, and such person shall conform to and observe such instructions relating to the discharge by him of any of the functions of the office of High Commissioner as the High Commissioner may from time to time address to him.

(3) Any authority given under this section may at any time be varied or revoked by Her Majesty by instructions given through a Secretary of State or by the High Commissioner by Instrument under the Public Seal.

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here shall be a Public Seal for the Territory. The High Commissioner shall keep and use the Public Seal for sealing all things whatsoever that shall pass the said Seal. Public Seal.

10. The High Commissioner, in Her Majesty's name and on Her Majesty's behalf, may constitute offices for the Territory, make appointments to any such office and terminate any such appointment. Constitution of offices.

11.—(1) The High Commissioner may, by Regulations, make laws for the peace, order and good government of the Territory. Power to make Regulations.

(2) Any Regulation made by the High Commissioner may be disallowed by Her Majesty through a Secretary of State.

(3) Whenever any Regulation has been disallowed by Her Majesty, the High Commissioner shall cause notice of such disallowance to be published in such manner and at such place or places in the Territory as he may direct.

(4) Every Regulation disallowed shall cease to have effect as soon as notice of disallowance is published, and thereupon any enactment amended or repealed by, or in pursuance of, the Regulation disallowed shall have effect as if the Regulation had not been made.

(5) Subject as aforesaid, the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to such disallowance as they apply to the repeal of an enactment by an Act of Parliament.

12. The High Commissioner may, in Her Majesty's name and on Her Majesty's behalf—

- (a) grant to any person concerned in or convicted of any offence a pardon, either free or subject to lawful conditions; or
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for any offence; or
- (c) substitute a less severe form of punishment for any punishment imposed on that person for any offence; or
- (d) remit the whole or any part of any punishment imposed on that person for any offence or of any penalty or forfeiture otherwise due to Her Majesty on account of any offence.

13.—(1) Subject to the provisions of this section, the existing laws shall continue to have effect in the Territory after the commencement of this Order and shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order. Existing laws.

(2) The provisions of subsection (1) of this section shall be without prejudice to any powers conferred upon the High Commissioner by section 11 of this Order.

(3) For the purposes of this section "existing laws" means all Ordinances, Laws, rules, regulations, orders and other instruments having the effect of law in the Territory immediately before the commencement of this Order.

14.—(1) The High Commissioner may, by Regulations made under this Order, establish such courts of justice in and for the Territory as he may think fit and may make such provisions as he may think Establishment of courts.

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fit respecting the jurisdiction and powers of any such court, the proceedings in any such court, the enforcement and execution of judgments, decrees, orders and sentences of any such court given or made in the exercise of such jurisdiction and powers, and respecting appeals therefrom.

(2) A court established under this section shall sit in such place or places in the Territory as the High Commissioner may appoint:

Provided that it may also sit in such place or places within any other British territory south of the 50th parallel of south latitude as the High Commissioner, acting with the concurrence of the Governor of such territory, may appoint, in which case it may exercise its jurisdiction and powers in like manner as if it were sitting within the Territory.

(3) The High Commissioner may constitute all such judgeships and other offices as he may consider necessary for the purposes of this section and may make appointments to any office so established, and any person so appointed, unless otherwise provided by law, shall hold his office during Her Majesty's pleasure.

Amendment
of section
1 (1) of the
Falkland
Islands
(Legislative
Council)
Order in
Council,
1948.

15. Subsection (1) of section 1 of the Falkland Islands (Legislative Council) Order in Council, 1948(a), shall be amended by the deletion therefrom of the definition of "the Dependencies" and the substitution therefor of the following definition:

"the Dependencies" means all islands and territories whatsoever between the 20th degree of west longitude and the 50th degree of west longitude which are situated between the 50th parallel of south latitude and the 60th parallel of south latitude; and all islands and territories whatsoever between the 50th degree of west longitude and the 80th degree of west longitude which are situated between the 58th parallel of south latitude and the 60th parallel of south latitude."

W. G. Agnew.

Section 6.

SCHEDULE

OATH OR AFFIRMATION FOR THE DUE EXECUTION OF THE OFFICE OF HIGH COMMISSIONER

I, DO SWEAR (or solemnly affirm) that I will well and truly serve Her Majesty Queen Elizabeth II, Her Heirs and Successors, in the office of High Commissioner of the British Antarctic Territory.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order makes provision for the constitution into a new colony under the name of the British Antarctic Territory of part of the Dependencies of the colony of the Falkland Islands and for the administration of the new colony.

(a) S.I. 1948/2573 (Rev. VII, p. 591: 1948 I, p. 1018).

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(21/35413) (A. 47) K7 3/62 51.5.

Annex 37

Telegram from the Secretary of State for the Colonies to Mauritius and Seychelles, Nos. 198 & 219, FO 371/184526 (19 July 1965)

SECRET

OUTWARD TELEGRAM
FROM THE SECRETARY OF STATE FOR THE COLONIES

TO (1) MAURITIUS
(2) SEYCHELLES

Cypher

Sent 19th July, 1965. 18.00 hrs.

IMMEDIATE
SECRET (AND PERSONAL) TO MAURITIUS
(1) PERSONAL No. 198
(2) No. 219

To (1) Your telegram Personal No. 61.

To (2) Your telegram Personal No. 56.

U.K./U.S. Defence Interests.

Matter has now been considered by Ministers in light of your advice. Americans have been informed that while we could not agree to their proposals in full we are nevertheless willing in principle to pursue proposed joint development further on the basis that, subject to the agreement of the two Governments, which we regard as essential, we would be prepared to detach from Mauritius and Seychelles and make available for our own and American use the following islands:

the whole of the Chagos Archipelago (including Diego Garcia),
Aldabra,
Farquhar and Desroches.

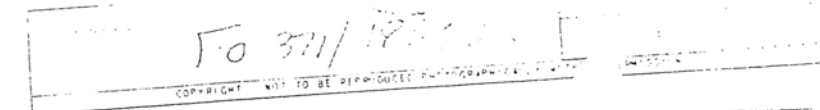
The position is thus that, whilst no final decision to proceed has yet been taken, provided that total compensation necessary to secure agreement of Governments of Mauritius and Seychelles is not too large, project will be proceeded with. As you know basic intention is that Britain should be responsible for cost of acquisition of necessary islands and compensation generally whilst Americans would finance construction costs of defence facilities.

2. For your own information Ministers were when considering the matter, aware of my views on probable elements in compensation necessary to secure acceptance of these proposals by Governments of Mauritius and Seychelles as follows:-

- (i) unavoidable costs in respect of
 - (a) compensation for island owners;
 - (b) costs of resettlement of displaced labour;
- (ii) probable demands by Governments for compensation in respect of loss of territory (additional to existing and anticipated development assistance under normal arrangements) which might comprise -
 - (a) provision of a grant to Seychelles sufficient to cover the cost of a full length civil airfield on Mahé (which we assume might be £2-3 m.);

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/(b)

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- (b) provision of a capital grant to Mauritius, the amount being almost certainly not less than that involved in (x) above;
- (iii) willingness to finalise on generous terms draft agreement covering the American Tracking Station in Seychelles which must in any case be settled as soon as possible and which unofficals would be likely to insist upon before considering any further facilities for Americans;
- (iv) possible additional demands from Mauritius -
 - (a) to cooperate in a scheme to enable substantially more Mauritian emigrants to settle in Britain;
 - (b) to make efforts to secure American agreement to a substantial sugar export quota for Mauritius to the U.S.A.

3. Expenses as at (1) in preceding paragraph are clearly unavoidable. So too no doubt are some substantial compensation payments on lines of (ii). As to (iii) we recognise that in this wider context this should not present undue difficulty. As to (iv) both these possible demands would cause us grave difficulties and we sincerely hope that Governor Mauritius will be able to steer his Ministers off making them.

4. As indicated above no final decision on this project has yet been taken. In view of appreciable total compensation cost which seems inevitable we have raised with Americans question whether, without departing basically from division of costs of project indicated in paragraph 1 above, they would be prepared to make some contribution to compensation costs. The Americans have now stated that they are prepared in principle to make such a contribution. They have however stipulated (and we agree) that this fact and the method of payment, which would not be direct, must be kept strictly secret, and they attach the greatest importance to this. In any case, before Ministers here can take final decision on whether project should go ahead, we need some clear indication as to amount and nature of compensation necessary to secure Mauritius and Seychelles agreement.

5. Ministers have therefore directed that discussions should now be opened with Mauritius and Seychelles Governments on proposals outlined in paragraph 1 above. The object of this initial round of consultations with -

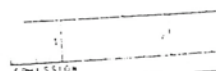
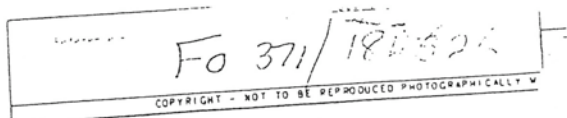
(to (1)) your Ministers

(to (2)) members of your Executive Council would be:-

- (1) to secure their reactions to proposed development on lines indicated in paragraph 1 above;
- (ii) to attempt to clarify likely compensation demands so as to enable us to gauge what it might be necessary to offer to secure willing and public acquiescence in proposed developments.

/You

SECRET



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OUTWARD TELEGRAM
FROM THE SECRETARY OF STATE FOR THE COLONIES

You should not, of course, in these initial discussions indicate contents of paragraph 2 above. You should explain that before the British Government finally decides whether to go ahead with the project it is necessary to have some idea of its likely cost since, if this were too high, it might not be possible, in view of current overseas finance difficulties, to proceed with it at all. The British Government does not wish -

(to (1)) Mauritius

(to (2)) Seychelles

to incur any expense or loss as a result of the operation and will naturally be responsible for meeting the cost of compensating landowners and also the cost of resettlement of displaced labour. In addition, the British Government recognises that it would be reasonable for the Governments of Mauritius and Seychelles to expect some element of compensation in view of the proposed detachment of territory and would welcome an indication from those Governments of their views as to the level of compensation likely to be required to make the project acceptable to their public opinion.

6. In putting the matter to your unofficials you should indicate that as regards Diego Garcia there is a firm requirement for the establishment of Communications Station and supporting facilities including an airstrip. As regards the remainder of the islands (including the remainder of the Chagos Archipelago) you should indicate that the requirement for these is in the nature of an insurance for the future, that no firm plans exist for early defence developments on them but that it is possible that air and/or naval facilities may be required in future years. In addition, you should make plain points about timing of movements of population and about use of local labour mentioned in paragraph 1 of my telegram -

(to (1)) Personal No. 66

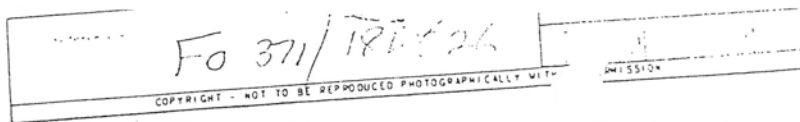
(to (2)) No. 75.

In this connection with reference to O.A.G. Seychelles telegram No. 104, whilst the Americans have indicated that they would not rule out possibility of employing Seychelles labour in connection with construction of facilities we know that this is likely to be difficult for them; any long-term employment possibilities once defence facilities are operational are extremely unlikely. O.A.G. Seychelles should not therefore take initiative in raising this matter with members of Executive Council; if point is raised by them there would be no objection to saying that British Government recognises importance to Seychelles of additional employment opportunities and will certainly bear the point in mind. For your own information, we, of course, have in mind in this connection that if civil airfield is built on Mahé as part of quid pro quo this would generate very considerable employment possibilities.

7. I assume that you will judge it useful to stress the importance of these developments in the context of future security in the Indian Ocean area. However, both we and the Americans are anxious to play down this argument and also the American strategic role; these aspects are liable to arouse particular suspicions and hostility in some of the countries around the Indian Ocean.

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In instructions to British and American posts abroad, therefore, as little as possible is being said about these points. I must leave it to you to decide how to deal with this dilemma; I suggest that if necessary you should say merely that in the short run we welcome joint Anglo/American developments in the area, even though their practical effects would be limited at first to communication and supporting facilities on one island. In the longer term we would regard the possible eventual construction of air or naval staging facilities on one or more of the islands as a potential contribution to the security of the area, to the benefit of all concerned. You should add that H.M.G. hope that the proposals will be welcomed in Mauritius and Seychelles and that they attach considerable importance to securing the support of

(to (1)) your Ministers

(to (2)) members of your Executive Council

to them.

8. You should explain that it would be intended that the islands in question should be constitutionally separated from Mauritius and Seychelles and established, by Order in Council as a separate British administration. The Americans would not be prepared to go ahead on any other basis. Any suggestion of the islands required being made available on the basis of either leases or defence agreements with Mauritius or Seychelles must therefore be ruled out.

9. The above is also the answer to the point raised in O.A.G. Seychelles telegram No. 118 i.e. the Americans would not go ahead on any basis except excision. Excision would, of course, not (repeat not) affect constitutional relationship between Seychelles and Britain which would in any case be developed in the future as in the past in consultation with Unofficials in Seychelles. There would be no objection to O.A.G. Seychelles speaking on these lines to members of Executive Council if matter is raised; for his own information, with reference to his telegram No. 108 and paragraph 4 of his telegram No. 118 I am satisfied that integration would be most unlikely to be acceptable to Parliament here.

10. Present intended scope of development is as indicated in paragraph 6 above and you should not go beyond this. We recognise however that in light of recent newspaper speculation you may be asked about possibility of islands being used in connection with nuclear forces. If this point is raised you can only say that it is an established point of both British and American policy never either to confirm or to deny the presence or absence of nuclear weapons in any base; or to confirm or to deny the intended use of any defence facility in connection with nuclear weapons. This policy is adopted for obvious reasons and if point is raised you must ask your unofficials to accept this; you could, however, point out that at present all that is intended is communications facilities in Diego Garcia.

11. In putting matter to -

(to (1)) your Ministers

(to (2)) members of your Executive Council

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/please

FO 311/104570

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SECRETOUTWARD TELEGRAM
FROM THE SECRETARY OF STATE FOR THE COLONIES

please emphasise strictly confidential nature of proposals and stress that at this stage they should give no publicity to any part of them or discuss them with anyone, except amongst themselves.

12. I understand from recent discussions in London with Governor, Mauritius, that he will put matter to Council of Ministers on Friday, 23rd July. I also understand from Governor, Seychelles, that Executive Council normally meets on Thursdays and I suggest, therefore, that O.A.G. Seychelles should raise matter with Executive Council on 22nd July. If Governor, Mauritius, wished to give advance information on matter to Premier there would be no objection to him doing so also on 22nd July. Grateful urgent telegraphic confirmation that these timings will be followed. Subsequently grateful also for telegraphic confirmation after you have spoken to unofficials that you have done so, in order that we can institute follow-up through posts in Commonwealth and foreign countries.

13. If you require further guidance before putting the matter to your unofficials I shall be very willing to supply any information you may need. A separate telegram will be sent before 22nd July in reply to O.A.G. Seychelles telegram No. 143 covering arrangements for administration of detached islands after detachment on lines recently discussed here with Governor, Seychelles and Governor, Mauritius; telegram will be repeated to Governor, Mauritius.

14. I should be grateful if as soon as possible you could let me know unofficials' reactions and, in particular, let me have estimates of the likely cost of compensation.

(Encryption sent to Ministry of Defence for transmission to Mauritius)

Copies sent to:-

Ministry of Defence	- Mr. C.W. Wright
Ministry of Overseas Development	- Mr. I.H. Harris
Treasury	- Mr. J.A. Patterson
Foreign Office	- Mr. E.H. Peck
Commonwealth Relations Office	- Mr. L.B. Walsh Atkins

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Annex 38

Telegram from the Secretary of State for the Colonies to Mauritius and Seychelles, PAC
93/892/05, FO 371/184524 (21 July 1965)

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Reference: FO 371 / 184524 57454									
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Pw 24/8/

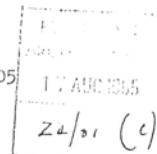
J X

OUTWARD TELEGRAMFROM THE SECRETARY OF STATE FOR THE COLONIESTO SEYCHELLES (O.A.G.)

Cypher

PAC 93/892/05

Sent 21st July, 1965. 00.15 hrs.



IMMEDIATE
SECRET (AND PERSONAL TO MAURITIUS)
 No. 222

Addressed to O.A.G. Seychelles.
 Repeated IMMEDIATE to O.A.G. Mauritius,
 PERSONAL No. 199.

My telegram No. 219, paragraph 13 (to Mauritius
 PERSONAL No. 198) and your telegram No. 143.

Administration of detached islands.

In discussion here with Governor Mauritius and
 Governor Seychelles agreement was reached on arrangements
 necessary under Legal, Administrative and Financial heads.
 These, with minor changes, have since been cleared with other
 interested Departments and proposed arrangements are set out
 in subsequent paragraphs which inter alia provide answers to
 questions raised in your telegram under reference.

2, Legal.

- (a) Chagos to be detached by amendment of section 90(1)
 of Mauritius Constitution Order in Council 1964 to
 include reference to dependencies by name.
 Consequential amendment to Mauritius Interpretation
 and General Clauses Ordinance. Detachment of
 Aldabra Desroches Farquhar by suitable amendments to
 Letters Patent.
- (b) Separate territory to be established by Order in
 Council similar to British Antarctic Territory
 Order in Council 1962. Under this a representative
 of Her Majesty would be appointed (referred to for
 convenience below as Commissioner although some
 other title may eventually be chosen). The
 Commissioner would be the same person as the
 Governor, Seychelles and would under the Order in
 Council have power to make laws.
- (c) Seychelles law to apply mutatis mutandis in detached
 islands including Chagos archipelago.
- (d) For Diego Garcia we shall have to decide in
 consultation with Americans, Ministry of Defence and
 Governor how cases involving British or American
 service personnel will be handled. Until such
 personnel arrive (and indefinitely in other detached
 islands) Commissioner could by law or administrative
 action provide for magisterial powers of island
 managers to continue and for Seychelles courts to

/try

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try cases when necessary. By arrangement with Mauritius Government he could ensure that Mauritius magistrates continued to visit Diego Garcia and other Chagos islands as in past, pending alternative arrangements.

3. Administrative.

- (a) General. Administration in detached islands not immediately required for defence purposes to be neither better nor worse than at present in short term, including continuation of secondment of Mauritius teachers, nurses, etc. to Chagos; in longer term any improvements should not go beyond keeping in step with what is done in other Seychelles islands.
- (b) Staff for islands. Staff required to be borrowed by Commissioner from either Mauritius (e.g. magistrates for visits to Chagos and nurses and teachers for posting there) or from Seychelles.
- (c) Resettlement
 - (i) People from Diego Garcia (and any other islands when evacuated) should be resettled in other out-islands rather than in Mauritius or Seychelles.
 - (ii) Resettlement on other detached islands to be avoided if possible.
 - (iii) Aim at resettling as many as possible of the people from Diego Garcia (and certainly the Mauritians who are "ilucis") on Agalega.
 - (iv) American agreement to employ maximum number of locals on Diego Garcia during construction phase, to be sought so as to spread resettlement and so as to increase prospect of there being alternative work available in Seychelles by time any Seychellois who could not be absorbed in Agalega returned to Mahe.
- (d) Staff for Commissioner. We thought Commissioner would need one good Expatriate administrative officer plus local assistant plus supporting local staff for Commissioner and Administrative officer; local staff to be recruited in Seychelles.
- (e) No separate buildings, telegraph facilities, etc. needed for Commissioner.
- (f) Ship. Need for Commissioner to have shipping available (over and above that at present serving Seychelles islands) to enable him to administer in particular Chagos (and also handle resettlement operation) is accepted in principle. We have not yet gone into question of how this need would be met.

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OUTWARD TELEGRAM
FROM THE SECRETARY OF STATE FOR THE COLONIES

4. Financial.

- (a) Taxes. No taxes or duties to be raised and no development incentives to be provided by Commissioner in detached islands.
- (b) Seychelles Government to continue to derive revenue (e.g. export duty on copra and income tax from owners) in respect of detached islands; if any change required in Seychelles law to make this possible, there would be no objection to this.
- (c) Services. In return for (b) Seychelles Government to be responsible for cost of providing services on existing lines in detached islands not at once required for defence purposes (including parts of Chagos Archipelago other than Diego Garcia) e.g. as in paragraphs 2(d) and 3(b) above. In this context, as regards Chagos, you will no doubt hope to arrange as part of deal with Chagos/Agalega Company that in future they will export Chagos copra through Seychelles so that Seychelles will be able to derive export duty on it.
- (d) Costs of new services resulting from detachment operation (e.g. paragraphs 3(d) and (f) above) would be met by British Government.
- (e) Development. No (repeat no) long term incentives (e.g. tax remission for replanting) to be given by Seychelles Government in respect of detached islands not immediately needed. Short term incentives (e.g. tax holidays and fertiliser subsidies), however, could be given. Full scale (i.e. short and long term) incentives should be given to Company for development of Agalega, Seychelles law if necessary being amended to make this possible; legal advice is that fact that Agalega is Mauritius territory would not (repeat not) render such action ultra vires.
- (f) Compensation to island owners. Importance is attached to compensation being fixed at time of detachment on basis of existing assets and not (repeat not) at time island is required for defence use. Ideal arrangement from point of view of H.M.G. would be for actual payment only to be made when islands required for defence use. We recognise however that, at any rate as regards Moulinié and Chagos/Agalega Company, as we should be seeking co-operation from them e.g. over resettlement on Agalega and point in (c) above, we may have to envisage including in package deal with them (which will in any case be necessary) agreement to pay compensation on detachment and arrangements for continued running of islands not immediately needed (a lease back of islands from Commissioner to Company on short term basis on economic terms and on basis that any future development was at lessee's risk would be one way of tackling this).

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5. We hope above provides sufficient guidance for purposes of initial discussions of defence proposals in Executive Council and with Moulinié; there is no objection to any of these matters being discussed with them (you should, however, stress that title of Commissioner is used only for convenience - see parenthesis in paragraph 2(b) above). In brief our idea is that in islands not immediately needed for defence purposes there should be smallest possible disturbance of existing arrangements.

6. One other point arises. We have noted Newton's arguments for transfer of Agalega to Seychelles. We do not, however, wish to complicate detachment operation by ourselves raising this issue. Rennie thinks it possible that it may arise during his talks with Mauritius Ministers. If so we can of course consider it at same time as but as separate exercise from detachment operation.

(Encyphered text passed to Ministry of Defence
for repetition to Mauritius)

Copies sent to:-

Treasury	- Mr. J.A. Patterson
Commonwealth Relations Office	- Mr. L.B. Walsh-Atkins
Foreign Office	- Mr. E.H. Peck
Ministry of Defence	- Mr. F.J. Burlace
Ministry of Overseas Development	- Mr. I.H. Harris

SECRET

Annex 39

Letter from E. J. Emery of the British High Commission in Canada to J. S. Champion of the U.K. Ministry of Defence, Commonwealth Relations Office (22 July 1965)

SECRET

344/1



Secret

British High Commission,
80 Elgin Street,
Ottawa 4, Canada.

22 July, 1965.

Dear John,

The Department of External Affairs are thin on the ground this month (cottage time and summons^{as} by Mr. Martin to his bedside in Windsor) but yesterday I saw the Acting Head of the Commonwealth Division, Mr. Beattie, to carry out the instructions in C.R.O. telegram No. 61 Saving^s about defence interests in the Indian Ocean. I had previously consulted my opposite number in the United States Embassy and had agreed with him that I should speak for his Mission as well as ours.

2. I handed Mr. Beattie a bout de papier describing the current proposals as set out in C.R.O. telegram No. 60 Saving^s and giving the facts about the islands in question as in C.R.O. telegram No. 62 Saving^s. I emphasised the strategic importance of the proposed development of joint user facilities in the Indian Ocean and expressed the hope of the British and United States Governments that if there were international criticism, e.g. at the United Nations, the Canadian attitude would be sympathetic and helpful.

3. Mr. Beattie said he was confident that the Canadian Government would not question the strategic value from the /western

J.S. Champion, Esq. O.B.E.,
Defence Department,
Commonwealth Relations Office,
London, S.W.1.

SECRET

SECRET

western point of view of what was proposed. He thought, however, that there might well be a great hullabaloo at the United Nations and Canada would have to consider carefully how best she could help us if that were so. He was speaking without briefing but he seemed to recall that Canada had been specially associated with a resolution at the United Nations some years ago condemning the transfer of sovereignty of any part of a state without the consent of the inhabitants. The Department of External Affairs would be grateful for more information about how consultation with Mauritius and the Seychelles would be conducted. Would the Legislative Assembly of Mauritius and the Legislative Council of the Seychelles be consulted and if so were the inhabitants of the islands earmarked for detachment directly represented in those bodies? *Had we* we contemplated some method of direct consultation with the inhabitants of the islands in question? Satisfactory answers to these questions might well make it easier for Canada to help us at the United Nations. I pointed out that the populations involved were very small and, in the case of the Chagos Archipelago, were "mostly contract labour from Mauritius and the Seychelles". This might mean that their real homes were in Mauritius and the Seychelles and that they only went ^{to} in the Chagos Archipelago for brief contract periods, not for permanent residence. I promised to make inquiries about this and to ask you for any further information you could give us at this stage to answer Mr. Beattie's queries

/and

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and to help reassure the Canadians that if they stood up for us in this at the United Nations they would not be open to accusation that they were going back on any resolution to which they had earlier put their hand. I shall be grateful to know what more I can say to the Department of External Affairs.

4. I am copying this letter to Eric Le Tocq in Canberra, Barry Smallman in Wellington, James Scott in New York and Oliver Forster in Washington, and I enclose an extra copy for your use.

Yours ever,

E. J. Emery

(E. J. Emery)

SECRET

Annex 40

Telegram from the Governor of Mauritius to the Secretary of State for the Colonies, No. 170, FO
371/184526 (23 July 1965)

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[REMISSION]	

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INWARD TELEGRAM

TO THE SECRETARY OF STATE FOR THE COLONIES

Edin
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10

FROM MAURITIUS (Sir J. Rennie)

Cypher D. 23rd July, 1965.
R. 23rd " " 21.30 hrs.

2 JUL 1965

17 M. [unclear]

IMMEDIATE
SECRET AND PERSONAL
PERSONAL NO. 170.

24/116 (A)

for info, needed
other pt. [unclear]
for
24/7

Your telegram Personal No. 198.

U.K./U.S. Defence Interests.

I informed Ministers this morning of what is proposed. While not ill-disposed they asked for time to consider further. This was reasonable request and while making clear you wish (corrupt group) early indication of their views, I agreed to discuss again on Friday 30th July unless you instructed me to pursue urgently before then.

2. Dislike of detachment was expressed both by Premier and Duval though I explained this was regarded as essential. It was clear however that any attempt to detach without agreement would provoke strong protest.

3. Premier raised the question of mineral or other valuable rights that might arise in future and considered the interests of Mauritius must be safeguarded. He also referred to reversion to Mauritius if use for defence purposes abandoned.

4. Interest was shown in the project as bargaining counter for the benefit of Mauritius but no indication was given of intention to use for party advantage. I was asked whether I had any idea of the compensation contemplated. I replied that clearly difficult to assess and you had asked me to sound them on the point. Ministers mentioned the possibility of the American sugar quota and referred to press speculation on the amount of compensation. I said that the sugar quota would raise difficult issue, and that lump sum payment would be favoured, and that exaggerated ideas should not be entertained since there was limit to the amount the British Government would think it worth paying for the facility.

Copies sent to:-

Ministry of Defence	- Mr. C.W. Wright
Ministry of Overseas Development	- Mr. I.H. Harris
Treasury	- Mr. J.A. Patterson
Foreign Office	- Mr. E.H. Peck
Commonwealth Relations Office	- Mr. L.B. Walsh Atkins

SECRET

Annex 41

Letter from S. Falle of the U.K. Foreign Office to F. D. W. Brown of the U.K. Mission to the U.N., FO 371/184526 (26 July 1965)

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(Z 4/111)

FOREIGN OFFICES, S.W.I.

26 July, 1965

Thank you for your letter (1199/40/65) of 14 July about defence facilities on the Indian Ocean islands. We have asked the Colonial Office to reply direct to the list of questions in paragraph 5. (You will already have seen Colonial Office telegram no. 222 to Seychelles repeated Personal No. 199 to Mauritius which dealt with some of these questions).

2. We agree (your paragraph 4) that if something has to be said in the U.N. it will need to go further than the statement in your telegram No. 1113 of 13 May, which is out of date. The facts as we know them and all the arguments we have been able to think up to explain and defend this project are contained in the C.R.O. telegrams to which you refer and our telegram No. Guidance 297 of 16 July as amended by the Corrigendum of 20 July. It is impossible to define the scope of the proposals more precisely. In essence, we want to take up now a political option - the detachment of the islands - in order to have real estate available for defence purposes in (say) five or ten years time. The only immediate facility planned is a U.S. Communication state on Diego Garcia. We cannot say now exactly what more we will want to build or when, but we believe that it will get progressively more difficult to detach the islands if Mauritius gets nearer to independence and impossible to do so if she becomes full independent. Similar considerations apply, though less strongly, to the Seychelles.

3. Unless this becomes essential we would much prefer not to take an initiative in the U.N. nor to make a formal statement. Your letter suggests that you think we can avoid this and may not have to answer criticism until the autumn. Much will depend on the reactions and discretion the governments to whom we have spoken and we should know more of this next week.

4. We would prefer not to give you detailed instructions until we see how the initial approaches are received and how any criticism develops. But by all means concert with the U.S. Mission a line based on the information in paragraphs 1 and 4 - 8 of C.R.O. telegram W Circular 60, using the arguments in the other telegrams under reference and in P.O. Guidance tel. no. 297 as a precautionary measure.

5. I am sending copies of this letter to those who received yours.

Dispatched in W.D. 26/7/65
(S. Falle)

F.D.W. Brown, Esq., C.M.G.,
United Kingdom Mission,
NEW YORK.

SECRET

Mem 27/7
x
B.U. 10/8/65

Annex 42

Telegram from the Governor of Mauritius to the Secretary of State for the Colonies, No. 175, FO
371/184526 (30 July 1965)

Reference: Fo 371/184526

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SECRET

INWARD TELEGRAM
TO THE SECRETARY OF STATE FOR THE COLONIES

FROM MAURITIUS (Sir J. Rennie)

Cypher

D. 30th July, 1965
R. 30th " " 17.00 hrs.

RECEIVED
12 AUG 1965
74/123

(13)

IMMEDIATE
SECRET AND PERSONAL
Personal No. 175

Your telegram Personal No. 204.

U.K./U.S. Defence Interests.

At meeting of the Council of Ministers today the Premier speaking for the Ministers as a whole, said that they were sympathetically disposed to the request and prepared to play their part in the defence of the Commonwealth and the free world. They would like any agreement over the use of Diego Garcia to provide also for the defence of Mauritius.

2. Ministers objected however to detachment which would be unacceptable to public opinion in Mauritius. They therefore asked that you consider "with sympathy and understanding" how U.K./U.S. requirements might be reconciled with the long term lease e.g. for 99 years. They wished also that provision should be made for safeguarding mineral rights to Mauritius and ensuring preference for Mauritius if fishing or agricultural rights were ever granted. Meteorological and air navigation facilities should also be assured to Mauritius.

3. As regards compensation for Mauritius they suggested the United States might purchase annually from Mauritius 300,000 to 400,000 tons of sugar at the Commonwealth negotiated price against the purchase by Mauritius from the United States of 75,000 tons of rice at about £40/41 per ton c.i.f. and 50,000 tons of wheat at about £25 per ton. American market for up to 20,000 tons of frozen tuna would also be of interest. United States might also be helpful about immigration. In addition there should be capital sum towards development. They also hoped that some use might be made of Mauritius labour in construction.

4. Premier suggested there should be discussion with representatives of British and American Governments either on the occasion of or before the September conference.

5. These views were subscribed to by all the Ministers present (only Ringadoo and Forget were absent) with reservation by Bissoondoyal that he would object to use as "nuclear base". On this point I took the line laid down in paragraph 10 of your telegram Personal No. 198. Ministers appreciated that Mauritius Government might be criticised for acquiescing in the project but were prepared to accept this consequence. (I said all criticism from outside need not be taken at face value and they agreed).

/6.

SECRET

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Fo 371/184526

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6. I told Ministers I would report their views to you. Attitude to detachment is awkward but not unexpected despite my warning that lease would not be acceptable. Proposals for compensation are also highly inconvenient though Ministers are setting sights high in the hope of doing the best for Mauritius. I should like to emphasise, however, that apart from the regrettable leak (which is the fault of one Minister at the most) Ministers have taken responsible line and given collective view after consultation among themselves, and that so far there has been no attempt to exploit for party advantage with a view to constitutional conference. I hope also that inclusion of some element of trade in compensation will be seriously considered.

7. You may wish to repeat to Governor Seychelles for his information.

(Repeated to Seychelles as C.O. tel No. 242).

Copies sent to:-

Ministry of Defence	- Mr. C. W. Wright
Ministry of Overseas Development	- Mr. I. H. Harris
Treasury	- Mr. J. A. Patterson
Foreign Office	- Mr. E. H. Peck
" "	- Mr. Morland
Commonwealth Relations Office	- Mr. L. B. Walsh Atkins
" " "	- Mr. J. S. Champion

SECRET

Annex 43

Letter from J. S. Champion, U.K. Ministry of Defence, Commonwealth Relations Office, to E. J. Emery, British High Commission in Canada (2 Aug. 1965)

SECRET

23/E

2-DNF.86/237/1E

COMMONWEALTH RELATIONS OFFICE,
DOWNING STREET,
S.W.1.

2 August, 1965

Thank you for your letter 344/1 of 22 July about the reactions of the Canadians to our proposals for certain islands in the Indian Ocean. I have consulted the Colonial Office on Mr. Beattie's queries. They have replied as follows.

X The legal position is that no part of the Chagos Archipelago is included in any electoral constituency for the Legislative Assembly of Mauritius. The islands of Aldabra, Desroches and Farquhar, however, are parts of a constituency of the Legislative Council of Seychelles, and their elected member is also a member of the Executive Council. At the moment, however, this member happens to be on a six-months' leadership training course in the United States (he is a young man of 23 years of age - and very pro-American we are told). The Colonial Office are considering whether, and if so how, he might be consulted.

As yet the Governor of Mauritius and the Acting Governor of Seychelles have been instructed to consult only the Council of Ministers and the Executive Council respectively. These consultations are on a strictly confidential basis (see para 9 of our W Circular 60 Saving) and there has therefore been no question at this stage of consultation with the legislatures. At a later stage, however, debates in the legislatures will no doubt take place. We are grateful to Mr. Beattie for drawing attention to the importance of timing in this connection, and indeed for his other comments also.

This is really only an interim reply to the questions raised in your letter, but I hope they may be helpful. The detailed arrangements and procedures to be followed after we have received the views of the Mauritius Council of Ministers and the Seychelles Executive Council, are still being worked out here. We will certainly keep you in touch so that you can keep the Department of External Affairs fully briefed.

Copies of this letter go to all recipients of yours.

(J. S. CHAMPION)
Defence Department

Miss E. J. Esary,
OTTAWA.

SECRET

Annex 44

Telegram from the U.K. Secretary of State for the Colonies to J. Rennie, Governor of Mauritius,
No. PAC 93/892/01 (10 Aug. 1965)

Reference: Fo 371/184526	MISSION
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SECRET

OUTWARD TELEGRAM
FROM THE SECRETARY OF STATE FOR THE COLONIES

13 AUG 1965

ZU/123 (b)

TO MAURITIUS (Sir J. Ramnath)

Enter Z
Supplies sent to the Port and
the Trench

Cypher

PAC 93/892/01

Sent 10th August, 1965. 21.30 hrs.

IMMEDIATE
SECRET AND PERSONAL
PERSONAL No. 214

Addressed to Governor, Mauritius.
Repeated " " Seychelles, No. 260.

J/13/c

Your telegram PERSONAL No. 175.

U.K./U.S. Defence Interests.

I should be grateful if you would inform Ministers that I much appreciate their willingness to co-operate and am gratified to know that the proposals outlined in your telegram have been made by the Council after careful and independent deliberation by Ministers themselves.

2. Please explain to Ministers that the United States Government has maintained throughout our discussions with them that the islands chosen for the development of defence facilities must be made available directly by Her Majesty's Government and that a leasehold arrangement would not do. We realise that Ministers might have difficulty over the public reactions to detachment; but we believe that any leasehold arrangements would make Mauritius Ministers vulnerable to accusations of harbouring "foreign bases".

3. Such accusations might prove extremely troublesome to Mauritius Ministers both internationally and domestically, as long as the lease continued. Outright detachment would avoid this. It is therefore the arrangement favoured by H.M.G. and is also in what we believe to be in the best interests of Mauritius.

4. If on reconsideration Ministers are prepared to accept detachment, recognizing that it is the only acceptable arrangement, Her Majesty's Government will do their utmost in negotiations with the United States Government to secure what they can of the various benefits indicated in your telegram. You should however warn Ministers that the chances of success are reduced by the fact that some of the suggestions involve difficult issues of domestic politics in the United States. You might invite them to discuss other elements of compensation within the direct power of Her Majesty's Government to grant and explain that, having regard to the United States Government's preparedness to meet the entire cost of construction of any defence facilities to be provided, any attempt to insist upon such contributions could prejudice the proposals as a whole. Equally, of course, H.M.G. will have to consider carefully whether they could meet whatever bids for compensation your Ministers may decide to make.

(Enciphered groups passed to M.O.D. (Navy) for transmission to Mauritius)

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Annex 45

Letter from R. Terrell of the U.K. Colonial Office to P. H. Moberly of the U.K. Ministry of Defence, PAC 36/748/08, FO 371/184527 (11 Aug. 1965)

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Ex 11

11 August, 1965.

PAC 36/748/08.

IMMEDIATE

On the 7th September the Mauritius constitutional conference will open in London.

2. The conference is expected to deal with two main topics. First, it will discuss the long-term future status of the island; and secondly, it will, we hope, agree that Mauritius should go forward within the next few months to internal self-government. The Mauritian political parties are divided over the question of long-term status. Some are demanding independence within the Commonwealth; others look to some form of continued association with Britain. We doubt whether it will be possible for the conference to resolve these differences, but it might succeed in arriving at definitions of "independence" and "free association" which could in due course be put to the Mauritius electorate, and in deciding that the future status of the island should depend on the outcome of an election or a referendum.

3. We know that, whatever the long-term views of the parties, all are deeply concerned about defence and internal security. All fully recognise:

- (a) that Mauritius will be virtually unable to provide for its own defence against any determined external attack; and
- (b) that, when Mauritius Ministers assume responsibility for internal security, situations may arise in which the Government of the day will need external assistance in the form of troops. The prospect of building up the existing Special (Mobile) Force of 150 policemen trained in the use of infantry small arms to the extent that would be required (in theory) to make any need for external forces unnecessary in an emergency is not very attractive, particularly because it would be difficult or impossible in a society rent with communal differences to recruit a force of the required communal balance, or which could be fully relied upon in the kind of communal trouble to be expected.

4. We know that Sir Seewoosagur Ramgoolam, the Premier and leader of the Mauritius Labour Party, which wants independence within the Commonwealth, hopes to negotiate a defence treaty with Britain, and we must also expect that he will seek an undertaking from Her Majesty's Government to come to the assistance of the Government of Mauritius with British troops in the event of

/a

P. H. MOBERLY, ESQ.,
MINISTRY OF DEFENCE,
DS.11,
MAIN BUILDING,
WHITEHALL,
LONDON, S.W.1.

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a serious internal threat. You will have seen from the Governor's Personal telegram No. 175 that the Premier has informed him that his Ministers "would like any agreement over the use of Diego Garcia to provide also for the defence of Mauritius".

5. We are now engaged in preparing briefs for Ministers for the September conference. One of the most important of these must deal with defence and internal security so far as the latter involves the use of British forces.

6. Our Secretary of State's basic policy is, of course, to arrive at a constitutional formula for each territory that will (a) reconcile conflicting party policies about the future status of the territory; (b) ensure law and order; (c) satisfy international opinion so far as possible. Whilst Mauritius is a comparatively law-abiding and sensible place, to apply the basic policy there is not easy. The chances of success, we feel, will depend very largely on the firmness of the statements which the Secretary of State is able to make when crucial questions are put to him in the course of the conference. In this context the most important basic consideration, we assume, is the strategic value to the British Government of the main installations - the naval wireless station, H.M.S. MAURITIUS and Plaisance Airport.

7. Whilst current plans for developing alternative communications and staging facilities elsewhere in the Indian Ocean would presumably reduce the value of those in Mauritius, such plans are not yet firm and in any event must take some time to carry out. At the present stage, therefore, it ought presumably to be practical politics for the Secretary of State to make it clear that, whatever the outcome of the conference, Her Majesty's Government would not lightly permit any threat to internal security to prejudice the continued use of H.M.S. MAURITIUS or the availability of Plaisance Airport as a staging post. Do you agree, and if so, in what terms from your point of view could such an assurance be given?

8. Whilst at the present time any substantial threats to internal security would probably come from the right wing of Mauritius politics and would not in themselves appear to constitute any danger to H.M.S. MAURITIUS or Plaisance Airport or to Anglo-U.S. defence plans, it must be expected that left wing, pro-communist (Chinese and Soviet) threats to internal security will inevitably become stronger in the future. Moreover, such threats are likely to be stimulated rather than subdued by the Anglo-U.S. plans.

9. In this situation, if Mauritius is independent at the time when the proposed Anglo-U.S. installations in Diego Garcia and elsewhere are brought into use will Her Majesty's Government then continue to be as concerned about the internal security of Mauritius as at the present time? If so, it would, perhaps, be helpful if the Secretary of State could say so at the conference. Whilst it will presumably be necessary for him firmly to refuse to define the hypothetical circumstances in which Britain would send troops to assist the civil power in an independent Mauritius or in a Mauritius freely associated

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with Britain, he should if possible be in a position to make very clear to the conference, and to any of the leaders who might question him in private, that the internal security of Mauritius is likely to be of great concern to Her Majesty's Government for an indefinite period ahead - if this is the case.

10. If the internal security of Mauritius is to be of great concern to Her Majesty's Government for an indefinite period ahead, it would strengthen the argument for a defence agreement. We know, of course, that no such agreements have been made latterly with independent African states. Moreover, no external threat to Mauritius is yet apparent. But, as indicated above, the Premier has already asked that any agreement over the use of Diego Garcia should also cover the defence of Mauritius, and it must be expected that all parties will want a defence agreement with Britain and that it should contain something about the provision of British troops for an internal security role. We know that one of the parties demanding independence at the same time actually wants a garrison of British troops to be stationed permanently in the island. It seems to us that there is probably no great risk involved in having a defence agreement. Do you agree? What line can we take about this in briefing the Secretary of State?

11. I am sorry to trouble you with so long a letter. But, as you will understand, the success of the constitutional conference is likely to turn very largely on the line the Secretary of State takes when dealing with the points I have raised. We must, if possible, have the briefs at least in first draft inside the next fortnight. I should, therefore, be most grateful if you could let me have your advice as soon as possible.

12. I should like to conclude with a warning that, if the Secretary of State is able to make only vague noises when dealing with some of these questions, it may well turn out to be impossible for Mauritius to advance from the status of dependency at all, with the consequences that all the existing defence commitments in respect of the island will have to remain intact. A decision to perpetuate them in substance, whatever the future status of Mauritius, therefore, may not involve any material alteration to the position that would otherwise obtain.

13. If you will give me a ring we can consider whether to have a meeting about this or whether you would prefer to write.

14. I am sending copies of this to Morland at the Foreign Office, Champion at the C.R.O. and Patterson at the Treasury who will, no doubt, comment if they wish.

(R. Terrell)

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Annex 46

Telegram from the Governor of Mauritius to the Secretary of State for the Colonies, No. 188, FO
371/184526 (13 Aug. 1965)

FO 371/184526

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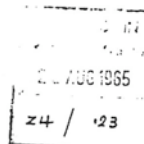
INWARD TELEGRAM

TO THE SECRETARY OF STATE FOR THE COLONIES

AMENDED COPY (Corrections * and underlined)FROM MAURITIUS (Sir J. Rennie)

Cypher D. 13th August, 1965.
R. 13th " " 21.45 hrs.

PRIORITY
SECRET AND PERSONAL
PERSONAL No. 185.



Your Secret and Personal telegram No. 214 and my Secret and Personal telegram No. 185. *zn/22/5*

U.K./U.S. Defence Interests.

I conveyed to Ministers your views this morning *explaining objections to lease and warning them of difficulty about compensation in the form of American trade. They renewed the suggestion of discussion in London between representatives of governments concerned and both the Premier and Duval said that they were sure that agreement could be reached in this way. They were clearly not prepared to agree here and now.

2. I am sorry that I have not been able to obtain the desired agreement but I think it would be counter productive to press further at present. You may like to consider discussion in the first instance with the Premier on his arrival in London *before the conference.

Copies sent to:-

Ministry of Defence	- Mr. C.W. Wright
Ministry of Overseas Development	- Mr. I.H. Harris
Treasury	- Mr. J.A. Patterson
Foreign Office	- Mr. E.H. Peck
" "	- Mr. Morland
Commonwealth Relations Office	- Mr. L.B. Walsh Atkins
" " "	- Mr. J.S. Champion

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Annex 47

U.K. Ministry of Defence, Chiefs of Staff Committee, *Mauritius Constitutional Conference*, No.
COS 154/65 (26 Aug. 1965)

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COS 154/65

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MINISTRY OF DEFENCE

CHIEFS OF STAFF COMMITTEEMAURITIUS CONSTITUTIONAL CONFERENCENote by the Secretary

1. The Chiefs of Staff have approved (1) the report (2) at Annex A.
2. In approving the report the Chiefs of Staff invited the Defence Secretariat to forward it to the Colonial Office as an expression of their views.

J.H. Lapsley
Air Vice-Marshal
Secretary
Chiefs of Staff Committee

Annex: A. Mauritius Constitutional Conference.

Notes:

1. COS 43rd Meeting/65, Minute 3.
2. DF 58/65, as amended.

Ministry of Defence
Main Building
Whitehall SW1

26th August 1965

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Annex A to COS 154/65MAURITIUS CONSTITUTIONAL CONFERENCEINTRODUCTION

1. The Mauritius constitutional conference will open in London on 7th September 1965. The Colonial Office are preparing briefs for Ministers, one of which will deal with defence and internal security, in so far as the latter involves the use of British forces.
2. The Colonial Office have asked (1) for a military view on certain points and the Defence Secretariat have consolidated these into the four following questions, on which they have asked our views:
 - a. To what extent should we undertake to assist Mauritius over internal security after independence?
 - b. To what extent should we undertake to assist Mauritius over external defence after independence, in the form of a defence agreement (bearing in mind the possible development of Anglo-American facilities on islands whose future still has to be negotiated with Mauritius and Seychelles)?
 - c. What assurance can we give about our continued use of the naval wireless station (HMS Mauritius) and of Plaisance Airport for staging purposes, either in public or privately, to Mauritius leaders?
 - d. Should we offer to help in building up the Special (Mobile) Force so that it can play a larger part in controlling internal security?

AIM

3. To answer the questions asked by the Defence Secretariat.

BACKGROUNDStrategic Importance of Mauritius

4. We have previously stated (2) that there are two major facilities in Mauritius which are most important to British strategy. These are:
 - a. The Naval and Strategic Wireless Station (HMS Mauritius). This is required to provide:
 - (1) Command and control of Commonwealth naval and merchant shipping in the Indian Ocean, Arabian Sea, and Persian Gulf.
 - (2) A link in our defence strategic communications to the Middle East, Far East, and South Africa, and as a link into the United States defence communications network.

Notes:

1. Annex to COS 2194/16/8/65.
2. COS 75/64.

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Annex A to COS 154/65
(Continued)

7/12

b. The Airfield at Plaisance. This is required as a valuable, and in some cases essential, staging post between the Middle East and Central Africa for Tac T (MR) aircraft, should staging or overflying in East Africa be denied. It could also become an essential airfield on the proposed reinforcement route to the Middle and Far East, flying round or over Southern Africa.

5. Any alternative to either of these facilities might take three to five years to construct.

US/UK Defence Interests in the Indian Ocean

6. In February 1964 it was agreed at official level that the United States should, at their own expense, develop certain defence facilities in the Indian Ocean which could also be used by the United Kingdom if HM Government made the islands concerned available. As a result of subsequent surveys the Americans have plans for the early construction of a communications station and facilities, including an airstrip, on Diego Garcia, one of the islands in the Chagos Archipelago which is a dependency of Mauritius.

7. The matter was considered (3) by Ministers last April, and the Colonial Office subsequently instructed (4) the Governor of Mauritius to inform his Ministers that, subject to the agreement of the Government of Mauritius, HM Government would be prepared in principle to pursue the proposed detachment of the whole of the Chagos Archipelago (including Diego Garcia) for the purpose of joint development with the Americans.

8. Discussions with the United States, Mauritius, and Seychelles are continuing. The islands earmarked for detachment from Mauritius are the Chagos Archipelago, including Diego Garcia. The islands which it is proposed to detach from the Seychelles are Aldabra, Farquhar, and Desroches.

QUESTIONS TO BE ANSWERED

Question a. To what extent should we undertake to assist Mauritius over internal security after independence?

9. There is an existing plan (5) to introduce up to one infantry battalion group into Mauritius for internal security duties if required and, subject to the current defence review, we expect to continue to have this capability. However, the extent, if any, to which HM Government should agree to provide British military assistance to maintain public order in Mauritius after full independence is primarily a political question. Although we have in certain cases taken military action at the request of the government concerned, or made plans to do so, we have no formal commitments of this kind towards other independent Commonwealth countries except Malta.

Notes:

3. OPD(65)21st Mtg.
4. Colonial Office telegram No 198 to Mauritius dated July 1965.
5. RTP(ME)19(Second Revise).

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ANNEX A TO COS 154/65
(Continued)

10. It would be very much in our interests to be able to use British forces to assist the local authorities in dealing with threats to the functioning of the airfield at Plaisance or of the Naval and strategic wireless station, HMS MAURITIUS. Such action would be facilitated both politically and militarily if we had a formal agreement to assist Mauritius in internal security.

11. On the other hand, it would be undesirable for us to be permanently committed to intervene in communal disorders at the behest of the Government of a genuinely independent Mauritius. Such a commitment might involve us in deploying to Mauritius forces more urgently needed elsewhere quite apart from incurring the odium of backing one community alternately against the other. Consequently, we believe that any internal security commitment that we accept in order to help to secure agreement to the excision of the Chagos Archipelago should be limited in time to the period during which we have defence facilities in Mauritius, and in scope to assistance to the local authorities in the protection of our facilities and of essential public utilities.

Question b. To what extent should we undertake to assist Mauritius over external defence after independence, in the form of a defence agreement (bearing in mind the possible development of Anglo-American facilities on islands whose future still has to be negotiated with Mauritius and Seychelles)?

12. We are advised that the conclusion of a defence agreement with a newly independent Commonwealth country is generally speaking undesirable. Furthermore, the acceptance of any more defence agreements at a time when our world-wide commitments are under review should be avoided unless there is an overriding political or military advantage to be gained.

13. While there are certain external communist influences at work in Mauritius, we can at present foresee no likely external military threat to either Mauritius or its dependencies. However, the Governor of Mauritius has reported (1) that the Premier has informed him that his Ministers "would like any agreement over the use of Diego Garcia to provide also for the defence of Mauritius".

14. We would much prefer that the detachment of Diego Garcia and the other dependencies from Mauritius should, once the compensation terms have been agreed, proceed without any consequential military commitment for the external defence of Mauritius. However, if Mauritius Ministers make detachment of the dependencies or retention of our staging facilities and wireless station conditional on an external defence agreement we should

Note:

1. Annex A to COS 2194/16/8/65.

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ANNEX A TO COS 154/65
(Concluded)

agree, since we would not like our plans for the development of US/UK defence interests or retention of our existing facilities in the Indian Ocean to founder on this point; however, the commitment need not necessarily be in the form of a formal Defence Agreement.

15. We are advised that a defence agreement covering only external defence would not satisfy Mauritius Ministers, and that a defence agreement covering internal security and not external defence is unlikely to be politically acceptable to them. We therefore consider that in spite of the disadvantages it would, on balance, be in our interests to enter into a defence agreement covering both internal security and external defence if this was the only way we could ensure the retention and safeguarding of our facilities and the successful outcome of our negotiations to detach the Chagos Archipelago. Such an agreement would obviously cease to be of any advantage to us once the negotiations for detachment had been completed or if in due course we had ceased to retain our facilities for any reason.

Question c. What assurance can we give about our continued use of the naval wireless station (HMS MAURITIUS) and of Plaisance Airport for staging purposes, either in public or privately, to Mauritius leaders?

16. There will be a naval requirement for communications facilities on the present scale in Mauritius for as far ahead as can be foreseen.

17. Similarly the airfield at Plaisance will continue to be a valuable, and in some cases essential, staging post, particularly if use of routes round or over southern Africa is developed. Even in the event of an airfield being built on Aldabra, Plaisance would continue to provide a useful alternative and we would wish to retain the facilities for staging aircraft through there in an emergency.

18. We should therefore assure the Mauritius Government that we foresee a continuing use for both facilities. There would be no objection to this being stated publicly.

Question d. Should we offer to help in building up the Special (Mobile) Force so that it can play a larger part in controlling internal security?

19. We consider that the proper way for Mauritius to maintain a satisfactory internal security situation is to build up the Special (Mobile) Force so that it can adequately cope with any foreseen eventuality. Although it might be assumed that the country has the ability and will to control its own affairs, since self-government in the near future is being considered, we are advised that the communal situation in Mauritius presents special problems in building up a reliable internal security force. Nevertheless a strong police force would ensure that British troops were less likely to be called on for internal security. Therefore we should be prepared to offer any necessary training assistance for this force on the understanding that its cost would not fall on the Ministry of Defence vote.

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Part I to COS 43rd Meeting/65
24th August 1965

3. MAURITIUS CONSTITUTIONAL CONFERENCE

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The Committee had before them a paper (1) by the Defence Planning Staff and a Secretary's minute (2) covering a draft Defence and Oversea Policy Committee (OPD) paper.

SIR RICHARD HULL said that the Colonial Secretary had not been able to persuade the Mauritian Ministers to agree to the detachment from Mauritius of Diego Garcia and the other islands of the Chagos Archipelago, in the context of the proposed development of Anglo-American military facilities in the Indian Ocean, in advance of the Mauritius Constitutional Conference, which would open in London on 7th September 1965. Thus, at the conference, defence and internal security issues were expected to assume particular importance. The report by the Defence Planning Staff answered four specific questions on points of defence policy relating to Mauritius posed by the Colonial Office. The Defence Secretariat had prepared a draft OPD paper seeking to establish the importance of having joint UK/US military facilities in the Chagos Archipelago in relation to the other issues of defence policy towards Mauritius.

This OPD paper had been drafted in consultation with the Foreign Office, at official level, as a joint submission by the Deputy Secretary of State for Defence and the Minister of State for Foreign Affairs. It was important that it should be considered by the Defence and Oversea Policy Committee at their meeting on Tuesday 31st August 1965, as this would be the last opportunity for Ministers to consider the matter before the Constitutional Conference.

Both the DP paper and the draft OPD paper were in general agreement, but in the draft OPD paper a different line had been taken on guarantees for Mauritian internal security. In considering defence arrangements and the internal security problem, the DP paper concluded that we could guarantee the external defence of Mauritius once the island became genuinely independent and, because of our naval establishment there, we might in the worst case accept certain responsibilities for internal security. On the other hand, the OPD paper, whilst also accepting the commitment for external defence, only allowed for the protection of our own forces and facilities, and argued against our becoming involved in an internal security role. The Committee would wish to hear the views of representatives of political departments.

Notes:

1. DP 58/65 (Final).
2. COS 2224/23/8/65.

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MR SMITH (Colonial Office) outlined the present position in Mauritius and the possible outcome of the Constitutional Conference. The island was divided into two basic communities: the Indians and the Creoles. The Prime Minister, an Indian, was aiming to achieve independence for Mauritius whilst retaining full external defence and internal security agreements with the United Kingdom; his objective was a seat in the United Nations; he was unlikely to achieve this under such arrangements. The Creole opposition wished to retain British supervision for their protection against the Indians and were therefore aiming for something less than independence. The outcome of the Conference was uncertain and his Secretary of State had stated that he was open to consider any kind of solution. The most likely course of events was that the Conference was unlikely to agree on full autonomy, but would accept that Mauritius should proceed to full internal self-government, with the possibility of further progress after a future referendum. Until that time British interests would be represented by a High Commissioner or Governor General. The Colonial Secretary was anxious to detach the Chagos Archipelago by consent and was disinclined to detach it arbitrarily by an Order in Council, which would have international political repercussions. The Mauritian Premier would press for a quid pro quo for the detachment of the Chagos Archipelago and it was the opinion of the Colonial Office that we should not get the bases by consent unless guarantees covering external defence and internal security were given.

MR WALSH ATKINS (Commonwealth Relations Office) said that his Department generally agreed with the draft OFD paper. They were not in favour of defence agreements with Commonwealth countries and agreements with regard to internal security found even less favour. In the case of Mauritius any British internal security action after full independence would have widespread repercussions in the Indian Ocean area owing to racial connections with other countries. In this connection, it was important to differentiate between total independence and independence under "free association"; if Mauritius achieved independence in "free association" with the United Kingdom, intervention in an internal security role might be more politically acceptable. While the legal position was not clear, it was noteworthy that the view existed in Whitehall that there was a right for a state to intervene in another country to protect its own people, even if no written agreement existed. With regard to defence agreements, his department had found that their stated policy of never entering into defence agreements, though not rigidly adhered to, had proved a valuable bargaining point in such discussions.

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In discussion, the following points were made:

a. There was a risk that we might, under pressure, accept an indefinite responsibility for internal security in Mauritius. As the likely outcome of the conference was partial independence, in which circumstance we would still have an internal security commitment under a British High Commissioner, the paragraph in the draft OPO paper on internal security should be amended to reflect this.

b. The Foreign Office agreed that commitments for the defence and internal security of a genuinely independent Mauritius were most undesirable, but they attached such importance to the detachment of the island bases that, if such agreements were the only method of achieving it, this would be considered as a special case. In their view, the presence of our naval forces in Mauritius and our position in the Indian Ocean as a whole would make it imperative for us to accept responsibility for the external defence of Mauritius whether we were invited to do so or not.

c. The naval communications station on Mauritius was a main centre for all naval communications East of Suez. As such it was of vital importance to the Navy and a station of this sort would remain so as long as forces were required to operate East of Suez; it was therefore essential that we should retain the right to protect it. The station had cost £5m to build and, whilst it was technically possible for it to be re-installed elsewhere, the financial penalty would be of the same order.

d. The Air Force Department considered that the provision of the island bases in the Chagos Archipelago was of such importance to our future strategy in the Indian Ocean that we should, if forced, accept whatever external defence or internal security commitments were necessary to ensure their detachment.

e. Several minor amendments to both the draft OPO paper and the DP paper were agreed.

Summing up, SIR RICHARD HULL said that the Committee would agree with the Foreign Office that it was a matter of prime importance that the detachment of the Chagos Archipelago from Mauritius should be achieved before any moves towards Mauritian independence, whether partial or complete, were agreed. It might be necessary for a commitment for the internal security of Mauritius to be accepted during the period of internal self-government short of full independence, but they wished at all costs to avoid a commitment to assist a genuinely independent

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member of the Commonwealth in controlling her own affairs, especially when that country had racial problems of a particularly difficult kind. The papers before them, as amended in the light of their discussion, would serve to define their objectives with regard to Mauritian independence. The draft OPD paper would make clear the joint Ministry of Defence and Foreign Office position and would enable Ministers to balance our military requirements against political considerations.

The Committee:

- (1) Agreed with the remarks of the Chief of the Defence Staff in his summing up.
- (2) Approved the DP paper, as amended in the light of their discussion, and invited the Defence Secretariat to forward it to the Colonial Office as an expression of their views.
- (3) Took note of the draft OPD paper and invited the Defence Secretariat to incorporate the views of the Chiefs of Staff in the final version.

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NOTE

DP.58/65(Final)

In accordance with the instructions of the Chief of the Defence Staff, the attached paper will be tabled for consideration by the Chiefs of Staff at their meeting on Tuesday 24th August 1965.

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CIRCULATED FOR THE CONSIDERATION OF THE CHIEFS OF STAFFCOPY NO 124DP.58/65(Final)20th August 1965

CHIEFS OF STAFF COMMITTEE

DEFENCE PLANNING STAFFMAURITIUS CONSTITUTIONAL CONFERENCEReport by the Defence Planning Staff

In accordance with the instructions (1) of the Chief of the Defence Staff we have answered the following four questions posed by the Defence Secretariat:

- a. To what extent should we undertake to assist Mauritius over internal security after independence?
 - b. To what extent should we undertake to assist Mauritius over external defence after independence, in the form of a defence agreement (bearing in mind the possible development of Anglo-American facilities on islands whose future still has to be negotiated with Mauritius and Seychelles)?
 - c. What assurance can we give about our continued use of the naval wireless station (HMS Mauritius) and of Plaisance Airport for staging purposes, either in public or privately, to Mauritius leaders?
 - d. Should we offer to help in building up the Special (Mobile) Force so that it can play a larger part in controlling internal security?
2. We have consulted the Foreign Office, the Colonial Office, the Defence Secretariat, and the Defence Signal Staff. Our report is at Annex.
- Recommendation
3. We recommend that, if they approve our report, the Chiefs of Staff should invite the Defence Secretariat to forward it to the Colonial Office as an expression of their views.

(Signed) R.E. COAKER
E.G.N. MANSFIELD
R.P.S. ERSKINE-TULLOCH
P.H.G. WINTLE

MINISTRY OF DEFENCE. S71

Note:

1. COS 2194/16/8/65

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Annex 48

Memorandum by the U.K. Deputy Secretary of State for Defence and the Parliamentary Under-Secretary of State for Foreign Affairs on Defence Facilities in the Indian Ocean, OPD(65)124
(26 Aug. 1965)

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OPD(65)124

COPY NO. _____

26th August, 1965

CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

DEFENCE FACILITIES IN THE INDIAN OCEAN

Memorandum by the Deputy Secretary of State for
Defence and the Parliamentary Under-Secretary
of State for Foreign Affairs

We are both much concerned with the urgency of obtaining further decisions on the proposed detachment of certain islands from Mauritius and Seychelles for the military purposes of the United States and ourselves. The islands in question are Diego Garcia and the rest of the Chagos Archipelago (which belong to Mauritius); and Aldabra, Farquhar and Desroches (which belong to Seychelles). The only island for which immediate plans exist is Diego Garcia, where the Royal Navy have plans to establish an oil fuel depot (to replace that in Ceylon), and where the Americans wish to build a communications station with supporting facilities. Details of the proposals were given in OPD(65)68, which the Committee considered at their meeting on April 12th.

2. At that meeting the Committee agreed in principle to pursue the proposal further, and that the price we might have to pay should be discussed with the Governments in Mauritius and Seychelles. As a result, the Governor of Mauritius has explained the situation to his Ministers, and the Governor of Seychelles to his Executive Council, and sought their reactions. The Seychelles Executive Council was lukewarm but raised no objection of principle. They thought that construction of a civil airfield on Mahe would be satisfactory compensation. Mauritius Ministers are reported to be sympathetically disposed, but they have raised a number of difficulties. In particular, they wish any agreement over the use of Diego Garcia to provide also for the defence of Mauritius; they would prefer a 99-year lease instead of detachment under permanent UK sovereignty; they suggest a greatly increased US sugar quota for Mauritius (and hope that the United States might also be helpful about immigration); and they mention an unspecified capital sum for development.

3. The Mauritius Constitutional Conference opens in London on September 7th. Although there is much to be said for keeping constitutional and defence questions apart, and for dealing with islands as a separate affair, Mauritius leaders have asked to discuss the matter while in London. Moreover, we understand that, in discussing the ultimate status of Mauritius (independence or something short of it), Mauritian politicians are likely to be specially interested in the extent to which Britain is prepared to remain responsible for their external defence and their internal security. This being so, the line taken by the Colonial Secretary with Mauritius leaders at the Conference on future defence arrangements will profoundly affect our chances of carrying them with us in the proposed

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detachment of Diego Garcia and the Chagos Archipelago. If we fail to persuade them now, we may never again be in a position to do so at an acceptable cost. Indeed if Mauritius opts for independence at this conference, this will be our last chance to secure the Chagos Archipelago.

4. We should like at this stage to underline the arguments set out by the Foreign Secretary and the Defence Secretary in their earlier paper (OPD(65)68). In the summing up of the discussion, the minutes of the OPD(65)21st Meeting record:-

"If the Defence Review showed that we needed to retain a capability to intervene East of Suez, the facilities proposed might be most valuable
Alternatively, if we should seek to limit our commitments, the existence of the US bases might facilitate such a course."

In the studies on future strategy now being prepared for the Defence Review, it is assumed that these islands will be available in the long term. Recent events in Singapore have given a new urgency to these considerations. We regard the perpetuation of British sovereignty over the islands as extremely important both for their potential strategic value and because they are essentially a joint investment with the Americans. Moreover, if we fail to secure the islands now, the Americans will have neither the inclination nor the means to give us cooperation and logistic support which we shall need in the area.

5. We turn now to the terms on which we can still get these islands. The main ingredients, as suggested by Ministers in Mauritius and Seychelles, are considered below:-

- a. Lease. The Americans have said at official level that it is extremely unlikely that the United States would want to go through with the deal unless the islands were to be permanently detached. Since we see the Americans as an essential partner we must regard American views against a lease as decisive. Moreover, any lease agreement is bound to bring Mauritius under very strong Afro-Asian pressure to revise it in due course. Although in possession of the islands we should be fully entitled and able to resist such pressure, it would nevertheless bedevil our relations with Mauritius and provide a continuing excuse for hostile powers to make trouble. We should therefore stick to the original proposal for detaching the islands once and for all and placing them under British sovereignty.
- b. Sugar. This, of course, is for the Americans to decide, but we have strong reason to believe that they will find it impossible to go more than a very short way to meet the Mauritius bid.
- c. Finance. At their meeting on April 12th the Committee agreed that the United States Government should be asked to contribute to the cost of compensating Mauritius and Seychelles for the loss of their islands. The US Government have recently replied that they are prepared in principle to provide a contribution to the detachment costs, up to one half of the roughly estimated £10m. total, through deduction of an agreed amount of

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UK payments due in research and development surcharges. American officials are thinking of R and D costs of the Polaris programme for this purpose, but we have not yet received detailed proposals from them. Despite discussions in Mauritius and Seychelles, no precise estimate can yet be made of the overall cost of development aid, buying out the commercial owners of the islands and resettling the inhabitants. Nevertheless, the American offer is a clear advance on the original basis on which the project was discussed with them, namely that the UK would pay the costs of detachment, while the US would pay for the construction of the facilities they required, and give us joint use. We believe that the American offer is the best we can hope for and that, although the costs are still unknown, we should tell the Seychelles that we are prepared to pay about £3million towards the cost of an unsophisticated civil airfield, Mauritius being offered aid for some suitable project at no greater cost than Seychelles. An immediate offer to Mauritius should help to overcome any disappointment over their other demands.

- d. External Defence. Normally, we are unwilling to enter into formal arrangements for the external defence of newly independent Commonwealth countries. We should only undertake an obligation in return for a clear-cut political and strategic benefit. In this case, in return for accepting an obligation which we are extremely unlikely ever to be called upon to meet, we stand to gain the advantages already referred to. We therefore propose that, if it seems essential to secure Mauritian acceptance, we should offer, perhaps in a confidential memorandum of understanding, to be responsible for the future defence of an independent Mauritius on condition that Mauritius agrees now to transfer the Chagos Archipelago to British sovereignty.
- e. Internal Security. Internal trouble appears a more real danger in Mauritius than external attack. If Mauritius remains a British dependency, we shall anyhow be responsible for internal security. We see serious objection, however, to being obliged to assist any genuinely independent member of the Commonwealth in controlling her own affairs, especially when that country has racial problems of a particularly difficult kind. Indeed, restoring order in an internal security situation might well take the form of backing one community against the other, according to the Government in power at the time. We believe this situation should be firmly avoided, and that we should press on with detaching the islands without getting ourselves involved in an internal security commitment to an independent Mauritius. If our agreement to accept some obligation to assist in internal security should turn out to be the only way of securing Mauritian acceptance of the detachment of Chagos, we should consider it in the context of a status short of genuine independence (in which case the obligation might indeed be held to remain anyway); thereafter, in the event of genuine independence, we should limit our commitment both in time and scope, tying it to the period of

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the continued use of our existing military facilities on Mauritius (a naval wireless station and a staging airfield) and limiting it to the protection of these facilities and of essential public utilities.

Conclusions

6. a. Perpetuation of British sovereignty over the islands is extremely important, both for their potential strategic value and because they will be a joint investment with the Americans.
- b. As negotiation in Mauritius has failed to establish agreement on terms, we regard it as essential that, during their stay in London, Mauritius Ministers should be made aware of HMG's determination to go through with this project on terms which in HMG's view adequately compensate Mauritius for the loss of the remote and neglected Chagos Archipelago.
- c. These terms should be financial compensation for Mauritius in the form of development or other aid comparable to the sum of about £3million to be offered to the Seychelles, plus a promise of continued British responsibility for the external defence of Mauritius: only as a last resort should we indicate willingness to commit ourselves to assist in internal security after full independence, and then we should limit our commitment to the period of the continued use of our existing defence facilities in Mauritius itself and to the protection of these and of essential public utilities.
- d. If Mauritius Ministers refuse this offer, they should be told that, in that case, HMG will have to consider any proposals for the future status of Mauritius without the Chagos Archipelago, and will exercise their right to transfer Chagos to permanent British sovereignty under order-in-council, financial compensation as above being paid to the Mauritius Government.
- e. With Seychelles we should press on with arrangements for the detachment of Aldabra, Farquhar and Desroches, in return for subsidising unsophisticated civil airfield on Mahe up to a limit of about £3million.
- f. We should accept the US Government's offer to repay us half the costs of detachment and should invite their urgent views on how payment should be made.

Recommendation

7. We invite our colleagues to endorse the conclusions in para. 6 above.

F.J.M.

W.

Whitehall, S.W.1.
26th August, 1965.

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Annex 49

United Kingdom, *Mauritius and Diego Garcia: The Question of Consent* - Note from 28 August 1965, FCO 31/3437 (undated)

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MAURITIUS AND DIEGO GARCIA: THE QUESTION OF CONSENT

22 January 1965. Colonial Office minute to Secretary of State concerning recent official discussions within Whitehall.
 "We for our part stressed the absolute necessity, in both local and international political terms, of acting only with the agreement of the political leaders in Mauritius and the Seycelles.."

C.O.S. Meeting 24 August 1965

Mr Smith (Colonial Office) "The Colonial Secretary was anxious to detach the Chagos Archipelago by consent and was disinclined to detach it arbitrarily by an Order in Council which would have international political repercussions....."

26 August 1965. Colonial Office Brief for Colonial Secretary (in connection with OPD(65) 124, a paper prepared by the F.O. and M.O.D.)

"...The Secretary of State will no doubt wish to resist strongly any suggestion that there should be any question of the matter being handled in the only other way that would be open to us for securing these facilities in the Indian Ocean if the acquiescence of the Mauritius Ministers could not be obtained on the terms suggested in OPD 65/124 i.e. by simply forcing the thing through, over our constitutional powers. To do so would have disastrous consequences from the point of view of world opinion. It would completely disrupt the Mauritius Constitutional Conference and would in all probability make impossible for some time to come any agreement on the constitutional future of Mauritius; this in turn could pose considerable internal security problems difficulties of which we had a foretaste in May..."

31 August 1965. OPD Meeting.

Deputy Secretary for Defence..! If agreement on the detachment of the Chagos group could not be obtained, we should nevertheless transfer them to direct United Kingdom sovereignty by Order in Council..

The Foreign Secretary..! if both the Seycelles and the Mauritius Governments agreed to our proposals there would be no international criticism of our actions. Nevertheless, if the latter did not agree the strategic importance of the Islands was sufficient to justify our passing the necessary Order in Council. Our legal right to do so was unquestioned....."

"The Colonial Secretary said he was not in agreement with these proposals. The Mauritius Constitutional Conference would in any case be difficult. When the Committee had last discussed detaching the islands they had agreed that the proposed compensation should be increased and that the agreement of the Mauritius Government was essential... to threaten to go ahead with this (detachment) by Order in Council regardless of their agreement would undoubtedly wreck the Conference..."

7 September. Constitutional Conference opens.

13. September. Colonial Secretary sees Ramgoolam for discussions on detachment.

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Annex 50

U.K. Foreign Office and U.K. Ministry of Defence, *Brief for the Secretary of State at the D.O.P. Meeting on Tuesday, 31 August: Defence Facilities in the Indian Ocean*, No. FO 371/184527 (31 Aug. 1965)

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SECRETDEFENCE FACILITIES IN THE INDIAN OCEAN

I submit a brief for the Secretary of State to use at the D.O.P. meeting on Tuesday, 31 August. It has been cleared with United Nations Department.

[has seen - d/r]

(G.G. Arthur)
27 August, 1965.

Mr. Peck

Copy to:-

Sir B. Burrows
Mr. Greenhill
Mr. Cable
Mr. Wade-Gery

P.V.S.

Private Secretary.
This brief will not be wholly useless to go publically. The securing of these islands should have been done earlier & quicker - now we are likely to have criticism from some, like the Indians, who will be awkwardly keeping that for reasons of SECRET their interests we shall

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shall go ahead -

I think there is no doubt
that, if we do not take
positive action, ^{Western} ~~Western~~ ability
to take security ^{and peace} ~~and peace~~
keeping action in the Indian
Ocean will in the end lapse,
with extremely damaging results -
I think therefore ~~that we have~~
to go ahead on a matter on
which, if it is worth remembering,
our ten scrupulous competitors
do not hesitate for 5 minutes
such are the by-products
of the 'double standard' in
international affairs -

M. D. D. S.
- 27/18

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BRIEF For the Secretary of State at the
D.O.P. Meeting on Tuesday, 31 August:
DEFENCE FACILITIES IN THE INDIAN OCEAN

Flag A

The attached joint Foreign Office/Ministry of Defence paper was approved by Lord Welston in the absence of the Secretary of State. It is to be discussed at the Defence Overseas Policy Committee next Tuesday immediately after the paper on Singapore with which it has a logical connection.

Flag B

2. The Secretary of State will be familiar with the background to this proposal which has now been under negotiation for 18 months. The back history, a description of the islands concerned, and a map are included in the earlier joint paper (OPD 65/68 of 7 April).

3. The Mauritius conference, which opens in London on 7 September, may be our last chance to achieve a satisfactory outcome. Even if Mauritius does not opt for full independence at this conference - and it seems unlikely that she will do so - it is unlikely that we shall be able to keep consultations with Mauritius confidential for much longer. Widespread public discussion of the proposal before agreement had been reached would make the achievement of a successful conclusion much more difficult. A decision on how to proceed is therefore required urgently.

Flag A

4. The new joint paper marks an important step forward. The Foreign Office have long urged the importance of the islands project for Anglo/American relations. The

/Ministry

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Ministry of Defence (including the Chiefs of Staff who discussed and approved it in draft) have gone further with a statement (paragraph 4 of the paper) of the extreme importance for our own strategic purposes of detaching the islands now. In the light of this statement the paper recommends that if Mauritius Ministers refuse our offers, they should be told that in that case Her Majesty's Government will have to consider any proposals for the future status of Mauritius without the Chagos Archipelago, and will exercise their right to transfer Chagos to permanent British sovereignty under order-in-council, financial compensation being paid to the Mauritius Government in accordance with our offer. There should be no need for such pressure in connection with the islands belonging to Seychelles, provided a satisfactory bargain can be struck on the amount of compensation to be paid.

5. It is difficult to assess precisely reactions in the United Nations. Even if the islands are detached with the consent of the Seychelles and Mauritius Ministers there will be criticism at the United Nations both from those who wish on strategic grounds to exclude British influence from the Indian Ocean area and from those who have a doctrinaire or emotional hostility to "foreign bases". We must also expect the argument that adjustments of territorial boundaries cannot be recognised unless they are freely agreed by the representatives of the people concerned after independence.

Flag C New Delhi telegram 2815 of 16 August foreshadows this line from the Indians.

6. Although there is nothing in the Charter of the /United

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United Nations which forbids the adjustment of the boundaries of colonial territories, subject to observance of the principle in Article 73 (which we ourselves have frequently invoked) that the interests of the inhabitants are paramount, there are a number of United Nations resolutions which would undoubtedly be quoted against us. The most important is Resolution 1514 (the "Declaration on Colonialism"), operative paragraph 6 of which states that "any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations". Although this resolution does not in law have the force of a Charter amendment, it is regarded as such in practice by the Afro-Asian and Communist members.

7. If the islands are detached against the expressed wishes of the inhabitants, or without their consent, then our opponents will have more plausible arguments to hand and many of our friends may hesitate to defend us. In these circumstances the Charter, as well as United Nations resolutions will be invoked against us.

8. We should in reply be able to point to the remoteness of the islands concerned from the main islands, with which they have been united solely for the administrative convenience of the colonial power, and not because of any historic, geographic or ethnic affinity; and to the fact that the inhabitants concerned are few and nearly all contract labourers neither permanently living on, nor indigenous to, the islands they work on. We should have to argue that their detachment does not conflict with the interests of the inhabitants of Mauritius

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and Seychelles as a whole.

9. We shall have to meet criticism whether or not the consent of the representatives of the inhabitants has been secured. But without it our opponents' arguments will gain a more sympathetic hearing. We must, therefore, accept the fact that we shall be subject to continuing attacks in the United Nations. These will tend, at any rate temporarily, to obscure the positive aspects of our record of decolonisation, create suspicion about our progress with other of our remaining dependencies, and complicate our relations with the Organisation as a whole, thereby making it more difficult for us to fulfil our declared aim of sustaining and strengthening it. These attacks, however, although damaging at times, will not be unmanageable. The recommendation that we should proceed with this proposal, if necessary even without local consent, is made after full consideration of these difficulties. It is becoming clear from the Defence Review that if we wish to maintain a credible military presence east of Suez, to co-operate with the Americans in the Indian Ocean area, and to keep our lines of communication open to Australia, we must have these islands. In five years time we may well have lost our bases in Aden and Singapore. The new agreement with the Maldives covering our facilities at Gan, achieved after long and difficult negotiations, does not provide for the use of these facilities by our allies. If we insisted on our allies using them the independent Maldivian Government might go back on the agreement; and in any case our enjoyment of these facilities cannot

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be guaranteed, the Maldives being independent, in the long term.

10. Once our Singapore base has gone, we shall depend increasingly on American (as well as Australian) logistic support and co-operation. At present the Americans are in no position to help us in the Indian Ocean area, since they have no bases, facilities or forces permanently deployed, between the Mediterranean and the Philippines. Unless we secure the islands now we cannot expect them to have either the means or the inclination to help us, either with forces or logistics, in the future.

11. If we are to rely on deploying forces in the Indian Ocean area without Singapore and Aden, we must clearly have facilities on sovereign territory between Australia and Suez. The islands which we propose to detach from Mauritius and Seychelles are well situated for peace-keeping operations East of Suez, and particularly in East, Central and Southern Africa, where our participation in United Nations operations would be essential. If we do not detach these islands now, we shall find it very difficult to maintain our rôle East of Suez in the long term.

12. It is recommended that the Secretary of State should speak on the above lines at the Defence Overseas Policy Committee.

Permanent Under-Secretary's
Department.

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Annex 51

U.K. Defence and Oversea Policy Committee, *Minutes of a Meeting held at 10 Downing Street, S.W.1, on Tuesday 31st August, 1965, at 11 a.m.*, OPD(65), CAB 148/18 (31 Aug. 1965)

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OPD (65) 37th Meeting

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CABINET

Defence and Oversea Policy Committee

*MINUTES of a Meeting held at 10 Downing Street, S.W.1, on
Tuesday, 31st August, 1965, at 11 a.m.*

Present:

The Right Hon. HAROLD WILSON, M.P., Prime Minister	
The Right Hon. MICHAEL STEWART, M.P., Secretary of State for Foreign Affairs	The Right Hon. ARTHUR BOTTOMLEY, M.P., Secretary of State for Common- wealth Relations
The Right Hon. ANTHONY GREENWOOD, M.P., Secretary of State for the Colonies	

The following were also present:

The Right Hon. THE EARL OF LONGFORD, Lord Privy Seal	The Right Hon. BARBARA CASTLE, M.P., Minister of Overseas Development (Items 1-3)
The Right Hon. FREDERICK MULLEY, M.P., Deputy Secretary of State for Defence and Minister of Defence for the Army	The Right Hon. GEORGE WIGG, M.P., Paymaster General
The Right Hon. JOHN DIAMOND, M.P., Chief Secretary, Treasury	Field-Marshal Sir RICHARD HULL, Chief of the Defence Staff
Admiral Sir DAVID LUCE, Chief of Naval Staff and First Sea Lord	General Sir JAMES CASSELS, Chief of the General Staff
Air Marshal Sir BRIAN BURNETT, Representing Chief of Air Staff	

Secretariat:

Sir BURKE TREND
Mr. P. ROGERS
Mr. M. J. MORIARTY
Air Vice-Marshal J. H. LAPSLEY

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The Prime Minister, summing up the discussion, said that the Committee gave general approval to OPD (65) 123 as guidance for our officials at the forthcoming discussions with our Allies, but it must be made clear that what was said about the future level of our forces in the area was subject to the conclusions of the Defence Review. Questions of the size and cost of our future defence contribution in the area should not be raised in the paper to be prepared for circulation to our allies, which should take the form primarily of an analysis of the situation arising from the secession of Singapore and the difficulties with which we were confronted as a consequence. If our Allies raised during the discussions questions about the future level of our forces, we should make it clear that until the Defence Review was more advanced, we were not in a position to discuss the issues in more detail. We should, however, indicate orally that we looked to a sharing of the cost, and any new facilities to be established, on a co-operative basis. The official discussions could be only exploratory; opportunities for further discussion with Ministers of our Allies would be afforded by the forthcoming visits of the Foreign Secretary and of the Secretary of State for Defence to the United States and to Australia and New Zealand respectively. Meanwhile we should not invite Lee Kuan Yew to visit the United Kingdom but we should not discourage him from doing so.

The Committee—

Approved OPD (65) 123 subject to the points indicated in the Prime Minister's summing up, as the basis of guidance for our representatives at the forthcoming official discussions with officials from Australia, New Zealand and the United States.

2. Defence facilities in the Indian Ocean

(Previous Reference: OPD (65) 21st Meeting, Item 6)

The Committee considered a memorandum by the Deputy Secretary of State for Defence and the Parliamentary Under-Secretary of State for Foreign Affairs (OPD (65) 124) on Defence Facilities in the Indian Ocean.

The Deputy Secretary of State for Defence said that it was urgent to obtain further decisions on the proposed detachment of certain islands from Mauritius and Seychelles for the military purposes of the United States and ourselves, both because of their strategic position in the Indian Ocean and because the establishment of facilities on them was important to our relations with the United States. The agreement of the Mauritius Ministers to the transfer should be obtained if possible but in any event the decision to detach the islands should be taken before the end of the Mauritius Constitutional Conference which was about to open in London. The United States had now agreed to pay half the estimated cost of detachment of approximately £10 million. In response to the request

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of Mauritius Ministers we might accept responsibility for the external defence of Mauritius, but there was strong objection to our similarly accepting a continued responsibility for internal security after Mauritius became independent, since this might embroil us with opposing racial groups in the island. If agreement on the detachment of the Chagos group could not be obtained, we should nevertheless transfer them to direct United Kingdom sovereignty by Order in Council.

The Foreign Secretary said that if both the Seychelles and the Mauritius Governments agreed to our proposals, there would be no international criticism of our actions. Nevertheless, if the latter did not agree the strategic importance of the islands was sufficient to justify our passing the necessary Order in Council. Our legal right to do so was unquestioned. Moreover, the Chagos Archipelago was 1,800 miles from Mauritius and they had been grouped together some time ago only for administrative convenience: there were no ethnic or historic connections between the islands and Mauritius.

The Colonial Secretary said he was not in agreement with these proposals. The Mauritius Constitutional Conference would in any case be difficult. When the Committee had last discussed detaching the islands, they had agreed that the proposed compensation should be increased and that the agreement of the Mauritius Government was essential. Their Ministers would be very disappointed at our not agreeing to accept a 99-year lease and also if the United States did not accept their proposals on sugar. The offer to accept responsibility for their external defence would be useful in negotiations. However, our acceptance of responsibility for internal security would be the main issue. Minority guarantees would be a most important part of the conference and could probably only be satisfactorily resolved by an assurance that we would provide forces for internal security at the request of the Mauritius Government. At least we should therefore agree that a request from the Mauritius Government after independence for assistance in internal security would be sympathetically considered. Mauritius Ministers would, on this basis, probably accept the detachment of the islands but to threaten to go ahead with this by Order in Council regardless of their agreement would undoubtedly wreck the conference.

In discussion the following points were made:

(a) In the negotiations, aid in training the Mauritian Police and Security Forces should be offered in an attempt to obtain their agreement, without formally taking on the responsibility to provide United Kingdom forces for internal security.

(b) The compensation payments could not be met from the provision which had been made for overseas aid; and there were substantial grounds for suggesting that, since they would in effect represent the price paid for the acquisition of a defence asset, they should be charged to Defence Votes, although the Ministry of Overseas Development might well be responsible for the control of the payments if these were for aid purposes. On the other hand it would be unfortunate to impose on Defence Votes any avoidable

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additional burden at a time when we were seeking to secure the maximum economy in defence expenditure. The question of which Departmental Vote should bear these costs should therefore be further considered by the Treasury.

The Prime Minister, summing up the discussion, said that at the forthcoming conference we might if necessary agree to "consider sympathetically" the provision of United Kingdom forces for purposes of internal security at the request of the Mauritius Government after independence if it proved that agreement could not be reached on the basis of our providing assistance in training and by the secondment of trained personnel for the Mauritius Police and Security Forces. A decision on whether or not we should detach the islands in question by Order in Council if the agreement of Mauritius Ministers could not be obtained to this course need not be taken at this stage, and until we could see how the forthcoming conference progressed. It was, however, essential that our position on the detachment of the islands should in no way be prejudiced during its course and the Colonial Secretary should bring the matter back to the Committee in good time for a decision to be reached on this issue before the conference reached any conclusion.

The Committee—

(1) Invited the Colonial Secretary:

- (a) to be guided by the Prime Minister's summing up in the course of the forthcoming constitutional conference.
- (b) to bring the matter before them again before the conference reached any conclusion.

(2) Invited the Chief Secretary, Treasury, in consultation with the Deputy Secretary of State for Defence, the Colonial Secretary and the Minister of Overseas Development to give further consideration to the departmental responsibility for the expenditure involved.

3. Southern Rhodesia

The Commonwealth Secretary said that on his recent tour of a number of Commonwealth countries in West Africa he had been under strong pressure from political leaders there to seek an early agreement in Southern Rhodesia. They were conscious of our difficulties and while a solution on the basis of the five principles which we had laid down might not be publicly welcomed, they recognised the necessity for compromise if agreement were to be obtained. In Southern Rhodesia itself the recent conference of the Rhodesia Front Party appeared to have led to a hardening of attitudes and it was possible that the Prime Minister, Mr. Smith, might now intend to make a unilateral declaration of independence (u.d.i.). In

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Annex 52

U.K. Foreign Office, *Minute from E. H. Peck to Mr. Graham: Indian Ocean Islands*, FO
371/184527 (3 Sept. 1965)

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INDIAN OCEAN ISLANDS

We have heard both from the American Embassy and from our Embassy at Washington that Messrs. Kitchen and Myers will be in Europe about 23/24 September and would like to call in London in order to talk about ways and means of setting the American share of compensation payments to Mauritius and the Seychelles against R. & D. charges owed by H.M.G. to the U.S. Government. They will be bringing with them Captain Coward of the U.S. Navy attached to the Politico-Military Department of the State Department and three other experts. They would obviously be glad to talk generally to us about the project and about any progress that may have been made at the Mauritian Constitutional Conference, but the main purpose of the visit is to discuss finances. I have spoken to Mr. Moberly, who has confirmed that the dates proposed would be convenient to the Ministry of Defence, but that any date would be unlikely to produce a satisfactory discussion unless the Americans had been able to let us have an outline of their ideas in writing in advance. I have passed this to Mr. Barringer of the American Embassy, who said that Captain Coward had told him that it was the intention to let us have a piece of paper.

2. I do not think that it would be necessary for Mr. Peck to attend the discussions between Mr. Kitchen's team and the Ministry of Defence, but I am sure that Mr. Kitchen would hope to have a meeting with him at some time to discuss the project in general terms. Would the dates proposed be convenient?

3. Mr. Trench's letter of 26 August, at paragraph 4, asks whether it is intended to bring the Americans in on talks about the Islands with the Mauritians in the course of the forthcoming Constitutional Conference, and if not, what the reasons for this decision are. I have not put this suggestion to the Colonial Office. I do not think that it comes from the Americans, since it has all along been agreed that the negotiations for the detachment of the Islands must be our responsibility. It would be inappropriate, and I am sure that the Colonial Office would resist it, if we were to suggest that the Americans should attend the Constitutional Conference at any stage. I submit a draft letter from Mr. Arthur.

This is affected by the DOP decision on 31 August, minutes of which have been sent to Mr Peck.

J.A.N. Graham
(J.A.N. Graham)
2 September 1965.

Mr. Arthur
Mr. Peck

I shall be away at the time of the Kitchen/Myers proposed visit, but everyone else in PWD will be here, and Mr. Graham could perhaps attend the discussions.

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Before seeing this minute, I had had a telephone call from Mr. Trafford Smith of the Colonial Office who wished to inform me of the discussion he had had with the Colonial Secretary and the Governor of Mauritius regarding the tactics for the constitutional conference and how to introduce the subject of "support facilities".

2. The plan is to have the talks on the "support facilities" proceeding in parallel (and in a smaller group) with the constitutional talks, the object being to link both up in a possible package deal at the end. The smaller group would be chaired by the Colonial Secretary and would comprise the Governor and his advisers, Rangoolam, and three Mauritius party leaders, also Ministers in the Coalition, probably the leader of the Parti Mauritiennne, a Muslim and a Hindu.

3. Mr. Trafford Smith wondered whether someone from the Foreign Office and/or someone from the Ministry of Defence might at a suitable stage in the support facilities talks attend to give some statement on the general importance of the facilities we need in the context of global defence and Anglo-American interest. I said that though I for my part would be willing to do this if it were thought desirable, my inclination was that the less we stressed the American interest the better.

4. Mr. Trafford Smith then went on to say that in the course of the talks the Colonial Office anticipated that the Mauritians would put forward their demands for an increased sugar quota and increased immigration facilities. These would have to be answered in a pretty negative manner by the British officials, but it would be difficult for the latter to talk convincingly of the American difficulties. The Colonial Office wondered whether it would not be tactically a good thing to ask American experts to talk to the Mauritian leaders exclusively on the two points of sugar quota and immigration so that the Mauritians did not feel that they had been fobbed off with second-hand views. I replied to Mr. Trafford Smith that the Americans were extremely keen to keep out of all the negotiations for support facilities which they considered to be our affair and that I would be very reluctant to bring them into the talks, if only for the very good reason that this would raise the price. However on the understanding that all they required were members of the American Embassy with expert briefs on these two specific subjects, I undertook without commitment to sound out the American Embassy accordingly. I shall tackle Mr. George Newman on the subject this afternoon if opportunity arises. I understand that this eruption into the talks would be wanted towards the end of next week or the beginning of the week starting on 13 September.

5. Perhaps some of this minute could be worked into the letter to Mr. Trench; though I do not think we need ask Washington to produce the sugar and immigration experts.

Mr. Graham

(E.H. Peck)
3 September, 1965

Dft to issue as amended 10/9

Annex 53

United Kingdom, *Draft Record of the Secretary of State's Talk with Sir S. Ramgoolam at 10.00 Hours on Monday, 13th September, in the Colonial Office*, FCO 31/3834 (13 Sept. 1965)

Mr. Fairclough
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MAURITIUS - DEFENCE

DRAFT RECORD OF THE SECRETARY OF STATE'S TALK
WITH SIR S. RAMGOOLAM AT 10.00 HOURS ON MONDAY,
15th SEPTEMBER, IN THE COLONIAL OFFICE

(SIR J. RENNIE AND MR. STACPOOLE ALSO PRESENT)

THE SECRETARY OF STATE explained that he had invited Sir S. Ramgoolam for this talk in order to obtain his own reactions to the proposals which had been put to the Mauritius Government and his advice on likely reactions by his colleagues.

SIR S. RAMGOOLAM recalled that after the Governor had put the proposal to the Council of Ministers he had had a separate meeting with his colleagues. At that time he had found them almost unanimously against the proposal to excise the islands from Mauritius's jurisdiction but ready to consider granting a lease on any conditions satisfactory to the British Government. Mr. Duval alone had been ready to consider negotiations or a lease, but Sir S. Ramgoolam doubted whether his party would agree with this. The Mauritius Government had a long-standing policy against the sale of Crown lands. There was no reason for the British Government to fear for the security of facilities in the dependencies of Mauritius.

SIR J. RENNIE pointed out that much of the land in Diego Garcia was probably already held in freehold i.e. it had already been alienated.

THE SECRETARY OF STATE said that it seemed unlikely that the United States Government would accept the proposal that the islands should be leased, but enquired what terms the Mauritius Government envisaged for a lease agreement.

SIR S. RAMGOOLAM reminded the Secretary of State that the Mauritius Government had asked the United States Government to undertake to purchase a substantial portion of Mauritius's sugar output at the Commonwealth Sugar Agreement price. They also hoped that the United States would purchase tunney and undertake to supply wheat and rice in fixed quantities and at fixed prices. In addition, they wanted continued meteorological and also possibly air navigational facilities, they would like preference in any fishing rights in Diego Garcia waters and they hoped that any labour or materials required for construction of the facilities would be obtained from or through Mauritius. They would also require the payment of a regular money rent.

SIR J. RENNIE said that he did not recall any mention of the procurement of materials from Mauritius (Mauritius had in any case nothing he could think of to offer). He thought that Mauritius Ministers had mentioned the payment of a capital sum but not an annual rent.

SIR S. RAMGOOLAM did not comment on this, but went on to assure the Secretary of State that the Mauritius Government was ready to accept its full responsibilities in the sphere of defence, adding that he had no sympathy with talk of non-alignment, which was not in his view reconcilable with a 'vigilant democracy'.

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THE SECRETARY OF STATE suggested that if the islands were leased the Mauritius Government would come under pressure from the Afro/Asian bloc and neutralist opinion to terminate it, while excision would protect them from this.

SIR J. RENNIE spoke of the danger that irresponsible opinion would work up demonstrations inside Mauritius for a similar purpose.

SIR S. RAMGOOLAM replied that a long-term economic agreement to the advantage of Mauritius, contracted with the agreement of all the political parties in Mauritius, would be the best assurance against this.

SIR J. RENNIE suggested that once the constitutional issues which had dominated Mauritius politics for many years had been disposed of, the structure of politics might change.

SIR S. RAMGOOLAM disagreed. Conceding that the Labour Party's enemies would like to see a change, he believed that, if anything, the Labour Party would gain ground at the next election.

THE SECRETARY OF STATE suggested that a lease might be a divisive factor in Mauritius politics, but SIR S. RAMGOOLAM repeated that Mauritius was a stable country - the recent difficulties were attributable to the Parti Mauricien, which had very limited support. He agreed that one or two new groups might emerge but did not think they would be of any importance.

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Annex 54

U.K. Pacific and Indian Ocean Department, *Points for the Secretary of State at D.O.P. meeting,*
9:30 a.m. Thursday, Sept. 16th, CO 1036/1146 (15 Sept. 1965)

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Points for the Secretary of State at D.O.P. meeting
9.30 a.m. Thursday, September 16th

The Mauritius Conference - progress so far

In plenary sessions, the four main Mauritius parties and the two leading Independents (Mr. Paturau and Mr. Ah Chuen, on behalf of the Chinese) have set out their opening positions. All the parties except Parti Mauricien have circulated papers to the Conference summarising their views, and the Parti Mauricien will shortly table their paper.

2. On the basis of these papers (we have had the Parti Mauricien paper, privately, in draft for some days) separate negotiations have been held individually with each party and with the two Independents. Parallel with these meetings, a Committee of the whole Conference under the chairmanship of Lord Taylor has been studying the franchise and the electoral system, one of the most difficult technical problems to be settled in a multi-racial community like Mauritius. Tomorrow, the intention is to start in plenary session the process of going through the detailed provisions of the constitution in broad outline to determine the extent to which general agreement can be reached on isolated points of difference.

3. The main issue to be decided at the Conference is the future status of Mauritius - independence with safeguards for minorities, or some form of association. It is already becoming clear at the separate discussions with individual parties that, while the leaders have shown a certain degree of flexibility and to some extent moved a little closer towards one another's positions, the likelihood of getting support from a substantial majority of the Conference for an agreed outcome is small. Though the Mauritius Labour Party led by Sir Seewoosagur Ramgoolam, the largest single party, is pressing for independence and maintains that it has the support of the majority of the inhabitants of Mauritius, solid evidence for this support has so far not been produced, and the Parti Mauricien have

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put forward a strong case for believing that there might ^{not} ~~in fact~~ be a ~~small~~ majority ~~against~~ independence if the point were put impartially to the test. For this reason, the Parti Mauricien insists that a referendum must be an essential prerequisite for acceptance of any final solution, while the Labour Party is against a referendum and prefers an election ^{AFTER FACT OF INDEPENDENCE} as a means of consulting the people. The Muslim Party is pressing for separate communal representation, and it looks as though the Mauritius Labour Party have promised them that as the price of their support for independence. It is possible however that the Muslim Party might throw their lot in with the Parti Mauricien in certain circumstances. Because of the general objections to communalism, and the undue importance which any acceptance of it gives to the Muslim Party in Mauritius, an early move at the Conference may be to rule out communal electorates as being unacceptable to H.M.G. and to propose that the problem of adequate representation of minorities should be solved by other electoral means.

4. In this situation, and on the form at present shown by the various groups at the Conference, it seems that the strength of feeling against independence may make it impossible for the Conference to accept a programme by which Mauritius would proceed straightforwardly to independence. It may be necessary to decide on a form of association under which at any time in the future, if a sufficient majority of the people desired it, the territory could go on to independence: or if support for such a solution is inadequate, to finish the Conference with two alternative constitutional schemes, one for an independent Mauritius, the other for a form of association with Britain, the choice being put to the people by referendum. A referendum may in any case be necessary as the balance of opinion at the Conference may be so close as to make it impossible for H.M.G. to impose a solution in favour of either independence or association. It may yet turn out that a decision for independence could be made acceptable to an adequate
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majority in Mauritius with adequate minority safeguards which might involve some commitment by Britain to assist in the maintenance of internal security in some circumstances, as well as to look after external defence. So far, neither the possibility of a defence treaty covering external defence, nor of internal security, have been discussed but the intention is to open up this question, which is one of the key elements in reaching a settlement, in discussions with individual groups. (R. see P.S. at end of note)

DEFENCE
INT. SECURITY
NB L.P. attitude

See Report

Defence facilities in the Indian Ocean - discussions with Mauritius Ministers

5. This subject is, of course, not on the agenda of the Mauritius Conference: but the possible requirement as part of the Mauritius constitutional settlement for a treaty covering external defence and some arrangement for British assistance in the maintenance of internal security establishes a link between the two sets of negotiations and it may be that in the end, it will be necessary to reach a settlement on both questions at the same time. On September 13th the Secretary of State met the principal Mauritius Ministers concerned (the four Party Leaders and Mr. Paturau, an Independent) for a first run over the ground. The general proposal for the detachment of the islands had already been put to the Mauritius Council of Ministers by the Governor before the delegations had left Mauritius, and Mauritius Ministers had shown themselves favourably disposed in principle, but had made various suggestions for special compensation from the Americans. They wanted a U.S. sugar quota of 300,000 tons, special facilities for immigrants from Mauritius, provisions for the use of Mauritius labour ~~and materials~~ in any construction work on the islands in question, the safeguarding of fishing and mineral rights etc.; above all, they proposed a lease of the islands rather than detachment.

6. They hoped it might be possible to arrange tripartite negotiation with the Americans in London in which these suggestions could be pursued.

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10 use
Sugar
Immigration } USA

7. At the meeting on Monday, the Mauritius Ministers were informed of our reaction and that of the Americans to this proposal. Because of the basic Anglo-American agreement under which the British provided the sites while the Americans did the construction, tripartite negotiations were out of the question. The fact that American sugar quotas were a matter for Congress made it difficult to negotiate a special arrangement for Mauritius, and our expert advice is that it would be against both Mauritius and Commonwealth interests to attempt to do so. There were similar objections as regards special arrangements for Mauritius immigration into the U.S. The Mauritius Ministers showed some reluctance to accept these points, and arrangements were made for them to see the Economic Minister at the American Embassy on September 15th. Sir Seewoosagur Ramgoolam told the Americans that the Mauritius Government was on the side of the free world but had to do everything possible to prevent a fall in the standard of living with the rising population - hence his concern for a maximum return from Mauritius exports and the maximum emigration. The Americans explained their difficulties as regards sugar and immigration, but the Economic Minister said that he had taken note of the case made by the Mauritius Ministers and would report back to Washington.

Sugar
Price, flow
in return

8. The conclusion of the Monday meeting at the Colonial Office with Mauritius Ministers was that they would give further consideration to other forms of compensation than sugar and immigration. It was suggested that Britain might be able to help with economic development, and ^{we are exploring the possibility of} a scheme of assisted land settlement might be worked out which would be financed from Britain, possibly ^{managed by} through the Commonwealth Development Corporation. An approach is being made to Lord Howick and further meetings will shortly be held with Mauritius Ministers.

9. In view of the preoccupation of some sections of the Mauritius Conference delegation with provision for external defence and internal security, it may be necessary to keep the discussions on /Indian

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Indian Ocean defence facilities running parallel with defence and internal security discussions at the Conference, until the moment comes for a settlement of both questions.

P.S. An important consideration is also that failure
by the Mauritius Labour Party to attain independence
or a firm commitment to independence might so
prejudice their position that they would rapidly lose
ground to a more extreme Hindu party without
political experience and much more open to Communist
penetration.

(A hint made by the Governor)

Pacific and Indian Ocean Department,
 15th September, 1965

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Annex 55

United Kingdom, *Secretary of State's Private Discussion with the Secretary of State for Defence on 15 September: Indian Ocean Islands*, FO 371/184528 (15 Sept. 1965)

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Secretary of State's Private Discussion with the
 Secretary of State for Defence on 15 September

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Indian Ocean Islands

The Colonial Secretary is due to report to his colleagues at the O.P.D. tomorrow on the progress made at the Mauritius Constitutional Talks regarding obtaining the acquiescence of Mauritian leaders in the detachment of Diego Garcia (and certain other islands) for defence purposes. I learn from the Colonial Office that the defence facilities question is being treated in a small group consisting of the Colonial Secretary, the Governor and four of the principal Mauritian political leaders. Though the question has been mentioned in general terms, I understand that it has not been grasped and various side issues such as an increased U.S. sugar and immigration quotas are being explored. It seems likely that the detachment of the islands may have to be arranged in a package deal at the conclusion of the Constitutional Talks.

2. The Foreign and Defence Secretaries may like to stress to Mr. Greenwood at the O.P.D. tomorrow the great importance they attach to obtaining, in the first place, Diego Garcia and later, certain other islands for joint defence facilities developed in conjunction with the Americans and that this strategic concept has assumed even greater importance since the Quadripartite talks on Far East defence. The Americans would take it very much amiss if we were, through lack of determination, to fail to secure these islands at this moment. If Mauritian acquiescence cannot be obtained, then the course recommended by the joint Foreign Office/Ministry of Defence paper, i.e. forcible detachment and compensation paid into a fund, seems essential.

Secretary of State

(E.H. Peck)
 15 September, 1965

Annex 56

U.K. Defence and Oversea Policy Committee, *Minutes of a Meeting held at 10 Downing Street, S.W.1, on Thursday, 16th September, 1965 at 9:45 a.m.*, OPD(65) (16 Sept. 1965)

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Defence and Oversea Policy Committee

*MINUTES of a Meeting held at 10 Downing Street, S.W.1, on
Thursday, 16th September, 1965 at 9.45 a.m.*

Present:

The Right Hon. HAROLD WILSON, M.P., Prime Minister	
The Right Hon. JAMES CALLAGHAN, M.P., Chancellor of the Exchequer	The Right Hon. DENIS HEALEY, M.P., Secretary of State for Defence
The Right Hon. ARTHUR BOTTOMLEY, M.P., Secretary of State for Common- wealth Relations	The Right Hon. ANTHONY GREENWOOD, M.P., Secretary of State for the Colonies

The following were also present:

The Right Hon. BARBARA CASTLE, M.P., Minister of Overseas Development	The Right Hon. THE EARL OF LONGFORD, Lord Privy Seal
Mr. GEORGE THOMSON, M.P., Minister of State for Foreign Affairs	Mr. MAURICE FOLEY, M.P., Joint Parlia- mentary Under-Secretary of State, Department of Economic Affairs
Admiral Sir DAVID LUCE, Acting Chief of the Defence Staff (For Items 2 and 3)	General Sir JAMES CASSELS, Chief of the General Staff (For Items 2 and 3)
Air Chief Marshal Sir CHARLES ELWORTHY, Chief of the Air Staff (For Items 2 and 3)	

Secretariat:

Sir BURKE TREND
Mr. D. S. LASKEY
Mr. F. A. K. HARRISON
Air Vice-Marshal J. H. LAPSLEY

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2. Defence Facilities in the Indian Ocean

(Previous Reference: OPD (65) 37th Meeting, Item 2, Conclusion (i))

The Colonial Secretary said that he had discussed with the Mauritian leaders the detachment of the islands in the Chagos Archipelago. They were disappointed that the United States Government was not prepared to consider the lease of the islands or to meet their requests over sugar purchases and emigration. They had however had discussions with the United States Embassy and the latter had agreed to consider their suggestions as regards trade. They had also discussed with the Colonial Development Corporation the possibility of a land settlement scheme. It had been previously envisaged that we might offer a maximum of £3 million as compensation for the detachment of the islands. He had made an initial offer of £1 million and this had not been badly received. If it would help to secure agreement we might consider making available a further £1 million to finance development schemes over a period of years. We might also consider a provision that after, say, 99 years, the islands would revert to Mauritius if they were no longer required by the United Kingdom and the United States. There had been some discussion about a continuing British responsibility for internal security, but this had been in the context of future constitutional development rather than of the detachment of the islands. Of the two main Mauritius parties one favoured independence while the other preferred a form of association with the United Kingdom. Both would want some assurance of continued British assistance in maintaining internal security but it might not be necessary for us to go beyond an agreement to consult at the request of the Mauritius Government. We were already helping to build up Mauritian security forces and would try to meet any further requests for such assistance. There had been no detailed discussion as yet about a defence agreement. The Constitutional Conference should end by the middle of the following week and he was hopeful that by then agreement on the detachment of the islands would have been secured. He had not pressed for an immediate decision both because this might prejudice agreement on the constitutional issues and because the Mauritian leaders were aware of the strength of their bargaining position and undue pressure might only induce them to put up their price.

In discussion it was pointed out that an urgent and satisfactory decision for the detachment of the islands was necessary both in our own defence interests and in order to maintain our political and military relations with the United States.

Summing up the discussion the Prime Minister said that the Committee would wish to take note of the Colonial Secretary's statement and to express the hope that agreement for the detachment of the islands would be reached urgently, and in any case by the end of the present Constitutional Conference. A decision on whether or not we should detach the islands in question by Order in Council

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if the agreement of Mauritian Ministers could not be obtained should still be deferred.

The Committee—

Took note of the Colonial Secretary's statement and agreed with the Prime Minister's summing up.

3. Singapore

The Prime Minister said that a report by the Commonwealth Secretary on the discussions with the Australian, New Zealand and United States Authorities would be available for consideration by the Committee in the following week and it would therefore be preferable that Singapore should be discussed then.

The Chancellor of the Exchequer said that the aim must be to reduce defence expenditure in the Far East and there should be no question of increasing expenditure by establishing alternative facilities in Australia while planning to retain the Singapore base.

The Committee—

Invited the Commonwealth Secretary to circulate a report on the quadripartite discussions in time for a meeting of the Committee in the following week.

Cabinet Office, S.W. 1,
16th September, 1965.

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Annex 57

United Kingdom, *Mauritius - Defence Issues: Record of a Meeting in the Colonial Office at 9:00 a.m. on Monday, 20th September, 1965*, FO 371/184528 (20 Sept. 1965)

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MAURITIUS - DEFENCE ISSUES	
RECORD OF A MEETING IN THE COLONIAL OFFICE	
2.20.00 A.M. ON MONDAY, 20TH SEPTEMBER, 1965	
24/69	PRESENT:

Secretary of State
(In the Chair)

Sir H. Poynton	Sir R. S. Ramgoolam
Sir J. Rennie	Mr. J. Koenig, Q.C.
Mr. Trafford Smith	Mr. A. R. Mohamed
Mr. A. J. Fairclough	Mr. S. Bissoondoyal
Mr. J. Stacpoole	Mr. J. M. Paturau

The Secretary of State again expressed his desire to keep the discussion of the proposal to establish defence facilities in the Mauritius dependencies separate from the Constitutional Conference and mentioned his own double role as a spokesman of Her Majesty's Government's interests in this matter and as a custodian within the British Government of the interests of Mauritius. He enquired about the upshot of the meeting between Mauritian Ministers and officials of the U.S. Embassy in London.

Mr. Koenig replied that the U.S. spokesman had been unable to offer concessions. They had promised to transmit to their Government the points made by the Mauritius Delegation but had been unable to give any indication when the U.S. Government's reaction would be made known.

The Secretary of State suggested that the Mauritius Government should draw the conclusion from the United States Government's attitude - for instance their insistence on excision and their refusal to consider a lease - that the Americans did not regard the proposed facilities as indispensable. (In subsequent discussion the possibility that

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the facilities required might conceivably be established in islands belonging to Seychelles was mentioned by the Secretary of State). He went on to outline, for the confidential information of the Mauritius Ministers, the economic assistance which the Mauritius Government could expect from Britain up to 1968 irrespective of compensation for the defence facilities; this would include a C.D. & W. allocation for 1966/8 totalling £2.4m., i.e. £800,000 per year, while Britain would envisage that, subject to the relevant criteria being met and if a genuine need could be shown, it would be possible to consider making available Exchequer loans to Mauritius at the rate of about £1m. a year. This possible loan figure was in no sense an allocation - allocations of Exchequer loans were never made and it was not intended that this should be done in this case.

Sir S. Ramgoolam commented that this would fall far short of Mauritius' needs for development finance.

The Secretary of State said that in present economic conditions, Britain was unfortunately unable to increase her total aid to the developing countries. He suggested that against this background a sum of the order (say £1m.) previously mentioned as compensation for the detachment of Diego Garcia would be very valuable if it were used to finance, for instance, a land settlement scheme. Whatever sum was settled on, it should be allocated for specific and identifiable projects and would, of course, be entirely separate from the compensation to be paid to land owners in Diego Garcia and from expenditure on resettlement.

Sir S. Ramgoolam said that the Mauritius Government was not interested in the excision of the islands and would stand out for a 99-year lease. They envisaged a rent of about £7m. a year for the first twenty years and say £2m. for the

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remainder. They regarded the offer of a lump sum of £1m. as derisory and would rather make the transfer gratis than accept it. The alternative was for Britain to concede independence to Mauritius and allow the Mauritius Government to negotiate thereafter with the British and United States Governments over Diego Garcia.

Mr. Koenig spoke of Mauritius' record of loyalty to Britain in two World Wars and his own natural inclination to advocate that the facilities required for Commonwealth defence should be made available free of charge. As against this the grave economic needs of Mauritius made him anxious to find some middle way between a generous gesture of this kind and what Sir S. Ramgoolam had proposed. He urged that the possibility of inducing the U.S. Government, who had rejected all the suggestions which the Mauritius Government had put forward, to find some alternative method of providing economic assistance for Mauritius should be explored. The U.S. Embassy officials had left him unconvinced that the U.S. Government understood or felt any interest in the economic needs of Mauritius.

Mr. Mohamed suggested that the Mauritius Government should now await replies from the U.S. Government on the points which had been discussed at the recent meeting. But Sir S. Ramgoolam thought it would be better to bring further pressure to bear upon the U.S. Government through the British Government to increase the quota for Mauritius sugar in the U.S. domestic market.

The Secretary of State pointed out that Diego Garcia was not in present conditions a source of wealth to Mauritius; and that it would be in the general interests of the area, including the interests of Mauritius, that there should be an Anglo/U.S. military presence there.

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Sir S. Ramgoolam rejoined that he fully understood the desirability of this, not only in the interests of Mauritius but in those of the whole Commonwealth. He repeated that he would prefer to make the facilities available free of charge rather than accept a lump sum of £1m. which was insignificant seen against Mauritius' annual recurrent budget amounting to about £13.5m. - with the development budget the total was about £20m. He was not trying, he said, to extract the large sums he had mentioned from the British Government, for that would damage the prosperity of the parent country of the Commonwealth to which all the developing countries in the Commonwealth looked for aid. It was from the United States that additional aid should come.

The Secretary of State pointed out that the U.S. Government undertook world wide defence responsibilities in alliance with Britain. The distinction Sir Seewoosagur was observing was therefore an over-simplification. He invited comments from the other Mauritian Ministers.

Mr. Bissoondoyal and Mr. Mohamed expressed their support for the views expounded by the Premier.

After Sir S. Ramgoolam had suggested that if Mauritius could sell 300,000 tons of sugar yearly in the U.S. domestic market she would gain some £15m., Mr. Trafford Smith pointed out that, as explained earlier, under the proposed arrangement it fell to Britain to undertake all expenditure connected with the acquisition of the site for the proposed facilities, including compensation to the Mauritius Government.

Mr. Koenig said that, recognising that this was so, the Mauritius ministers had tried at their meeting at the United States Embassy to argue for assistance over and above financial compensation; they wanted arrangements which would provide assistance with trade. Sir Seewoosagur Ramgoolam stressed

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that Mauritius ministers needed to provide for the future; lump sum compensation now was no good; something of long term assistance to the people of Mauritius was necessary and this was why trade arrangements were sought.

Sir John Rennie made the point that, if Mauritius obtained lump sum compensation now, they could put it into valuable development which could provide a continuing benefit to Mauritius and a continuing income to the Mauritius Government. It was moreover the case that the Mauritius Government would be acquiring land which it did not at present own in compensation for land surrendered in Chagos. Sir Hilton Poynton agreed and made the point that if, for example, lump sum compensation were invested in a land settlement scheme, then the position would be that at no capital cost to the Mauritius Government they would have secured an appreciable recurrent benefit by way of rents paid by the settlers.

Mr. Mohamed interjected that there had been some experience of the difficulty in collecting rents; a land settlement scheme would not produce much income.

Sir Seewoosagur Ramgoolam repeated that the matter should be considered on the basis of Chagos being made available on a 99 year lease. The Secretary of State said that he could of course see the advantages of this from Mauritius's point of view. He wished that he thought that such an arrangement might be acceptable. The United States Government had been so specific and categorical in insisting that British sovereignty must be retained over Chagos - in other words that Chagos should be made available on the basis of detachment - that he felt sure that a lease would not be acceptable. In these circumstances, as he had said

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earlier, it was his own personal view that the whole project might well fall through and the United States Government look elsewhere for the facilities they sought if Mauritius continued to demand a lease.

Sir Seewoosagur Ramgoolam said that the sort of compensation that had been suggested was of no real interest to the Mauritius Government. The United States was spending vast sums of money elsewhere in the world on bases that were not secure. Admittedly Diego Garcia was not being used at present; but in the future it might be of great strategic significance. Mauritius must obtain some significant benefit from making it available. He did not pretend to know the military significance of Diego Garcia but, in considering compensation for Mauritius, the scale on which the United States has accepted expenditure on bases elsewhere had to be borne in mind. The Secretary of State pointed out that it was most unlikely that Diego Garcia would ever be built up on such a scale as the kind of bases that Sir Seewoosagur Ramgoolam was referring to. Sir Hilton Poynton made the point that Sir Seewoosagur appeared to be referring to the cost of building military installations and not of acquisition of sites. Sir Seewoosagur Ramgoolam repeated that attention should be paid to what the United States had spent elsewhere in considering compensation for Mauritius. There were other considerations also to be borne in mind. Mauritius had an increasing population to cope with and the Government must ensure that standards do not decline - or only do so very slightly. A lump sum of £1 million was not of interest.

Mr. Paturau made the point that if, as had been suggested, the suggestion of using Diego Garcia were dropped and the required facilities were developed in islands belonging

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to Seychelles, this would cost a great deal more. These islands were much further from, for example, India and Ceylon and so would presumably be less directly valuable. It therefore seemed to him that it must be worth an appreciable amount to the United States that Diego Garcia should be made available. Mauritius should have obtained a one hundred thousand ton U.S. sugar quota in 1962. It was lost as a result of political pressure. If, given the apparent value of Diego Garcia to the United States Mauritius could now use political pressure to secure a substantial sugar quota, this seemed to him only sensible.

Sir Seewoosagur Ramgoolam then suggested that the Mauritius ministers' proposals should be communicated to the United States Government. When Mr. Trafford Smith made the point that the United States Government was not directly involved since negotiations on this matter were between the Mauritius and British Governments, Sir Seewoosagur suggested that it might then be better if the whole matter were left until Mauritius were independent and were then negotiated with the independent Government.

The Secretary of State then said that it might be possible for him to secure agreement to increasing the proposed compensation from £1 million in the direction of £2 million. In reply to this Sir Seewoosagur Ramgoolam said that the Mauritius ministers had not come to bargain. They could not bargain over their relationship with the United Kingdom and the Commonwealth. But there were real economic difficulties in Mauritius and if the British Government could obtain assistance on the lines they had suggested this would be highly desirable. He reiterated that lump sum compensation was not of such importance as something which would ensure a steady economy for Mauritius over a period of years. As

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regards the suggestion that lump sum compensation could be invested in e.g. land settlement he said that he did not wish to be tied to particular projects at once; he did not wish to commit future governments of Mauritius. Land settlement had been tried some years ago and lessons had been learned and changes made. On this point Sir John Rennie interjected that, whilst he did not himself think that £1 million was very much by way of compensation, it was nonetheless clear that land settlement must be undertaken now; and capital provided by way of lump sum compensation would make this possible.

The Secretary of State said that what Mauritius ministers were really saying was that because the United States could not help over her sugar quota and trade, then the United Kingdom must stump up hard cash instead. Mr. Mohamed said that this was not really the way they looked at it. If only the U.K. were involved then they would be willing to hand over Diego Garcia to the U.K. without any compensation; Mauritius was already under many obligations to the U.K. But when the United States was involved as well then they wanted something substantial by way of continuing benefit. They were prepared to forego lump sum compensation but continuity was essential and the most important thing was the U.S. sugar quota. The Secretary of State said that he would like to be clear on the attitude of Mauritius ministers. As he understood it their attitude could be summed up as follows:

- (i) If economic assistance from the United States on the scale that had been suggested could be made available then the Mauritius Government would be willing to agree to the detachment of the Chagos Archipelago without compensation.
- (ii) If however economic assistance on the lines suggested was not forthcoming then they would propose that

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Chagos should be made available on a 99 year lease at a rental of £7 million per annum for 20 years and £2 million thereafter.

- (iii) That the Mauritius Government were not in any event interested in lump sum compensation from Britain of £2 million, part in capital at once and part spread over a period.

Sir Seewoosagur Ramgoolam, commenting on the third of the above points said that they could not contemplate demanding assistance that they would regard as adequate from their "parent and relation"; this would only take away part of a limited pool of assistance which was of help to the whole Commonwealth. But a foreign government was involved and they should pay up. The Secretary of State made the point that U.S. and U.K. defence facilities throughout the world were so inextricably interwoven together that it simply would not be possible for us to demand from the United States that they should make substantial annual payments to Mauritius.

Mr. Koenig took this point and said that he thought that the United States could not be expected to make money payments to Mauritius; what they wanted was trade. Although at the meeting they had had at the U.S. Embassy the point had been made that the administration was not responsible for the sugar quota, he, Mr. Koenig, had made the point that, given the present position in Aden and Singapore and given also the attitude of China, it seemed to him very possible that these considerations would so impress even Congress that they might be willing to adopt a different attitude regarding the sugar quota for Mauritius than the one they had adopted on the previous occasion in 1962; it was noteworthy that their attitude then, too, had been dictated by political considerations.

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The Secretary of State said that it would obviously be highly undesirable to have a public discussion in Congress involving the situation in Aden and Singapore. Even though, as Mr. Koenig pointed out there had been public discussion of defence facilities in the Indian Ocean, it would be impossible for these to be linked with the question of the sugar quota. The Secretary of State added that if it would be of assistance he would have thought that it would have been possible to agree that any agreement concerning Chagos might provide that it would be returned to Mauritius if British and American defence interests in it ceased; he would have to consult his colleagues on this point but it seemed to him feasible.

Mr. Paturau said that he could see that the Mauritius Government's original proposal of a U.S. sugar quota of three to four hundred thousand tons would be extremely difficult since it would inevitably have to be linked with the question of defence facilities. But surely discussion of a one hundred thousand ton quota was possible without this difficulty; one hundred thousand tons was the figure that had been proposed by the U.S. administration in 1962 but completely rejected by Congress; there seemed no reason why discussion of a quota of this amount now need be linked with the defence issue. Mr. Trafford Smith again stressed the intense difficulties that would arise over any question of a special sugar quota for Mauritius because of the fact that all other Commonwealth suppliers were involved.

Sir Seewoosagar Ramgoolam then said that an alternative arrangement might be to calculate what benefit Mauritius would have derived from the sort of sugar quota and other trade arrangements that they had been suggesting and for the

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United States Government to make yearly payments to Mauritius of that amount. One could calculate the figure on the basis of say, 20 per cent gross profit on say, £13 to £15 million worth of sugar plus the benefits of the proposed rice and wheat agreements. He was talking in this connection in terms of a lease but if the islands were detached then different figures could easily be calculated; it should in any case be provided that if the islands ceased to be needed for defence purposes they would revert to Mauritius.

Sir H. Poynton mentioned the precedent of certain U.S. bases in the West Indies, leased in 1940 and no longer needed, which had reverted to the jurisdiction of the Government concerned.

Mr. Paturau said that for the past two years Antigua and Fiji had been taking up Mauritius' quota in the U.S. market and they would have no grounds for complaint if Mauritius' quota was now enlarged at their expense; but in fact the 100,000 tons a year, for which Mauritius was asking, could be absorbed in the increase of consumption in the United States.

Sir H. Poynton said that the British Embassy in Washington had advised strongly against any departure from the "past performance" formula. The United States might offer some readjustment within the Commonwealth quota but even this would risk breaching the "past performance" formula to the disadvantage of the Commonwealth as a whole. Moreover even if this difficulty could be avoided it would clearly be extremely difficult to secure agreement within the Commonwealth.

Mr. Paturau said that Mauritius had been unfairly dealt with when quotas were established on the basis of performance in the first half of a year since Mauritius, along with all Southern Hemisphere producers, was a "second-half-year" producer.

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Summing up the discussion, the Secretary of State said that the Mauritius Government sought economic help from the United States, or failing this a monetary payment from the United States. He felt bound to warn Mauritian Ministers that there was no prospect of their getting anything approaching what they were asking for, and that there was a risk that the United States Government would look elsewhere for the facilities they needed. It would be cheaper to build an island than pay the sums suggested. He suggested an adjournment and expressed the hope that the Mauritius Government would look urgently for more acceptable proposals which could be discussed at an early further meeting.

Some discussion followed on the method by which Sir S. Ramgoolam's figure of £7m. a year for additional economic aid had been arrived at. Sir S. Ramgoolam said that he had calculated the benefits Mauritius would receive from the proposals about trade in sugar, wheat and rice between Mauritius and the U.S.A. at about £3-4m. a year; and had put forward £5-7m. to take account of rising population and unforeseen needs. It appeared, however, that if the United States took 300,000 tons of Mauritius sugar at the domestic price (£45 per ton) the difference between this and the world price for the same quantity (at £20 per ton) would be £7.5m. per annum.

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Annex 58

United Kingdom, *Note for the Record relating to a Meeting held at No. 10 Downing Street on 20 September 1965 between the UK Prime Minister, the Colonial Secretary and the Defence Secretary* (20 Sept. 1965)

NOTE FOR THE RECORDMauritius

The Prime Minister held a meeting at No. 10 Downing Street at 5.30 p.m. on September 20. The Colonial Secretary, the Defence Secretary and officials were present.

The Colonial Secretary reported on the latest stage of the Constitutional Conference on Mauritius. He said that the Mauritians had opened their mouths very wide over compensation for the detachment of Diego Garcia. It was agreed that the Prime Minister would have a private word with Sir R. Ramgoolam on the following day.

I subsequently telephoned Mr. Stacpoole (Colonial Office) to say that the Prime Minister could see Sir R. Ramgoolam at 5.00 p.m. on September 21 and to ask for speaking notes.

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There was also a very brief discussion on Aden telegrams Nos. 998 and 1018. It was agreed that it would be best to try to hold the position until after Mr. George Thomson had seen President Nasser and King Faisal.

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Aden (at)
Pc 2*

JW

September 20, 1965.

*Copy on Mauritius
(May 65)*

Annex 59

U.K. Colonial Office, *Note for the Prime Minister's Meeting with Sir Seewoosagur Ramgoolam, Premier of Mauritius*, PREM 13/3320 (22 Sept. 1965)

PRIME MINISTER

*This is a poor trip, at X-87/13 he
extended, either by cutting off a typing or
cards.*

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Mauritius

Sir Seewoosagur Ramgoolam is coming to see you at 10.00 tomorrow morning. The object is to frighten him with hope: hope that he might get independence; Fright lest he might not unless he is sensible about the detachment of the Chagos Archipelago. I attach a brief prepared by the Colonial Office, with which the Ministry of Defence and the Foreign Office are on the whole content. The key sentence in the brief is the last sentence of it on page three.

I also attach a minute from the Colonial Secretary, which he has not circulated to his colleagues, but a copy of which I have sent to Sir Burke Trend. In it, the Colonial Secretary rehearses arguments with which you are familiar but which have not been generally accepted by Ministers.

Jan

September 22, 1965

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PRIME MINISTER

I am glad you are seeing Ramgoolam because the Conference is a difficult one and I am anxious that the bases issue should not make it even harder to get a Constitutional settlement than it is already. I hope that we shall be as generous as possible and I am sure that we should not seem to be trading independence for detachment of the Islands. That would put us in a bad light at home and abroad and would sour our relations with the new state. And it would not accord well with the line you and I have taken about the Aden base (which has been well received even in the Committee of 24). Agreement is therefore desirable and agreement would be easier if Ramgoolam could be assured that:

- (a) We would retrocede the Islands if the need for them vanished, and
- (b) We were prepared to give not merely financial compensation (I would think £5,000,000 would be reasonable but so far the D.O.P. have only approved £3,000,000) but a defence agreement and an undertaking to consult together if a serious internal security situation arose in Mauritius.

The ideal would be for us to be able to announce that the Mauritius Government had agreed that the Islands should be made available to the U.K. government to enable them to fulfil their defence commitments in the area.

Lancaster House

22nd September, 1965

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Copy sent to
Sir B. Trevelyan 22A.

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NOTE FOR THE PRIME MINISTER'S MEETING
WITH SIR SEEWOSAGUR RAMGOOLAM, PREMIER OF MAURITIUS

Sir Seewoosagur Ramgoolam (call him 'Sir Seewoosagur' - pronounced as spelt with accents on the first and third syllables: or 'Premier' his official title. He likes being called 'Prime Minister').

Born Mauritius 1900. Hindu. Locally educated, studied medicine at University College Hospital, London. L.R.C.P., M.R.C.S. Leader of the Mauritius Labour Party, the largest Mauritius political party, which polled 42% of the electorate at the 1963 General Election. In politics since 1940. Knight Bachelor, June 1965, dubbed last Saturday, September 18th, his 65th birthday.

Getting old. Realises he must get independence soon or it will be too late for his personal career. Rather status-conscious. Responds to flattery.

The Defence Facilities Proposals

The proposal is that the whole of the Chagos Archipelago (population about 1000), shall be detached from Mauritius: and three islands from Seychelles. In developing defence facilities, the British would be responsible for providing the sites, including compensation, removal and resettlement of population, etc., and the Americans for construction, with joint British-American user of the facilities. Neither the American nor the British defence authorities can accept leasehold. At present no more than an airfield and communications installations will be constructed.

Cost

On the British side, the total cost might be up to £10m., of which Mauritius and Seychelles would each receive about £3m. compensation for detachment, while costs of compensation to land-owners, resettlement of displaced population and other contingencies might about to £3-4m. The U.S. Government has secretly agreed to contribute half these costs indirectly, by writing off equivalent British payments towards Polaris development costs.

The Mauritius reaction

The proposals have been discussed, first in Mauritius by the Governor with the Council of Ministers, and more recently in London by the Secretary of State with the four main Mauritius party leaders and a leading Independent Minister. Their reaction has been that, while in principle they are anxious to co-operate in western defence, they cannot contemplate detachment but propose a long lease, and that they would require concessions from the Americans as regards U.S. purchases of Mauritius sugar and Mauritius purchases of U.S.

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U.S. rice and wheat on favourable terms, and also as regards emigration to the U.S. The unsurmountable difficulties of securing these concessions from the Americans, especially as regards sugar (which the Mauritians regard as the most important) have been explained to Mauritius Ministers at length, and they have heard the arguments direct from the Economic Minister at the U.S. Embassy. When offered lump-sum compensation for detachment of the order of £2m., they brushed it aside as a drop in the ocean of Mauritius requirements, returned to their proposals for trade and immigration concessions from the U.S., and suggested as an alternative that they should receive what the Mauritians calculate is the money value of these concessions, viz. up to £7m. per annum for twenty years and £2m. per annum thereafter. (They appear to think that we ought to persuade the Americans to pay this. The Premier at one stage said he was not trying to "sting" Britain for this).

There is thus deadlock as to compensation for detachment. In discussion however, Mauritius Ministers have made it clear that, since the Americans are involved, their desire is for trade concessions from the Americans, and that, if it were simply a matter of helping Britain, they might consider providing the sites as a gesture of co-operation - though whether with or without the £2m. compensation is not clear. The discussions have also shown that agreement that the islands should revert to Mauritius when no longer required for defence facilities might help.

In the course of discussion, the Secretary of State hinted that, if Mauritius Ministers persisted in their demands, it might be necessary for H.M.G. either to call the whole thing off or to consider whether the facilities could be provided entirely on Seychelles islands. On their side, Mauritius Ministers are well aware that H.M.G. wishes to continue to enjoy the use of H.M.S. Mauritius, a £5m. communications station, and Plaisance airfield, both in the island of Mauritius itself and both of strategic importance.

The Mauritius Constitutional Conference

The gap between the parties led by Sir S. Ramgoolam wanting independence, and the Parti Mauricien and its supporters who seek continuing association with Britain, will not be closed by negotiation. H.M.G. will have to impose a solution. The remaining conference sessions will be devoted to bringing the position of all parties on details of the constitution as close together as possible and, in particular to securing the agreement of all parties to the maximum possible safeguards for minorities. The Secretary of State's mind is moving towards a decision in favour of independence,

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followed by a General Election under the new Constitution before Independence Day, as the right solution, rather than a referendum to choose between independence and free association, as the Parti Mauricien have demanded.

Sir S. Ramgoolam's present position

The Premier heads an All-Party Government - hence the negotiations on defence facilities with the leaders of all parties. It is thus difficult for him to come to any final agreement on the defence facilities without consulting his colleagues. The Premier should not leave the interview with certainty as to H.M.G.'s decision as regards independence, as during the remaining sessions of the Conference it may be necessary to press him to the limit to accept maximum safeguards for minorities.

Handling the interview

The Prime Minister might say that he has heard of the progress of the Conference and knows that the Secretary of State is impressed by the difficulties of the proposals for a referendum and free association, and the strength of the case for independence. If the ultimate decision is in favour of independence, the Premier will understand the necessity to include in the Independence Constitution maximum safeguards for minorities, especially as regards the electoral system, so as to remove as far as possible their legitimate fears. With the Conference approaching its end it would be regrettable if difficulties should arise over the defence facilities question. The Premier has asked for independence but at the same time has said that he would like to have a defence treaty, and possibly to be able to call on us for assistance in certain circumstances towards maintaining internal security. If the Premier wants us to help him in this way, he must help us over the defence facilities, because these are in the long term interests both of Britain and Mauritius. He must play his part as a Commonwealth statesman in helping to provide them.

Throughout consideration of this problem, all Departments have accepted the importance of securing consent of the Mauritius Government to detachment. The Premier knows the importance we attach to this. In the last resort, however, detachment could be carried out without Mauritius consent, and this possibility has been left open in recent discussions in Defence and Overseas Policy Committee. The Prime Minister may therefore wish to make some oblique reference to the fact that H.M.G. have the legal right to detach Chagos by Order in Council, without Mauritius consent, but this would be a grave step.

Colonial Office, September 22nd 1965.

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Annex 60

U.K. Foreign Office, *Record of a Conversation between the Prime Minister and the Premier of Mauritius, Sir Seewoosagur Ramgoolam, at No. 10, Downing Street, at 10 A.M. on Thursday, September 23, 1965*, FO 371/184528 (23 Sept. 1965)

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RECORD OF A CONVERSATION BETWEEN THE PRIME MINISTER AND THE
PREMIER OF MAURITIUS, SIR SEEWOSAGUR RAMGOOLAM, AT NO. 10,
DOWNING STREET, AT 10 A.M. ON THURSDAY, SEPTEMBER 23, 1965

Present:-

The Prime Minister
Mr. J.O. Wright

The Premier of Mauritius,
Sir Seewoosagur Ramgoolam

After welcoming the Prime Minister of Mauritius, the Prime Minister said how glad he was to see him in London: the Queen had told him at his audience the previous Sunday of the honour she had bestowed on him on his 65th birthday. The Prime Minister then asked Sir Seewoosagur how the conference was going. Sir Seewoosagur Ramgoolam said that the conference was going reasonably well. He had had a discussion with his colleagues the previous evening and they were now thinking over what he had said. He himself felt that Independence was the right answer; the other ideas of association with Britain worked out on the lines of the French Community simply would not work. There was also some difference of opinion over the future of the electoral pattern in Rhodesia.

The Prime Minister said that he knew that the Colonial Secretary, like himself, would like to work towards Independence as soon as possible, but that we had to take into consideration all points of view. He hoped that the Colonial Secretary would shortly be able to report to him and his colleagues what his conclusion was. He himself wished to discuss with Sir Seewoosagur a matter which was not strictly speaking within the Colonial Secretary's sphere: it was the Defence problem and in particular the question of the detachment of Diego Garcia. This was of course a completely separate matter and not

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bound up with the question of Independence. It was however a very important matter for the British position East of Suez. Britain was at present undertaking a very comprehensive Defence Review, but we were very concerned to be able to play our proper rôle not only in Commonwealth Defence but also to bear our share of peace-keeping under the United Nations: we had already made certain pledges to the United Nations for this purpose.

Sir Seewoosagur Ramgoolam said that he and his colleagues wished to be helpful.

The Prime Minister went on to say that he had heard that some of the Premier's colleagues, perhaps having heard that the United States was also interested in these defence arrangements, and seeing that the United States was a very rich country, were perhaps raising their bids rather high. There were two points that he would like to make on this. First, while Diego Garcia was important, it was not all that important; and faced with unreasonableness the United States would probably not go on with it. The second point was that this was a matter between Britain and Mauritius and the Prime Minister referred to recent difficulties over taxi-drivers at London Airport.

Sir Seewoosagur Ramgoolam said that they were very concerned on Mauritius with their population explosion and their limited land resources. They very much hoped that the United States would agree to buy sugar at a guaranteed price and perhaps let them have wheat and rice in exchange. The important thing was not so much to have a lump sum but to have a steady guaranteed income.

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The Prime Minister said that Britain would of course continue with certain aid and development projects. The money for the airfield at Diego Garcia would also come from Britain and would come in the form of a flat sum. Moreover that flat sum would not be very much more than the Secretary of State had already mentioned. While he could make no commitment at the moment, the Prime Minister thought that we might well be able to talk to the Americans about providing some of their surplus wheat for Mauritius. As for Diego Garcia, it was a purely historical accident that it was administered by Mauritius. Its links with Mauritius were very slight. In answer to a question, Sir Seewoosagur Ramgoolam affirmed that the inhabitants of Diego Garcia did not send elected representatives to the Mauritius Parliament. Sir Seewoosagur reaffirmed that he and his colleagues were very ready to play their part.

The Prime Minister went on to say that, in theory, there were a number of possibilities. The Premier and his colleagues could return to Mauritius either with Independence or without it. On the Defence point, Diego Garcia could either be detached by order in Council or with the agreement of the Premier and his colleagues. The best solution of all might be Independence and detachment by agreement, although he could not of course commit the Colonial Secretary at this point.

Sir Seewoosagur Ramgoolam said that he was convinced that the question of Diego Garcia was a matter of detail; there was no difficulty in principle. The Prime Minister

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said that whilst we could make no open-ended commitment about the defence of Mauritius, our presence at Diego Garcia would, of course, make it easier to come to Mauritius's help when necessary.

On leaving, Sir Seewoosagur Ramgoolam said that the one great desire in Mauritius was that she should retain her links with the United Kingdom. Mauritius did not want to become a republic but on the contrary wished to preserve all her present relationships with the United Kingdom. The Prime Minister said that he felt that the Commonwealth had a much more important rôle to play in the future than it had even in the past as a great multi-racial association. The last Prime Ministers' meeting had been a very exciting one and he looked forward to seeing Sir Seewoosagur at the next one.

As Sir Seewoosagur was leaving, the Cabinet was assembling outside the Cabinet Room and the Prime Minister introduced Sir Seewoosagur to a number of members of the Cabinet.

September 23, 1965

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