מדינת ישראל

משרדי הממשלה

משרד הפנים

פרסומים על מסגרת אוטונומיה בעולם.

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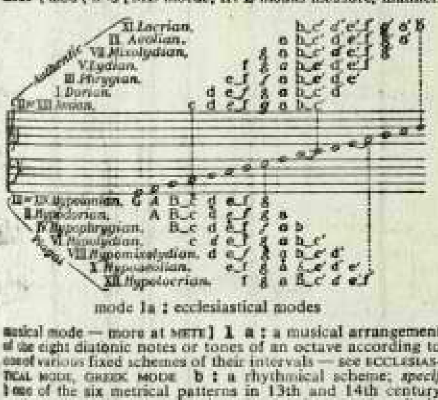
מחלקה לשכת השר יוסף בורג

Webster's Third New International

modal auxiliary *n* : a verb or a grammatical form resembling a verb that is characteristically used with a verb of predication and expresses a modal modification (as *can, shall, will, must, might, ought, could, should, would, may, need, dare*) and that in English differs formally from other verbs in lacking *-s, -ing,* and past-tense forms and shares with other auxiliaries the affixing of negative *-n't*
mod·al·ism \ˈ-ᵊlˌizəm\ *n* -s [¹*modal* + *-ism*] : the theological doctrine that the members of the Trinity are not three distinct persons but rather three modes or forms of activity (the Father, Son, and Holy Spirit) under which God manifests himself
mod·al·ist \-ᵊləst\ *n* -s [¹*modal* + *-ist*] : an adherent of modalism — **mod·al·is·tic** \ˌmōdᵊlˈistik\ *adj*
modalistic monarchian *n, usu cap both Ms* : an adherent of Modalistic Monarchianism
modalistic monarchianism *n, usu cap both Ms* : Monarchianism holding that Jesus Christ was not a distinct person of the Trinity but was rather one of three successive modes or manifestations of God
mo·dal·i·ty \mōˈdaləd-ē, -əté, -i\ *n* -es [F *modalité,* fr. MF, fr. *modal* (fr. ML *modalis*) + *-ité* -ity] **1 a** : the quality or state of being modal ⟨the ~ of his music⟩ ⟨~ of a circle⟩ **b** : a modal quality, attribute, or circumstance : FORM, PATTERN ⟨as the varying subject matter requires, the narrative and style take on the *modalities* of comedy, romance, tragedy, or tragicomedy —J.W.Beach⟩ **2** : that qualification of logical propositions according to which they are distinguished as asserting or denying the possibility, impossibility, contingency, or necessity of their content — see CATEGORY 1b **3** : one of the main avenues of sensation (as vision or audition) **4 a** : any of several agencies used in physical therapy (as diathermy, high-frequency currents, or massage) **b** : an apparatus for applying such agencies **5** : a tendency to conform to a pattern or type ⟨the greater ~ of the male in this regard is indicated by a smaller representation of males than females in the category "Miscellaneous" —Eleanor Smith & J.H. Greenberg Monane⟩
modal value *n* : MODE 8
¹**mode** \ˈmōd\ *n* -s [ME *moede,* fr. L *modus* measure, manner,



mode 1a : ecclesiastical modes

musical mode — more at METE] **1 a** : a musical arrangement of the eight diatonic notes or tones of an octave according to one of various fixed schemes of their intervals — see ECCLESIASTICAL MODE, GREEK MODE **b** : a rhythmical scheme; *specif* : one of the six metrical patterns in 13th and 14th century music corresponding to the feet (as trochee or dactyl) in classical poetry and expressed in triple time **2** : ²MOOD 2b ⟨the indicative ~ of flat assertion alone —Weston La Barre⟩ **3** [LL *modus,* fr. L, measure, manner] **a** : ²MOOD 1a **b** : the manner in which a logical proposition is asserted or denied esp. as being possible, impossible, necessary, or contingent **4 a** : a particular form or variety of something ⟨a large and overpowering set of brothers and sisters, who were ~*s* or types of the same type —Henry Adams⟩ ⟨her anguish of the vigil before was in another ~ —Josephine Pinckney⟩ ⟨separating movement on foot from other ~*s* of traffic —Lewis Mumford⟩ **b** : a form, pattern, or manner of expression : STYLE ⟨the only English poet who has adapted it to his needs as a regular poetic ~ —W.H.Gardner⟩ ⟨his romanticism (his first literary ~) —Austin Warren⟩ ⟨perhaps the major expressive ~ of his day, the ~ of the liberal Emersonian sermon —R.P.Blackmur⟩ **5** : a manner of doing something or of performing a particular function or activity ⟨as the one or the other ~ of ratification may be proposed by the Congress —*U.S. Constitution*⟩ ⟨new ~*s* of experimentation had to be developed —J.B.Conant⟩ ⟨the Renaissance ~ of thinking in symbols —Michael Kitson⟩ **6** : a condition or state of being : a manifestation, form, or manner of arrangement; *specif* : a particular form or manifestation of some underlying substance, or of some permanent aspect or attribute of such a substance — compare MIXED MODE, SIMPLE MODE **7** : a state or manner of living : CUSTOM ⟨a homogeneous population that departs reluctantly from long-accepted institutions and ~*s* —*Amer. Guide Series: Pa.*⟩ ⟨bound up with regional ~*s* of feeling and local traditions —Van Wyck Brooks⟩ ⟨a sedentary agricultural-hunting ~ of life —R.W. Murray⟩ **8** : the value of the variable in a statistical distribution for which the frequency is a maximum : the value that occurs most frequently : the most common value ⟨whenever the talk is of Americans the image is always one of the ~ or average person —*Saturday Rev.*⟩ **9** : any of various stationary-vibration patterns of which an elastic body or an oscillatory system is capable ⟨the vibration ~*s* and frequencies of the airplane were computed —Wilhemina Kroll⟩; *specif* : the vibration pattern of electromagnetic waves (as in lines or wave guides) ⟨in the field of radar theory the various ~*s* in which waves are propagated are designated by different symbols —*Television & Radar Encyc.*⟩ **10** : the actual mineral composition of a rock as distinguished from the norm **11** *crystallog* : the type of lattice (as primitive or body-centered) ⟨lattice-*mode*⟩ **syn** see METHOD, STATE
²**mode** \ˈ\ *n* -s [F, fr. L *modus* measure, manner — more at METE] **1** : a prevailing fashion or style of dress or behavior ⟨harbored the cultural backwash of Europe and looked to its stale romanticism as the ~ —H.F.Mooney⟩ ⟨sleeping on top of television sets is the ~ of the day for cats —*New Yorker*⟩ ⟨the contemporary ~⟩ ⟨the newest ~ in dresses⟩ ⟨all the ~⟩ **2** : ALAMODE **syn** see FASHION
mode beige *n* [²*mode*] : DRAB 2a
mo·dec·ca flower \mōˈdekə-\ *n* [*modecca* fr. NL *Modecca* syn. of *Adenia,* genus name of the killer plant *Adenia zinensis*] : KILLER PLANT
¹**mod·el** \ˈmädᵊl\ *n* -s [MF *modelle,* fr. OIt *modello,* fr. (assumed) VL *modellus,* fr. L *modulus* small measure, fr. *modus* measure, manner + *-ulus*] **1** *obs* : a set of plans for a building to be erected or of drawings to scale for a structure already built; *also* : a ground plan esp. of a garden ⟨we first survey the plot, then draw the ~ —Shak.⟩ **2** *dial Brit* : a person or thing that exactly resembles another : COPY, IMAGE ⟨had my father's signet in my purse, which was the ~ of that Danish seal —Shak.⟩ **3** *obs* : something that encases or wraps around ⟨England ~ to thy inward greatness, like little body with a mighty heart —Shak.⟩ **4** : structural design : PATTERN ⟨built his home on the ~ of an old farmhouse⟩ ⟨began his teaching by organizing a seminar on the German ~ —J.S. Bryan⟩ ⟨providing for the founding of New Jersey towns on the New England ~ —*Amer. Guide Series: N.J.*⟩ **5** *archaic* : an abstract or summary of a written work : EPITOME **6 a** : a usu. miniature three-dimensional representation of something existing in nature or constructed or to be constructed ⟨a working concrete ~ of the Mississippi valley —*Time*⟩ ⟨a 13-foot ~ of a full-rigged ship —*Amer. Guide Series: Md.*⟩ ⟨miniature, like some exquisite ~ seen through a glass case —Osbert Sitwell⟩ **b** : a representation in relief or three dimensions in plaster, papier-mâché, wood, plastic, or other material of a surface or solid **7** : something made in a usu. pliable material (as clay or wax) and intended to serve as a pattern of an object or figure to be made in a more permanent material ⟨made many ~*s* of the coin before he was satisfied with one⟩ **8** : a person or thing regarded as worthy of imitation : something perfect of its kind ⟨brevity that renders both writers such valuable ~*s* to an age whose worst literary fault is diffuseness —Richard Garnett †1906⟩ ⟨still remains a ~ of scientific argument —B.W.Bacon⟩ ⟨his written addresses are ~*s* of clearness, logical order, and style —A.B. Noble⟩ **9** : a person or thing that serves as a pattern or source of inspiration for an artist or writer ⟨his father was the ~ for one of the most famous characters in literature⟩; *esp* : one who poses for an artist ⟨his wife served as the ~ for many of his early paintings⟩ **10** : ARCHETYPE **11** : an organism whose appearance a mimic imitates — compare MIMICRY **12** : one who is employed to display clothes or to appear in displays of other merchandise (as in a fashion show, in a photograph, or on television) ⟨left school to go to work as a dress ~ in the garment district —*Current Biog.*⟩ ⟨he has appeared as a ~ in advertisements for cigars⟩ **13 a (1)** : a specific type or design of clothing ⟨favors the Alaskan-trapper ~ with a high guard at the toe —R.L.Neuberger⟩ **(2)** : an article of clothing (as a dress with a distinctive design) ⟨girls, self-conscious in their Paris ~*s* —Paul Bowles⟩ **b** : a specific type or design of car ⟨offers eight new ~*s* for next year, including a completely restyled convertible⟩ **c** : a modification or variation of a general type or mark of military equipment **14 a** : a description, a collection of statistical data, or an analogy used to help visualize often in a simplified way something that cannot be directly observed (as an atom) **b** : a theoretical projection in detail of a possible system of human relationships (as in economics, politics, or psychology) : BLUEPRINT ⟨his ~ of an election procedure based on permanent personal registration reveals some of the problems to be solved⟩ ⟨constructed the first of the world ~*s* of the present century —S.F.Mason⟩

syn EXAMPLE, PATTERN, EXEMPLAR, PARADIGM, IDEAL, BEAU IDEAL, STANDARD, MIRROR: MODEL applies to something set up or held out as worthy of imitation, sometimes preeminently so ⟨a workmen's compensation law which is still considered a *model* piece of legislation —*Current Biog.*⟩ ⟨*models* for the development of his own habitual responses to various situations —Ralph Linton⟩ ⟨the very *model* of a modern major general —W.S.Gilbert⟩ EXAMPLE applies chiefly to a person to be imitated or, in some contexts, emphatically not to be imitated since his case serves not as an inducement but as a warning ⟨one of the immortal *examples* of a true man in a world of bounders, cowards, and squeaking specters —W.L. Sullivan⟩ ⟨presents an *example* in modern department store designing —*Retailing Daily*⟩ ⟨making the mutineers *examples* for the rest of the crew⟩ PATTERN may suggest a clear or detailed archetype or prototype ⟨many hymns that set the *pattern* for the stately hymnology of the American Protestant Church —*Amer. Guide Series: N.J.*⟩ ⟨the ancient *pattern* of life had been woven continuously for so many centuries that even illiterate farmers knew how to be courtly and dignified at family celebrations or at the great yearly festivals —John Blofeld⟩ EXEMPLAR indicates either a faultless example to be emulated or a perfect typification ⟨Christianity was primarily an ethical system; Christ was its great teacher and *exemplar;* and to be a Christian meant to conduct one's life in accordance with the principles which governed Him —A.C. McGiffert⟩ ⟨the living *exemplar* of tragedy as the human lot —V.S.Pritchett⟩ PARADIGM, now rare in this sense, may suggest an exemplar of a perfection impossible or unusual in reality ⟨a love worthy of being a *paradigm* of the cosmic relation of universal matter and universal form, this all-comprising power, cannot be a vague feeling —F.P.Bargebuhr⟩ IDEAL indicates the best possible exemplification either in reality or in a mental conception ⟨he had the courage and rebelliousness of his . . . cousins too much on his mind; they were his *ideal* —Glenway Wescott⟩ ⟨a multitude of stories and traditions grew up around his name, to be interpreted according to the hearers' own *ideals* of personality and education —D.E.Smith⟩ BEAU IDEAL sometimes is taken to mean "beautiful ideal" ⟨the very *beau ideal* of a perfect government is the government of a majority, acting through a representative body —J.C.Calhoun⟩ STANDARD may indicate that which embodies criteria for excellence and sets a high example for emulation ⟨the ideal of general cultivation has been one of the *standards* in education —C.W.Eliot⟩ ⟨human life on earth cannot continue unless we ordinary men and women can manage to practice these virtues up to a far higher *standard* —A.J.Toynbee⟩ MIRROR was once often used to mean a model of perfection ⟨bounteous Buckingham, the *mirror* of all courtesy —Shak.⟩
²**model** \ˈ\ *vb* **modeled** *or* **modelled; modeled** *or* **modelled; modeling** *or* **modelling** \-d(ᵊ)liŋ\ **models** *vt* **1** : to plan or form after a pattern : FRAME, SHAPE ⟨~*ed* a double-decked steamboat —Waldemar Kaempffert⟩ **2** *archaic* : to make into an organization (as an army, government, or parish) **3 a** : to shape or fashion in a pliable material (as clay, wax, or dampened leather) ⟨a file of plasticene animals ~*ed* by the little girls —Elizabeth Bowen⟩ **b** : to give a three-dimensional appearance to in painting or drawing esp. by means of chiaroscuro ⟨~*s* the head so that it seems to stand out from the canvas⟩ **c** : to emphasize the three-dimensional qualities of (a photographic subject) by means of highlights and shadows ⟨a ~*ing* light for portraiture⟩ ⟨use shadows to lend interest to the scene, to ~ it, give it emphasis —Aaron Sussman⟩ **4** : to construct or fashion in imitation of a particular model ⟨~*ed* its constitution on that of the U.S.⟩ ⟨as for the speeches to Congress, they were palpably ~*ed* upon the speeches from the throne of the English kings —H.L.Mencken⟩ **5** : to display by wearing, using, or posing with ⟨~*ed* her inaugural gowns at a fashion show —*N.Y. Times*⟩ ⟨famous for ~*ing* refrigerators and other appliances⟩ ~ *vi* **1** : to design or imitate forms : make a pattern ⟨she enjoys ~*ing* in clay⟩ **2** : to work or act as a model ⟨asked each contestant . . . to ~ before the judges' enclosure —Lillian Ross⟩
³**model** \ˈ\ *adj* : serving as or capable of serving as a model ⟨a ~ house⟩ ⟨a ~ husband⟩ ⟨a ~ farm⟩
model basin *or* **model tank** *n* : a tank in which ship models are tested (as for inertia) by being towed at various speeds
mod·el·er *or* **mod·el·ler** \ˈmäd(ᵊ)lə(r)\ *n* -s : one that models: as **a** : a carver of leather shoe vamps and uppers **b** : one who molds in a plastic material designs to be copied for decorative tile or statuary
mod·el·ist \-dᵊləst\ *n* -s : a maker of models
mod·el·ize \-dᵊlˌīz\ *vt, archaic* : to give a particular form to : SHAPE
model school *n* : a graded school usu. connected with a normal school or teachers' training college and used as a model in organization and methods of teaching
model t *adj, usu cap M&T* [fr. *Model T,* early type of motor car having only two speeds forward and a hand gasoline feed that was manufactured by the Ford Motor Co. between 1909 and 1927] **1** : belonging to an initial or rudimentary phase of development ⟨when nuclear weapons were in the *Model T* stage of development —*N.Y. Times*⟩ **2** : OLD-FASHIONED, OUTMODED ⟨a *Model T* plot⟩ ⟨a *Model T* school plant⟩
¹**mo·de·na** \ˈmōdᵊnə, -ᵊnˌä\ *adj, usu cap* [fr. *Modena,* city in northern Italy, capital of the province of Modena] : of or from the city of Modena, Italy : of the kind or style prevalent in Modena
²**modena** \ˈ\ *n* [fr. *Modena,* province or its capital city in northern Italy] **1** *usu cap* : an Italian breed of small hen pigeons that have an erect carriage and varicolored plumage with the head and wings often of a color different from that of the body **2** -s *often cap* : any pigeon of the Modena breed
mod·e·nese \ˌmōdᵊnˈēz, -ēs\ *n, pl* **modenese** \ˈ\ *cap* [It *modenese,* fr. *Modena,* Italy + It *-ese*] : a native or resident of Modena
mod·er·ant \ˈmädərənt\ *n* -s [⁴*moderate* + *-ant,* n. suffix] : something that moderates
mod·er·ant·ism \-nˌtizəm\ *n* -s [F *modérantisme,* fr. *modérant* (pres. part. of *modérer* to moderate, fr. L *moderare*) + *-isme* -ism] : a policy of moderation esp. in politics
mod·er·ant·ist \-ˌtəst\ *n* -s [F *modérantiste,* fr. *modérant* + *-iste* -ist] : an adherent of moderantism
¹**mod·er·ate** \ˈmäd(ə)rət, *usu* -əd·+V\ *adj* [ME, fr. L *moderatus,* past part. of *moderare, moderari* to moderate, fr. *modus* measure, manner — more at METE] **1 a** : characterized by an avoidance of extremes of behavior : observing reasonable limits : showing discretion and self-control ⟨a ~ drinker⟩ ⟨a ~ eater⟩ ⟨a person of ~ habits⟩ **b** : free from passion or excitement : CALM, REASONABLE ⟨though very much in favor of the measure, he expressed himself in ~ language⟩ ⟨his demands were very ~⟩ **2 a** : tending toward the mean or average: as **(1)** : neither small nor large ⟨a family of ~ income⟩ ⟨a room of ~ size⟩ ⟨a ~ crop⟩ **(2)** : neither short nor long ⟨a book of ~ length⟩ ⟨a ~ distance⟩ **b** : having an average or less than average quality : MEDIOCRE ⟨cheesecakes very ~ indeed —H.E. Bates⟩ ⟨wrote ~ poetry to the end of his life —Carl Van Doren⟩ **3** : not violent or rigorous : TEMPERATE ⟨a ~ winter⟩ ⟨a ~ wind⟩ ⟨a ~ climate⟩ **4** : of or relating to a political or social philosophy or program that avoids extreme measures and violent or partisan tactics ⟨has no interest in leading a party that goes off to extremes, that the party direction must be ~ and yet progressive and dynamic —*N.Y. Times*⟩ ⟨all left-wing and some ~ and right-wing groups had boycotted the election —*Collier's Yr. Bk.*⟩ **5 a** : limited in scope or effect ⟨made a ~ change in the bill which failed to satisfy its critics⟩ ⟨his new wealth had only a ~ effect on his way of life⟩ **b** : not severe in effect : not seriously or permanently disabling or incapacitating ⟨a few days of ~ illness accompanied by chilly sensations and loss of appetite —Morris Fishbein⟩ ⟨of the 18 cases in which whooping cough developed . . . 13.3 percent were very mild, 4.8 percent were mild and 3.7 percent were ~ —*Jour. Amer. Med. Assoc.*⟩ **6** : not expensive : reasonable or low in price ⟨how to be well dressed at a ~ cost —*Current Biog.*⟩ ⟨a ~ price for a new house⟩ **7** *of a color* : of medium lightness and medium chroma
²**mod·er·ate** \ˈmädəˌrāt, *usu* -ād+V\ *vb* -ED/-ING/-S [ME *moderaten,* fr. L *moderatus,* past part. of *moderare, moderari* to moderate] *vt* **1 a** : to lessen the intensity or extremeness of : make less violent or excessive : keep within bounds : make moderate or temperate ⟨considerations of logic and analogy and history and tradition which ~ and temper the promptings of policy and justice —B.N.Cardozo⟩ ⟨*moderated* the harshness of their initial demands⟩ ⟨a quick and efficient job of snow removal *moderated* the effect of the storm⟩ **b** : to lower or soften the tone of (a voice) ⟨*moderated* his voice as they approached the sickroom⟩ ⟨~ your voice if you expect to be listened to⟩ **2** *archaic* : to exercise control over : REGULATE, RULE **3** : to preside over or act as chairman at ⟨*moderated* the debate with perfect fairness⟩ ⟨*moderated* a small local variety show —Gladwin Hill⟩ **4** : to reduce the speed or energy of (neutrons) ~ *vi* **1** : to act as a moderator ⟨became famous when he *moderated* on a weekly panel show⟩ **2** *archaic* : to act as a mediator **3** : to become less violent, severe, rigorous, or intense ⟨the wind has *moderated*⟩ ⟨loitering a little because the night had *moderated* —Kay Boyle⟩

syn QUALIFY, TEMPER, ATTEMPER: MODERATE indicates abating extremes or excesses in keeping within reasonable or due limits ⟨*moderating* his big voice to the dimensions of the room —Clifton Daniel⟩ ⟨if the new poets can bring themselves to *moderate* their attitude of somewhat sensitive resentment towards those who call their art in question —J.L.Lowes⟩ QUALIFY may indicate addition of restriction or precise definition to make a comment less sweeping, inclusive, or open to objection; it may be a close synonym for MODERATE ⟨the neat craftsman has means of *qualifying* or abating his own perilous air of arrant omniscience —C.E.Montague⟩ ⟨but this simple and bare outline of the procedure must be supplemented and *qualified* —Samuel Alexander⟩ ⟨*qualified* his reports in the *Boston News-Letter* according to the demands of the royal governor —F.L.Mott⟩ TEMPER may suggest an alleviating or mitigating of the severe or a modifying to accommodate to a situation ⟨always a cool breeze *tempered* the sunshine —A.B. Osborne⟩ ⟨close to being a major work in war fiction, and only my caution *tempers* my admiration —M.D.Geismar⟩ ⟨the catalogue of one Virginia seminary was promising to *temper* the severities of arithmetic to the delicacy of the female mind —*Amer. Guide Series: Va.*⟩ ATTEMPER is a close but now rarely used synonym for TEMPER in the sense of lessening ⟨the shadow . . . *attempered* the cheery western sunshine —Nathaniel Hawthorne⟩
³**mod·er·ate** \ˈmäd(ə)rət, *usu* -əd·+V\ *n* -s [¹*moderate;* intended as trans. of F *modéré*] **1** : one who holds moderate views esp. in politics or religion ⟨the middle-of-the-road ~*s* in the world . . . who wanted both stability and liberalism —W.G. Carleton⟩ ⟨always a ~, he deprecated extremists of both sections —H.K.Beale⟩ **2** *often cap* : a member or adherent of a political party or group favoring a moderate program ⟨second term as the candidate of the *Moderates* —*Rev. of Reviews*⟩
moderate breeze *n* : wind having a speed of 13 to 18 miles per hour — see BEAUFORT SCALE table
moderate gale *n* : wind having a speed of 32 to 38 miles per hour — see BEAUFORT SCALE table
mod·er·ate·ly \ˈmädər(ə)tlē, -dət-, -li\ *adv* [ME *moderatly,* fr. *moderat, moderate* moderate + *-ly*] : in a moderate manner or to a moderate extent : FAIRLY, TEMPERATELY ⟨lived ~⟩ ⟨a ~ hot day⟩
mod·er·ate·ness *n* -es : the quality or state of being moderate
moderate oven *n* : an oven heated to a temperature between 325° and 400° F
mod·er·a·tion \ˌmädəˈrāshən\ *n* -s [ME *moderacion,* fr. L *moderation-, moderatio,* fr. *moderatus* (past part. of *moderare, moderari* to moderate) + *-ion-, -io* -ion] **1** : the quality or state of being moderate : an avoidance of extremes : TEMPERATENESS ⟨a man who knew no ~ in his requests and impulses —Thomas Hardy⟩ ⟨a ~ of speech and of outward attitude which gave conservative constituents a sense of security and radical constituents a gleam of hope —Jeannette P. Nichols⟩ **2** : the action of moderating; *specif* : a lessening of severity or intensity ⟨international policy with respect to the control or ~ of depressions —A.H.Hansen⟩ **3 moderations** *pl* : the first public examination for the B.A. in classics or mathematics at Oxford university following responsions — called also *mods* — **in moderation** *adv* : without excess : TEMPERATELY
mod·er·a·tion·ist \-nəst\ *n* -s : an advocate of moderation
mod·er·at·ism \ˈmäd(ə)rəd·ˌizəm, -əˌtiz-\ *n* -s : moderation in doctrines or opinions; *specif* : the opinions or policy of a moderate party or group in politics or religion
mod·er·at·ist \-əd·əst, -ətəst\ *n* -s : an adherent of moderatism
mod·er·a·to \ˌmädəˈräd·(ˌ)ō\ *adj (or adv)* [It (past part. of *moderare* to moderate), fr. L *moderatus,* past part. of *moderare, moderari* to moderate — more at MODERATE] : MODERATE — used as a direction in music to indicate tempo
mod·er·a·tor \ˈmädəˌrād·ə(r), -rātə-\ *n* -s [ME *moderatour,* fr. L *moderator,* fr. *moderatus* (past part. of *moderare, moderari* to moderate) + *-or*] **1** : one that rules or directs : GOVERNOR ⟨act in his name as ~ of the Western realm —E.A.Freeman⟩ **2** : one who arbitrates : MEDIATOR ⟨the governor persuaded both sides to continue their talks with the ~ —*Springfield (Mass.) Union*⟩ **3** : one who presides over an assembly, meeting, or discussion: as **a** : a presiding officer of any of various church meetings or assemblies within Protestant Christianity; *esp* : the presiding officer elected within a Presbyterian polity to preside over a general assembly or over a smaller regional meeting **b** : an official presiding over the exercises formerly prescribed for candidates for an academic degree — now used of an examiner for moderations at Oxford as well as of one of the two officers presiding over the mathematical tripos at Cambridge **c** : the nonpartisan presiding officer of a town meeting **d** : a person who acts as chairman of a discussion group (as on radio or television) **4** *archaic* : a person or thing that moderates or calms ⟨angling was . . . a ~ of passions —Izaak Walton⟩ **5 a** : a member of a group opposed to the violent methods of the regulators in No. Carolina about 1770 **b** : a member of one of numerous illegal bands active esp. in Texas about the middle of the 19th century **6** : a candidate for the B.A. at Dublin taking first or second honors **7** : a substance (as graphite, deuterium in heavy water, or beryllium) used for slowing down neutrons in a nuclear reactor
mod·er·a·to·ri·al \ˌmädərəˈtōrēəl, -tȯr-\ *adj* : of, relating to, or characteristic of a moderator
moderator lamp *n* : a 19th century oil lamp burning colza oil and having a special regulator for the oil supply to the wick
mod·er·a·tor·ship \ˈmädəˌrād·ə(r)ˌship, -rātə(r-\ *n* : the position or duties of a moderator

Webster New International Dictionary

mock'ing-bird' (mŏk'ĭng-bûrd'; 186), *n.* A common bird (*Mimus polyglottos*) of the southern United States, remarkable for its exact imitations of the notes of other birds. Its back is gray, the under parts grayish white, and the tail and wings blackish marked with white. Closely related subspecies are found in Mexico, Central America, and the West Indies.

Mockingbird (*Mimus polyglottos*).

mock'ing-stock' (-stŏk'), *n.* An object of derision; a butt.
mocking thrush. Any bird of the subfamily Miminae, esp. a thrasher.
mocking wren. Any American wren of the genus *Thryothorus* or of *Thryomanes*. See CAROLINA WREN.
mock knees. *Veter.* Large pedunculate fibrous tumors in front of the knees, seen esp. in cattle.
mock lead (lĕd). *Mineral.* = SPHALERITE. Hence, **mock'-lead'y** (-lĕd'ĭ), *adj.* *Both Cornwall, Eng.*
mock locust. A fetid Californian shrub (*Amorpha californica*) with dark-purple racemose flowers.
mock moon. = PARASELENE.
mock nightingale. *Local, Eng.* **a** The blackcap. **b** The sedge warbler.
mock olive. **a** *Australia.* = AXBREAKER. **b** = CHERRY LAUREL **b**.
mock orange. **a** *U. S.* Any shrub of the genus *Philadelphus*. **b** Any of several American shrubs or trees, as the cherry laurel, the southern buckthorn (*Bumelia lycioides*), the Osage orange, etc. **c** Any gourd resembling an orange. **d** In Australia, the native laurel *Pittosporum undulatum*.
mock ore. = SPHALERITE.
mock pennyroyal. Any mint of the genus *Hedeoma*.
mock plane. = SYCAMORE **b**. *Eng.*
mock plum. = PLUM POCKET.
mock privet. Any Eurasian evergreen shrub of the genus *Phillyrea*, often cultivated for hedges.
mock rainbow. A secondary rainbow. See RAINBOW, 1.
mock regent bird. An Australian honey eater (*Zanthomiza phrygia*).
mock sun. = PARHELION.
mock thrush. = MOCKING THRUSH.
mock title. = BASTARD TITLE.
mock turtle. Calf's head dressed so as to look and taste somewhat like turtle.
mock turtle soup. A soup of calf's head, veal, or other meat, and condiments, in imitation of green turtle soup.
mock velvet. A fabric in imitation of velvet. See MOCKADO.
mock willow. = MEADOW SWEET **a**.
moc'main (mŏk'mān), *n.* [Chin. (Pek.) *mu⁴-mien²*, lit., tree cotton.] A soft fiber of an East Indian silk-cotton tree (*Bombax malabaricum*), used in stuffing cushions and trusses.
Mo·co'a (mō-kō'ȧ), *n.* An Indian of a semicivilized tribe of Colombia and Ecuador; also, their language. — **Mo·co'an** (-ăn), *adj.*
mo'co-mo'co (mō'kō-mō'kō), *n.* [Galibi *moucou, moucoumoucou.*] A South American aroid (*Montrichardia arborescens*).
mo-cuck' (mō-kŭk'), *n.* [Of Algonquian origin; cf. Ojibway *makak*.] A box, usually of birch bark, for keeping food. *Northern Ontario.*
Mod (mōd), *n.* [Gael. *mōd*, fr. ON. *mōt*. See MOOT, *n.*] A literary and musical congress held annually in northern Scotland. It began in 1892 in imitation of the Welsh eisteddfod. Cf. EISTEDDFOD, FEIS.
mod'al (mōd'ăl; -'l), *adj.* [ML. *modalis*, fr. L. *modus*. See MODE.] **1.** Consisting in or pert. to form as opposed to substance; having the form without the essence or reality.
2. *Gram.* **a** Of or pertaining to some particular attitude toward, or concern with, the fulfillment of the action or state predicated in a clause; as, a *modal* force of downrightness (we are here), noncommittalness (he may be here), wish (would he were here), etc., which may be conveyed either by inflectional mood or otherwise. Also, expressive of such an attitude or concern; as, a *modal* auxiliary or link verb (if he *should* come; you *may* be wrong); a *modal* adverb (she *doubtless* smiled; *possibly* he is late). Since a modal form of the verb is predicative, it is distinguished from the gerund and other nonpredicative forms (called also *nonmodal*). **b** *Rare.* = EXPLETIVE, *adj.*, 2.
3. *Law.* Containing provisions as to the mode or manner of taking effect; — said of a will, contract, etc.
4. *Logic.* Indicating, or pertaining to, mode or modality; expressing modality.
5. *Music.* Of or pertaining to mode; specif., written in one of the old church modes.
6. *Statistics.* Pertaining to a mode.
7. *Theol.* Of or pertaining to modalism.
mod'al (mōd'ăl; -'l), *n.* *Logic.* A modal proposition. See MODAL, *adj.*, 4.
mod'al·ist (-ĭst), *n.* *Eccl. Hist. & Theol.* One who adheres to the second of the chief forms of monarchianism (which see). — **mod'al·ism** (-ĭz'm), *n.* — **mod'al·ist, mod'al·is'tic** (-ĭs'tĭk), *adj.*
modalistic monarchianism. See MONARCHIANISM.
mo·dal'i·ty (mō-dăl'ĭ-tĭ), *n.*; *pl.* -TIES (-tĭz). [ML. *modalitas.*] **1.** Quality or state of being modal; a modal quality, attribute, or circumstance; a matter of mode or method.
2. *Logic.* That qualification of propositions according to which they are distinguished as asserting (or denying) the possibility, impossibility, contingency, or necessity, of their content.
3. *Med.* Any of several agencies used in physical therapy, as diathermy, high-frequency currents, etc.; also, any type of apparatus for applying such agencies.
4. *Psychol.* One of the main types of sensation, as visual, auditory, olfactory, gustatory, or tactual.
mod'al·ize (mōd'ăl-īz; -'l-īz), *v. t.* To render modal.
modal syllogism. *Logic.* A syllogism containing modal propositions.
modal value. *Statistics.* = 1st MODE, 11.
mode (mōd), *n.* [L. and F.; F. *mode*, fr. L. *modus* a measure, due or proper measure, bound, manner, form. See METE, *v.*; cf. COMMODIOUS, MODULATE, MODUS, MOLD matrix, MOOD in grammar.] **1.** Manner of doing or being; method; form; fashion.

> The duty of itself being resolved on, the *mode* of doing it may easily be found. — *Jer. Taylor.*

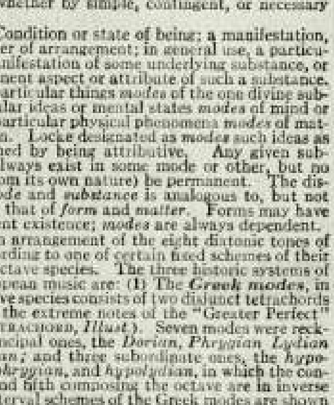
2. Variety; kind; particular form.
3. *Gram.* = 1st MOOD, 1.
4. *Lacemaking.* = FILLING, *n.*, 6.
5. *Logic.* **a** The form of the syllogism, as determined by the quantity and quality of the constituent propositions; mood. The four figures of the syllogism with the names of the modes invented by Petrus Hispanus of Lisbon in the 13th century follow, the letter S standing for the subject of the conclusion, P for its predicate, and M for the middle term:

The FIRST FIGURE of the syllogism has four valid modes: — 1. ***Barbara***: all M is P; all S is M; hence all S is P (for example, all trees are plants; all elms are trees; hence all elms are plants). 2. ***Celarent***: no M is P; all S is M; hence no S is P. 3. ***Darii***: all M is P; some S is M; hence some S is P. 4. ***Ferio***: no M is P; some S is M; hence some S is not P.

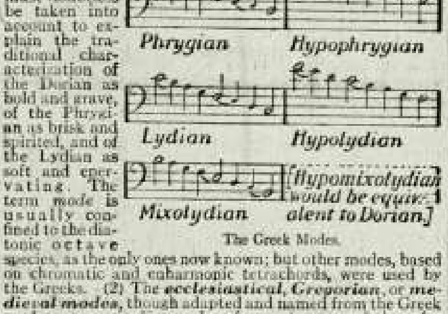
SECOND FIGURE. 1. ***Cesare***: no P is M; all S is M; hence no S is P. 2. ***Camestres***: all P is M; no S is M; hence no S is P. 3. ***Festino***: no P is M; some S is M; hence some S is not P. 4. ***Baroco*** (or ***Fakofo***): all P is M; some S is not M; hence some S is not P.

THIRD FIGURE. 1. ***Darapti***: all M is P; all M is S; hence some S is P. 2. ***Disamis***: some M is P; all M is S; hence some S is P. 3. ***Datisi***: all M is P; some M is S; hence some S is P. 4. ***Felapton***: no M is P; all M is S; hence some S is not P. 5. ***Bocardo*** (or ***Dokmarok***): some M is not P; all M is S; hence some S is not P. 6. ***Ferison***: no M is P; some M is S; hence some S is not P.

FOURTH FIGURE. 1. ***Bramantip*** or ***Bamalip*** (*Baralipton*): all P is M; all M is S; hence some S is P. 2. ***Camenes***, ***Calemes***: all P is M; no M is S; hence no S is P. 3. ***Dimaris***, ***Dimatis***, ***Dibatis*** (*Dabitis*): some P is M; all M is S; hence some S is P. 4. ***Fesapo*** (*Fapesmo*): no P is M; all M is S; hence some S is not P. 5. ***Fresison*** (*Frisesomorum*): no P is M; some M is S; hence some S is not P.
b The form in which the proposition connects the predicate and subject, whether by simple, contingent, or necessary assertion.
6. *Metaph.* Condition or state of being; a manifestation, form, or manner of arrangement; in general use, a particular form or manifestation of some underlying substance, or of some permanent aspect or attribute of such a substance. Spinoza calls particular things *modes* of the one divine substance, particular ideas or mental states *modes* of mind or thought, and particular physical phenomena *modes* of matter or extension. Locke designated as *modes* such ideas as are distinguished by being attributive. Any given substance must always exist in some mode or other, but no *mode* need (from its own nature) be permanent. The distinction of *mode* and *substance* is analogous to, but not identical with, that of *form* and *matter*. Forms may have real independent existence; *modes* are always dependent.
7. *Music.* An arrangement of the eight diatonic tones of an octave according to one of certain fixed schemes of their intervals; an octave species. The three historic systems of modes in European music are: (1) The ***Greek modes***, in which the octave species consists of two disjunct tetrachords lying between the extreme notes of the "Greater Perfect" system (see TETRACHORD, *Illust.*). Seven modes were reckoned: four principal ones, the *Dorian, Phrygian, Lydian* and *mixolydian;* and three subordinate ones, the *hypodorian, hypophrygian,* and *hypolydian,* in which the conjunct fourth and fifth composing the octave are in inverse order. The interval schemes of the Greek modes are shown in the accompanying figure, half steps being marked by small slurs. The modes were embodied in scales of about two octaves, which thus became transposable. The actual pitch of these scales, as well as the interval relations of the modes, must doubtless be taken into account to explain the traditional characterization of the Dorian as bold and grave, of the Phrygian as brisk and spirited, and of the Lydian as soft and enervating. The term *mode* is usually confined to the diatonic octave species, as the only ones now known; but other modes, based on chromatic and enharmonic tetrachords, were used by the Greeks. (2) The ***ecclesiastical, Gregorian,*** or ***medieval modes,*** though adapted and named from the Greek modes, are *ascending* scales of an octave, consisting of a pentachord and a tetrachord of which the highest tone of one is the lowest of the other. The lowest tone of the pentachord is the *final* or *keynote*. With respect to its position the ecclesiastical modes are of two kinds: (*a*) *authentic*, in which the pentachord comes first, and the keynote is the lowest of the octave; (*b*) *plagal*, in which the tetrachord comes first, and the keynote is the fourth of the octave. Each plagal mode thus begins a fourth below its corresponding authentic mode, from which it is named by prefixing *hypo-*, under; as, the *hypodorian* mode, A to *a* in the fig., begins a fourth below the *Dorian*, D to *d* in the fig., D being their common keynote. The pentachords and tetrachords comprise the intervals of *perfect* fifth and fourth, respectively, in all the modes except the theoretical *Locrian* and *hypolocrian*, which, having their pentachord and their tetrachords respectively of the forbidden *diminished* fifth and *augmented* fourth, were in consequence very rarely used. In every mode four tones, called *modulations*, are of special importance: the *final*, on which every melody ends, the *dominant*, *mediant*, and *participant* (in authentic modes normally the fifth tone, third tone, and a tone between the mediant and either final or dominant), on which, within certain rules, phrases may begin and end. With respect to the octave compass of its mode, a melody is called *perfect* if it covers the compass, *imperfect* if it falls short of it, *superfluous* if it exceeds it. A melody covering the complete range of an authentic mode and the corresponding plagal is said to be in a *mixed mode*. Ecclesiastical modes are still used, esp. in the Roman Catholic Church. The relation of the authentic to the plagal modes, and the interval schemes of all the modes, are shown in the figure on the ascending scale of the white keys from G to b′. (3) The modern ***major*** and ***minor modes*** comprise two of the historic modes, the *major mode* being equivalent to the Greek Lydian and the "descending" *minor* being equivalent to the Greek hypodorian. See 6th SCALE, 11 **a**.



The Greek Modes.



The Ecclesiastical Modes. The slurs mark half steps. The arrow head (↓) in each plagal mode marks the keynote, which is the first of its corresponding authentic mode. Black-faced letters indicate dominants; italics, mediants.

8. *Music.* A rhythmical scheme. Specif.: **a** In early mensurable music, one of the five or six metrical patterns, borrowed from the Greek trochee, iambus, dactyl, etc. and expressed in terms of triple musical meter. **b** In later mensurable music, the proportionate time value of the large in terms of longs, or of the long in terms of breves; also, a rhythm in which these notes are so proportioned. In this sense, a mode admitted of duple as well as triple division. See MENSURABLE MUSIC.
9. *Petrog.* The actual mineral composition of a rock as distinguished from the norm.
10. *Psychol.* = MODALITY, 4.
11. *Statistics.* The item, in a series of statistical data, which occurs oftenest.
mode (mōd), *n.* [F., fr. L. *modus* manner. See 1st MODE.] **1.** A prevailing popular custom or style; a fashion; conventional style of dress, manners, etc.

> The easy, apathetic graces of a man of the *mode*. — *Macaulay.*

2. = ALAMODE, *n.*, 2. *Obs.*
3. A color, of variable hue, of low or very low saturation and of medium or high brilliance, produced by dyeing with a mixture of dyes. *Rare.*
Syn. — Manner. See METHOD, FASHION.
mode beige. The color drab.
mod'el (mŏd''l), *n.* [F. *modèle*, fr. It. *modello*, fr. (assumed) VL. *modellus*, for L. *modulus* a small measure, dim. of *modus*. See MODE.] **1.** A set of plans for a building to be erected, or of drawings to scale for a structure already built; sometimes, a ground plan, as of a garden. *Obs.*
2. That which exactly resembles something; a copy. *Dial.*

> I had my father's signet in my purse,
> Which was the *model* of that Danish seal. — *Shak.*

3. A miniature representation of a thing; sometimes, a facsimile of the same size.
4. Style of structure; pattern; design; as, perfect in *model*.
5. An archetype.
6. Anything or any person that serves, or may serve, as an example for imitation; as, a *model* of virtue.
7. Something intended to serve, or that may serve, as a pattern of something to be made; as, the clay *model*.
8. A person or thing that serves as an artist's pattern; specif., a person who poses as a pattern to an artist.
9. A woman employed by dealers in costume or millinery to put on articles to show their effect to customers.
10. Short for *model dwelling, cottage,* etc. *Colloq.*
11. *Obs.* **a** That which enwraps or incases; a mold. **b** Standard; measure; capacity. **c** A small portrait. **d** An abstract, summary, or preliminary outline.
12. *Arch. Obs.* **a** = MODULE, 5. **b** = MODILLION.
13. *Biol.* A mimetic type, or species mimicked by another. See MIMICRY, 2.
14. *Music.* Degree of curvature; — said of the belly and back of instruments of the violin class.
15. *Plastering.* A tool used in molding cornices, etc.
Syn. — See PATTERN.
mod'el (mŏd''l), *v.*; MOD'ELED (-'ld) or MOD'ELLED; MOD'EL·ING or MOD'EL·LING. [Cf. F. *modeler*, It. *modellare*.] *Transitive:* **1.** To represent as in a model; to describe in detail. *Obs.*
2. To frame a model of. — *Milton.*
3. To plan or form after a pattern; to form in model; to shape; mold; as, to *model* a house, an edifice.
4. *Now Rare.* **a** To organize, as an army or government. **b** To mold or train according to a model of life.
5. To plan or plot. — *Pope.*
6. To pose as a model in (a costume, etc.). Cf. MODEL, *n.*, 9.
—, *Intransitive:* **1.** *Fine Arts.* To make a copy or a pattern; to design or imitate forms; as, to *model* in wax.
2. To assume the appearance of natural relief; — said of parts of drawing when being drawn.
3. To act, pose, or serve as a model (senses 8 & 9).
— **mod'el·er, mod'el·ler** (-ēr), *n.*
mod'el (mŏd''l), *adj.* Serving, or suitable, for a model or pattern; as, a *model* house; a *model* husband.
mode'less (mōd'lĕs; -lĭs; 119), *adj.* **1.** Unmeasured. *Obs.*
2. Devoid of mode; — used in mystical writings.
— **mode'less-ness**, *n.*
mod'el·ing, mod'el·ling (mŏd''l-ĭng), *pres. part. & verbal n.* of MODEL. Specif.: *verbal n.* *Fine Arts.* Act or art of making a model from which a work of art is to be executed. Also, in painting, drawing, etc., the indication of solid form.
mod'el·ist (-ĭst), *n.* A maker of models.
mod'el·ize (-īz), *v. t.* To model; to form by a model; organize; also, to exemplify as a model. *Obs.*
mod'el·mak'er (mŏd''l-māk'ēr), *n.* One who makes models, as a model of a proposed tool, machine, or structure. — **mod'el·mak'ing** (-ĭng), *n.* & *adj.*
model school. A graded school, usually connected with a normal school, or teachers' training college, serving as a model in organization and methods of teaching.
mod'e·na (mŏd'ē-nȧ), *n.* [From *Modena*, Italy.] A deep purple color.
Mod'e·nese' (mŏd'ē-nēz'; -nēs'; 66), *adj.* [It.] Of or pertaining to Modena or its inhabitants. — *n. sing. & pl.* A native or inhabitant of Modena.
mod'er·ant (mŏd'ēr-ănt), *n.* [L. *moderans, -antis*, pres. part.] That which moderates; a moderating factor.
mod'er·ant·ism (-ĭz'm), *n.* [F. *modérantisme.*] Moderateness; specif., *Fr. Hist.*, the principles of the moderate party in politics. — **mod'er·ant·ist** (-ĭst), *n.*

mock'ing·ly, *adv.* of *mocking*, pres. part. [Obs. — **ly**, *adv.* Obs.] **mock'ish**, *adj.* Mocking; sham. | **mo·cock'** (mō-kŏk'). Var. of MOCUCK. [VERN.] **modal auxiliary.** See AUXILIARY | **mod'al·ly**, *adv.* of MODAL. **mod'der** (*dial.* mŏd'ēr; -ēhr). Var. of MAUTHER. *Obs. exc. Dial.* | **mod'dley-cod'dley** (mŏd''l-kŏd''l). Var. of MOLLYCODDLE, *n.* **mo·del'lion.** Var. of MODILLION. | **mod'er**, *v. t.* [OF. *moderer.*] To moderate; check. *Obs.* **moder.** + MOTHER, MAUTHER. | **mod'er·ance**, *n.* [OF., or fr. ML. *moderantia.*] Moderation. *Obs.*

GLANVILL *Sadducismus* 143 That a Spirit is not an Accident or Mode of Substance, all in a manner profess. 1690 LOCKE *Hum. Und.* II. xii. § 4 Modes, I call such complex Ideas, which, however compounded, contain not in them the supposition of subsisting by themselves, but are consider'd as Dependances on, or Affections of Substances; such are the Ideas signify'd by the Words Triangle, Gratitude, Murder. 1704 CLARKE *Being & Attributes of God* Wks. 1738 II. 527 To suppose that there is no Being, no Substance in the Universe, to which these Attributes or Modes of Existence are necessarily inherent, is a Contradiction in the very Terms. For Modes and Attributes exist only by the Existence of the Substance to which they belong. 1725 WATTS *Logic* I. ii. § 3 The next sort of objects which are represented in our ideas, are called modes, or manners of being. 1727-52 CHAMBERS *Cycl.* s. v. *Spinozism* (end), Since the mode is not really distinct from the substance modified. 1781 COWPER *Anti-Thelyph.* 42 That substances and modes of every kind Are mere impressions on the passive mind.

II. A direct adoption of mod.F. *mode* in the sense of fashion, prevailing fashion or custom.

7. A prevailing fashion or conventional custom, practice or style; *esp.* one characteristic of a particular place or period.

c 1645 HOWELL *Lett.* v. xxxviii. (1655) I. 233 He is also good at Larding of meat after the mode of France. 1645 EVELYN *Diary* 8 Feb., Some of our company were flouted at for wearing red cloakes, as the mode then was. 1665 SIR T. HERBERT *Trav.* (1677) 45 The Banyan and other Indian Females after the Oriental Mode are seldom visible. 1667 MILTON *P. L.* I. 474 Gods Altar to disparage and displace For one of Syrian mode. 1716 LADY M. W. MONTAGU *Let. to C'tess of Mar* 21 Nov., They are..dressed after the French and English modes. 1745 *De Foe's Eng. Tradesman* (1841) I. x. 75 It is the mode to live high, to spend more than we get. 1837 CARLYLE *Fr. Rev.* (1872) III. II. i. 59 There are modes wherever there are men. 1841 CATLIN *N. Amer. Ind.* (1844) II. lviii. 249 These people..have much in their modes as well as in their manners to enlist the attention. 1884 W. C. SMITH *Kildrostan* 69 We are grown To be a sort of dandies in religion, Affecting the last mode.

b. ? Something fashionable.

1841 LADY BLESSINGTON *Idler in France* I. v. 66 Oh, the misery of trying on a new *mode* for the first time, and before a stranger!

8. Conventional usage in dress, manners, habit of life, etc., *esp.* as observed amongst persons 'of fashion'.

1692 R. L'ESTRANGE *Fables* i. 2 We are to prefer..the Blessings of Providence before..the splendid Curiosities of Mode and Imagination. 1711 STEELE *Spect.* No. 6 ¶ 4 Is there anything so just, as that Mode and Gallantry should be built upon exerting ourselves in what is proper and agreeable to the Institutions of Justice and Piety among us? 1789 JEFFERSON *Writ.* (1859) II. 554 These sentiments became a matter of mode. 1827 CARLYLE *Misc.* (1857) I. 19 Over which the vicissitudes of mode have no sway. 1894 A. C. HILLIER in *2nd Bk. Rhymers' Club* 80 We know that way they have of old. For it is mode in Opera-land.

† b. (*Man, people*) *of mode* = *man* etc. *of fashion* (see FASHION *sb.* 12 b). *Obs.*

1676 ETHEREDGE (*title*) The Man of Mode, or Sir Fopling Flutter. 1693 *Humours Town* 28 The man of Mode here in Town. 1711 ADDISON *Spect.* No. 129 ¶ 3 If after this we look on the People of Mode in the Country, we find in them the Manners of the last Age. 1711 STEELE *ibid.* No. 282 ¶ 3, I..had the Satisfaction to see my Man of Mode put into the Round-House. 1749 BOLINGBROKE *Patriot King* 181 The choice spirits of these days, the men of mode in politics.

† c. One who or that which sets or displays the fashion. *Obs.*

1712 STEELE *Spect.* No. 478 ¶ 9 Every one who is considerable enough to be a Mode. 1818 LADY MORGAN *Autobiog.* (1859) 48, I shall send two dressed dolls for the two babies, as modes.

9. *The mode*: the fashion or custom in dress, manners, speech, and the like adopted in society for the time being. *arch.*

1649 DK. NEWCASTLE *Country Capt.* I. ii Wee are governd by the mode, as waters by the moone. 1672 DRYDEN *Assignation* Prol., But, gentlemen, you overdo the mode. 1697 — *Virgil, Life* *4 b, The Devotion..was their Interest, and, which sometimes avails more, it was the Mode. 1706 ADDISON *Rosamond* III. iv, It suits a person in my station To observe the mode, and be in fashion. 1728 YOUNG *Love Fame* V, The mode she fixes by the gown she wears. 1849 SAXE *Poems, Times* 303 Slaves to the Mode, who pinch the aching waist And mend God's image to the Gallic taste. 1898 HENLEY *Lond. Types, Barmaid*, Cheaply the mode she shadows.

† **10.** In phrases: *In, out of (the) mode*, in, out of fashion or customary use, esp. in 'polite' society; *all, much the mode*, said of the object of a general but usually temporary popularity. *Obs.*

1664 EVELYN *Kal. Hort.* 25 This Tree is now all the mode for the Avenues to their Country palaces in France. 1669 WORLIDGE *Syst. Agric.* (1681) 175 The white Shock-Rabbit of Turkie is..now become the most in Mode. 1672 J. CRESSET in *N. Eng. Hist. & Gen. Reg.* (1868) XXII. 83 When they have come to Town, they must presently be in the mode, get fine clothes. 1673 *Remarques Humours Town* 3 These things are set formalities, and out of Mode. *a* 1680 BUTLER *Rem.* (1759) I. 101 Nothing can be bad or good, But as 'tis in or out of Mode. 1738 SWIFT *Pol. Conversat.* 117 Why Tom, you are high in the Mode. 1760 FRANKLIN *Lett.* Wks. 1840 VI. 230 If I would finish my letter in the mode, I should yet add something that means nothing. 1766 *Ann. Reg., Charac.* 5/2 Monsieur de Belleisle was then much the mode, being spoken of both at court and at Paris. 1773 GOLDSM. *Stoops to Conq.* II. i, What do you take to be the most fashionable age about town? Some time ago, forty was all the mode. 1849 MACAULAY *Hist. Eng.* III. 408 In a few months experimental science became all the mode.

† **11.** = ALAMODE 4. Also *attrib.*

1751 *Mac Sparran Diary* (1890) 407 A la mode (or mode) was a thin, glossy silk, used for hoods, scarfs, &c. 1766 W. GORDON *Gen. Counting-ho.* 420, 332 yards figured mode. 1777 *Ann. Reg., Chron.* 213/1 A black silk mode cloak and other apparel. 1795 *Edin. Advert.* 6 Jan. 15/1 A Variety of Articles in the Haberdashery line..consisting of Modes, ..Vellum Modes,..Sattins, &c. 1796 *Hist. Ned Evans* I. 156, I will lay my mode cloak to a brass pin. 1819 J. H. VAUX *Mem.* I. 119, I began my depredations by taking a piece of elegant black mode. 1826 MISS MITFORD *Village* Ser. II. 55 Her close black bonnet of that silk which once .. was fashionable, since it is still called mode. 1864 *Cornh. Mag.* Aug. 136 She had on a black mode cloak that had been her mother's. 1900 *Academy* 21 July 41/1 Her train of soft mode silk, she held up at the back as she walked.

b. ? An article made of this material.

1847 C. BRONTË *J. Eyre* xviii, Brocaded and hooped petticoats, satin sacques, black modes, lace lappets, &c.

12. *pl. Lace-making*: (See second quot.).

1882 COLE in *Encycl. Brit.* XIV. 785/2 The use of meshed grounds extended [1650–1720], and grounds composed entirely of varieties of modes were made. 1882 CAULFEILD & SAWARD *Dict. Needlework, Modes*, a term used in Lace making to denote the open work Fillings between the thick parts of the design.

† **13.** (See quot.) *Obs.*

1688 R. HOLME *Armoury* II. 117/1 Modes, or self coloured flowers.

14. *attrib.*, as mode-book, a fashion-book.

1861 MRS. H. WOOD *East Lynne* vii, Her head-dress..was like nothing in the mode-book or out of it.

† **Mode,** *v. Obs. rare.* [f. MODE *sb.*]

1. *trans.* or quasi-*trans.* a. To put (a person) *into* fashionable clothing. b. *To mode it*, to follow the fashion.

1656 BLOUNT *Glossogr.* To Rdr. Aij b, In London many of the Tradesmen have new Dialects..The Taylor is ready to mode you into a Rochet, Mandillion [etc.]. *a* 1661 FULLER *Worthies, Sussex* (1662) III. 102 He was accounted..somewhat Clownish..partly, because he could not mode it with the Italians. *Ibid., Warwick* III. 119 He could not Mode it, or comport, either with French ficleness, or Italian pride.

2. *intr.* To be or become 'the mode'.

1663 *Cup of Coffee* 5 Pure English Apes! ye may, for aught I know, Would it but mode, learn to eat spiders too.

Modee, obs. form of MOODY.

Modefy(e, -fyshe, obs. ff. MODIFY, MUDFISH.

Model (*m*ɒ*d*ĕl), *sb.* Forms: 6 modill, moddell, 6–7 moddel, 6–8 modell, modle, 7 modull, modil, 7–8 modelle, 6– model. [a. OF. *modelle* (mod.F. *modèle*), ad. It. *modello*, dim. of *modo*, ad. L. *modus*: see MODE *sb.* From It. or Fr. the word has passed into other langs.: Ger. and Sw. *modell*, Du. and Da. *model*. Cf. MODULE *sb.*]

I. Representation of structure.

† **1.** An architect's set of designs (plans, elevations, sections, etc.) for a projected building; hence, a similar set of drawings made to scale and representing the proportions and arrangement of an existing building. Also occas. a delineation of a ground-plan *e.g.* of a town, a garden, etc.). *Obs.*

1575 GASCOIGNE *Posies, Herbes* 173 And I shall well my sillie selfe content, To come alone vnto my lowely Lorde, And vnto him..To tel some..reasonable worde, Of Hollandes state, the which I will present, In Cartes, in Mappes, and eke in Models made. 1579–80 NORTH *Plutarch, Pompeius* (1595) 695 Pompey liked exceedingly well the Theater..and drew a modell or platforme of it to make a statelyer then that in Rome. 1581 SIDNEY *Apol. Poetrie* (Arb.) 33 The same man, as soone as hee might see those beasts well painted, or the house wel in moddel, should straightwaies grow without need of any description, to a iudicial comprehending of them. *c* 1582 T. DIGGES in *Archæologia* XI. 228 The proportion of the fludgates and capestaainds..shall in modell bee allsoe sett downe. 1597 SHAKS. 2 *Hen. IV*, I. iii. 142 When we meane to build, We first survey the Plot, then draw the Modell. 1601 SIR W. CORNWALLIS *Ess.* II. xl. (1631) 166 Cottages may be built without modelles, not pallaces. 1617–18 W. LAWSON *New Orch. & Gard.* (1623) Pref., The Stationer hath..bestowed much cost and care in having the Knots and Models by the best Artizan cut in great varietie. 1625 BACON *Ess., Gardens* (end), So I haue made a Platforme of a Princely Garden, Partly by Precept, Partly by Drawing, not a Modell, but some generall Lines of it. 1639 [see PLATFORM 2]. 1714 SWIFT *Pres. St. Affairs* Wks. 1755 II. i. 205 When a building is to be erected, the model may be the contrivance only of one head.

fig. 1599 SHAKS. *Much Ado* I. iii. 48 Will it serue for any Modell to build mischiefe on? 1611 TOURNEUR *Ath. Trag.* II. ii, My plot still rises According to the Modell of mine owne desires.

b. *transf.* A summary, epitome, or abstract; the 'argument' of a literary work. *Obs.*

a 1626 BACON *Let. to T. Matthew* in Spedding *Life & Lett.* (1870) IV. 133 Of this, when you were here, I shewed you some model. *a* 1627 MIDDLETON *Wom. Beware Wom.* v. i. 107 The actors that this model here discovers Are only four. *a* 1649 WINTHROP *New. Eng.* (1826) II. 231 That treatise about arbitrary government, which he first tendered to the deputies in a model, and finding it approved by some, and silence in others, he drew it up more at large. 1760–72 H. BROOKE *Fool of Qual.* (1809) III. 45, I have now..given you the..unformed rudiments of our Britannic constitution. And here I deliver to you my little model of the finished construction thereof.

† c. A description of structure. *Obs.*

1578 T. DIGGES in L. Digges *Progn. Everlasting* To Rdr. M. I founde a description or Modill of the world and situation of Spheres Coelestial and Elementare according to the doctrine of Ptolome. *Ibid.*, But in this our age one rare witte..hath by long studie,..deliuered a new Theoricke, or model of the world, shewing that the earth resteth not in the Center of the whole world, but only in the Center of thys our mortal world.

2. A representation in three dimensions of some projected or existing structure, or of some material object artificial or natural, showing the proportions and arrangement of its component parts. *Working model*, one so constructed as to imitate the movements of the machine which it represents.

1615 G. SANDYS *Trav.* 221 Menelaus with fiftie ships, sent him only one, with the models of the other in clay, to colour his perjury. 1662 PEPYS *Diary* 30 July, Cooper..began his lecture upon the body of a ship, which my having of a modell in the office is of great use to me, and very pleasant and useful it is. 1665 MOXON tr. *Vignola* (1700) 76 If they were all cut out, and placed one above another..you would ..have the Model of a true pair of Stairs. 1676 T. MILLER *Compl. Modellist* 1 When you go to raise the Model of any Ship or Vessel, you must in the first place know the Length of her Keel [etc.]. 1697 DR. PATRICK *Comm. Exod.* xxv. 9, 483 The Hebrew word *Tabnit*..signifies a Structure, or Building; which cannot be better expressed than by the word Model, which he now saw of the House he was to erect. 1727 DE FOE *Syst. Magic* I. i. (1840) 30 Prometheus, who..is feigned by the poets to have first formed Man; that is to say, formed the Model of a Man by the help of water and earth, and then stole fire from the sun to animate the Model. 1766 tr. *Hasselquist's Voy. Levant* 149 They..force them to buy..models of the grave of Christ. 1824 R. STUART *Hist. Steam Engine* 98 The university's collection of mechanical and philosophical models. 1832 G. DOWNES *Lett. Cont. Countries* I. 192 A model of William Tell stands opposite another of his son. They are formed of wood. 1847 TENNYSON *Princess* Prol. 73 A dozen angry models jetted steam. 1850 MRS. JAMESON *Leg. Monast. Ord.* (1863) 149 At his feet is a small model of a hill. 1875 *Encycl. Brit.* III. 833/2 Mr. Brunel had completed a working model of certain machines for constructing ..blocks.

b. *fig.* Something that accurately resembles something else; a person or thing that is the likeness or 'image' of another; *esp.* in *little model*, a thing that represents on a small scale the structure or qualities of something greater. *Obs.* exc. *colloq.* or *dial.* in *the (very) model of.*

1593 SHAKS. *Rich. II*, I. ii. 28 Thou dost consent In some large measure to thy Fathers death, In that thou seest thy wretched brother dye, Who was the modell of thy Fathers life. 1602 — *Ham.* V. ii. 50, I had my fathers Signet in my Purse, Which was the Modell of that Danish Seale. 1603 DRAYTON *Barons' Wars* IV. xxxiv, Seeing Landy that so faire doth stand,..This little modell of his banish'd Land. 1613 PURCHAS *Pilgrimage* (1614) 21 Delighted (as the Father in his Childe) in this new modell of himselfe. 1663 BP. PATRICK *Parab. Pilgr.* xv. (1687) 131 These quiet places are the resemblances of the serene regions above, and little models of Heaven. 1824 HOGG *Conf. Sinner* 138 The likeness to my late hapless young master is so striking, that I can hardly believe it to be a chance model. 1899 CROCKETT *Little Anna Mark* lii. (1900) 436 He minds me of Sir James — the very model of Sir James.

c. An archetypal image or pattern.

1742 YOUNG *Nt. Th.* IX. 1337 When shall I..Gaze on creation's model in thy breast Unveil'd, nor wonder at the transcript more? 1785 REID *Intell. Powers* 421 Every work of art has its model framed in the imagination.

† **3.** A mould; something that envelops closely.

1593 SHAKS. *Rich. II*, III. ii. 153 Nothing can we call our own but Death, And that small Modell of the barren Earth, which serues as Paste and Couer to our Bones. 1599 — *Hen. V*, II. Prol. 16 O England: Modell to thy inward Greatnesse, Like little Body with a mightie Heart.

† **4.** A small portrait. Hence confused with MEDAL. *Obs.*

1622 MALYNES *Anc. Law-Merch.* 356 Modells or Medalia to be worne by the said hundreth persons of the societie, and the Masters of counting houses. 1626 BOYLE in *Lismore Papers* (1886) II. 190, I receaved..a chayn, and the kings picture or modull of gowld fastened to the chayn of gold. 1658 WALTON *Life Donne* (ed. 2) 91 That model of Gold of the Synod of Dort, with which the States presented him at his last being at the Hague.

5. An object or figure made in clay, wax, or the like, and intended to be reproduced in a more durable material. † Also, *rarely*, a sketch or study made for a painting.

1686 AGLIONBY *Painting Illustr.* Explan. Terms, Model Is any Object that a Painter works by, either after Nature, or otherwise; but most commonly it signifies that which Sculptors, Painters, and Architects make to Govern themselves by in their Design. 1695 DRYDEN *Dufresnoy's Art Painting* Pref. 44 To make a Sketch, or a more perfect Model of a Picture, is in the language of Poets, to draw up the Scenary of a Play. 1845 *Encycl. Metrop.* VIII. 436/1 He [*i. e.* the mould maker] then pours the semi-fluid around and over the [clay] model until the upper part has the desired thickness. 1856 *Eng. Cycl., Biogr.* II. 929 (*Flaxman*) The contents of his studio included nearly all his working models, casts of all his chief works, &c.

6. *Plastering.* A tool for moulding a cornice, having a pattern in profile which is impressed upon the plaster by working the tool backwards and forwards. Cf. MOULD.

1825 J. NICHOLSON *Operat. Mechanic* 606 Plastering. The tools of the plasterer consist of..rules called straight-edges; and wood models. *Ibid.*, The models or moulds are for running plain mouldings, cornices, &c. 1842 GWILT *Archit.* § 2233.

II. Type of design.

7. Design, structural type; style of structure or form; pattern, build, make. a. of material structures.

1597 HOOKER *Eccl. Pol.* v. xiv. § 1 A fault no lesse grieuous,..then if some King should build his mansion

[illegible] by the modell of Salomons palace. 1660 F. Brooke tr. *Le Blanc's Trav.* 46 This Town is..built very stately at the Italian model. 1698 Fryer *Acc. E. India & P.* 107 These Vessels that are for this Voyage are huge unshapen things, and bear both the Name and Model of their old [illegible]. 1778 *Eng. Gazetteer* (ed. 2), Putney..has a church after the same model with that of Fulham. 1829 I. Taylor *Enthus.* iii. (1867) 53 Each of his works is perfect, both in model and in movement.

b. of immaterial things, systems, institutions, etc. In the 17th and 18th c. often in *new model*, denoting a remodelling of some institution, etc.

1593 G. Harvey *Pierces Super.* Wks. (Grosart) II. 43 Such a new-devised modell, as neuer Sun saw before.. Old Archilochus and Theon were but botchers in their rayling faculty. 1647 Clarendon *Hist. Reb.* II. § 10 It was now easy..to suggest..that here was an entire new Model of Government in Church and State. 1678 Cudworth *Intell. Syst.* I. i. § 45. 53 That new Modle of Ethicks, which hath been obtruded upon the world..is no Ethicks at all. 1725 De Foe *Compl. Eng. Gent.* (1890) 22 Exactly after the modelle of the Commonwealth of Rome. 1747 W. Horsley *Fool* (1748) II. 78 This new Modelle of Things has quite corrupted the very Soul of Naval Affairs. 1759 Robertson *Hist. Scot.* vi. Wks. 1851 II. 239 Such acts as..paved the way for a full and legal establishment of the presbyterian model. 1764 Foote *Mayor of G.* II. Wks. 1799 I. 176 He will put us into the model of the thing at once. 1874 Green *Short. Hist.* vii. § 5. 368 The new faith..borrowed from Calvin its model of Church government. 1875 Jowett *Plato* (ed. 2) III. 51 Limited in size, after the traditional model of a Greek state.

c. *The* (*New*) *Model* (Hist.): the plan for the reorganization of the Parliamentary army, passed by the House of Commons in 1644–5.

1645 Cromwell *Let. to Fairfax* 4 June in Carlyle *Lett.* I. 37, That you would be pleased to make Captain Rawlins a Captain of Horse. He has been so before; was omitted to the Model. 1645 Whitelocke *Mem.* 10 Jan., The Commons..debated about the new model of the army. *Ibid.* 3 Feb., Debate about the ordinance for the new model. *Ibid.* 1 Apr., The new model was by them [*sc.* the king's party] in scorn called the new noddle.

†**8.** Scale of construction; allotted measure; the measure of a person's ability or capacity. *Obs.* (Cf. Module *sb.* 1, 1 b.)

1605 Bacon *Adv. Learn.* I. vii. § 19 An Errour ordinarie with counsellors of Princes, that they counsell their Maisters according to the modell of their owne mind and fortune. 1623 R. Carpenter *Conscionable Christian* (1623) 39 Hauing [illegible]..according to the modell of time allotted for me to speake, and you to heare) of the reall religious practice [etc.]. 1624 F. White *Repl. Fisher* 301 We are farre from appointing ignorant persons to be Iudges of that which exceedeth their modell and skill. 1625 Bacon *Unity in Relig.* (Arb.) [illegible] Of this I may giue onely this Aduice, according to my small Modell. 1651 Hobbes *Leviath.* II. xxiv. 130 Thus much (considering the modell of the whole worke) is sufficient. 1660 Heylyn? *Body Div.* I. 206 Shall any reduce and [illegible] up the thoughts and wayes of God to their narrow and [illegible] model? 1675 Baxter *Cath. Theol.* II. i. 278, [illegible] the Ignorant and Carnal sort of Priests and Fryers [illegible] each man talk according to his Model, and so do all [illegible].

†**b.** Compass, extent of space. *Obs.*

[illegible] in *Lyly's Wks.* (1902) III. 493 The thundringe God whose all-embracinge powre Circles ye modell of this [illegible] rounde.

9. Of a violin, viol, etc.: Curvature of surface.

1836 Dubourg *Violin* ix. (1878) 266 The Instruments by the first Amati are rather higher, or less flat, in the model, than those of Stradiuarius. 1848 J. Bishop *Otto's Violin* i. [illegible] The even side [of the wood for the violin's back or belly] is then smoothed and the model traced on it.

III. An object of imitation.

10. A person, or a work, that is proposed or adopted for imitation; an exemplar.

1639 N. N. tr. *Du Bosq's Compl. Woman* I. E iv b, The [illegible] we have to become like to some goodly model. 1693–4 [illegible] in *Lett. Lit. Men* (Camden) 217, I had a letter [illegible] from Dr. Parsons, with a fresh request to send [illegible] a [*sc.* history of a] Countie finished, from whence [he] might take a model to adjust his own materials. 1714 [illegible] *Let. to Lady* 31, I then resolved some model to pursue, [illegible] French critics, and began anew. 1734 tr. *Rollin's Anc. Hist.* (1827) VIII. xix. v. 156 Which young officers should propose to themselves as a model. 1837 Lytton *E. Maltrav.* III. ii, Models may form our taste as critics, but do not excite us to be authors. 1838 Emerson *Addr., Cambridge, Mass.* Wks. (Bohn) II. 202 Imitation cannot go above its model. 1839 Thirlwall *Greece* VI. 213 The [illegible]..served..as a model for the policy of Rome under the emperors. 1871 Freeman *Norm. Conq.* (1876) IV. xix. [illegible] [The Church] of Rouen, we are told being his special and immediate model.

11. A person, or, less frequently, a thing, that serves as the artist's pattern for a work of painting or sculpture, or for some portion of such a work; *spec.* a person whose profession it is to pose for artists and art-students.

1694 *Emiliane's Frauds Rom. Monks* (ed. 3) 391 [She] [illegible] serv'd for a Model to the Limners of the Academy. 1727–41 Chambers *Cycl.* s. v., In the academies, they give the term model to a naked man, disposed in several postures. 1860 Hawthorne *Marb. Faun* ii, One of those living models..whom artists convert into saints or [illegible], according as their pictorial purposes demand. 1891 Kipling *Light that Failed* vii. (1900) 159 But remember, old [man], she isn't a woman; she's my model; and be careful.

b. *transf.* A woman who is employed in a draper's or milliner's shop to exhibit to customers the effect of articles of costume by attiring herself in them.

1903 *Ladies of to-day* May 3 One of the models of the establishment came gracefully towards me.

12. A person or thing eminently worthy of imitation; a perfect exemplar *of* some excellence.

1788 Anna Seward *Lett.* (1811) II. 104 A man [*sc.* Johnson] who, hating dissenters of all denominations, held up the writings of Clarke and the life of Watts as models of perfection. 1794 Paley *Evid.* II. ii. (1817) 60 The Lord's Prayer is a model of calm devotion. 1805 N. Nicholls *Remin.* in *Corr. w. Gray* (1843) 43 Mr. Gray thought the narrative of Thucydides the model of history. 1868 Swinburne *Blake* 16 Their vivid and vigorous style is often a model in its kind. 1871 E. F. Burr *Ad Fidem* xi. 211 Models of pure and noble conduct.

13. *colloq.* in *pl.* = 'model dwellings' (see 14).

1887 *Pall Mall G.* 5 Oct. 4/2 The parish has gone down.. and the building of the 'models' has not made it better. 1896 *Daily Chron.* 25 Aug. 5/6 The ordinary streets and the smaller models, which make up the bulk of the Ghetto, as we find it in Whitechapel [etc.]. 1900 *Daily News* 25 Oct. 3/4 The overcrowding per acre caused by 'models' was just as unhealthy as overcrowding per room.

IV. 14. †**a.** = Module 1. *Obs.*

1598 Haydocke tr. *Lomatius* I. 89 But because Vitruvius measureth this order by models,..I purpose likewise to keepe the same course, making the diameter of this columne at the base, to consist of two models, whose height with the base and Capitell shal be fourteene models. 1665 Moxon tr. *Vignola* (1702) To Rdr., Our Author to avoid that..certain uncertainty hath reduc'd all his measure, to a convenient and universal measure, which is called by the Name of a Model [It. *modulo*]: The invention whereof hath made the whole Art of Architecture very easie. 1706 in Phillips (ed. Kersey).

b. = Modillion. *Obs.*

1663 Gerbier *Counsel* 39 The Models in the Cornishes may be just over the middle of the Column.

V. 15. *attrib.* and *Comb.* **a.** appositive, passing into *adj.*: Serving or intended to serve as a model; suited to be a model, exemplary, ideally perfect, 'pattern'.

Model lodging-house: originally, one of a number of lodging-houses, established *c* 1840–5 by various philanthropists and placed under regulations intended to secure the comfort and the orderly conduct of the inmates; the designation was afterwards applied by the proprietors of large lodging-houses to their own establishments, often of a very low class. *Model dwellings*: in London and elsewhere, certain large buildings divided into flats for working-class tenants, intended to supply better arrangements for sanitation and comfort than are obtainable at equally low rent in the same neighbourhoods.

1844 Marg. Fuller *Wom. 19th C.* (1862) 31 Lectures on some model-woman of bride-like beauty and gentleness. 1847 *Illustr. Lond. News* 23 Jan. 61 Model Lodging House in St. Giles's. 1856 Emerson *Eng. Traits, Ability* Wks. (Bohn) II. 35 Sir Kenelm Digby..was a model Englishman. 1857 Kingsley *Two Years Ago* Introd. (1881) I. 22 There's my lord's..model cottages, with more comforts in them, saving the size, than my father's house had. 1860 *All Year Round* No. 57. 161 A mill-owner, whose mill, I was assured, was a model one. 1885 *Public Opinion* 9 Jan. 32/1 A model Bishop of London is..more easily imagined than discovered. 1891 *Tablet* 2 May 694 How did so model a youth get on at the University? 1891 M. Williams *Later Leaves* 369 In the case of many cleared areas,..model dwellings have been erected for the accommodation of the persons displaced.

b. simple attrib., chiefly with reference to the life-models employed by artists, as in *model-day*, *-stand*, *-throne*. Also objective, as *model maker*.

1873 W. Morris in Mackail *Life* (1899) I. 301, I keep it up, dreading the model day like I used to dread Sunday. 1881 *Instr. Census Clerks* (1885) 55 Figure, Image-Maker... Model Maker. 1899 Morrow *Bohem. Paris* 43 They placed the helpless M. Haidor on the model-stand. 1898 Watts-Dunton *Aylwin* VIII. ii, A..burly woman,..standing on the model-throne between two lay figures.

c. Special comb.: **model-drawing**, in art-teaching, that branch or stage of study which consists in drawing in perspective from solid figures; **model-room**, a room for the storage or exhibition of models of machinery and the like.

1829 in Willis & Clark *Cambridge* (1886) III. 103 A Model Room for the Jacksonian Professor. 1843 J. B. Williams (*title*) A manual for teaching model-drawing from solid forms.

Model (mǫ·dĕl), *v.* [f. prec. sb. Cf. F. *modeler*, Sp., Pg. *modelar*, It. *modellare*.]

†**1.** *trans.* To present as in a model or outline; to portray or describe in detail. Also with *forth*, *out*. *Obs.*

1604 Drayton *Moses in Map of Miracles* II. 57 Afflicted London,..When thy affliction seru'd me for a booke, Whereby to modell Egipts miserie. *a* 1649 Drumm. of Hawth. *Poems* (1656) 185 Cease dreames,..To modell forth the passions of to morrow. *a* 1652 J. Smith *Sel. Disc.* VII. iii. (1821) 327 Our Saviour, when he models out religion to them, points them out to something fuller of inward life and spirit.

†**b.** To frame a model or theory of the structure of. *Obs.*

1667 Milton *P. L.* VIII. 79 When they come to model Heav'n And calculate the Starrs.

2. To produce or fashion in clay, wax, or the like (a figure or imitation of anything).

1665 *Phil. Trans.* I. 99 Having an extraordinary address in modelling the Figures. 1762–71 H. Walpole *Vertue's Anecd. Paint.* (1786) IV. 205 Michael..began by modelling small figures in clay, to show his skill. 1771 Bp. Horne *Disc. Creat. Man* Wks. 1818 II. 9 He moulded or modelled him [*sc.* man] as a potter doth. 1847 Emerson *Poems, To Rhea* Wks. (Bohn) I. 403, I make this maiden an ensample To Nature,..Whereby to model newer races, Statelier forms, and fairer faces.

absol. 1858 O. W. Holmes *Aut. Breakf.-t.* ii. (1859) 24, I rough out my thoughts in talk as an artist models in clay.

fig. 1641 Milton *Reform.* II. 45 But by what example can they shew that the form of Church Discipline must be minted and modell'd out to secular pretences?

3. To give shape to; to frame, fashion (usually, an immaterial object, or a document, argument, etc.). † *To model out*: to produce (an expression of countenance) by studied effort.

1625 Purchas *Pilgrims* II. x. xiv. 1848 The Mother.. played a womans part, shed teares,..modeld out a dejected Countenance, and..made an impression in them of her innocencie. 1768 Sterne *Sent. Journ.* (1778) I. 53, I forthwith began to model a different conversation for the lady, thinking..that I had been mistaken in her character. 1818 Cruise *Digest* (ed. 2) IV. 382 Articles were only minutes.. and ought to be so modelled..as to make them effectual. 1885 *Manch. Exam.* 16 June 5/3 Budgets..modelled too much on..free-trade principles.

†**b.** To plan out, put into preliminary shape. *Obs.*

1683 Dryden *Life Plutarch* 71 Having model'd but not finish'd them [*sc.* the 'Lives'] at Rome he afterwards resum'd the work in his own country.

c. To mould or assimilate in form *to*.

1683 *Brit. Spec.* 39 The Words which they received..seem much to be modelled to that Dialect. 1903 *Contemp. Rev.* Mar. 357 The sea-shell models to its form the wandering fish that dwells therein by choice.

†**d.** *To model into*, to bring into (a particular shape). *Obs.*

a 1704 T. Brown *Sat. Antients* Wks. 1730 I. 16 Some modell'd them [*i.e.* Satires] into a purposed form to act at the end of their Comedies. *a* 1817 T. Dwight *Trav. New Eng.*, etc. (1821) II. 149 It is impossible for a brook of this size to be modelled into more diversified, or more delightful, forms.

e. To form (something) after a particular model. Usually const. *after*, *on*, *upon*.

1730 *Hist. Litteraria* I. 437 He was ordered either to suppress them, or to model them according to the Plan that was prescribed to him. 1841 D'Israeli *Amen. Lit.* (1867) 130 The earliest writers of France had modelled their taste by the Greek. 1841 Elphinstone *Hist. Ind.* XII. iii. II. 655 He modelled his court on that of Nádir Sháh. 1882 Hinsdale *Garfield & Educ.* II. 302 Each new college is modelled after the older ones. 1898 Bodley *France* II. III. iv. 181 Parliamentary institutions primarily modelled on the English pattern.

†**4.** To organize (a body of men, a community, a government, etc.). *Obs.*

1654 Fuller *Two Serm.* 12 Were they all connected into one Body,..summed up and modelled in one Corporation. *a* 1661 — *Worthies, Wales* (1662) IV. 8 Wales..was not modelled into Shires..till the raign of K. Henry the eighth. 1674 Baker *Chron., Chas. II* (an. 1659) 660 They propose first, to have the Army setled and modelled in a way of Unity before they determined upon the Government. 1678 Sir G. Mackenzie *Crim. Laws Scot.* II. xvi. § 2 (1699) 215 They having been modelled in an Army, and taken in the Field fighting..they behoved to be judged by the Military Law. 1693 *Humours Town* 41 There's not a Trader..but has his share in Modelling the Government. *a* 1715 Burnet *Own Time* (1724) I. 421 The design was to keep up and model the army now raised. 1724 R. Fiddes *Morality* Pref. 63 God, who founded human society, may model it as he pleases. 1770 Langhorne *Plutarch* (1879) I. 101/2 Solon.. being asked, What city was best modeled? he answered, That, where those who are not injured are no less ready to prosecute..offenders than those who are. 1842 J. Aiton *Domest. Econ.* (1857) 323 The whole power of instituting and modelling parishes was at one time entirely ecclesiastical.

†**b.** To classify, arrange in a system. *Obs.*

1727 Threlkeld *Stirpes Hibernicæ* Pref., He [Boerhaave] has concisely modelled plants according to method.

†**5.** To train or mould (a person) to a particular mode of life or living; also, to make a tool of. *Obs.*

1665 Boyle *Occas. Refl.* v. v. (1848) 316 Those whom their nearness to Him, or their Employments, make the conspicuous and exemplary Persons, being thus model'd, their Relations and Dependants will quickly be so too. 1666 in *10th Rep. Hist. MSS. Comm.* App. v. 24 By their too powerfull perswasions to modell him to their designes. 1673 O. Walker *Educ.* I. ii. 24 One..who may continually attend the Child,..model his manners, and preserve him from danger. 1701 Farquhar *Sir H. Wildair* II. i, 'Tis an insupportable toil, though, for women of quality to model their husbands to good breeding. 1734 tr. *Rollin's Anc. Hist.* (1827) IX. 203 He modelled him, and instructed him fully in all that it was necessary to do or say.

†**6.** To plan, machinate. *Obs. rare*$^{-1}$.

1725 Pope *Odyss.* x. 339 Each friend you seek in yon enclosure lies,..Think'st thou by wit to model their escape?

7. *intr.* Of the portions of a drawing in progress: To assume the appearance of natural relief.

18.. F. Fowler *Charcoal Drawing* 44 (Cent.), The face now begins to model and look round.

Modeless (mōu·dlės), *a.* Also 6 moodelesse. [f. Mode *sb.* + -less.]

†**1.** Unmeasured. *Obs.* (Frequent in Greene.)

1580–3 Greene *Mamillia* I. Wks. (Grosart) II. 17 Nor to shewe himselfe such a moodelesse Aminius, to say all were Criples, because he found one halting. 1587 — *Carde of Fancie* ibid. IV. 11 Vsing suche mercilesse crueltie to his forraine enimies, & such modelesse [1593, A 4, moodlesse] rigour to his natiue citizens.

2. In mystical use: Having no 'mode' or specific determination.

1856 R. A. Vaughan *Mystics* (1860) I. VI. viii. 325 *note*, The sons are utterly dead to self, in bare modeless love. 1865 T. F. Knox tr. *Life H. Suso* 31 The modeless abyss of the divine essence.

Hence **Mo·delessness.**

1856 R. A. Vaughan *Mystics* (1860) II. x. i. 150 The contrast lies, with her, not between Finite and Infinite..be-

Webster-New World Dictionary

mob·cap (mob'kap'), *n.* [< MD. *mop*, woman's cap; + *cap*], formerly, a woman's full, loose cap, often tied under the chin, worn indoors.

Mo·bile (mō-bēl'), *n.* a city in Alabama, on Mobile Bay: pop., 203,000.

mo·bile (mō'b'l; *also, and for adj. 5. and n. usually,* mō'bēl), *adj.* [Fr.; L., neut. of *mobilis*, movable < *movere*, to move], 1. movable. 2. very fluid, as mercury. 3. showing emotional changes by changes in expression: as, *mobile* features. 4. in *military usage*, capable of being moved or transported quickly and with relative ease: as, an armored battalion is a *mobile* unit. 5. designating a form of abstract sculpture which aims to depict movement, i.e., kinetic rather than static rhythms, as by an arrangement of thin forms, rings, rods, etc. suspended in mid-air by fine wires. *n.* a piece of mobile sculpture.

Mo·bile Bay (mō'bēl), a part of the Gulf of Mexico, extending 35 mi. into southwestern Alabama.

mo·bil·i·ty (mō-bil'ə-ti), *n.* [Fr. *mobilité*; L. *mobilitas*], the quality or state of being mobile.

mo·bil·i·za·tion (mō'b'l-i-zā'shən, mō'b'l-ī-zā'shən), *n.* [Fr. *mobilisation*], a mobilizing or being mobilized.

mo·bil·ize (mō'b'l-īz'), *v.t.* [MOBILIZED (-īzd'), MOBILIZING], [Fr. *mobiliser* < *mobile*], 1. *a)* to make mobile, or movable. *b)* to put into motion, circulation, or use. 2. to make (armed forces or a nation) ready for war. 3. to organize and make ready for use. *v.i.* to become organized and ready, as for war.

mob·oc·ra·cy (mob-ok'rə-si), *n.* [*pl.* MOBOCRACIES (-siz)], [< *mob* + *-cracy* (after *democracy*, etc.)], 1. rule or domination by a mob. 2. the mob as ruler.

mob·ster (mob'stẽr), *n.* [Slang], a member of a criminal mob; gangster.

moc·ca·sin (mok'ə-s'n), *n.* [< Am. Ind. (Algonquian); cf. Narragansett *mokussin*, Massachusett *mohkisson*], 1. originally, a heelless slipper of soft, flexible leather, worn by North American Indians. 2. any slipper more or less like this. 3. a poisonous snake of the southeastern United States; especially, the water moccasin.

moccasin flower, a variety of pink or yellow orchid shaped like a slipper.

Mo·cha (mō'kə), *n.* 1. a seaport in Yemen, Arabia, on the Red Sea: pop., 600. 2. [m-], a variety of coffee grown originally in Arabia. 3. [m-], [Colloq.], any coffee. 4. [m-], a soft, velvety leather made from the pelts of certain Arabian goats, and used especially for gloves. *adj.* [m-], flavored with coffee or coffee and chocolate.

mo·chi·la (mō-chē'lə), *n.* [Sp., knapsack], formerly, a leather covering for a saddle.

mock (mok), *v.t.* [ME. *mokken*; OFr. *mocquer*, *moquer*, to mock], 1. to hold up to scorn or contempt; ridicule. 2. to imitate or mimic, as in fun or derision; burlesque. 3. to lead on and disappoint; deceive; as, the weather *mocked* him. 4. to defy and make futile; defeat: as, the strong fortress *mocked* the invaders. *v.i.* to show or express scorn, ridicule, or contempt; jeer (often with *at*). *n.* 1. an act of mocking; jibe; sneer. 2. a person or thing receiving or deserving ridicule or derision. 3. an imitation; counterfeit. *adj.* sham; false; imitation. —*SYN.* see **imitate, ridicule.**

mock·er·y (mok'ẽr-i), *n.* [*pl.* MOCKERIES (-iz)], 1. a mocking (in various senses). 2. a person or thing receiving or deserving ridicule or derision. 3. a false, derisive, or impertinent imitation; travesty; burlesque. 4. vain effort; disappointment; futility.

mock-he·ro·ic (mok'hi-rō'ik), *adj.* mocking, or burlesquing, heroic manner, action, or character. *n.* a mock-heroic literary work.

mock·ing·bird (mok'iŋ-bũrd'), *n.* a small bird of the thrush family, found in the southern United States and characterized by its practice of imitating the calls of other birds.

mock orange, a shrub with fragrant white flowers resembling those of the orange; syringa.

mock turtle soup, a soup made from calf's head, veal, etc., spiced so as to taste like green turtle soup.

mock-up (mok'up'), *n.* [*mock*, *v.t.* 2 + *up* (cf. SETUP)], a scale model, usually a full-sized replica in wood, cardboard, canvas, etc., of a structure, apparatus, or weapon, used for instructional purposes, to test the design, or, in military use, as a dummy to draw enemy fire away from a vulnerable point.

mod., 1. moderate. 2. modern. 3. in *music*, moderato. 4. modulus.

mod·al (mō'd'l), *adj.* [ML. *modalis* < L. *modus*, mode, manner], of or indicating a mode or mood; specifically, *a)* in *grammar*, of or expressing a mood: as, a *modal* verb. *b)* in *logic*, expressing or characterized by modality. *c)* in *music*, of or composed in any of the medieval church modes. *d)* in *philosophy*, of mode, or form, as opposed to substance.

modal auxiliary, an auxiliary verb used with another to indicate its mood: *may, might, must, can, would*, and *should* are modal auxiliaries.

mo·dal·i·ty (mō-dal'ə-ti), *n.* [*pl.* MODALITIES (-tiz)], [ML. *modalitas*], the fact, state, or quality of being modal; specifically, in *logic*, the qualification in a proposition affirming or denying possibility, impossibility, necessity, contingency, etc.

mode (mōd), *n.* [ME. *mode* (prob. via OFr.) < L. *modus*; in sense 2, Fr. < L.], 1. a manner or way of acting, doing, or being; method or form. 2. customary usage, or current fashion or style, as in manners or dress. 3. in *grammar*, mood. 4. in *logic*, *a)* modality or the form of a proposition with reference to its modality. *b)* any of the various forms of valid syllogisms, as determined by the quantity and quality of their constituent propositions. 5. in *metaphysics*, the form, or way of being, of something, as apart from its substance. 6. in *music*, *a)* any of the various forms in which the octave was arranged in classical Greek and medieval church music, according to certain fixed intervals between the tones. *b)* either of the two forms of octave arrangement in modern music (*major mode* and *minor mode*). 7. in *petrography*, the actual mineral composition of a rock. 8. in *statistics*, the value, number, etc. that occurs most frequently in a given series. —*SYN.* see **fashion, method.**

mod·el (mod''l), *n.* [Fr. *modèle*; It. *modello*, dim. of *modo* < L. *modus*; see MODE], 1. *a)* a small copy or imitation of an existing object, as a ship, building, etc., made to scale. *b)* a preliminary representation of something, serving as the plan from which the final, usually larger, object is to be constructed. *c)* a piece of sculpture in wax or clay from which a finished work in bronze, marble, etc. is to be made. 2. a person or thing considered as a standard of excellence to be imitated. 3. a style or design: as, last year's *model* of automobile. 4. *a)* a person who poses for an artist or photographer. *b)* a person, especially a woman, employed to display clothes by wearing them; mannequin. *adj.* serving as a model, pattern, or standard of excellence. *v.t.* [MODELED or MODELLED (-'ld), MODELING or MODELLING], 1. *a)* to make a model of. *b)* to plan, form, or design after a model. *c)* to make conform to a standard of excellence; as, he *modeled* his behavior on that of his father. 2. to display (a dress, etc.) by wearing. *v.i.* 1. to make a model or models: as, she *models* in clay. 2. to serve as a model (sense 4). 3. in *painting*, *drawing*, etc., to take on a three-dimensional appearance as a result of contrast in lighting and color.

SYN.—**model** refers to a representation made to be copied or, more generally, to any person or thing to be followed or imitated because of his or its excellence, worth, etc.; **example** suggests that which is presented as a sample, or that which sets a precedent for imitation, whether good or bad; a **pattern** is a model, guide, plan, etc. to be strictly followed; **paradigm** is common now only in its grammatical sense of an example of a declension or conjugation, giving all the inflectional forms of a word; **archetype** applies to the original pattern serving as the model for all later things of the same kind; **standard** refers to something established for use as a rule or a basis of comparison in judging quality, etc.

mod·el·er, mod·el·ler (mod''l-ẽr), *n.* a person who models; especially, one who makes models in clay, etc.

mod·el·ing, mod·el·ling (mod''l-iŋ, mod'liŋ), *n.* 1. the act or art of making a model, especially of making a pattern in some plastic material to be copied in stone or metal. 2. form; shape: as, the *modeling* of one's features. 3. employment as a model (sense 4). 4. in *painting*, *drawing*, etc., the indication of three dimensions by means of contrast in lighting and color.

Mo·de·na (mô'de-nä'), *n.* a city in northern Italy: pop., 114,000.

mod·er·ate (mod'ẽr-it; *for v.*, mod'ə-rāt'), *adj.* [ME. *moderat*; L. *moderatus*, pp. of *moderare*, to keep within bounds, restrain < *modus*; see MODE], 1. within reasonable limits; avoiding excesses or extremes; temperate. 2. mild; calm; gentle; not violent: as, *moderate* weather. 3. of medium quality; mediocre: as, *moderate* skills. *n.* a person holding moderate views or opinions in politics or religion. Abbreviated **mod.** *v.t.* [MODERATED (-id), MODERATING], 1. to cause to become moderate; make less extreme, violent, etc.; restrain. 2. to preside over (a meeting, etc.). *v.i.* 1. to become moderate. 2. to serve as a moderator; preside.

SYN.—**moderate** and **temperate** are often interchangeable in denoting a staying within reasonable limits, but in strict discrimination, **moderate** implies merely an absence of excesses or extremes, while **temperate** suggests deliberate self-restraint (*moderate* demands, a *temperate* reply).—*ANT.* excessive, extreme.

mod·er·a·tion (mod'ə-rā'shən), *n.* 1. a moderating, or bringing within bounds. 2. avoidance of excesses or extremes. 3. absence of violence; calmness.

in moderation, to a moderate degree; without excess.

mod·e·ra·to (mod'ə-rä'tō), *adj.* & *adv.* [It.], in *music*, with moderation in tempo: a direction to the performer: abbreviated **mod.**

mod·er·a·tor (mod'ə-rā'tẽr), *n.* [ME. *moderatour*; L.

The Treaty of Peace and Friendship concluded between Nepal and India July 31, 1950, in providing for the cancellation of "all previous Treaties, Agreements, and engagements entered into on behalf of India between the British Government and the Government of Nepal", did not affect the independent status of Nepal but reconfirmed it in article I wherein the two Governments agreed "to acknowledge and respect the complete sovereignty, territorial integrity and independence of each other". 94 UNTS 3, 4, 8.

Commenting on Indian Prime Minister Nehru's statement of November 30, 1959, that "any aggression on Bhutan or Nepal will be considered by us as aggression on India", Prime Minister Koirala of Nepal said, "Nepal is a fully sovereign independent country. She decides her external and home policy according to her own judgment and in her own light without ever referring to any outside authority. The treaty of peace and friendship with India confirms this. I take Nehru's statement as an expression of friendship that, in case of aggression in Nepal, India would send help if such help is ever sought for. It could never be taken as suggesting that India would take unilateral action."

In a further statement, Prime Minister Koirala repeated:

> "Nepal is an independent sovereign nation and there can never be any doubt with regard to this fact. No one need ever have any doubts about our sovereign independence. Our membership of the United Nations is a clear evidence of our sovereignty and independence".

The American Ambassador at Katmandu (Stebbins) to the Secretary of State (Herter), telegram, Dec. 10, 1959, MS. Department of State, file 690c.91/12-1059. Prime Minister Nehru made public on December 3, 1959, a 9-year-old secret agreement between India and Nepal for joint action by the two countries to meet any "foreign aggression" threatening the security of either. He reported that the letters embodying the understanding did not constitute any formal military alliance but were an exchange of assurances that neither country would "tolerate any threat to the security of the other by foreign aggression" and in the event of any such threat would "advise" for the purpose of devising "effective countermeasures". The Indian Prime Minister supported the Nepalese Prime Minister's interpretation of the agreement to mean that India would not take unilateral action to meet aggression on Nepal, but would make its help available if requested. The Baltimore *Sun*, Dec. 4, 1959, p. 1.

Autonomous Regions

§28

The "People's Republic of China" is described in its Constitution, adopted September 20, 1954, as a "people's democratic state led by the working class and based on the alliance of workers and peasants" (article 1) where "all power . . . belongs to the people" (article 2).

As provided in Constitution of Communist China

Although described as a "single multi-national state", "Regional autonomy applies in areas where people of national minorities live in compact communities" with the provision that "National autonomous areas are inalienable parts of the People's Republic of China" (article 3).

The National People's Congress as the "highest organ of state power" (article 21) is expressly empowered, along with other specific functions and powers, "to decide on questions of war and peace", and "exercise such other functions and powers which the National People's Congress considers necessary" (article 27), while the Standing Committee of the National People's Congress is authorized, *inter alia*, "to annul decisions and orders of the State Council which contravene the Constitution, laws or decrees", "to revise or annul inappropriate decisions issued by the government authorities of provinces, autonomous regions, and municipalities directly under the central authority", and "to decide on the ratification or abrogation of treaties concluded with foreign states" (article 31).

Administratively, the "People's Republic of China" is divided into provinces, autonomous regions and municipalities directly under the central authority, counties, municipalities, municipal districts, *hsiang*, nationality *hsiang*, and towns which establish people's congresses and people's councils (articles 53, 54) and which are ". . . organs of government authority in their respective localities" (article 55), while autonomous regions, autonomous *chou*, and autonomous counties establish organs of self-government (article 54) which generally ". . . exercise the functions and powers of local organs of the state . . ." (article 69) but are specifically authorized in addition to ". . . administer their own local finances within the limits of the authority prescribed by law", ". . . organize their local public security forces in accordance with the military system of the state", and ". . . draw up statutes governing the exercise of autonomy or separate regulations suited to the political, economic and cultural characteristics of the nationality or nationalities in a given area, which statutes and regulations are subject to endorsement by the Standing Committee of the National People's Congress" (article 70).

Constitution of the People's Republic of China (Foreign Language Press, Peking, 1954) 9, 10, 19, 20-25, 33-35, 40-41.

The following autonomous regions are reported to have been established and formulated in accordance with the stipulations prescribed in section 5, chapter 2, of the Constitution of the "People's Republic of China":

Sinkiang Uighur Autonomous Region, ratified by the Standing Committee of the National People's Congress September 13, 1955 (New China News Agency, Sept. 13, 1955, *Survey of China Mainland Press*, No. 1129); Ningsia Hui Autonomous Region, established October 25, 1958 (New China News

Agency, Yinchuan, Oct. 25, 1958, *Survey of China Mainland Press*, No. 1881); Inner Mongolia Autonomous Region, Regulations which govern the organization of people's congresses and people's councils at all levels, adopted November 11, 1955, at the 27th session of the Standing Committee of the National People's Congress (*Current Background*, No. 370, Nov. 28, 1955, American Consulate General, Hong Kong); Kwangsi Chuang Autonomous Region, Regulations which govern the organization of people's congresses and people's councils at all levels, ratified July 9, 1958, by the Standing Committee of the National People's Congress at its 97th meeting (New China News Agency, July 9, 1958, *Survey of China Mainland Press*, No. 1816).

Tibet

The preliminary report of the International Commission of Jurists of 1959 on *The Question of Tibet and the Rule of Law* traced the historical relations between Tibet, China, and Great Britain in an attempt to determine the status of Tibet in international law during the various stages of its legal relationship vis-a-vis China and Great Britain. Citing the Chinese invasion of Tibet in 1950 as an event leading to the signing of the Sino-Tibetan Agreement of May 23, 1951, the report summarized the Tibetan Government's appeal of November 11, 1950, to the United Nations (U.N. Gen. Ass. Doc. A/1549, Nov. 24, 1950) as follows:

> ". . . The Tibetan Government . . . affirming that the problem which has arisen 'was not of Tibet's own making but largely the outcome of China's ambition to bring weaker nations on her periphery within her active domination'. . . asserted that 'racially, culturally and geographically, they are far apart from the Chinese'.
>
> "'As a people devoted to the tenets of Buddhism,' the appeal declared, 'Tibetans had long eschewed the act of warfare, practised peace and tolerance and, for the defence of their country, relied on its geographical configuration and in [on] non-involvement in the affairs of other nations. There were times when Tibet sought but seldom received the protection of the Chinese Emperor. The Chinese, however, in their urge for expansion, have wholly misconstrued the significance of the ties of friendship and interdependence that existed, between China and Tibet as between neighbours. To them China was suzerain and Tibet a vassal state. It is this which aroused legitimate apprehension in the mind of Tibet regarding the designs of China on her independent status.
>
> "'China's conduct during their expedition in 1910 completed the rupture between the two countries. In 1911–12, when Tibet, under the thirteenth Dalai Lama, declared her complete independence, even as Nepal, simultaneously broke away from allegiance to China, the Chinese revolution in 1911 which dethroned the last Manchurian Emperor snapped the last of the sentimental and religious bonds that Tibet had with China. Tibet thereafter depended entirely on her isolation, her faith in the wisdom of

Colliard Manin.

Art. 10. — Le présent accord n'affecte pas et ne doit pas être considéré comme affectant d'une manière quelconque les droits et obligations des parties dérivant de la Charte des Nations Unies.

Art. 11. — Les annexes et appendices additionnels au présent accord seront considérés comme en faisant partie intégrante.

Art. 12. — *a)* Le présent accord demeurera en vigueur pour une période de sept ans à dater de sa signature.

b) Durant les douze derniers mois de cette période, les deux Gouvernements contractants se consulteront pour décider des arrangements qui seraient nécessaires pour l'abrogation dudit accord.

c) A moins que les deux Gouvernements expriment leur accord pour une prolongation de l'Accord, il sera abrogé sept ans après la date de la signature et le Gouvernement du Royaume-Uni pourra enlever ou disposer du matériel lui appartenant se trouvant dans la base.

Art. 13. — Le présent Accord aura effet comme s'il était entré en vigueur à la date de sa signature. Les instruments de ratification seront échangés au Caire aussitôt que possible. En témoignage, les soussignés, dûment autorisés à cet effet, ont signé le présent Accord et y ont apposé leurs sceaux.

Fait au Caire, le 19 octobre 1954, en double exemplaire, en langue anglaise et arabe, les deux textes faisant également foi.

Pour le compte du Royaume-Uni : H.A. Nutting, R. C. S. Stevenson, E. R. B[illegible]son.

Pour le compte du Gouvernement de la République d'Egypte : Gamal Abdel Nasser, H[illegible]sein, Mahmoud Fawzi, Abdel Latif Mahmoud el Boghadi, Mohamed Abdel Hakim Amer, Salah Eddin Moustafa Salem.

Convention générale entre la France et la Tunisie du 3 juin 1955.

Monsieur le Président de la République française et Son Altesse le Bey de Tunis,

Animés du même idéal de paix, de coopération et de progrès,

Fidèles à la longue tradition qui unit la France et la Tunisie et résolus à développer dans l'avenir les liens étroits et permanents d'amitié et de solidarité existant entre les deux pays,

Persuadés que le développement de la Tunisie dans le cadre de l'autonomie interne donnera une ampleur et une efficacité nouvelles à la communauté franco-tunisienne et permettra aux deux pays, gardant leurs personnalités respectives, d'assurer l'évolution harmonieuse de leurs destins,

Convaincus que le développement des institutions tunisiennes, aussi bien que les principes libéraux de la République française et de l'organisation du Monde libre justifient la volonté des deux Gouvernements de promouvoir leurs rapports de coopération selon des modalités librement concertées, dans le respect mutuel de leurs souverainetés propres et au profit de leurs intérêts communs,

Considérant les conventions existant entre la République française et Son Altesse le Bey et, en particulier, le traité conclu le 12 mai 1881 à Casr Saïd dont ils maintiennent les dispositions (1).

Considérant le degré d'évolution atteint par le peuple tunisien,

Soucieux de garantir les droits et intérêts des Français en Tunisie,

(1) Voir *supra*, p. 432.

Ont résolu de [illegible]
Conventions partic[illegible]
en date de ce jour,
présentes Conventi[illegible]
Ils ont nommé, à [illegible]

.....

Lesquels, après [illegible]
due forme,
Sont conv[illegible] de[illegible]

Article premier. [illegible]
sacrent entre la F[illegible]
résolus à consolider
A cet effet, les [illegible]
de coopération co[illegible]
organismes qui p[illegible]
des consultations e[illegible]

Art. 2. — Le T[illegible]
conclues depuis le[illegible]
Tunis demeurent [illegible]
abrogé.

Art. 3. — Les [illegible]
tions et Traités int[illegible]

Art. 4. — A d[illegible]
reconnaît et procl[illegible]
restrictions ou li[illegible]
Conventions et d[illegible]
dans les d[illegible]
actuel demeurera
ce jour.

Art. 5. — La T[illegible]
jouissance des d[illegible]
ration Universell[illegible]
En conséquence,
ou de fait propre
législation intere[illegible]
économiques, pr[illegible]
ment à ses trad[illegible]
soit leur origine
qui concerne la j[illegible]
individuelles et
sociales et des dr[illegible]
En ce qui cons[illegible]
jour sur la situa[illegible]
la Tunisie.

Art. 6. — En [illegible]
reconnaissent au[illegible]
rents de ceux re[illegible]

(1) Voir *supra*

Ont résolu de conclure la présente Convention générale ainsi que les Conventions particulières, Accords et Protocoles annexes également signés en date de ce jour, dont l'ensemble est désigné ci-après par les termes « les présentes Conventions ».

Ils ont nommé, à cet effet, pour leurs plénipotentiaires,

.....

Lesquels, après avoir échangé leurs pleins pouvoirs reconnus en bonne et due forme,

Sont convenus des dispositions qui suivent :

Chapitre I. — Dispositions générales

Article premier. — Les présentes Conventions forment un tout et consacrent entre la France et la Tunisie une coopération que les deux pays sont résolus à consolider et à développer dans tous les domaines.

A cet effet, les deux Gouvernements collaboreront au sein des organismes de coopération communs prévus par les présentes Conventions et des autres organismes qui pourraient être constitués si l'utilité en paraissait au cours des consultations entre eux.

Art. 2. — Le Traité conclu le 12 mai 1881 à Casr Saïd et les Conventions conclues depuis lors entre la République française et Son Altesse le Bey de Tunis demeurent en vigueur. L'article 1er de la Convention de la Marsa (1) est abrogé.

Art. 3. — Les deux Gouvernements reconnaissent la primauté des Conventions et Traités internationaux sur le droit interne.

Art. 4. — A dater de la ratification des présentes Conventions, la France reconnaît et proclame l'autonomie interne de la Tunisie, qui n'aura d'autres restrictions ou limitations que celles résultant des dispositions des présentes Conventions et des Conventions actuellement en vigueur, étant entendu que, dans les domaines de la défense et des affaires étrangères, l'état de choses actuel demeurera et les affaires seront traitées comme elles l'étaient juqu'à ce jour.

Art. 5. — La Tunisie reconnaît à tous ceux qui vivent sur son territoire la jouissance des droits et des garanties de la personne énoncés par la Déclaration Universelle des Droits de l'Homme.

En conséquence, elle s'engage d'une part à prendre toutes mesures de droit ou de fait propres à assurer aux ressortissants étrangers, dans le cadre de sa législation interne, le libre exercice de leurs activités culturelles, religieuses, économiques, professionnelles ou sociales, d'autre part à garantir conformément à ses traditions une égalité complète entre ses nationaux quelle que soit leur origine ethnique ou leur confession religieuse, notamment en ce qui concerne la jouissance de droit et de fait des droits civiques, des libertés individuelles et publiques, économiques, religieuses, professionnelles ou sociales et des droits collectifs généralement reconnus dans les Etats modernes.

En ce qui concerne les ressortissants français, la Convention en date de ce jour sur la situation des personnes précise les droits qui leur sont garantis par la Tunisie.

Art. 6. — En conformité des présentes Conventions, la France et la Tunisie reconnaissent aux ressortissants de l'autre pays des droits particuliers différents de ceux reconnus aux étrangers.

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(1) Voir *supra*, p. 433.

Dans l'esprit du préambule, les deux Gouvernements se proposent de mettre à l'étude le principe et les modalités de l'accès des nationaux de chaque pays aux possibilités d'établissement ainsi qu'à l'exercice des droits civiques dans l'autre pays.

Art. 7. — L'arabe est la langue nationale et officielle de la Tunisie. La langue française n'est pas considérée comme langue étrangère en Tunisie. Son statut demeure régi officiellement par les présentes Conventions.

Art. 8. — Le Gouvernement français s'engage à consulter Son Altesse le Bey au cours des négociations internationales qui concernent exclusivement les intérêts tunisiens et à La tenir informée de toutes autres négociations internationales intéressant la Tunisie.

Les traités devant faire l'objet, par la Tunisie, de mesures d'application seront communiqués à cette fin à Son Altesse le Bey par le Gouvernement français.

En application de l'article 3 de la présente Convention, l'Etat tunisien prendra, dans le cadre de son autonomie interne, les mesures nécessaires pour rendre applicables les traités concernant la Tunisie et pour en assurer l'exécution.

Art. 9. — La France présentera la candidature de la Tunisie à des organisations internationales dont celle-ci n'est pas encore membre lorsque les deux Gouvernements se seront mis d'accord à ce sujet.

La délégation tunisienne participant aux travaux d'un organisme international se concertera avec la délégation française en vue d'adopter une position commune conforme aux intérêts des deux pays.

Art. 10. — Les deux parties reconnaissent leur pleine solidarité en matière de défense et de sécurité pour la sauvegarde de leurs intérêts respectifs. Dans ce domaine, elles ne pourront modifier que d'un commun accord les dispositions législatives et réglementaires actuellement en vigueur en Tunisie, ainsi que les modalités suivant lesquelles l'administration tunisienne concourt à la mise en œuvre des mesures de défense et de sécurité.

En particulier, en matière de recensement, recrutement et incorporation, la législation tunisienne en vigueur ne pourra être modifiée que d'un commun accord entre les deux parties.

Le Gouvernement tunisien s'engage à prendre, sur la demande de la France, les mesures nécessaires en vue de réaliser en Tunisie l'adaptation constante à l'organisation générale de défense et de sécurité mise en œuvre par la France dans le cadre de ses responsabilités propres et de ses responsabilités pour la défense du Monde libre. A cette fin, il sera constitué un Haut Comité présidé par le Premier Ministre et dans lequel siégeront les hautes autorités françaises et tunisiennes intéressées, notamment l'Officier général commandant interarmes remplissant les fonctions de Ministre de la Défense de Son Altesse le Bey.

Les dépenses nécessitées par la part militaire des travaux mixtes demeureront à la charge du Gouvernement français.

Art. 11. — Le Haut Commissaire de France en Tunisie, envoyé auprès de Son Altesse le Bey par le Président de la République française, est dépositaire de tous les pouvoirs reconnus à la République par les Traités et Conventions en vigueur; il est l'intermédiaire des rapports du Gouvernement français avec les autorités tunisiennes pour toutes les affaires communes aux deux pays.

Le Haut Commissaire est chargé de la protection et de la représentation des droits et intérêts des ressortissants français en Tunisie. Il est assisté d'un Ministre délégué qui le remplace en cas d'absence ou d'empêchement.

Le Gouvernement tunisien désigne à Paris un haut fonctionnaire chargé de

coordonner l'activité des services tunisiens en France et celle des représentants du Gouvernement tunisien dans les organismes prévus par les présentes Conventions.

Art. 12. — Le Gouvernement français se propose de désigner, après communication au Gouvernement tunisien, une délégation du Haut Commissaire dans chacune des circonscriptions actuelles de Contrôle civil.

Il regroupera ensuite ces délégations dans des circonscriptions plus vastes afin d'adapter la répartition et le nombre des délégués à l'évolution de leurs tâches.

Ces fonctionnaires exerceront dans leurs circonscriptions les attributions qui leur sont reconnues par les présentes Conventions et celles que le Haut Commissaire de France leur aura déléguées.

Art. 13. — Le Haut Commissaire de France et le haut personnel dépendant de lui ainsi que ses délégués à l'intérieur, dont la liste sera communiquée au Gouvernement tunisien, bénéficieront d'une immunité générale. Cette immunité s'étendra aux locaux et archives du Haut Commissariat et de ses délégations ainsi qu'à leur correspondance.

Les membres, de nationalité française, du personnel appartenant aux services français et les membres des forces armées placées sous l'autorité française bénéficieront de certaines exonérations fiscales qui seront précisées dans le cadre des mesures prévues par l'article 32 de la Convention économique et financière.

Chapitre II. — Dispositions relatives a la mise en œuvre des présentes Conventions et au règlement des différends

Art. 14. — Afin de réaliser une mise en œuvre harmonieuse des présentes Conventions, les dispositions suivantes sont adoptées d'un commun accord :

a) A l'occasion de chaque transfert de responsabilités, pouvoirs ou compétences, qui résultera de l'entrée en vigueur des présentes Conventions, les deux Gouvernements s'informeront mutuellement, par l'intermédiaire du Haut Commissaire de France, des projets législatifs, réglementaires ou autres mesures d'application intéressant la réalisation dudit transfert;

b) Le Haut Commissaire de France, au nom du Gouvernement français, et le Gouvernement tunisien, au nom de Son Altesse le Bey, rechercheront ensemble la solution des questions qui se poseront à cet effet. Ils pourront, toutes les fois que l'importance de l'affaire le justifiera, charger d'un commun accord des fonctionnaires ou autres experts de préparer les mesures nécessaires.

Art. 15. — Soucieux de régler à l'amiable les litiges qui pourraient naître entre eux, les deux Gouvernements reconnaissent l'intérêt qu'ils ont à se consulter chaque fois qu'une difficulté pourrait surgir à l'occasion de l'application des présentes Conventions.

Art. 16. — Il est institué un Conseil arbitral franco-tunisien.

1. Les membres du Conseil arbitral sont nommés pour six ans.

a) Trois membres titulaires et deux membres suppléants de nationalité française ainsi que trois membres titulaires et deux membres suppléants de nationalité tunisienne sont nommés, les Français par le Gouvernement français, les Tunisiens par le Gouvernement tunisien. Chacun des deux Gouvernements procède à ce choix sur une liste de personnalités établie par lui et ayant reçu l'assentiment de l'autre Gouvernement.

En cas d'empêchement d'un membre titulaire, le suppléant qui le remplace doit être de la même nationalité que lui.

b) Un membre choisi sans considération de nationalité est nommé d'un commun accord par les deux Gouvernements.

2. Les membres titulaires du Conseil arbitral visés au paragraphe 1 *a)* ci-dessus élisent parmi eux le Président et le Vice-Président qui sont obligatoirement de nationalité différente. Ces deux membres élus exerceront alternativement tous les deux ans la Présidence et la Vice-Présidence, pendant les six années de leurs fonctions. L'ordre d'alternance du Président et du Vice-Président sera poursuivi indépendamment de la succession des périodes de six ans pour lesquelles sont nommés les membres du Conseil arbitral.

Pour la première formation du Conseil arbitral, le Président et le Vice-Président sont choisis d'un commun accord, dès la signature des présentes Conventions, par les deux Gouvernements; ils alternent dans leurs fonctions dans la première période de six ans, ainsi qu'il est dit à l'alinéa ci-dessus.

En cas de démission ou de décès, avant la fin de son mandat, du Président ou du Vice-Président ou d'un autre membre du Tribunal, le remplaçant sera désigné dans les mêmes conditions que son prédécesseur et achèvera le terme du mandat. Le remplaçant devra être, sauf en ce qui concerne le membre prévu au paragraphe 1 *b)* ci-dessus, de la même nationalité que son prédécesseur.

3. Le membre prévu au paragraphe 1 *b)* ci-dessus est appelé à participer aux délibérations du Conseil arbitral lorsqu'à la suite d'un premier délibéré, ce Conseil a partagé également ses voix.

Dans ce cas, le délai de quatre mois imparti pour statuer au Conseil arbitral par le troisième alinéa de l'article 18 est prolongé, s'il en est besoin, du temps nécessaire pour qu'une durée au moins de trente jours sépare le jour où le membre prévu au paragraphe 1 *b)* participe aux délibérations du Conseil pour la première fois du jour où le Conseil prononce sa sentence.

La même disposition s'applique au délai de deux mois concernant l'effet suspensif du pourvoi, si le Conseil à la suite d'un premier délibéré sur la prolongation éventuelle du délai de deux mois, prévu au deuxième alinéa de l'article 18, partageait également ses voix et appelait à participer à sa délibération sur ce point le membre prévu au paragraphe 1 *b)*.

Art. 17. — Le Conseil arbitral peut être saisi, par requête de l'un des deux Gouvernements, de tout litige portant sur l'interprétation et l'application des présentes Conventions ainsi que de tous accords pour lesquels les deux Gouvernements décideront d'attribuer compétence au Conseil.

Chacun des deux Gouvernements peut se pourvoir devant le Conseil contre toute violation des présentes Conventions qui résulte d'une disposition législative, d'un acte administratif ou juridictionnel, d'un comportement de fait ou d'une abstention.

La saisine doit intervenir dans les trente jours francs qui suivent la publication ou la notification de la mesure incriminée. Dans le cas d'un comportement de fait ou d'une abstention, le point de départ du délai est celui de la date de l'invitation adressée par l'un des Gouvernements à l'autre d'y mettre fin ou d'en réparer les conséquences.

Toutefois le délai de trente jours francs prévu ci-dessus est réduit à vingt jours lorsqu'il s'agit d'une disposition législative ou d'un acte administratif de portée générale.

Art. 18. — Le Président du Conseil arbitral, saisi d'une requête formée par l'un des deux Gouvernements, notifie sans délai cette requête à l'autre Gouvernement.

La notification de la requête a pour effet de suspendre l'application de la disposition contestée de l'acte en cause toutes les fois que le pourvoi comporte une demande expresse à cet effet. Cet effet suspensif prend fin de plein

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Le Conseil, en principe, statue au fond dans les quatre mois à compter de sa saisine. Ce délai est de rigueur lorsqu'il est saisi d'une disposition législative ou d'un acte administratif de portée générale.

Le Conseil peut dans tous les cas, à la requête d'une des parties, inviter l'autre partie à prendre les mesures conservatoires que le Conseil jugera utiles.

Art. 19. — Le Conseil arbitral peut, avant de statuer sur le fond du litige, charger une ou plusieurs personnes prises ou non parmi ses membres, de la mission d'enquêter sur la réalité et la portée des faits invoqués par l'une des parties. Chaque Gouvernement s'engage à donner aux enquêteurs toutes facilités pour l'accomplissement de leur mission.

Art. 20. — Le Conseil arbitral, lorsqu'il constate qu'il y a eu violation des présentes Conventions, prend une décision qui s'impose aux deux Gouvernements et que ceux-ci s'engagent solennellement à respecter. Il peut proposer les mesures à prendre pour rétablir le droit et accorder le cas échéant des indemnités.

Art. 21. — La présence de quatre membres du Conseil au moins, dont deux Français et deux Tunisiens, est nécessaire à la validité de ses délibérations. Les délibérations sont secrètes. Les décisions sont prises à la majorité simple des voix.

Art. 22. — La décision du Conseil arbitral dûment motivée est signée par le Président. Elle est lue en séance publique. Elle est obligatoire et définitive.

Art. 23. — Le siège du Conseil arbitral est fixé à Paris. Le Conseil peut décider de siéger à Tunis lorsqu'il le juge désirable.

Le Conseil arbitral établit son règlement et sa procédure. La langue de travail du Conseil est le français. Ses décisions sont publiées en arabe et en français.

Chapitre III. — Dispositions finales

Art. 24. — Des consultations auront lieu en principe une fois par an entre les deux Gouvernements pour examiner les questions d'intérêt commun.

Art. 25. — Les présentes Conventions seront ratifiées par le Président de la République française et Son Altesse le Bey de Tunis.

Elles entreront en vigueur à la date de l'échange des instruments de ratification qui aura lieu à Paris.

*

En foi de quoi, les Plénipotentiaires ont signé la présente Convention générale et y ont apposé leurs sceaux (1).

Fait à Paris, le 3 juin 1955, en double original.

Pour la France :
Signé : Edgar Faure, Pierre July.

Pour la Tunisie :
Signé : Tahar ben Hamar, Mongi Slim.

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(1) La Convention générale comporte quatre protocoles annexes non reproduits au texte. Ont été signées le même jour une convention sur la situation des personnes, une convention judiciaire, une convention sur la coopération administrative et technique, une convention culturelle, une convention économique et financière. Voir *J.O.* de la République française du 7 août 1955, p. 8204 et s.

Déclaration commune franco-marocaine du 6 novembre 1955.

Sa Majesté le Sultan du Maroc Sidi Mohammed ben Youssef, et le Président Antoine Pinay, Ministre des Affaires étrangères, se sont rencontrés le 6 novembre 1955, au château de la Celle-Saint-Cloud.

Le Président Pinay a exposé les principes généraux de la politique du gouvernement français visés par le communiqué du Conseil des ministres du 5 novembre 1955.

Sa Majesté le Sultan du Maroc a confirmé son accord sur ces principes. En attendant son retour à Rabat, elle a, en accord avec le gouvernement français, chargé le Conseil du Trône institué le 17 octobre 1955 et démissionnaire de ses fonctions le 3 novembre 1955, de continuer à gérer les affaires courantes de l'Empire.

Sa Majesté le Sultan du Maroc a confirmé sa volonté de constituer un gouvernement marocain de gestion et de négociations, représentatif des différentes tendances de l'opinion marocaine. Ce gouvernement aura notamment pour mission d'élaborer les réformes institutionnelles qui feront du Maroc un Etat démocratique à monarchie constitutionnelle, de conduire avec la France les négociations destinées à faire accéder le Maroc au statut d'Etat indépendant uni à la France par les liens permanents d'une interdépendance librement consentie et définie.

Sa Majesté le Sultan du Maroc et le Président Pinay ont été d'accord pour confirmer que la France et le Maroc doivent bâtir ensemble, et sans intervention de tiers, leur avenir solidaire dans l'affirmation de leur souveraineté par la garantie mutuelle de leurs droits et des droits de leurs ressortissants et dans le respect de la situation faite par les traités aux Puissances étrangères.

Déclaration commune franco-marocaine du 2 mars 1956.

Le Gouvernement de la République française et S. M. Mohammed V, Sultan du Maroc, affirment leur volonté de donner son plein effet à la déclaration de La Celle-Saint-Cloud du 6 décembre 1955.

Ils constatent qu'à la suite de l'évolution réalisée par le Maroc sur la voie du progrès le traité de Fès du 30 mars 1912 ne correspond plus désormais aux nécessités de la vie moderne et ne peut plus régir les rapports franco-marocains.

En conséquence, le gouvernement de la République française confirme solennellement la reconnaissance de l'indépendance du Maroc, laquelle implique en particulier une diplomatie et une armée, ainsi que sa volonté de respecter et de faire respecter l'intégrité du territoire marocain, garantie par les traités internationaux.

Le gouvernement de la République française et S. M. Mohammed V, Sultan du Maroc, déclarent que les négociations qui viennent de s'ouvrir à Paris entre le Maroc et la France, Etats souverains et égaux, ont pour objet de conclure de nouveaux accords qui définiront l'interdépendance des deux pays dans les domaines où leurs intérêts sont communs, qui organiseront ainsi leur coopération sur la base de la liberté et de l'égalité, notamment en matière de défense, de relations extérieures, d'économie et de culture, et qui garantiront les droits et les libertés des Français établis au Maroc et des Marocains établis en France, dans le respect de la souveraineté des deux Etats.

6 novembre 1955.

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Le gouvernement de la République française et S. M. Mohammed V, Sultan du Maroc, conviennent qu'en attendant l'entrée en vigueur de ces accords, les rapports nouveaux entre la France et le Maroc seront fondés sur les dispositions du protocole annexe à la présente déclaration.

Fait à Paris, en double original, le 2 mars 1956.

Christian PINEAU,
Embarek BEKKAI.

PROTOCOLE ANNEXE

1. Le pouvoir législatif est exercé souverainement par Sa Majesté le Sultan. Le représentant de la France a connaissance des projets de dahirs et de décrets. Il soumet des observations lorsque ces textes concernent les intérêts de la France, des Français ou des étrangers, durant la période transitoire;

2. S. M. Mohammed V, Sultan du Maroc, dispose d'une armée nationale. La France prête son assistance au Maroc pour la constitution de cette armée. Le statut actuel de l'armée française au Maroc demeure inchangé durant la période transitoire;

3. Les pouvoirs de gestion, jusqu'ici réservés, feront l'objet d'un transfert dont les modalités seront arrêtées d'un commun accord.

Le gouvernement marocain est représenté, avec voix délibérative, au comité de la zone franc, organe directeur central de la politique monétaire pour l'ensemble de la zone franc.

D'autre part sont maintenues les garanties dont jouissent les fonctionnaires et les agents français servant au Maroc;

4. Le représentant de la République française au Maroc porte le titre de haut commissaire de France.

Fait à Paris, en double original, le 2 mars 1956.

Christian PINEAU,
Embarek BEKKAI.

Protocole d'accord entre la France et la Tunisie du 20 mars 1956.

Le 3 juin 1955, à la suite de libres négociations qui étaient intervenues entre leurs délégations, le gouvernement français et le gouvernement tunisien convenaient de reconnaître à la Tunisie le plein exercice de la souveraineté interne. Ils manifestaient ainsi leur volonté de permettre au peuple tunisien d'atteindre son plein épanouissement et d'assumer par étapes le contrôle de son destin.

Les deux gouvernements reconnaissent que le développement harmonieux et pacifique des rapports franco-tunisiens répond aux impératifs du monde moderne. Ils constatent avec satisfaction que cette évolution permet l'accession à la complète souveraineté sans souffrances pour le peuple et sans heurts pour l'Etat. Ils affirment leur conviction qu'en fondant leurs rapports sur le respect mutuel et entier de leurs souverainetés dans l'indépendance et l'égalité des deux Etats, la France et la Tunisie renforcent la solidarité qui les unit pour le plus grand bien des deux pays.

A la suite de la déclaration d'investiture du président du conseil français et de la réponse de Son Altesse le Bey, réaffirmant leur commune volonté de promouvoir leurs relations dans le même esprit de paix et d'amitié, les deux gouvernements ont ouvert des négociations à Paris le 27 février.

South-Tyrol.

Treaty of Peace with Italy, 1947. (48 UNTS)

(a) France shall operate the hydro-electric plants on the Roya in French territory, taking into account as far as reasonably practicable the needs of the plants downstream. France shall inform Italy in advance of the amount of water which it is expected will be available each day, and shall furnish any other information pertaining thereto;

(b) Through bilateral negotiations France and Italy shall develop a mutually agreeable, co-ordinated plan for the exploitation of the water resources of the Roya.

5. A commission or such other similar body as may be agreed shall be established to supervise the carrying out of the plan mentioned in sub-paragraph (b) of Guarantee 4 and to facilitate the execution of Guarantees 1-4.

ANNEX IV

Provisions Agreed upon by the Austrian and Italian Governments on September 5, 1946

(Original English text as signed by the two Parties and communicated to the Paris Conference on September 6, 1946)

(See Article 10)

1. German-speaking inhabitants of the Bolzano Province and of the neighbouring bilingual townships of the Trento Province will be assured complete equality of rights with the Italian-speaking inhabitants, within the framework of special provisions to safeguard the ethnical character and the cultural and economic development of the German-speaking element.

In accordance with legislation already enacted or awaiting enactment the said German-speaking citizens will be granted in particular:

(a) elementary and secondary teaching in the mother-tongue;

(b) parification of the German and Italian languages in public offices and official documents, as well as in bilingual topographic naming;

(c) the right to re-establish German family names which were italianized in recent years;

(d) equality of rights as regards the entering upon public offices, with a view to reaching a more appropriate proportion of employment between the two ethnical groups.

2. The populations of the above-mentioned zones will be granted the exercise of autonomous legislative and executive regional power. The frame within which the said provisions of autonomy will apply, will be drafted in consultation also with local representative German-speaking elements.

3. The Italian Government, with the aim of establishing good neighbourhood relations between Austria and Italy, pledges itself, in consultation with the Austrian Government and within one year from the signing of the present Treaty:

(a) to revise in a spirit of equity and broadmindedness the question of the options for citizenship resulting from the 1939 Hitler-Mussolini agreements;

(b) to find an agreement for the mutual recognition of the validity of certain degrees and University diplomas;

(c) to draw up a convention for the free passengers and goods transit between northern and eastern Tyrol both by rail and, to the greatest possible extent, by road;

(d) to reach special agreements aimed at facilitating enlarged frontier traffic and local exchanges of certain quantities of characteristic products and goods between Austria and Italy.

ANNEX V

Water Supply for Gorizia and Vicinity

(See Article 13)

1. Yugoslavia, as the owner, shall maintain and operate the springs and water supply installations at Fonte Fredda and Moncorona and shall maintain the supply of water to that part of the Commune of Gorizia, which, under the terms of the present Treaty, remains in Italy. Italy shall continue to maintain and operate the reservoir and water distribution system within Italian territory which is supplied by the above-mentioned springs and shall maintain the supply of water to those areas in Yugoslavia which, under the terms of the present Treaty, will be transferred to that State and which are supplied from Italian territory.

2. The water so supplied shall be in the amounts which have been customarily supplied to the region in the past. Should consumers in either

FEBRUARY 28—MARCH 7, 1970.

A. ITALY - AUSTRIA. — South Tirol Dispute. - Agreement on Extended Rights of German-speaking Population. - Austrian and Italian Parliamentary Approval. - Acceptance by South Tirol People's Party. - Previous Stages of Dispute and Terrorist Activities of South Tirol "Liberation Committee".

After more than eight years of negotiations between Austria and Italy—carried on while acts of terrorism and sabotage were frequently being committed by German-speaking extremists—proposals by the Italian Government for increased autonomy for the German-speaking population of Alto Adige (South Tirol) were agreed to late in 1969 by the representatives of this minority, as well as by the Austrian Government and Parliament, and were approved by the Italian Parliament.

Italo-Austrian Negotiations, 1961-1969.

Following the U.N. General Assembly's resolution of Oct. 31, 1960, urging the resumption of negotiations between Austria and Italy with a view to finding a solution of their dispute over the 1946 Paris Agreement on South Tirol [see 17991 A], the then Foreign Ministers—Dr. Bruno Kreisky (Austria) and Professor Antonio Segni (Italy)—met in Milan on Jan. 27-28, 1961. The talks were unsuccessful, however, the Austrian delegation demanding much more far-reaching measures "to ensure the ethnic, cultural and economic character of the German-speaking population in Bolzano (Bozen) province" than the Italian delegation were willing to grant. Although the communiqué described the views of the two sides as "irreconcilable", the Italian Chamber of Deputies decided on Feb. 3, by 211 votes to 100 with two abstentions, to approve a declaration by Signor Segni to the effect that bilateral negotiations should continue.

The two Foreign Ministers accordingly met again at Klagenfurt on May 24-25 and in Zürich on June 24-25, 1961, but were unable to reach any agreement after Signor Segni had accused Austria of having organized acts of terrorism, of which he claimed 47 had taken place, killing three persons.

A joint communiqué issued on June 25 stated (i) that the Austrian delegation had insisted on full autonomy for Bolzano province, which the Italian delegation had been unable to concede, though it had offered to grant certain delegated administrative powers to the province—considered as insufficient by the Austrian side; (ii) that the Austrian delegation had proposed an international inquiry commission to examine the situation in South Tirol on the spot; (iii) that the Italian delegation had instead proposed the submission of the dispute to the International Court of Justice; and (iv) that the Austrian delegation had promised written statements on its attitude to the Italian concessions and on its own proposals for another method of peacefully solving the dispute.

Dr. Kreisky told the *Nationalrat* (the Lower House of the Austrian Parliament) on July 5, 1961, that further bilateral negotiations with Italy were useless since Italy refused to negotiate on regional autonomy for Bolzano province—as he claimed was provided for in the Gruber-De Gasperi [i.e. the Paris] Agreement—and that other peaceful means for settling the dispute would have to be found. Professor Segni announced on July 7 that the Italian Government had decided to place the South Tirol question before the International Court and to reject the Austrian proposal for the appointment of a U.N. inquiry commission or for mediation by the U.N. Secretary-General. Following a fresh series of terrorist incidents, especially against railway installations in northern Italy and in Bolzano province, Signor Segni said on July 13 in the Senate that public opinion in Italy considered that these acts of violence had been encouraged and directed from Austria. Italy, he added, was ready to continue the discussions with the Austrian Government provided the latter would not put down any preconditions.

The Italian Government appointed on Sept. 13, 1961, a committee of 19 members under the chairmanship of Signor Paolo Rossi (Social Democrat), which included seven representatives of the South Tirolean People's Party (*Südtiroler Volkspartei*, SVP), to study the question of increased rights for the German-speaking population. The Council of Europe had meanwhile on Sept. 5 appointed a committee on South Tirol; its chairman, M. Paul Struye (then President of the Belgian Chamber of Representatives), visited Vienna on Jan. 7-9 and Rome on Jan. 10-12, 1962, but recommended thereafter that the committee should suspend its work seeing that the two parties were making serious efforts to solve the question; earlier, the committee had on Nov. 9, 1961, unanimously condemned any acts of violence and called for a solution of the dispute in "a spirit of European co-operation".

Austria, in a memorandum of Nov. 10, 1961, again appealed to the United Nations for help. After hearing statements by both Dr. Kreisky and Professor Segni on Nov. 15-16, the U.N. Special Political Committee on Nov. 23 unanimously adopted a resolution inviting Austria and Italy to continue their efforts on the basis of the previous U.N. resolution; the U.N. General Assembly approved this new resolution on Nov. 28, 1961.

On May 24, 1962, the Austrian Government invited the Italian Government to resume negotiations, and on July 31 Dr. Kreisky and Signor Attilio Piccioni (the Italian Foreign Minister) discussed procedure in Venice. When a ministerial meeting, to take place in Salzburg on Nov. 7, 1962, had been agreed upon, the Italian Government informed the Austrian Government on Nov. 5, 1962, that it was not ready to attend such a meeting—the main reason being generally believed to be the fact that a powerful bomb explosion in the left-luggage department at Verona station on Oct. 20 had killed one person and injured 20 others.

Dr. Kreisky and Signor Piccioni agreed on the continuation of diplomatic negotiations at a meeting in Geneva on Oct. 23, 1963, and on May 25, 1964, Dr. Kreisky and Signor Guiseppe Saragat (who had meanwhile succeeded Signor Piccioni as Foreign Minister) agreed, also in Geneva, on the appointment of a joint commission of experts from both countries.

Although new disagreements emerged at a meeting of the two Ministers in Paris on Dec. 16, 1964, Professor Aldo Moro (then Italian Prime Minister) indicated on Oct. 13, 1965, and again on March 9, 1966, that despite an atmosphere of tension created by acts of terrorism [see below] his Government was continuing its contacts with the Austrian Government.

At its meeting on June 5, 1966, the SVP rejected as inadequate the proposals which had by then become known as the result of the work of the joint commission agreed upon in May 1965 between Dr. Kreisky and Signor Saragat [see above].

During 1966 further secret negotiations took place between Austrian and Italian officials, who based their work on that of the Italian committee of 19 (completed in April 1964) and the 1964 agreement between Dr. Kreisky and Signor Saragat. As a result a "package" of proposals was drawn up for giving greater rights to the German-speaking people in the area, and also a timetable for the implementation of these proposals. In all these negotiations the Italian Government took the line that it had fulfilled the Paris Agreement of 1946, and that the implementation of any new proposals would be an internal matter for Italy and therefore subject neither to an international agreement nor to arbitration by an international body.

The talks between experts from the Italian and Austrian Governments were reactivated in Paris on July 24-25, 1968, and on Sept. 4-5, 1968, Dr. Kurt Waldheim (the Austrian Foreign Minister) discussed the South Tirol question with Signor Guiseppe Medici (then his Italian counterpart) at a conference of non-nuclear Powers in Geneva. On Nov. 14, 1968, Dr. Waldheim stated that an understanding with Italy over South Tirol appeared possible because "the substance of the problem" had been clarified during negotiations in the past four years; what remained was to agree on a timetable which would be based on the principle that any act by one party would have to coincide with an act by the other party.

The problem was also discussed at the first joint meeting for at least 50 years of leaders of the Austrian and Italian Socialist parties (SPÖ and PSI) held in Merano (South Tirol) on Feb. 15, 1969. No agreement was reached, as the Italian party (as a partner in Signor Rumor's coalition Government) insisted on the matter being regarded as an internal Italian affair, whereas Dr. Kreisky (the leader of the Austrian party, which was in opposition to the Austrian Government) maintained his party's demand for the establishment of an international arbitration commission.

At the eighth and final ministerial meeting on South Tirol held in Copenhagen on Nov. 20, 1969, Signor Moro (Foreign Minister in Signor Rumor's Government) and Dr. Waldheim agreed (*a*) on the application of the timetable; and (*b*) on the signing, after the timetable's completion, of an agreement between the two Governments accepting the jurisdiction of the International Court of Justice for the settlement of any future disputes between them.

The communiqué issued after the meeting stated *inter alia*: "The two Ministers have reached a positive conclusion to the series of contacts during the last few years within the terms of reference of the U.N. General Assembly resolutions of 1960 and 1961. On this occasion it has been established that there exists a basis for initiating direct steps to implement the Italian measures in favour of the province of Bolzano (Bozen) and consequently to end the controversy between Italy and Austria. The two Ministers expressed

their conviction that, with the implementation of the proposed measures, there opens a new era of constructive co-operation both in Alto Adige (South Tirol) and in Italo-Austrian relations."

Dr. Waldheim stated afterwards that the final ratification of the agreement would take place after four years, when all Italian proposals had been implemented by both countries; he stressed that there existed only one interpretation of the terms of the "package".

The "package" contained a programme of 120 points granting extended autonomy to the province of Bolzano, i.e. the northern part of the Trentino-Alto Adige region—inhabited by about 230,000 German-speaking and 130,000 Italian-speaking people, with the latter being in a majority in the cities of Bolzano and Merano—and changing the official German name of the province from *Tiroler Etschland* to *Südtirol* (South Tiro.). The implementation of the programme would require a total of 137 draft Bills and administrative measures.

(*Economist*)

The principal provisions of the "package" gave the province:

(a) power to legislate, *inter alia*, on agriculture, forestry, mining, water power and utilization, roads and transport, tendering for public works, tourism and the hotel trade, commerce, the promotion of industry and economic planning (within the framework of Italian planning legislation);

(b) a say in the establishment of new industries with State or foreign participation;

(c) new powers in the fields of housing, welfare and public health;

(d) a guarantee, by means of a Constitutional amendment, that local inhabitants would receive preference in employment, the implementation of this provision to be controlled by a commission;

(e) the right to the appointment of public servants in proportion to the ethnic composition of the population;

(f) responsibility for the preservation of its cultural heritage;

(g) an extended television service in the German language, with a South Tirolean at its head, and the appointment of a South Tirolean—to be independent of the Italian education department—as head of the German-language schools system.

The "package" also:

(h) laid down the principle of equality between the German and Italian languages, with the guaranteed right to use either language separately, and with nameplates in German to be restored free of cost;

(i) provided for the establishment of an administrative court with an equal number of members from both ethnic groups; and

(j) gave the head of the province (*Landeshauptmann*) the right to participate in meetings of the Italian Government dealing with problems affecting South Tirol.

The proposed timetable for the implementation of the "package" contained the following 18 steps:

(1) Provided that the timetable was approved in principle by the SVP, an Italo-Austrian treaty recognizing the competence of the International Court of Justice for the settlement of disputes between the two countries, in particular in connexion with South Tirol, would be initialled.

(2) Termination of the state of emergency in South Tirol, admission of public and business notices in the German language without the (hitherto obligatory) Italian translation, and juridical recognition of the South Tirolean War Victims' and Veterans' Association and the South Tirolean Mountain Club (*Südtiroler Alpenverein*).

(3) Approval of the Italian Prime Minister's statement by the Italian Parliament.

(4) Approval of the Austrian Prime Minister's statement by the *Nationalrat* (Austrian Lower House of Parliament).

(5) Establishment of a committee of members of both language groups for the preparation of the necessary Bills and ordinances for the Italian Government.

(6) Verbal declarations by the Austrian and Italian delegates before the U.N. General Assembly.

(7)-(12) Italian measures to implement the autonomy, including a parliamentary vote on Constitutional amendment and publication of decrees on the transfer of staff from the Trentino-Alto Adige region to the province of Bolzano (*Südtirol*).

(13) An Austrian declaration on the completion of the proposed measures, to be made within 30 days of the proclamation of final Italian regulations implementing the "package", and exchange of ratification documents of the international agreement provided for under (1) above.

(14) Acknowledgement by the Italian Government, by means of a Verbal Note, of the receipt of the Austrian declaration.

(15)-(17) Notifications of the end of the dispute to be sent by both Governments to the U.N. Secretary-General, the International Court of Justice and the Council of Europe.

(18) Conclusion of an Austro-Italian treaty on friendly co-operation.

The "package" and the timetable were approved by the presidium of the SVP in Bolzano on Oct. 20, 1969, by 41 votes to 23 with two abstentions, and by a special meeting of the party held in Merano on Nov. 22 by 583 votes to 492, with 39 blank or invalid votes.

Dr. Silvius Magnago, the party's chairman and *Landeshauptmann* of South Tirol, supported by Senator Friedl Volgger and Dr. Karl Mitterdorfer, recommended adoption of the "package", saying that, although it did "not contain all the provisions" of a genuine autonomy, it constituted "an improvement in the actual and juridical situation of the South Tiroleans".

Dr. Mitterdorfer declared that the party should bow to the inevitability of agreement, and that European co-operation would transcend all nationalism and its heritage.

Dr. Rolando Riz, a member of the Chamber of Deputies in Rome, warned of the consequences of rejecting the proposals and added that Italy was in a stronger position than ever before, while the United Nations and even Austria were ever less interested in South Tirol.

Senator Peter Brugger, one of the leaders of the party members opposed to adopting the proposals, objected in particular to the hurry with which a decision was to be made. Among the criticisms voiced by his followers, the most important were directed against the retention of a veto in financial matters by the Italian minority in the province, as well as the lack of provision of a police force under the direct control of the *Landeshauptmann*; of provincial labour exchanges; and of the application of the principle of ethnic proportion in the appointment of juries.

In the Regional Council of Trentino-Alto Adige in Trento, the package—which meant a surrender of many of its powers to its northern province—was approved by five of its eight political parties on Nov. 27.

Points (1) and (2) of the timetable were implemented on Dec. 2, 1969, when the proposed treaty was initialled in Vienna by Herr Arno Halusa (for the Austrian Foreign Ministry) and Signor Roberto Ducci (the Italian Ambassador), and the Italian Government lifted the state of emergency in South Tirol and took the other measures required.

A statement on the Government's proposals for South Tirol by Signor Mariano Rumor, the Italian Prime Minister, was approved by the Chamber of Deputies in Rome on Dec. 4, 1969, by 269 votes to 29 (MSI, i.e. neo-Fascists, and Monarchists) with 88 abstentions (Communists, Socialist Party of Proletarian Unity members and Liberals), and with a large number of deputies being absent.

Signor Rumor, in his statement on Dec. 3, stressed the advantages and the necessity of the proposed "package" and timetable and claimed that they contained "nothing new", as Parliament had repeatedly approved the steps taken by the present Government and its predecessors. He added that any different approach would be inappropriate, especially as terrorism in South Tirol had ceased, there had been a change of attitude among the German-speaking group, and Dr. Klaus (the Austrian Chancellor) had condemned the use of violence. The Prime Minister announced that for the implementation of the "package" he would submit within 45 days a

Constitution Amendment 1969 and within a year the ordinary Bills required; that the Italian Government maintained the view that it had already fulfilled the Paris Agreement of 1946; and that the new measures were the result of "independent decisions" taken by the Government.

He also stated that by maintaining a "proper balance" between local self-government and a unitary State the "package" conformed to the Constitution of the Republic, which in Article 5 prescribed the encouragement of autonomy and in Article 6 the protection of language minorities. He emphasized, however, the integrity of Italy's territory and the permanence of the Brenner frontier based on the death of 600,000 men in World War I and on "solemnly affirmed" international treaties.

Signor Almirante (MSI) announced that his party would obstruct the parliamentary passage of all measures proposed in the "package".

Signor Borzi (deputy secretary-general of the Liberal Party) declared that his party would maintain an open mind on the proposals but asserted that Italy had surrendered to Austria in the matter of the timetable by assuming certain obligations which could not be deferred. He asked what would happen if the present slight majority in favour of the solution should disappear from the Austrian Parliament after the election of a new *Nationalrat* in March 1970.

Dr. Riz (SVP) confirmed the approval of the proposals by his party in Merano on Nov. 22 [see above] and assured the Government that his party's followers would remain loyal to the Italian Government as long as the State encouraged the cultural, economic and social progress of the German-speaking minority.

The Italian Senate approved the proposals on Dec. 5, the parties taking the same line as in the Chamber of Deputies, except for the independent Senators of the Left who unexpectedly voted with the Government.

Senator Nencioni (MSI) accused the Government of having engaged in international negotiations and obtained the decision of the SVP while keeping the Italian Parliament in ignorance. He claimed that to grant additional powers to the province of Bolzano was tantamount to a surrender of sovereignty, and reiterated his party's intention of obstructing the execution of the proposals in Parliament.

Senator Paleti (Christian Democrat) reminded the opponents of the proposals that during the Fascist era South Tirol had been the victim of oppression.

A statement on the proposed settlement of Austria's dispute with Italy over South Tirol by Dr. Josef Klaus, the Austrian Federal Chancellor, was approved by the *Nationalrat* in Vienna on Dec. 16, 1969, by 83 votes (of the People's Party) to 79 (of the Socialist and Freedom Parties).

Dr. Klaus, in his statement on Dec. 15, sketched the development of the "tragic history" of South Tirol between the two World Wars, culminating in 1939 in the agreement between Hitler and Mussolini on the compulsory transfer of the German-speaking minority to Germany (which, however, was not completed). He also recalled the Paris Agreement of 1946 which, he said, had formed the basis of all later negotiations and which, in the Austrian view, was merely being implemented by the steps proposed in the present "package", though Italy's point of view in this matter was different. The Chancellor stressed that Austria would confirm the end of the dispute before the United Nations only after completion of all measures envisaged in the "package". Austria, he said, had undertaken not to raise the matter again for four years, but if Italy did not keep her promise within this period the whole problem would have to be tackled again. In conclusion he emphasized that the proposed solution opened the road to increased co-operation with Italy and towards a united Europe.

Dr. Kreisky, outlining the Socialists' objections to the "package", said that it was for the people of South Tirol to accept or reject it, but that Austria would have to bear full responsibility for securing its implementation. He felt that the proposals lacked adequate international guarantees for their fulfilment, and in order to safeguard compliance by Italy he proposed that the Government should supplement the timetable by insisting that any dispute with regard to the implementation of the proposals should be placed before an international body for arbitration.

Dr. Otto Scrinzy (Freedom Party)—who as a South Tirolean had been imprisoned in 1939 for his opposition to the Hitler-Mussolini deal—rejected the whole "package" and objected to the fact that Parliament was being asked to discuss a matter which had already been decided upon by the two Governments concerned. Denouncing the Austrian Government's attitude as "utter capitulation" to Italy, he contended that it constituted a rejection of "solemn declarations" made both by the Austrian Parliament and the *Landtag* of [Austrian] Tirol to remove the "wrongful border" on the Brenner Pass [i.e. the border laid down in the Treaty of St. Germain in 1919].

Dr. Waldheim, defending the proposed solution as the "best possible", pointed out that an ideal solution was unattainable as Italy had never been willing to conclude a treaty on the "package", considering it contrary to Italy's position in international law.

Criticism of the Italian proposals was also voiced in Austria outside Parliament, especially in view of the right of veto retained by the Italian parties in South Tirol in regard to the province's Budget.

Professor Felix Ermacora, the Austrian authority on international law, expressed the view that the "package" was in essence a plan for provincial reorganization within the framework of regionalization throughout Italy and that it would therefore not benefit the South Tirolean exclusively. He also thought that the "package" was liable to continue the policy of assimilation within the Italian State.

Terrorist Activities of South Tirol "Liberation Committee". – Trials in Italy and Austria.

Terrorist incidents began to occur in South Tirol—and in some instances elsewhere in Italy—more than 10 years after the Paris Agreement of 1946, and it was later established that they were the work of a small group of political extremists organized in the *Befreiungsausschuss Südtirol* (BAS), a "liberation committee" operating largely from Austrian soil.

There were seven such incidents in 1957; four in 1958; eight in 1959; four in 1960; 55—one of them involving the first death—in 1961; 14 in 1962, when 18 persons were injured in a single explosion; 42, including the first armed attacks on Carabinieri acting as special police, in 1963; 21 in 1964, when one Carabiniere was killed on Sept. 3; and 23 in 1965, when two Carabinieri were killed at Sesto-Pusterio (Sexten), near the Austrian border, on Aug. 26.

Further loss of life occurred in 21 incidents in 1967, when a customs guard was killed and two were wounded (one of them fatally) on July 25 at San Martino in Casies (Gaies); and two more were killed and four wounded (one fatally) on Sept. 9 at Malga Basso (Steinjoch), near the Brenner Pass. [For having caused an explosion at the Vienna office of Alitalia (the Italian airline) on Aug. 20, 1966, two Austrians were sentenced by a court in Vienna to seven and six years' imprisonment respectively on April 19, 1967.]

Among the 21 incidents which occurred during the first nine months of 1967 the most serious took place at Cima Vallona (Perrescharte) on June 24, when four Italians were killed by mines; a fifth person died in another incident, and eight Italians were badly wounded.

The public prosecutor at Bolzano in October 1968 accused four Austrians (Dr. Norbert Burger, Peter Kienesberger, Mr. Erhard Hartung and Frau Kofler) and a German (Hans Cristian Genck), as well as 30 other persons (26 Austrians, two South Tiroleans and two West Germans)—all of whom had escaped—of being involved in the Cima Vallona incident and in a number of other such acts of terrorism against, *inter alia*, the Bolzano Palace of Justice and the Brenner railway line on Aug. 3, 1966; the Carabinieri barracks in Bolzano on Feb. 26, 1967; the office of the Department of Finance in Bolzano on May 11, 1967; and two public buildings in Trento on Aug. 12, 1967.

Isolated explosions took place in South Tirol on Aug. 12 and Dec. 7, 1968, and two further explosions on Oct. 3, 1969.

A number of terrorists were tried before courts in Italy and in Austria between 1963 and 1969.

The First Milan Trial.

During a trial which opened in Milan on Nov. 9, 1963, and which involved 94 defendants (of whom 16 were tried *in absentia*), the public prosecutor stated on May 29, 1964, that the BAS had worked in close co-operation with the Berg-Isel-Bund in the Austrian Tirol and that some, though not all, of its members had aimed at the eventual reunion of South Tirol with Austria under the guise of demanding self-determination rather than mere local autonomy for the province of Bolzano; he therefore charged the defendants with conspiracy and acts of terrorism directed against the integrity of the State and the Constitution.

On July 17, 1964, the court convicted 46 of the accused and acquitted the others, the heaviest sentences being passed against a number of Austrians tried *in absentia*, including 25½ years' imprisonment for Alois Amplatz (who was later, in September 1 64, killed in a mountain hut under unexplained circumstances), 22 years 10 months for Kurt Welser, 22 years 10 months for Wolfgang Pfaundler (reduced to 20 years 11 months on appeal on June 30, 1966), 19 years four months for Eduard Widmoser (leader of the Berg-Isel-Bund), 21 years 11 months (reduced on appeal to 19 years 11 months) for Dr. Heinrich Klier, and 18 years two months for Georg Klotz. Of those in court, Josef Kerschbaumer received 15 years 11 months, and Georg Pircher 11 years 11 months. Those acquitted for lack of evidence included Dr. Hans Stanek, a former secretary-general of the SVP.

The Second Milan Trial.

At a second trial, which opened in Milan on Jan. 12, 1966, and involved 58 defendants (32 of them *in absentia*), the public prosecutor stated on March 15, 1966, that as the result of acts of terrorism for which he held the BAS responsible 32 members of the Italian armed forces had been killed and 558 wounded. Referring to three distinct groups of acts—those committed in Rome in 1961, those in South Tirol in 1959-62, and those undertaken since 1962—he alleged on March 23, 1966, that the BAS had been a well-organized body with a detailed programme involving the storing of arms, the training of saboteurs and the use of cover-names. It had, he claimed, two groups—the Munich BAS led by Dr. Norbert Burger (a lecturer at the University of Innsbruck), and the Innsbruck BAS under Professor Günther Andergassen, both of whom he considered responsible for all acts of terrorism.

The court on April 20, 1966, sentenced Andergassen to 30 years' hard labour (reduced to 28 years on appeal in Milan on June 12, 1968) and Burger (*in absentia*) to 28 years. Of 10 other defendants

A. SPAIN — Limited Autonomy restored to Catalonia - Commencement of Negotiations on Basque Autonomy - Internal Political Developments - Moves towards Opposition Co-operation with Government - Foreign Policy

The Council of Ministers (Cabinet) on Sept. 29 approved two royal decree-laws restoring to the four provinces of Catalonia in north-eastern Spain their semi-autonomous government, the *Generalitat*, in provisional form pending the drafting of a new Spanish constitution, which would contain an autonomy statute setting out the exact function of the body; these functions would be worked out by a mixed commission of government and Catalan representatives, and were expected to exclude defence and finance. (The four provinces of Catalonia - Barcelona, Gerona, Lérida and Tarragona together comprise only about 6 per cent of Spain's total area but contain nearly one-sixth of the country's population of about 36,000,000.)

The President of the Catalan Government-in-exile, Sr Josep Tarradellas, would preside over an Executive Council of 15 members, which according to a final agreement reached on Sept. 28 would comprise two representatives of the Catalan branch of the Spanish Socialist Workers' Party (PSOE - PSOE) and one representative each of the Unified Socialist Party of Catalonia (PSUC - i.e. the Catalan branch of the Communist Party), the Democratic Pact for Catalonia (PDC) and the (government) Union of the Democratic Centre (UCD), as well as seven advisers and four representatives of the provincial delegations (councils) of the provinces. The councillors would be appointed in consultation with the deputies and senators of Catalonia, who were grouped in the Assembly of Catalonia formed on June 25 [see page 28519] and who would be kept informed and consulted on developments.

The decrees were entered into force on Oct. 5 with their publication in the Official Gazette.

The Catalan *Generalitat*, which dates back to the 13th century, had gained increasing powers until its suppression in 1714 by Philip V, together with other autonomous Catalan institutions, for its support of the claimant to the throne in the War of the Spanish Succession. With the advent of the Second Republic in 1931 Colonel Francesc Macia, leader of the Catalan autonomists, proclaimed the "republic of Catalonia" as an integral part of an "Iberian federation", leading to the Madrid Government approving the Statute of Catalonia, which was signed by President Alcalá Zamora on Sept. 15, 1932, and which provided for the re-establishment of the *Generalitat* with a president and an executive council [see also 484 C].

In 1934 Sr Lluis Companys proclaimed Catalonia a state, prompting the Government to suspend the *Generalitat* until its restoration with the victory of the left-wing Popular Front in the 1936 elections.

Towards the end of the ensuing Civil War General Franco suppressed the Statute of Catalonia and abolished the *Generalitat* in a law signed on April 8, 1938. S. Companys, who fled to France in February 1939 after the Nationalist victory in the Civil War, was handed over to Spain by the Germans and shot in Barcelona on Oct. 14, 1940 [see 4289 C]. He was succeeded as President of the *Generalitat* by Sr Josep Irla, who headed a Catalan Government-in-exile until 1947; in 1954 Sr Tarradellas, who had been Prime Minister in the Catalan Government during the Civil War, was elected President by Catalan parliamentarians in the embassy of the Spanish Republic-in-exile in Mexico.

Agreement on the re-establishment of the *Generalitat* after nearly 40 years was reached in Perpignan after talks had commenced in France on Aug. 11 between Sr Tarradellas, Sr Salvador Sanchez Terán (the Government's special envoy) and Catalan politicians; these followed the creation in March 1977 of a General Council of Catalonia [see page 28328] and initiatives on the part of the Prime Minister, Sr Adolfo Suárez González, which led to the temporary return of Sr Tarradellas to Spain in June [see page 28519]. The negotiations had since been hampered by disputes between Sr Tarradellas and Catalan members of Parliament returned in the general elections of June 15 [see 28517 A], who claimed that Sr Tarradellas no longer had the power to speak on behalf of the Catalans, and who contested his dismissal of a member of the negotiating team, Sr Josep Benet. The disputes were solved after talks between Sr Suárez and the senators and deputies concerned.

These disputes also disappointed hopes that the restoration of the *Generalitat* would be proclaimed by Sept. 11, when Catalonia celebrated its *Diada* (national day) and when hundreds of thousands of Catalans marched through Barcelona in a generally peaceful celebration which was disrupted only by small groups of extremists who attacked buses and police cars. Riot police responded with tear gas, rubber bullets and water cannon, 12 people being injured and one of these later dying on Sept. 16. The organizers of the march, however, publicly thanked the police for their help and co-operation.

The text of the first royal decree-law on the restoration of the *Generalitat* was as follows:

"The *Generalitat* of Catalonia is an ancient institution in which the Catalan people have seen the symbol and the recognition of their historic personality within the unity of Spain.

"The great majority of the political forces which took part in Catalonia in the elections of June 15 agreed on the necessity of re-establishing the *Generalitat*.

"In its programme the Government proclaimed the necessity for the institutionalization of self-government and announced the possibility of reaching transitional formulae within the framework of existing laws.

"Until the constitution is promulgated the statutory establishment of self-government will not be possible, but our existing laws permit the transfer of activities of the State Administration and of the [provincial] delegations to bodies having a distinctly regional field of competence.

"However, the re-establishment of the *Generalitat* . . . neither prejudices nor determines the content of the future constitution as regards self-government. This regulation neither signifies an economic and social privilege nor prevents similar formulae from being used in apparently analogous situations in other regions of Spain.

"The institutionalization of the regions shall be based mainly on the principle of solidarity between all the peoples of Spain, whose indisputable unity should be strengthened by the recognition of their capacity for self-government in areas determined by the constitution.

"The majority of parliamentary political forces have also recognized the expediency of proceeding urgently with this re-establishment. . . .

"Art. 1. (1) The *Generalitat* of Catalonia shall be re-established provisionally in the framework of this royal decree-law and until the entry into force of the system of autonomy to be approved by the *Cortes* [Parliament].

"(2) The *Generalitat* of Catalonia shall be governed by this decree-law and by the norms laid down by the Government on its development and execution and, with regard to its internal functioning, by the norms regulating the internal regimen approved in accordance with Art. 6 (a) of this decree-law.

"Art. 2. The *Generalitat* of Catalonia is a complete legal entity as regards carrying out those objectives which are entrusted to it. Its sphere of action covers the present territory of the provinces of Barcelona, Gerona, Lérida and Tarragona.

"Art. 3. The organs of government and administration of the *Generalitat* during the period of transition shall be the President of the *Generalitat*, who will be its legal representative, and the Executive Council, over which he will preside.

"Art. 4. The appointment of the President of the *Generalitat* shall be carried out by royal decree on the proposal of the *presidente del gobierno* [Prime Minister].

"Art. 5. The Executive Council shall during the transitional period comprise councillors designated by the President of the *Generalitat*, up to 12 in number, and one representative of each of the delegations of the Catalan provinces. The President shall assign to the members of the Council their respective tasks and attributions, in relation to the powers which the delegations presently hold and to those which will be transferred to the *Generalitat* by the State Administration, when this transfer takes place.

"Art. 6. The *Generalitat* has the following powers within the framework of the existing legal system:

"(a) To elaborate and approve its own statutory norms on internal regimen in conformity with those established in the course of this decree-law.

"(b) To integrate the activities of the delegations of Barcelona, Gerona, Lérida and Tarragona in so far as the general interests of Catalonia are concerned, and to coordinate their functions in the framework of the *Generalitat*, with the delegations remaining legal entities.

"(c) To manage and administer those functions and services which the State Administration and the above-mentioned delegations transfer to it. The Government will establish the procedure for carrying out these transfers.

"Likewise, the *Generalitat* shall propose to the Government those measures which affect the interests of Catalonia.

"Art. 7. The agreements and acts of the *Generalitat* of Catalonia shall be subject to litigious administrative jurisdiction [*jurisdicción contencioso-administrativa*] and, where appropriate, shall be suspended by the Government in conformity with existing legislation.

"Art. 8. The organs of government of the *Generalitat* established by this royal decree-law may be dissolved by the Government for reasons of state security.

"Art. 9. The Government is authorized to establish the precise norms for the development and execution of matters laid down in this royal decree-law."

The Final Dispositions of the decree laid down inter alia that the law of April 8, 1938, suppressing the *Generalitat* was abrogated and that the present decree would enter into force on the day of its publication in the Official Gazette.

The second decree-law laid down norms for the functioning of the new body.

Article 3 stated that a mixed commission would be created in the Prime Minister's Office, comprising representatives of the Spanish Government and of the *Generalitat*, which would make proposals to the Government on transferring functions, activities and services from the state to the *Generalitat*. The commission would have 30 members, of whom 15 would be appointed by the Government and 15 by the *Generalitat*, and it would

be presided over by a cabinet minister. It would be constituted within a month of the publication of the decree in the Official Gazette.

Article 4 stated that a mixed commission would also be created in the *Generalitat*, made up of two representatives from each delegation and eight designated by the Executive Council, which would propose to the President of the *Generalitat* which functions should be transferred to or integrated in this body and which should continue to be carried out by the delegations. The mixed commission would also be constituted within a month of the decree's publication in the Official Gazette, and its head would be appointed by the President of the *Generalitat*.

A third decree appointing Sr Tarradellas as President of the *Generalitat* was published in the Official Gazette on Oct. 18. Two days later Sr Tarradellas returned from France to Madrid, where he had talks with Sr Suárez and King Juan Carlos, and on Oct. 23 he arrived in Barcelona where he was given a tumultuous welcome. On Oct. 24 Sr Tarradellas was formally installed as President of the *Generalitat* in the presence of, inter alios, Sr Suárez, Sr Rodolfo Martín Villa (the Interior Minister), Sr Manuel Jiménez de Parga (Minister of Labour) and Lieut.-General Francisco Coloma Gallegos (captain-general of the Catalonia military region, and Minister of the Army under General Franco).

Opening of Talks on Basque Autonomy - Continuation of ETA Violence - Granting of Amnesty

Sr Manuel Clavero Arévalo, the Minister for Relations with the Regions, arrived in Vitoria on Sept. 22 for preliminary talks with Basque parliamentarians on autonomy for the Basque regions, whose autonomous government had also been suppressed by General Franco in 1938. Sr Manuel Irujo, a Basque senator and head of the negotiating team, warned the Minister that if the Basques did not soon attain political rights there would be widespread violence which could have been avoided. Sr Clavero Arévalo replied that he was anxious for Spain's regions to have a degree of autonomy, and in particular the Basque country in order to prevent it from becoming a "cancer" on Spain.

Representatives of the three main parties in the Basque region–the Basque Nationalist Party (PNV), the Spanish Socialist Workers' Party-Basque Socialist Party (PSOE-PSE) and the UCD–subsequently opened talks in Madrid with Sr Clavero Arévalo on Oct. 3. The PNV plan for autonomy foresaw the creation of a confederation of the four Basque provinces (Vizcaya, Navarra, Guipúzcoa and Alava), each with its own General Junta–the traditional councils abolished by General Franco, which were formally restored in the case of Vizcaya and Guipúzcoa by a decree of March 17, 1977 [see page 28327]–which would confer on a common policy for the four provinces. The PSOE-PSE envisaged a similar confederation, but with a single General Junta.

Despite the publication in the Oct. 2 edition of *Egin* of Bilbao of a declaration by the politico-military wing of the Basque separatist organization *Euzkadi ta Azkatasuna* (ETA–"Basque nation and liberty") to the effect that the armed struggle would now be relegated to a secondary position to give priority to political action, the military wing of the ETA–which had recently absorbed the *Bereziak* ("Storm Troops") believed responsible for the murder of the Basque industrialist, Sr Javier de Ybarra y Bergé, on June 23 [see page 28518]–expressed its intention on Oct. 7 to continue violent action. The politico-military wing had also stated on Oct. 2 that it would abandon the practice of extorting "revolutionary taxes" from industrialists, which the PNV had publicly denounced on Sept. 16.

The military wing of the ETA on Oct. 8 claimed responsibility for the murder the same day in Guernica of the president of the Vizcaya provincial delegation, Sr Augusto Unceta Barrenechea Azpiri (53), and two of his bodyguards. The UCD and all members of the parliamentary opposition (who were meeting in the Moncloa palace - see below) immediately issued a joint communiqué condemning "this most barbarous destabilization of the Spanish democratic process" and promising to "support the Government in its responsibility of putting an end to these acts, which are incompatible with the democratic order", and to "deal urgently with the joint drafting of a law for the defence of democracy against terrorism" [see below].

The politico-military wing of the ETA on Oct. 13 criticized the triple murder and two subsequent bomb attacks in Pamplona on Oct. 12 as acts of gratuitous violence which contributed nothing to the future of the Basque people; however, it laid the blame for the continued violence in the Basque provinces on the Government, which it accused of "haggling over an amnesty in order to keep *Euzkadi* under its control as long as possible, denying recognition and legalization to the existing political tendencies in *Euzkadi* . . . , and putting off, without any motive except its own partisan interests, the holding of municipal elections and the negotiation of autonomy on the basis of these elections".

The president of the Guipúzcoa provincial delegation, Sr Juan María Araluce Villar, had been killed by the ETA on Oct. 4, 1976 [see page 28087], and the ETA had subsequently announced that it intended to kill all "presidents of Francoist delegations".

On the day before the murder (Oct. 7) a parliamentary committee of UCD and opposition representatives had agreed on a draft law granting an amnesty for all political offences committed before Dec. 15, 1976 [the date of the referendum on political reforms–see 28325 A]; for those political offences committed between Dec. 15, 1976, and June 15, 1977 [the date of the general election–see 28517 A], which were motivated by the desire to restore democratic freedoms or regional autonomy to Spain; and for all political offences committed between June 15 and Oct. 6, 1977, which had not endangered human life. Whereas these provisions were expected to exclude inter alia recent crimes committed by members of the Anti-fascist Resistance Groups of Oct. 1 (GRAPO) [see pages 28517; 28125; 28086; 27465], the amnesty did apply to crimes of rebellion and sedition in the armed forces (although it did not provide for the reinstatement of those involved), to conscientious objectors, to offences including human rights violations committed by the forces of public order in investigating political acts, and to labour offences.

The amnesty, which was the fourth since King Juan Carlos acceded to the throne (the others having been granted on Nov. 25, 1975–see page 27518; on July 30, 1976–see page [illegible]; and on March 17-18, 1977–see page 28327), was approved by both houses of the *Cortes* on Oct. 14 and entered into force on Oct. 17 with its publication in the Official Gazette, its application being the task of the courts.

On the amnesty being approved by the *Cortes*, the Catalan nationalist and senator, Father Luis Xirinachs, who had campaigned continuously for an amnesty since December 1975 by standing outside Barcelona prison and had recently, since his election to the Senate [see page 28520], continued his campaign by standing through Senate sessions, announced that he would from now on take his seat, and would also abandon his prison vigil.

A mutiny of several hundred common prisoners at Madrid's Carabanchel prison began on July 18 in support of the same amnesty measures and prison conditions as granted to political prisoners. Police using helicopters, rubber bullets, smoke canisters and tear gas brought down the prisoners who had climbed on to the roof, and then dispersed them into the prison itself. A total of 15 prisoners and 14 police were reported to have been injured and the prison was extensively damaged.

In August, members of GRAPO and the ETA staged hunger strikes in Carabanchel in protest at the continued detention by the French authorities of a Basque separatist leader, Sr Miguel Angel Apalategui [illegible] page 28518], who had himself begun a hunger strike on July [illegible] Marseilles prison. Solidarity strikes and demonstrations were held throughout the Basque country, and on Sept. 3 Sr Apalategui ended his fast after being told that he would be granted political asylum; he was released by the Aix-en-Provence provincial court on Sept. 6 subject to restrictions, but on Oct. 7 failed to report to the police as required.

Attempts to assassinate King and Prime Minister - Other Internal Security Developments

Police in Majorca on Aug. 17 discovered a bomb placed along the route where King Juan Carlos, Queen Sofía and Sr Suárez were shortly to pass while on holiday on the island. The bomb, containing plastic explosive, was discovered after police had received information that members of GRAPO had arrived in Majorca. Sr Suárez said afterwards that he pitied the persons who were trying to interfere with the consolidation of the democratic process which the Spaniards had proved they desired.

Two bombs wrapped in separatist flags were also defused by police in the Canary Islands on Oct. 12, located near the spot where the King was due to stand during a dedication ceremony. [For earlier activities of Canary Island separatists, see [illegible]]

Police in Madrid on Aug. 6 arrested six members of GRAPO including one of its leaders, Sr Fernando Hierro Chomón (32); three more were arrested on Sept. 23 after a gunfight with police, and a further [illegible] were detained in Barcelona, Benidorm and Madrid at the beginning of [illegible] together with 12 members of the Apostolic Anti-communist Alliance (AAA–see also page 28326). The latter organization had on Sept. [illegible] planted a bomb which destroyed the offices of the satirical newspaper *Papus* in Barcelona, killing one person and injuring 15, one of whom died later. In protest at the attack, all Barcelona newspapers called a 24-hour strike for Sept. 21, while all Madrid papers with the exception of the right-wing *El Alcázar* followed suit on Sept. 23.

SPAIN — Cabinet Reorganization - Provisional Autonomy granted to Basque Provinces - Appointment of Catalan Executive Council - Other Regional Developments - Draft Constitution - Internal Political and Security Developments

The Second Deputy Prime Minister and Minister for Economic Affairs, Professor Enrique Fuentes Quintana, resigned on Feb. 23 due to disagreements over policy with the various individual economic ministries. The Prime Minister, Sr Adolfo Suárez González, thereupon carried out a cabinet reorganization on Feb. 24 in which four other members left the Government and the following new appointments were made:

*Sr Fernando Abril Martorell	.. Second Deputy Prime Minister and Minister for Political and Economic Affairs
Sr Agustín Rodríguez Sahagún	.. Industry and Energy
Sr Rafael Calvo Ortega ..	.. Labour
Sr Jaime Lamo de Espinosa y Michels de Champourcin	.. Agriculture
Sr Salvador Sánchez Terán	.. Transport and Communications

* Took additional portfolio.

Sr Abril Martorell (44) was previously Third Deputy Prime Minister and Minister for Political Affairs. Sr Rodríguez Sahagún was a vice-president of the Spanish businessmen's organization (CEOE) and president of the Spanish Confederation of Small and Medium-sized Enterprises (CEPYME). Sr Calvo Ortega (43), a senator for Segovia, was hitherto spokesman in the Senate for the (government) Union of the Democratic Centre (UCD); Sr Lamo de Espinosa (37) was hitherto Sr Abril Martorell's deputy and was a former Under-Secretary of State for Agriculture. Sr Sánchez Terán (44), a close colleague of Sr Suárez and a deputy for Salamanca, is a former director-general of Spanish railways and was civil Governor of Barcelona; he was responsible for transforming the UCD from an electoral coalition into a political party [see below] and also played an important part in negotiating autonomy for Catalonia [see 28677 A and below]. Professor Fuentes Quintana remained as a political adviser to the Cabinet.

The other four ministers who left the Government were Sr Alberto Oliart Saussol (Industry and Energy), Sr Manuel Jiménez de Parga (Labour), Sr José Enrique Martínez de Genique (Agriculture) and Sr José Lladó y Fernández Urrutia (Transport and Communications).

The Governor of the Bank of Spain, Sr José María López de Letona, resigned on March 2 and was succeeded by Sr José Ramón Alvarez Rendueles, hitherto Secretary of State for the Economy.

Sr Leopoldo Calvo-Sotelo y Bustelo had on Feb. 11 been appointed to the new Ministry for relations with the European Communities, which would deal with all aspects of Spain's proposed entry [see 28517 A; 28595 A].

Sr Calvo-Sotelo (52) was Minister of Commerce in the first post-Franco Cabinet and Minister of Public Works in the first Suárez Cabinet from which he resigned on April 23, 1977, to organize the UCD for the June 1977 elections [see 28373 A], in which he was also elected a deputy for Madrid.

Sr Abril Martorell denied on Feb. 26 on behalf of the Government that the reorganization represented a move to the right for the Cabinet, and stressed that the Government's economic policy would remain unchanged and that the Moncloa pacts providing for inter-party co-operation on political, economic and social reforms [see pages 28679-80 and below] would continue to be implemented. Nevertheless, the Government suffered its first defeat in the *Cortes* (Parliament) on March 1 when the Congress of Deputies (lower House) approved by 159 votes to four, with 134 abstentions, a motion describing the Government's explanations of the changes as "inadequate" and calling on the Government further to explain the reorganization at the first full session of the Congress in April, during which the debate would also cover the way in which the Moncloa pacts were being implemented.

Following the formal merger of the components of the UCD into a single political party on Aug. 5, 1977 [see page 28518], most of the 12 separate elements agreed on Dec. 2 to dissolve as individual parties. The Popular Democratic Party (PDP) voted against the decision however, while the Popular Christian Democratic Party abstained, having decided not to disband until the UCD adopts more of the Christian Democratic ideology".

Provisional Autonomy restored to Basque Provinces

The Cabinet on Dec. 31, 1977, approved two royal decree-laws (i) granting the Basque provinces of Guipúzcoa, Vizcaya, Navarra and Alava a provisional "pre-autonomous" statute pending the drafting of the new Spanish constitution [see below] which would contain full statutes of autonomy for the country's regions, and (ii) laying down procedures for the province of Navarra to hold a referendum to decide whether its inhabitants wished to be integrated into an autonomous Basque region or remain separate. Similar pre-autonomous status had been granted to the four provinces of Catalonia on Sept. 29, 1977 [see 28677 A]. [For acts of violence by Basque separatists, see below.]

The final stages of discussions over Basque autonomy, which had begun in September 1977 [see page 28678], had been protracted by divisions within Navarra over the question of integration into the Basque region (since many of Navarra's inhabitants are not Basques), and this had led to delays on the part of the Government in approving the draft statute. In particular, the Assembly of Basque Parliamentarians refused to alter the article of the statute providing for Navarra to join the Basque region, whereas the Government for its part was sensitive to pressure from the Navarran members of the UCD that it should offer an alternative. (The Assembly of Basque Parliamentarians had been formed after the June 1977 elections and grouped most of the Basque senators and deputies for the region—see page 28519—although the UCD deputies for Navarra declined to form part of it.) A compromise was finally reached whereby the Government would promulgate a second decree-law to provide for a referendum in Navarra on the question of its integration into the region. In the light of this decision, the main Basque parties called off a series of demonstrations which had been planned for Jan. 4, 1978.

Navarra, which has an area as large as that of the other three Basque provinces together, was once an independent kingdom in its own right, and although historically associated with the other Basque provinces it did not form part of the autonomous Basque state formed at the time of the Civil War (in which Navarra's Carlist forces fought on the side of General Franco). As shown on the accompanying map, only a part of the province is Basque-speaking.

(*Carpress*)

The text of the draft autonomy statute as approved by the Assembly of Basque Parliamentarians on Nov. 26 and contained in the first decree-law provided for the creation of a General Council of the Basque country to govern the region, and laid down that each province should ultimately decide on its incorporation into the Council via its General Junta (traditional council—see page 28327 for those of Vizcaya and Guipúzcoa) or, in the case of Navarra, its provincial council (*consejo foral*), which would be formed from municipal and local councillors. The General Council would consist at the provisional (i.e. pre-constitutional) stage of three parliamentarians from each province and three representatives of each General Junta or provincial assembly. Decisions of the Council would be adopted by simple majority, but each province would have the right of veto over any decision affecting its own territory. The organs of government of the General Council could be dissolved by the central Government for reasons of state security.

The General Council would have the following powers within the framework of the existing legal system: (i) to elaborate its own statutory regulations on internal functioning; (ii) to designate its Executive and create the necessary organs to enable it to function in conformity with the decree-law; (iii) to make decisions concerning those matters transferred to it by the central State Administration or by local bodies; (iv) to co-ordinate the activities of local bodies which were of general interest to the whole Basque region; (v) to manage and administer those functions and services transferred to it by the State Administration; and (vi) to make proposals to the central Government on measures affecting the interests of the Basque country.

The Transitional Dispositions of the first decree-law laid down that, until municipal elections had been held, the parliamentary deputies of each province would decide by majority on the pro-

visional incorporation of their respective territories and their representation on the General Council. After municipal elections (whose date was not yet fixed—see below), the final decision would be in the hands of the newly-formed General Juntas in Alava, Guipúzcoa and Vizcaya and of the provincial council in Navarra. During the period up to the municipal elections the General Council would be made up of five representatives of each province which decided to join it; representatives would be chosen by provincial parliamentary deputies and senators, taking into account the results of the June 1977 elections.

The Final Dispositions laid down that mixed commissions would be set up to study the re-establishment in Vizcaya and Guipúzcoa of the special local privileges taken away by General Franco under a decree of 1937 which was, however, abrogated after his death in a decree published on Nov. 6, 1976 [see pages 28087-88]. Furthermore, the Final Dispositions authorized the Government, in consultation with the General Council, to make certain changes before the municipal elections to the decree-law of March 1977 formally restoring the General Juntas to Guipúzcoa and Vizcaya [see page 28327]; these changes would relate to the composition of the Juntas and to the means of electing their members. At the same time the Government was authorized to make changes in a decree-law of June 1977 regulating the organization and functioning of the General Junta of Alava, and to modify the composition and attributions of the provincial council of Navarra.

The urgent legislative committee of the *Cortes* on Jan. 2 unanimously approved the two decree-laws, which were published in the Official Gazette on Jan. 6, thereby entering into force.

The General Council was inaugurated on Feb. 17 in Vitoria (Alava) with 15 councillors (as laid down in the Transitional Disposition for the period leading up to the municipal elections), who had been chosen from among the Basque parliamentarians of Alava, Guipúzcoa and Vizcaya (but not from Navarra, pending the holding of a referendum) and who were of the following political affiliation: Spanish Socialist Workers' Party (PSOE) 5; Basque Nationalist Party (PNV) 5; UCD 3; Basque Left (EE) 1; independents 1. After eight rounds of voting Sr Ramón Rubial, the president of the PSOE, was elected President of the Council over his closest rival, Sr Juan Ajuriaguerra of the PNV, with one UCD member breaking the deadlock in the eighth round by casting a blank vote.

Sr Rubial (72), a former metalworker, was hitherto a Vice-President of the Spanish Senate; he was imprisoned in 1934 and again from 1937 to 1956 for political and trade union activities.

Posts on the Council were allotted at its first working session on Feb. 24 as follows:

Sr Ramón Rubial (PSOE)	President
Sr Carlos Santamaría (PNV)	Education
Sr Antonio Monforte (PNV)	Health
Sr Mikel Isasi (PNV)	Trade, Industry and Fishing
Sr Juan Manuel Ollora (PNV)	Economy and Finance
Sr Juan Iglesias (PSOE)	Labour
Sr José Antonio Maturana (PSOE)	Culture
Sr José Antonio Aguiriano (PSOE)	Justice
Sr José María (Txiki) Benegas (PSOE)	Interior
Sr Pedro Morales Moya (UCD)	Agriculture
Sr José María Viana (UCD)	Public Works and Housing
Sr Juan María Bandres (EE)	Transport and Communications
Sr Juan Manuel López de Juan Abad (ind.)	Councillors without Portfolio
Sr Juan Echevarría Gangoiti (UCD)	
Sr Juan Ajuriaguerra (PNV)	

Council meetings would be held in rotation in the provincial capitals of the Basque provinces represented on the Council.

Appointment of Catalan Executive Council

Sr Josep Tarradellas, who had been installed as President of the Catalan *Generalitat* on Oct. 24, 1977 [see 28677 A], appointed 12 members of the Executive Council of the *Generalitat* on Dec. 5 following negotiations with Catalan political leaders. The Council, which took office on Dec. 9, was made up of five political councillors without portfolio and seven technical councillors; in accordance with an agreement reached on Sept. 28, 1977, in Perpignan (France) [see 28677 A], the party affiliation of the five political councillors corresponded to the parties which won the most seats in Catalonia in the June 1977 elections [see 28517 A], namely, the Socialists of Catalonia (PSC) and the PSOE, which ran together in the elections; the Democratic Pact for Catalonia (PDC)—an electoral alliance comprising the Democratic Convergence of Catalonia (CDC) and the Democratic Front of the Left (EDC); the Unified Socialist Party of Catalonia (PSUC—the Catalan branch of the Communist Party); and the UCD. Four representatives of provincial delegations (councils) would be appointed to complete the Council after municipal elections had been held.

The full composition of the Executive Council was as follows (ERC—Catalonian Republican Left):

Sr Josep Tarradellas	President
Sr Antoni Gutiérrez Díaz (PSUC)	Councillors without Portfolio
Sr Jordi Pujol Soley (PDC)	
Sr Joan Raventós Carner (PSC)	
Sr Carlos Sentís Anfruns (UCD)	
Sr Josep María Triginer Fernandes (PSOE)	
Sr Frederic Rahola d'Espona (ind.)	Interior
Sr Joan Josep Folchi Bonafonte (UCD)	Economy and Finance
Sr Pere Pi-Sunyer Bayo (EDC)	Education and Culture
Sr Ramón Espasa Olivier (PSUC)	Health and Social Security
Sr Narcís Serra Serra (PSC)	Territorial Policy and Public Works
Sr Josep Roig Magriña (ERC)	Agriculture
Sr Joan Codina Torres (PSC)	Labour

Sr Gutiérrez Díaz (48) is secretary-general of the PSUC, which he joined in 1959 and in connexion with which he served a three-year prison sentence in 1962-65. Sr Pujol (47), a militant nationalist for much of his life, spent almost three years in prison after organizing a nationalist demonstration in the presence of four cabinet ministers in Barcelona in 1954; he founded the Democratic Convergence in 1974 and was elected a deputy. Sr Raventós (50), the PSC leader, lost his chair as professor of law at Barcelona for conducting Socialist activities in the 1950s, and was arrested in 1957. Sr Sentís (66), a journalist, fought on the side of General Franco in the Civil War, but became increasingly opposed to the regime in its final years; he was director of information in the first post-Franco Government. Sr Triginer (33) has been a Socialist activist since 1962 and is first secretary of the PSOE in Catalonia.

Sr Rahola (60) was a member of the *Generalitat* in 1936, and in 1976 was appointed as Sr Tarradellas's representative in Catalonia until the latter's return from exile. Sr Folchi (30) is a professor of international law in Tarragona, where he is also provincial secretary of the UCD. Sr Pi-Sunyer (67) fought on the Republican side in the Civil War and then spent 28 years in exile in Venezuela and the USA, returning to Spain in 1968; he joined the EDC (a member of the Liberal International) shortly before the 1977 elections. Sr Espasa (37), a surgeon, joined the PSUC in 1968 and was briefly detained in 1969. Sr Serra (34), professor of economic theory at the Autonomous University of Barcelona, is a member of the secretariat of the PSC. Sr Roig (60), an agriculturalist, fought on the Republican side in the Civil War and then spent nine years in exile in France. Sr Codina (50) is secretary-general of the metalworkers' federation of the (Socialist) General Workers' Union (UGT).

As laid down in the second decree-law on the restoration of the *Generalitat*, two mixed commissions were appointed on Dec. 16 to study (i) the transfer of government functions and activities from the state to the *Generalitat* and (ii) the division of various responsibilities between the *Generalitat* and the provincial delegations. The commissions held their first meetings on Jan. 23.

Developments concerning Autonomy for Other Regions

Talks on a pre-autonomous statute for the eastern region of Valencia, which had been carried out by Sr Manuel Clavero Arévalo (Minister for relations with the Regions) and Valencian representatives, were concluded on Jan. 11 with the approval of a text providing for the creation of a Council of Valencia. According to the draft text, the Council would be composed of 20 parliamentarians and three provincial representatives—one from each of the provinces of Alicante, Castellón and Valencia, with the number of representatives to be increased after municipal elections—and would elect a president from among its members. The Council would have similar functions to those of the semi-autonomous governments of Catalonia and the Basque Country and would be constituted a month after publication of a royal decree-law incorporating the draft autonomy statute in the Official Gazette.

The Cabinet on March 10 and 11 approved the pre-autonomy statute for Valencia, together with statutes for Aragón, Galicia

and the Canary Islands [which will be dealt with in a subsequent article]. Talks on autonomy for Andalusia, Extremadura and the Balearic islands were also in progress.

During pro-autonomy demonstrations in Málaga (Andalusia) on Dec. 4 a 19-year-old Communist militant was shot dead, apparently by police, and about 25 others were injured. Riots followed over the next two days, causing extensive damage, while a general strike called on Dec. 6 in protest at the death paralysed Málaga and many other Andalusian towns. Consequently, the Government on Dec. 6 placed limitations on the holding of demonstrations, particularly those concerning autonomy. The Congress of Deputies on Dec. 23 voted overwhelmingly to open an official investigation into street violence and police methods in Andalusia and the Canaries [see below].

The Algiers-based Movement for the Self-Determination and Independence of the Canary Archipelago (MPAIAC—see 28402 A), led by Sr Antonio Cubillo, was reported to have been responsible for about 80 bombing attacks in the Canary Islands during 1977, which Sr Cubillo latterly declared to be part of a campaign to damage tourism.

A 22-year-old student was shot dead by the Civil Guard and another student injured during a demonstration near the University of La Laguna (Tenerife) on Dec. 12 in support of a general strike organized by the MPAIAC; shots were subsequently fired at police and Civil Guard barracks on the island on Dec. 13 and 14 (two policemen being injured), and demonstrations in protest at the student's death continued not only in the islands but also in Madrid. The universities of La Laguna, Madrid and Barcelona were closed on Dec. 13 as a sign of mourning, and on Dec. 15 several small bombs exploded in a Madrid department store, apparently in protest at the death.

Lieut.-General Mateo Prada Canillas, the Captain-General of the Canaries, said on Dec. 17 that the trouble in the islands was caused by those dedicated to subversion and terrorism and declared that the Army was "behind the forces of public order, and if necessary in front of them".

In connexion with the Málaga and Tenerife incidents, General Manuel Prieto López, the Civil Guard commander of the 6th military region (which includes the Basque provinces) publicly protested on Dec. 14 that Civil Guards were being wrongly deployed, and declared that the Government must take measures to avoid further attacks on his men. Endorsing frequently expressed criticisms that the Civil Guard were neither properly equipped nor trained for dealing with public order, he said in his speech that they were "sorry about any deaths, but we have to resort to any means that have been put at our disposal". General Prieto López was dismissed from his post on Dec. 17.

Preparation of Constitutional Draft

The Official Gazette on Jan. 5 published the text of the draft constitution, on which a constitutional committee—made up of seven representatives of the UCD, one from the PSOE, one from the Popular Alliance (AP) and one from the Communist Party, and one representative for the Basque and Catalan minorities—had been working since Aug. 22, 1977 [see page 28379]. The text of the draft—which was submitted to the Cortes the same day but which had been "leaked" to the Spanish press on Nov. 22, 1977, and subsequently published in a number of newspapers—laid down that Spain would be a parliamentary monarchy in which sovereignty rested with the people; established Spain as a non-confessional state with complete religious freedom; and recognized the unity of Spain and the right of the different nationalities and regions to autonomy, guaranteed by the monarchy. The power of the King was limited in various ways—e.g. in that he would no longer be responsible for selecting the Prime Minister, who would be chosen by the Congress of Deputies; moreover, there was no provision in the draft for the continued existence of the Advisory Council of the Realm, nor would the King name senators, as had hitherto been the practice.

The Archbishop of Madrid, Cardinal Vicente Enrique y Tarancón, protested on behalf of Spain's bishops at the close of the 27th episcopal conference on Nov. 26 at the provision that Spain should not have a state religion (as confirmed in the Concordat—see 13201 B and also 27938 A), and added that the constitution should recognize the "religious pluralism of Spain". However, Sr Felipe González, the PSOE leader, said in response that the Church should not interfere in politics.

(*Carpress*)

By the end of January, when a 20-day period laid down for the submission of amendments expired, a total of 1,133 amendments had been proposed, including 204 submitted by the PSOE. Among the PSOE proposals was the establishment of Spain as a republic, while the Communist Party called for the recognition of divorce and abortion as a right. For the withdrawal of the PSOE representative from the constitutional committee in March, see below.

A ceremony planned for Nov. 1 to invest the heir to the Spanish throne, Prince Felipe (9), as Prince of the Asturias (the heir's traditional title—see also page 27518), was replaced at the last moment by an "act of homage", since it was widely felt that an investiture should only take place after a new constitution was promulgated describing the exact form of the Spanish state. The act of homage took place in Covadonga (Asturias) and was attended by King Juan Carlos and Queen Sofía, the Interior Minister, Sr Rodolfo Martín Villa, and the members of the Council of the Realm.

Implementation of Moncloa Agreements

Following the signature in October 1977 of the "Moncloa agreements" providing for all parties represented in Parliament to co-operate with the Government in passing legislation to bring about political, economic and social reforms [see 28677 A], several bills were drafted to bring such reforms into effect, including legislation on greater freedom of association and the legalization of political parties; a reorganization of the police and security forces; and changes in existing laws on adultery, divorce and contraceptives. A law abrogating various sections of the Penal Code which had previously made punishable certain activities now covered by the new legislation was submitted to the *Cortes* in February.

Freedom of Association. A bill was sent to the *Cortes* in December modifying the May 1976 law on meetings and political gatherings [see page 27854], inter alia by extending the term "private" gathering (which would be generally exempt from interference on the part of the authorities) to cover (i) all meetings with less than 50 people attending, (ii) meetings held in public places for family or personal reasons with attendance limited by invitation, and (iii) those convened by political parties. Public meetings remained subject to prior notification to the authorities as under the May 1976 law.

Political Parties. At the same time a law on political parties was sent to the *Cortes* stating that "the introduction of a democratic constitutional system" through the June 1977 elections "makes it necessary immediately to revise the rules regulating political activity" as laid out in the law of June 1976 [see page 27854] and the royal decree-law of February 1977 [see page 28327] in order to regulate more satisfactorily the functioning of political parties pending the approval of the new constitution. The bill stated that political parties were freely permitted, and that they became legal 21 days after handing in their statutes to the Ministry of the Interior. If there were doubts on the legality of the party these statutes would be handed to the Attorney General, who would pronounce the party legal or illegal.

The Minister of the Interior said on submission of the bills to Parliament that the previous legislation on political parties, while having rendered an important service, was successful more by dint of "generous and democratic application" than of the legislation

A. SPAIN — Granting of Further Provisional Regional Autonomy Statutes - Political and Security Developments - Progress of Constitution - Senate By-elections - Attack on Canary Islands Separatist Leader

Following approval by the Council of Ministers (Cabinet) on March 10-11 of royal decree-laws granting pre-autonomous statutes to the regions of Valencia, Aragón, Galicia and the Canary Islands [see pages 28934-35], similar decree-laws were approved for Andalusia on April 19 and for the Balearic Islands, Extremadura and Old Castille-León on June 2. Provisions for full autonomy for these regions, as well as for the Catalonian and Basque provinces which had been granted pre-autonomous status respectively on Sept. 29, 1977 [see 28677 A], and on Dec. 31, 1977 [see 28933 A], would be contained in the new constitution which was being debated by the constitutional committee of the Lower House of the *Cortes* (Parliament) [see below] prior to its submission to the Spanish people for approval in a referendum. [Pre-autonomous statutes were also in preparation for inter alia the regions of Murcia (in the south-east) and New Castille-La Mancha, the main obstacle with regard to the latter being the question of whether Madrid should be incorporated into the region.]

The decree-laws providing for pre-autonomous status for Galicia, Aragón, Valencia and the Canaries were published in the Official Gazette on March 18, and those for the Balearics, Extremadura and Old Castille-Leon on June 30, details of these and other pre-autonomous statutes being given below. A map showing the regions of Spain is reproduced on page 28935.

Galicia

According to the statute for the north-western region of Galicia, the Junta (*Xunta*) of Galicia would comprise initially a total of 71 parliamentary representatives for the region, as well as one representative of each of the four provincial delegations (La Coruna, Lugo, Orense and Pontevedra). After municipal elections had been held (i.e. one month after the constitutional referendum—see page 28936) the number of provincial delegation representatives would be doubled. On April 1 Sr Antonio Rosón, who belonged to the right wing of the Government Union of the Democratic Centre (UCD)—the dominant party in the region—was elected president of the Junta at its constituent session in Santiago de Compostela.

Galicia, one of Spain's poorest regions, has a population of about 3,000,000, many of whom speak the regional language, Galician, which has close affiliations to Portuguese.

Aragón

The north-eastern region of Aragón, which had in 1936 prepared its own autonomy statute (although this was never submitted to the *Cortes* because of the outbreak of the Civil War), would according to its pre-autonomous statute have a General Delegation of Aragón comprising 12 parliamentary representatives—four for each of the provinces of Huesca, Teruel and Saragossa (Zaragoza)—as well as one representative each provincial delegation and one representative for the Cortes of each province. Sr Juan Antonio Bolea Foradada, a UCD deputy for Saragossa, was elected president of the General Delegation at its constituent meeting on April 9 in Saragossa.

The population of Aragón, numbering rather over 1,000,000, is largely dispersed throughout the region, although nearly half live in Saragossa, the capital. The UCD is the majority party in Huesca and Teruel, while in Saragossa the UCD and the Spanish Socialist Workers' Party (PSOE) have equal representation. Aragón's drive for autonomy was given impetus by a plan drafted during General Franco's regime to divert the region's main river, the Ebro, to supply the Catalonian capital of Barcelona with water for its industries—a scheme which had since, however, been abandoned.

Valencia

The General Council of Valencia would according to its pre-autonomous statute comprise 12 existing parliamentarians [not as stated on page 28934] as well as one representative of each of the three provincial delegations (Alicante, Castellón and Valencia). A PSOE deputy, Sr José Luis Albinana Olmos (35), was elected president of the Council on April 10 in Santa María de Benquerencia, the Council subsequently holding its formal constituent session on April 17; the distribution of its 10 portfolios among the parties was as follows: PSOE, three; Popular Socialist Party (PSP), one; UCD, four; Popular Alliance (AP), one; independents, one. A member of the Valencian Communist Party was appointed councillor without portfolio.

Valencia—on the east coast—has nearly 3,500,000 inhabitants, most of whom speak a regional dialect of Catalan.

Canary Islands

The seven Canary Islands—Gran Canaria, Gomera, La Palma, Lanzarote, Hierro, Fuerteventura and Tenerife (comprising the two provinces of Las Palmas de Gran Canaria and Santa Cruz de Tenerife)—with a total population of some 1,500,000 inhabitants, would be administered by a Junta of the Canaries, consisting initially of 28 parliamentary representatives as well as one representative of each of the seven island councils (*cabildos insulares*). After the municipal elections the Junta would comprise 15 parliamentarians and three representatives of each of the island councils. The 28 seats of the parliamentarians on the Junta were distributed as follows: UCD, 18; PSOE, five; PSP, one; *Assemblea Majorera*, two; AP, one; Communist Party, one.

On April 14 Sr Alfonso Soriano Benítez de Lugo, a member of the UCD (which won 18 seats and 60 per cent of the vote in the islands in the 1977 general elections—see 28517 A), was elected president of the Junta in Santa Cruz de Tenerife.

The Prime Minister, Sr Adolfo Suárez González, paid an official visit to the Canary Islands from April 20 to 26, on which he was accompanied by the Interior Minister, Sr Rodolfo Martín Villa, and the Minister at the Prime Minister's Office, Sr José Manuel Otero Novas. During his stay Sr Suárez studied the main problems facing the islands—specifically the high level of unemployment (reported to affect more than 12 per cent of the active population), economic problems due to drought and emigration from the countryside to the towns, and the insecurity of the population in the face of separatist activities [see below] and following the Spanish withdrawal from its former territory of Spanish Sahara (in February 1976; see 27746 A). Sr Suárez also had talks in the Canary Islands with Lieut.-General Manuel Gutiérrez Mellado, the First Deputy Prime Minister and Minister of Defence, and other members of the Armed Forces High Command concerning the projected aeronaval base in the Canaries [see page 28938], which the Prime Minister estimated on April 25 would cost some $180,000,000.

The Spanish Council of Ministers on June 6 approved a 28,600 million peseta (about $350,000,000) investment package for the islands to improve their roads, ports, housing, power and water supply, and educational facilities, and also decided to submit to Parliament plans for the construction of the aeronaval base and for the modernization of the islands' defence system.

Andalusia

The Junta of Andalusia was officially constituted in Cádiz (in the extreme south of Spain) on May 27 with Sr Plácido Fernández Viagas, a PSOE senator, as its president, and comprised 31 parliamentarians (PSOE, 14; UCD, 13; Communist Party, two; independents, two) as well as one representative of each of the eight provincial delegations of Almería, Cádiz, Córdoba, Granada, Huelva, Jáen, Málaga and Sevilla. Of the Council's 10 portfolios, the PSOE held four, the UCD four, and the Communists and independents one each.

The decree-law, which had been approved by the Cabinet on April 19 and published in the Official Gazette on April 28, provided for the possibility that Ceuta and Melilla and three other small Spanish enclaves on the coast of Morocco [see pages 27414-15; 28714 A] might be incorporated into the region of Andalusia.

Balearics

A Grand and General Council of the Balearics would be formed only after municipal elections, until when the islands would be administered by the island councils of Majorca, Minorca and Ibiza-Formentera and by the inter-island council. The Balearics, which governed themselves until Philip V deprived them of this right in 1715, were the first single-province region to achieve pre-autonomous status.

Extremadura

The Junta of Extremadura would comprise five parliamentarians from each of the two provinces (Cáceres and

Badajoz, in south-western Spain), one representative of each provincial delegation, and representatives of the towns of each province.

Old Castille-León

Although the pre-autonomous statute provided for a General Council of Castile and León which would comprise representatives of all of the 11 provinces (Avila, Burgos, León, Logroño, Palencia, Salamanca, Santander, Segovia, Soria, Valladolid and Zamora), there was still some doubt as to whether the provinces of Logroño, Santander and León would ultimately remain part of the region; the decree-law for the region contained a provision for them to decide on their incorporation later by a two-thirds majority of their parliamentarians.

Consideration of Constitutional Draft by Constitutional Committee of Congress of Deputies

The constitutional committee of the Congress of Deputies (Lower House) began its debate on May 5 on the draft constitution prepared by a special committee [see page 28935] which finally ended its work on March 16 (the first draft, published on Jan. 5, having been revised after the submission of 1,133 amendments to it). The PSOE representative, Sr Gregorio Peces Barba, who had withdrawn from the special committee on March 7 due to disagreements with the UCD over, in particular, freedom of worship and education [see page 28936], joined with the other party representatives in signing the text on April 11, and the draft was released on April 17.

All the political parties represented on the 36-member constitutional committee with the exception of Popular Alliance—i.e. the UCD, the PSOE (including Catalan Socialists), the Communist Party, and the Basque Nationalist Party (PNV) and other Basque and Catalan minority parties—agreed on May 24 on a compromise to accelerate the passage of certain controversial articles of the constitutional draft, including those which covered education, divorce, freedom of worship, strikes and lockouts and the organization of the economy; under the compromise, most of the parties' amendments would be withdrawn, it being informally agreed that changes could be made in future by means of laws once basic aims and ideals had been laid down in the constitution. The PNV and AP representatives temporarily left the committee in protest at this course, although they returned on May 29.

The composition of the constitutional committee, which was presided over by Sr Emilio Attard Alonso (UCD), was as follows: UCD, 17; PSOE and Catalan Socialists, 13; Communist Party, two; AP, two; PNV and Basque and Catalan minority parties, two. Minorities not represented in the *Cortes* were allowed to present amendments.

Article 1 of the constitution, which was approved on May 11 by 23 votes to none, with 13 abstentions (Socialists), laid down (i) that Spain was a democratic state, (ii) that sovereignty rested with the people and (iii) that Spain was a parliamentary monarchy. A PSOE amendment in favour of designating Spain a republic was defeated, and the PSOE explained its abstention on the final voting by stating that, while the Socialists supported the concept of a republic out of loyalty to their voters and to the past, they did not wish to jeopardize the constitution and had therefore bowed to the majority decision.

Article 2, which recognized the "indissoluble unity of the Spanish nation" and recognized and guaranteed the right to autonomy of all Spain's "nationalities and regions", was approved on May 12 by 30 votes to two (AP), with two abstentions (PNV and minorities).

Article 15 which was adopted on May 18 by 19 votes to 17 (i) guaranteed freedom of religion and worship, (ii) laid down that no one could be obliged to declare his religion or beliefs and (iii) provided that there should be no official state religion, although "the religious beliefs of Spanish society" would be taken into consideration and "relations of co-operation" accordingly maintained with the Roman Catholic and other churches. The Socialists opposed the third paragraph of the article on the grounds that it had been inserted by the UCD under pressure from the Church. The Communist Party voted in favour of the article.

The May 24 consensus was broken on May 30 when the PSOE, supported by the Communists and minorities, voted against Article 63 which dealt with the composition of the Congress of Deputies. The PSOE unsuccessfully attempted to insert a clause providing that deputies would be elected according to proportional representation, but this was opposed by the UCD and the AP on the grounds that the electoral method should be laid down in a subsequent law, and further consideration of the article was postponed.

The committee on June 14 approved Articles 136-139 dealing with the implementation of autonomy.

Article 137 stated that under no circumstances would a federation of autonomous regions be permitted but that the *Cortes* could authorize co-operation agreements between the different autonomous communities.

Article 138 said that a statute of autonomy would be elaborated by an assembly of members of the respective provincial delegation or inter-island council and by the deputies and senators elected to it, and would be submitted to the *Cortes*.

Article 139 laid down that the statute of autonomy would be the "basic institutional norm for each autonomous community" and would be recognized by the state. Statutes of autonomy would contain (*a*) a definition of the autonomous community as it corresponded to its historical identity; (*b*) the delimitation of the region's territory; (*c*) the designation, organization and situation of the respective autonomous institutions; and (*d*) the competences to be assumed as provided for in the constitution and the transfer of services from the state. The revision of a statute would need the approval of the *Cortes*.

Article 139 (ii) listed the following competencies for which autonomous regions would assume responsibility at local level: the organization of their institutions, towns, housing and public works, roads and railways, ports and airports, sports facilities, agriculture and economic development within the framework of national policy, forestry, environment, water supply and its uses, fisheries, shows and exhibitions, handicrafts, museums, libraries, etc., culture, tourism, teaching of the local language, health, social assistance, local police.

On June 15 the committee approved Article 141, which listed the matters which remained the exclusive competence of the state; these included defence, administration of justice, nationality, emigration and immigration, alien status, right of asylum, foreign relations, commercial, labour, civil and criminal law, public security [see below], customs, the monetary system, weights and measures, economic planning, general policy on most matters mentioned in Article 139 (ii), general responsibility for press, radio and television, authorization to hold referenda. A compromise amendment was added leaving open the possibility of the creation of regional police forces and their relation to state police forces, following Basque and Catalan demands for the inclusion of a provision that there should be police autonomy within the regions.

Sr Francisco Letamendia (a Basque deputy for Guipúzcoa) intervened before the compromise was reached with vehement accusations against the state police forces in the Basque provinces, alleging that they had acted like occupation forces. Sr Letamendia said that in 1969 almost 2,000 of the region's 2,000,000 inhabitants had been detained, of whom 350 had suffered first degree torture and 160 second degree torture. Moreover, he said, in 1973 half of all prisoners in Spanish goals were Basques.

Prime Minister's Speech on Government Policy pending Promulgation of Constitution - UCD Developments

At the request of deputies who on March 1 passed a resolution calling on the Prime Minister to explain more fully the government changes carried out in February [see page 28933], Sr Suárez delivered a speech to the *Cortes* on April 5 which also covered the implementation of the Moncloa inter-party agreements [see pages 28679-80 and 28935-36] and general government policy, and in which he appealed for a political truce until a new constitution had been approved.

The Communist Party leader, Sr Santiago Carrillo, said on the following day that he was satisfied with the Prime Minister's explanation of the Government's programme, while the PSOE leader, Sr Felipe González, undertook that his party would not at present table a motion of no confidence in the Government.

The Prime Minister stressed that the only means of solving the grave economic crisis and elaborating a realistic and effective social policy was by continuing to apply the Moncloa pacts. He admitted that there existed worrying problems concerning public order, but the Government had no intention of weakening in its attitude; the aim of the security forces was to allow the exercise of freedoms in a climate of security, and to this end the security forces were being adapted and modernized, in the firm conviction that they would be able to counter any attempts to destroy public order, intimidate civilians or carry out attacks against people and property.

Sr Suárez said that the drafting of the new constitution represented a prior step to making new progress in the political process, and

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No. 58

Memorandum on the Principles governing the Relationship between the Allied Kommandatura and Greater Berlin

The Foreign Ministers of France, the United Kingdom, and the United States of America, meeting in Bonn, instructed their representatives on the Allied Kommandatura in Berlin to make a Declaration on Berlin, redefining the principles to govern the relationship between the Allied Kommandatura and Greater Berlin when the Convention on Relations between the Three Powers and the Federal Republic of Germany and its related Conventions and Instruments come into force, in such a way as to liberalise the Allied controls in the city to the maximum extent practicable. The Declaration was publicly made by the Allied Kommandatura on 26th May and will become effective on the same date as the Convention on Relations and its related Conventions enter into force.

The text of the Declaration is appended.

Foreign Office,
26th May, 1952.

Declaration on Berlin

Taking into consideration the new relations established between France, the United Kingdom of Great Britain and Northern Ireland, the United States of America, and the Federal Republic of Germany and

wishing to grant the Berlin authorities the maximum liberty compatible with the special situation of Berlin,

the Allied Kommandatura makes this declaration:

I

Berlin shall exercise all its rights, powers and responsibilities set forth in its Constitution as adopted in 1950 subject only to the reservations made by the Allied Kommandatura on 29th August, 1950, and to the provisions hereinafter.

II

The Allied authorities retain the right to take, if they deem it necessary, such measures as may be required to fulfil their international obligations, to ensure public order and to maintain the status and security of Berlin and its economy, trade and communications.

III

The Allied authorities will normally exercise powers only in the following fields:—

(*a*) Security, interests and immunities of the Allied Forces, including their representatives, dependents and non-German employees. German employees of the Allied Forces enjoy immunity from German jurisdiction only in matters arising out of or in the course of performance of duties or services with the Allied Forces;

(*b*) Disarmament and demilitarisation, including related fields of scientific research, civil aviation, and prohibitions and restrictions on industry in relation to the foregoing;

(*c*) Relations of Berlin with authorities abroad. However, the Allied Kommandatura will permit the Berlin authorities to assure the representation abroad of the interests of Berlin and of its inhabitants by suitable arrangements;

(*d*) Satisfaction of occupation costs. These costs will be fixed after consultation with the appropriate German authorities and at the lowest level consistent with maintaining the security of Berlin and of the Allied Forces located there;

(*e*) Authority over the Berlin police to the extent necessary to ensure the security of Berlin.

IV

The Allied Kommandatura will not, subject to Articles I and II of this Declaration, raise any objection to the adoption by Berlin under an appropriate procedure authorised by the Allied Kommandatura of the same legislation as that of the Federal Republic, in particular regarding currency, credit and foreign exchange, nationality, passports, emigration and immigration, extradition, the unification of the customs and trade area, trade and navigation agreements, freedom of movement of goods, and foreign trade and payments arrangements.

V

In the following fields:—

(*a*) restitution, reparations, decartelisation, deconcentration, foreign interests in Berlin, claims against Berlin or its inhabitants,

(*b*) displaced persons and the admission of refugees,

(*c*) control of the care and treatment in German prisons of persons charged before or sentenced by Allied courts or tribunals; over the carrying out of sentences imposed on them and over questions of amnesty, pardon or release in relation to them,

the Allied authorities will in future only intervene to an extent consistent with, or if the Berlin authorities act inconsistently with, the principles which form the basis of the new relations between France, the United Kingdom and the United States on the one part and the Federal Republic of Germany on the other, or with the Allied legislation in force in Berlin.

VI

All legislation of the Allied authorities will remain in force until repealed, amended or deprived of effect.

The Allied authorities will repeal, amend or deprive of effect any legislation which they deem no longer appropriate in the light of this declaration.

Legislation of the Allied authorities may also be repealed or amended by Berlin legislation; but such repeal or amendment shall require the approval of the Allied authorities before coming into force.

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Berlin legislation shall come into force in accordance with the provisions of the Berlin Constitution. In case of inconsistency with Allied legislation, or with other measures of the Allied authorities, or with the rights of the Allied authorities under this declaration, Berlin legislation will be subject to repeal or annulment by the Allied Kommandatura.

VIII

In order to enable them to fulfil their obligations under this declaration, the Allied authorities shall have the right to request and obtain such information and statistics as they deem necessary.

IX

The Allied Kommandatura will modify the provisions of this declaration as the situation in Berlin permits.

X

Upon the effective date of this declaration the State of Principles Governing the Relationship Between the Allied Kommandatura and Greater Berlin of 14th May, 1949, as modified by the First Instrument of Revision, dated 7th March, 1951, will be repealed.

No. 59

Western Declaration on Germany, the European Defence Community, and Berlin, May 27, 1952

The Governments of France, the United Kingdom of Great Britain and Northern Ireland, and the United States of America have signed conventions with the German Federal Republic which will establish a new relationship with that country. These conventions, as well as the treaties for a European Defence Community and a European Coal and Steel Community, of which France is a signatory, provide a new basis for uniting Europe and for the realisation of Germany's partnership in the European Community. They are designed to prevent the resurgence of former tensions and conflicts among the free nations of Europe and any future revival of aggressive militarism. They make possible the removal of the special restraints hitherto imposed on the Federal Republic of Germany, and permit its participation as an equal partner in Western defence.

These conventions and treaties respond to the desire to provide by united efforts for the prosperity and security of Western Europe. The Governments of the United Kingdom and the United States consider that the establishment and development of these institutions of the European Community correspond to their own basic interests, and will therefore lend them every possible co-operation and support.

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No. 132

Statement by the United States Department of State on Legal Aspects of the Berlin Situation, December 20, 1958

The United States considers that the agreements denounced by the Soviet Union are in full force and effect, that the Soviet Union remains fully responsible for discharging the obligations which it assumed under the agreements, and that the attempts by the Soviet Union to undermine the rights of the United States to be in Berlin and to have access thereto are in violation of international law.

The legal dispute of the United States Government with the Soviet Government involves fundamental questions of international law. Among them are the respective rights acquired by the occupying authorities in Germany at the conclusion of World War II and the status of those rights pending a final peace settlement with Germany; the question whether a nation may unilaterally abrogate without cause international agreements to which it is a party in order to divest itself of responsibilities which it has voluntarily assumed; and what is the effect of a unilateral renunciation of jointly shared rights of military occupation by one of the occupiers.

During World War II the United States, the United Kingdom, and the Soviet Union, together with the forces of the Free French and of the other United Nations, formed a coalition of allied forces united in the common effort of defeating Nazi Germany. Several major international meetings were held between the heads of government of the Allied Powers at which the common objectives were outlined and plans for the securing of peace were mapped out.

The agreed communiqué of the Moscow Conference, held from October 19 to October 30, 1943, stated:

> The Conference agreed to set up machinery for ensuring the closest co-operation between the three Governments in the examination of European questions arising as the war develops. For this purpose the Conference decided to establish in London a European Advisory Commission to study these questions and to make joint recommendations to the three Governments.

The European Advisory Commission held its first meeting on January 14, 1944. Thereafter it discussed "European questions" including the anticipated surrender and occupation of Germany. The nature of the subsequent occupation of Germany and Greater Berlin is clearly reflected by the discussions held in the European Advisory Commission and the agreements concluded as a result of the discussions.

On February 18, 1944, the Soviet representative submitted a document entitled "Conditions of Surrender for Germany" for consideration of the Commission, article 15 of which revealed the thinking of the Soviet Government at that time in regard to the establishment of zones of occupation in Germany. Paragraph (*d*) of article 15 of the document proposed the following with regard to Berlin:

> (*d*). There shall be established around Berlin a 10/15 kilometer zone which shall be occupied jointly by the armed forces of the Union of Soviet Socialist Republics, the United Kingdom and the United States of America.

In discussing the Soviet proposal, the British representative at a meeting on February 18, 1944, doubted the desirability of including in the terms of surrender a provision giving boundaries to such zones, since this appeared to him to be a domestic matter for the Three Powers themselves.

On March 17, 1944, at the Fifth Meeting of the European Advisory Commission, the Soviet representative, Mr. Gusev, stated that he would not insist upon the inclusion of article 15 in the Instrument of Surrender, which could thereby be made shorter. The delimitation could then be set forth in a separate document to be agreed on by the Allies. This separate document was worked out in a series of subsequent discussions, and, on September 12, 1944, the representatives of the three Governments signed a Protocol on the Zones of Occupation in Germany and the Administration of "Greater Berlin". On November 14, 1944, agreement was reached regarding certain amendments to the Protocol of September 12. The Soviet representative on the European Advisory Commission gave notification that the Soviet Government approved the agreement regarding amendments on February 6, 1945. The United Kingdom had previously approved on December 5, 1944, the Protocol and amendments, and the United States on February 2, 1945.

The Crimean Conference was held February 4-11, 1945, and in consequence thereof the following significant statement was made by the Prime Minister of Great Britain, the President of the United States of America, and the Chairman of the Council of People's Commissars of the Union of Soviet Socialist Republics on the results of the Crimean Conference:

The Occupation and Control of Germany

We have agreed on common policies and plans for enforcing the unconditional surrender terms which we shall impose together on Nazi Germany after German armed resistance has been finally crushed. These terms will not be made known until the final defeat of Germany has been accomplished. Under the agreed plan, the forces of the three powers will each occupy a separate zone of Germany. Co-ordinated administration and control has been provided for under the plan through a central control commission consisting of the Supreme Commanders of the three powers with headquarters in Berlin. It has been agreed that France should be invited by the three powers, if she should so desire, to take over a zone of occupation, and to participate as a fourth member of the control commission. The limits of the French zone will be agreed by the four governments concerned through their representatives on the European Advisory Commission.

On July 26, 1945, the United Kingdom, the United States, and the U.S.S.R. entered into an agreement with the Provisional Government of the French Republic regarding amendments to the protocol of September 12, 1944, which served to include France in the occupation of Germany and the administration of "Greater Berlin". The Soviet representative on the European Advisory Commission gave notice that his Government approved this agreement on August 13, 1945. The United States approved on July 29, 1945, the United Kingdom approved on August 2, 1945, and the French Government approved on August 7, 1945.

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The protocol, in its final form, provides:

1. Germany, within her frontiers as they were on the 31st December, 1937, will, for the purposes of occupation, be divided into four zones, one of which will be allotted to each of the four Powers, and a special Berlin area, which will be under joint occupation by the four Powers.

The Protocol then specifies the geographical boundaries of each zone and provides for the division of the territory of Greater Berlin, which "will be jointly occupied by the armed forces" of the Four Powers, into four parts. Paragraph 5 of the Protocol provides:

5. An Inter-Allied Governing Authority (Komendatura) consisting of four Commandants, appointed by their respective Commanders-in-Chief, will be established to direct jointly the administration of the "Greater Berlin" Area.

It should be borne in mind that the only changes in the Protocol subsequent to February 6, 1945, when it came into force, were the amendments relating to the French occupation rights. The French Zone of Occupation and French Sector of Berlin were carved out from the American and British Zones and Sectors so that the amendments did not effect any change as between the U.S.S.R. and the Western Powers in the fundamental allocation of authority in Germany.

The relationship of the occupying powers in Germany was further clarified by the work of the European Advisory Commission in connection with the agreement on control machinery in Germany. On November 14, 1944, an agreement was reached in the Commission with regard to the organization of the allied control machinery in Germany in the period during which Germany would be carrying out the basic requirements of unconditional surrender. On May 1, 1945, agreement was reached to include the Provisional Government of the French Republic in the control agreement.

This agreement, in its final form, provides that:

Supreme authority in Germany will be exercised, on instructions from their respective Governments, by the Commanders-in-Chief of the armed forces of the United States of America, the United Kingdom and the Union of Soviet Socialist Republics, [and] the Provisional Government of the French Republic each in his own zone of occupation, and also jointly, in matters affecting Germany as a whole, in their capacity as members of the supreme organ of control constituted under the present Agreement.

It also provided, with respect to Berlin (article 7 (*a*)):

An Inter-Allied Governing Authority (Komendatura) consisting of four Commandants, one from each Power, appointed by their respective Commanders-in-Chief, will be established to direct jointly the administration of the "Greater Berlin" area. Each of the Commandants will serve in rotation, in the position of Chief Commandant, as head of the Inter-Allied Governing Authority.

This agreement, unlike the Protocol on Zones of Occupation, contained a provision with respect to duration (article 10):

The allied organs for the control and administration of Germany outlined above will operate during the initial period of the occupation of Germany immediately following surrender, that is, the period when Germany is carrying out the basic requirements of unconditional surrender.

On May 7 and 8, 1945, the Acts of Military Surrender were signed, by which the German High Command surrendered "unconditionally to the Supreme Commander, Allied Expeditionary Force and simultaneously to the Supreme High Command of the Red Army", all forces under German control.

At the time of the surrender of the German military forces, British and United States military forces held by force of arms all of Germany west of a line running from Wismar to Magdeburg to Torgau to Dresden. This area included practically all of the German territory which had been allotted to the Western powers under the Protocol of Zones of Occupation, and a very substantial portion of the territory allocated to the Soviet Zone. Of interest also is that the Western powers had, in the weeks prior to the German surrender, rejected German offers to surrender or withdraw German forces on the western front while holding on the east against the Soviet forces and thus permit the Western Allies to occupy all of Germany. Faithful to their agreements with the Soviet Union respecting the joint nature of the defeat of the Nazi regime and joint assumption of supreme authority in Germany, the Western powers repulsed these proposals.

On June 5, 1945, the Allied Representatives in Germany issued a Declaration Regarding the Defeat of Germany and the Assumption of Supreme Authority with Respect to Germany.

The declaration provided:

> The Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, hereby assume supreme authority with respect to Germany, including all the powers possessed by the German Government, the High Command and any state, municipal, or local government, or authority. The assumption, for the purposes stated above, of the said authority and powers does not effect the annexation of Germany.
>
> The Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, will hereafter determine the boundaries of Germany or any part thereof and the status of Germany or of any area at present being part of German territory.

On June 5, 1945, the four Allied Governments also issued a statement on control machinery in Germany. This statement is substantially identical with the Agreement on Control Machinery in Germany.

Likewise, on June 5, 1945, the four Allied Governments issued a statement on the zones of occupation in Germany. The statement announced the areas agreed previously in the European Advisory Commission in 1944. Article 2 of the statement provides that:

> The area of "Greater Berlin" will be occupied by forces of each of the four Powers. An Inter-Allied Governing Authority (in Russian, Komendatura) consisting of four Commandants, appointed by their respective Commanders-in-Chief, will be established to direct jointly its administration.

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Stalin replied by letter dated ...

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On June 14, 1945, the President of the United States wrote a letter to Marshal Stalin concerning the withdrawal of American troops from the Soviet Zone into the United States Zone of Occupation, to be carried out

> * * * in accordance with arrangements between the respective commanders, including in these arrangements simultaneous movement of the national garrisons into Greater Berlin and provision of free access by air, road, and rail from Frankfurt and Bremen to Berlin for United States forces.

Stalin replied by letter dated June 18, 1945, stating:

> On our part all necessary measures will be taken in Germany and Austria in accordance with the above-stated plan.

On July 1, 1945, United States forces entered Berlin and withdrew from their advanced position in Eastern Germany.

In accordance with the proposal concerning the withdrawal of United States forces from Thuringia and Saxony and entry into Berlin, a conference was held on June 29, 1945, between Marshal Zhukov, General Clay, and General Weeks. General arrangements were made for use by the Western Powers of specific roads, rail lines, and air lines for the purpose of exercising their rights of access to Berlin.

The general arrangements were further defined through actions of the Allied control machinery in Germany--the Control Council, the Co-ordinating Committee, which was the Council's principal subordinate body, and the interested functional committees and directorates. Certain of these specific arrangements were incorporated in approved papers, such as Directorate of Transport paper CONL/P (45) 27 regarding rail access, Minute (110) (a) of the Allied Control Council regarding air corridors to Berlin, the Air Directorate paper on air safety in Berlin, DAIR/P (45) 67 second revision, and the Air Directorate paper on rules of flight in the corridors, DAIR/P (45) 71 second revision. In addition, a variety of working practices and arrangements developed with respect to the exercise by the Western Powers of their rights of access. The arrangements, however, related merely to the orderly exercise of the rights of access.

On March 20, 1948, the Soviet representatives walked out of the Allied Control Council for Germany after the Soviet representative, who was in the chair, arbitrarily declared the meeting closed. On March 30, 1948, the Soviet Deputy Military Governor, General Dratvin, stated in a letter to the United States Military Government that supplementary provisions regarding communications between the Soviet and U.S. Zones of occupation in Germany would go into effect on April 1, 1948. These provisions, which were contrary to practice established since the quadripartite occupation of Berlin, set forth that:

(1) U.S. personnel travelling through the Soviet Zone by rail and highway must present documentary evidence of identity and affiliation with the U.S. Military Administration of Germany;

(2) Military freight shipments from Berlin to the Western zones must be cleared through Soviet check points by means of a Soviet permit; freight shipments into Berlin would be cleared by accompanying documents;

(3) All baggage must be inspected at Soviet check points, with the exception of personal belongings of U.S. personnel carried in a passenger railway car or a passenger automobile.

Similar letters were delivered to the British and French Military Government authorities.

On March 31 the Chief of Staff, U.S. Military Government, replied that the new provisions were not acceptable and that such unilateral changes of policy could not be recognised.

The Soviets then commenced the series of restrictions on traffic to and from Berlin which ultimately culminated in the Berlin blockade. The facts regarding the effort of the Soviet Union to starve the population of Berlin in order to force the Western Powers to surrender their rights in the city are too well known to require reiteration.

The airlift mounted by the Western Powers defeated this Soviet effort. On May 4, 1949, the Governments of the United States, U.S.S.R., United Kingdom, and France reached an agreement at New York which provided in part as follows:

1. All the restrictions imposed since March 1, 1948, by the Government of the Union of Soviet Socialist Republics on communications, transportation, and trade between Berlin and the Western zones of Germany and between the Eastern zone and the Western zones will be removed on May 12, 1949.

The Council of Foreign Ministers which convened at Paris subsequent to the New York agreement on May 4, 1949, agreed as follows:

5. The Governments of France, the Union of Soviet Socialist Republics, the United Kingdom, and the United States agree that the New York agreement on May 4, 1949, shall be maintained. Moreover, in order to promote further the aims set forth in the preceding paragraphs and in order to improve and supplement this and other arrangements and agreements as regards the movement of persons and goods and communications between the Eastern zone and the Western zones and between the zones and Berlin and also in regard to transit, the occupation authorities, each in his own zone, will have an obligation to take the measures necessary to insure the normal functioning and utilisation of rail, water, and road transport for such movement of persons and goods and such communications by post, telephone, and telegraph.

Article 1 of the New York agreement of May 4, 1949, was implemented by Order Number 56 of the Soviet Military Government and Commander in Chief of the Soviet occupation forces in Germany, dated May 9, 1949. The order provides that the regulations which were in effect prior to 1 March, 1948, concerning communications between Berlin and the Western zones were re-established. Specifically, paragraph 4 of the Soviet Order provides, "The procedure in effect prior to 1 March, 1948, for military and civilian personnel of the British, American, and French occupation forces permitting them to cross the demarcation line at the control points of Marienborn and Nowawes without special passes and requiring passes authorised by the SMA staff for all other control points is to be re-established."

The foregoing historical summary establishes beyond question that the rights of the United States in Germany and in Berlin do not depend in any respect upon the sufferance
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respect upon the sufferance or acquiescence of the Soviet Union. Those rights derive from the total defeat of the Third Reich and the subsequent assumption of supreme authority in Germany. This defeat and assumption of authority were carried out as joint undertakings in which the participants were deemed to have equal standing. The rights of each occupying power exist independently and underlie the series of agreements which specify the areas and the methods in which those rights are to be exercised. From this fact two important consequences are derived.

In the first place, the specific rights which flow from the Agreement on Zones of Occupation and the Status of Berlin do not vary in either kind or degree. The right of each power to be in occupation of Berlin is of the same standing as the right of each power to be in occupation of its zone. Further, the rights of the three Western powers to free access to Berlin as an essential corollary of their right of occupation there is of the same stature as the right of occupation itself. The Soviet Union did not bestow upon the Western powers rights of access to Berlin. It accepted its zone of occupation subject to those rights of access. If this were not true and the doctrine of joint and equal rights is not applicable, then, for example, the United States would now be free to require the Soviet Union to withdraw from that portion of the Soviet Zone originally occupied by American forces and to assume control of the area.

In the second place, inasmuch as the rights of occupation and of access do not stem from the Soviet Union, the Soviets are without any authority to repeal those rights by denunciation of agreements or by purported transfer of control over them to third parties. The Soviet Union cannot affect the rights by declaring agreements null and void because the rights exist independently of the Soviet Union. The Soviet Union cannot affect the rights by declaring them subject to the sovereignty it claims to have bestowed upon its puppet régime in East Germany, because, again, the rights remain in being irrespective of any act of the Soviets. Whatever relationship the East German régime may have vis-à-vis the Soviets, it cannot acquire a power in the Soviet Zone which the Soviets are powerless to give. The foregoing discussion is, of course, without reference to the legality of the purported Soviet action in denouncing its solemn commitments, which is discussed in the succeeding sections.

The Soviet Government, in its note of November 27, 1958, states:

. . . The Soviet Government can no longer consider itself bound by that part of the Allied agreements on Germany that has assumed an inequitable character and is being used for the purpose of maintaining the occupation régime in West Berlin and interfering in the internal affairs of the GDR.

In this connection, the Government of the USSR hereby notifies the United States Government that the Soviet Union regards as null and void the "Protocol of the Agreement between the Governments of the Union of Soviet Socialist Republics, the United States of America, and the United Kingdom on the zones of occupation in Germany and on the administration of Greater Berlin", of September 12, 1944, and the related supplementary agreements, including the agreement on the control machinery in Germany, concluded between the governments of the

USSR, the USA, Great Britain, and France on May 1, 1945, i.e., the agreements that were intended to be in effect during the first years after the capitulation of Germany.

In an attempt to justify this action, the Soviet Government alleges:

(1) that such action is legal because of alleged violations by the Western powers of the Potsdam Agreement;

(2) that the agreements were intended to be in effect only during the first years after the capitulation of Germany;

(3) that alleged activities of the Western powers in their sector of Berlin have resulted in a forfeiture of their rights to occupy those sectors and to have free access thereto.

Relationship of the Potsdam Agreement to U.S. Occupation Rights With Respect to Berlin

The so-called Potsdam Agreement was issued at the conclusion of the Berlin Conference of July 17 to August 2, 1945. The Protocol of the Proceedings which embodied the points of agreement reached by the Heads of Government of the United States of America, United Kingdom, and Union of Soviet Socialist Republics is dated August 1, 1945. From this mere statement of the time factor it is apparent that the Agreement on Zones of Occupation and the Status of Berlin which had entered into force on February 6, 1945, approximately 6 months earlier, does not depend for its validity upon the Potsdam Protocol of Proceedings. Moreover, there is nothing in the Potsdam Protocol which specifically subjects the prior agreement to any of its terms or which can be interpreted as having that effect. Nor is there any evidence that the subsequent agreements on the exercise of the rights of access relate to or are connected in any way with the Potsdam Protocol.

Violations (alleged or real) of the Potsdam Agreement could not, therefore, have any legal effect upon the validity either of the basic occupation rights of the Western powers or upon the agreements which define the rights of the Western powers to be in occupation of their zones and of their sectors of Berlin and to have free access to Berlin.

Moreover, the Potsdam Agreement, insofar as Germany is concerned, is related to the common objectives of the occupation authorities in Germany. The attainment of these objectives was designed to further the purposes of the occupation of Germany, but there is no indication anywhere in the Protocol that the right of occupation depended upon attainment of the objectives. Further, to the extent that these objectives were not realised, the failure resulted from violations by the Soviet Union of the provisions of the Potsdam Protocol. The major violations were the refusal of the Soviet Union to treat Germany as an economic unit and the continuing attempts of the Soviet Union to obtain reparation payments to which it was not entitled under the terms of the Protocol. The United States is prepared to document violations of the Potsdam Agreement by the Soviet Union. It has never contended, however, that such violations affect the right of the Soviet Government to occupy its zone of Germany and sector of Berlin.

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The United States denies, and is prepared to document the correctness of its position, that it has violated the Potsdam Agreement as alleged by the Soviet Government. The United States submits, however, that the issue is irrelevant to the question of whether the Soviet Union may unilaterally declare null and void an international agreement such as the Protocol of September 12, 1944, since the two agreements related to different subjects and were in no way interdependent.

It should also be noted that the Soviet Union has not, in its Note, alleged that it considers the Potsdam Protocol as null and void by reason of these asserted violations by the Western powers. If the Potsdam Protocol remains in force and effect then, accepting for the sake of argument that these other distinct and independent agreements are in fact contingent upon that Protocol, how can it be maintained either logically or legally that the subsidiary agreements are voided by violation of the principal agreement although the principal agreement is not so voided? The position is, on its face, completely untenable.

Duration of Agreements Relating to Occupation of Germany

The United States considers that the Soviet Government is notably vague in its references in its note of November 27, 1958, to the specific agreements relating to Germany which it considers " were intended to be in effect during the first years after the capitulation of Germany ".

The United States believes that an examination of the various documents referred to above, taken in the historical context in which they were agreed, makes entirely clear the nature of the commitments undertaken by the four occupation authorities. Certain of the documents, or portions thereof, referred to immediate goals of the occupation, or to the administrative arrangements between the occupation authorities. Understandably, express provision was made in such cases for review after a reasonable period of time. Specifically, the statement on control machinery in Germany of June 5, 1945, is a case where such arrangements were made. Paragraph 1 of the agreement stated, " In the period when Germany is carrying out the basic requirements of unconditional surrender * * *." Paragraph 8 is even more specific as to the intention of the parties:

> 8. The arrangements outlined above will operate during the period of occupation following German surrender, when Germany is carrying out the basic requirements of unconditional surrender. *Arrangements for the subsequent period will be the subject of a separate agreement.* [Italics not in original.]

There has never been any doubt on the part of the United States that a " two step " occupation period for Germany had been envisaged in the pre-occupation planning. Further, the United States is fully in accord with the position that the " period when Germany is carrying out the basic requirements of unconditional surrender " has long since passed. A similar introductory qualification was made in connection with the items contained in Part II of the Potsdam Protocol entitled " The Principles to Govern the Treatment of Germany in the Initial Control Period." Just as the Control Machinery Agreement was recognised as an arrangement to cover a relatively short period, the Potsdam " Principles " in Part II were to govern in the immediate post-war period prior to the re-establishment of a central

German authority when the Allied Powers would administer Germany under military government. Secretary of State Acheson pointed this out in his statement made to the Council of Foreign Ministers on May 24, 1949. A few days later, on May 28, Mr. Bevin told the Council that the Western powers considered the "initial control period" as over. Secretary Acheson said he heartily concurred in this statement of Mr. Bevin. Mr. Vyshinsky did not meet the argument squarely or counter the line of reasoning implied. He said on May 27:

> * * * the [Control] Council was established for definite purposes. If these purposes were already attained, then this fact should be taken into account and new aims formulated.

Accordingly the United States does not contest that the Control Agreement and Part II of the Potsdam Agreement were limited to an "initial control period." The record is entirely clear, however, that the limitations in these documents did not indicate that the basic occupation rights and the other occupation agreements were to terminate after the initial control period. No such proviso is contained in the Protocol of September 12, 1944; the Act of Military Surrender; the Declaration of June 5, 1945, regarding the defeat of Germany and the assumption of supreme authority; the statement of June 5, 1945, on zones of occupation in Germany; the statement of June 5, 1945, on Consultation with the Governments of other United Nations; the provisions of the Potsdam Agreement other than Part II; or any of the specific arrangements relating to access to Berlin.

The weakness in an argument that the September 12, 1944, Protocol became ineffective after the initial control period because of some implied relationship to the time proviso in the Control Machinery Agreement of June 5, 1945, is clearly seen by the fact that the Control Machinery Agreement, in the sentence following the one which the Soviets seek to spread to all other occupation agreements, provides "Arrangements for the subsequent period will be the subject of a separate agreement." Accordingly, the Soviet effort to assert, at this late date, that agreements relating to the occupation of Germany were all intended to be effective only "during the first years after the capitulation of Germany" is without substance.

Forfeiture of the Occupation Rights of the Western Powers by their Activities in Western Berlin

The United States does not consider it necessary to disprove the Soviet charges which are made in the note of November 27, 1958, regarding United States activities as an occupying authority in Berlin. It can and will do so if such action should appear desirable. The well-known fact that there is a constant stream of refugees from the Soviet-controlled areas of Germany into West Berlin is by itself compelling evidence as to which powers are properly discharging their occupation responsibilities. But no discussion of the facts is required because the Soviet charges do not relate in any way to obligations assumed by the United States in any of the agreements which the Soviet Union has denounced.

The Soviet position that one party to a multilateral agreement which is declaratory of existing rights can denounce that agreement and thus unilaterally relieve itself of its obligations thereunder and void such rights is untenable. In the absence of the agreement, or in the ab- itself, the question of termi- law. International law doe- tion under such circumstance-

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der and void such rights is

untenable. In the absence of agreement by the other parties to terminate the agreement, or in the absence of a specified duration in the agreement itself, the question of termination must be justified in terms of international law. International law does not recognise any right of unilateral denunciation under such circumstances.

In order to place its position on this matter in correct perspective, the United States wishes to note that while, as stated above, there was no agreement or limitation on the duration of the allied occupation of Germany, the duration of which it was recognised would depend on the length of time it took to accomplish the purposes of the occupation and might be many years, the United States recognise an obligation of the Allied Governments under international law to reach a peace settlement with Germany and not to prolong the occupation of Germany unnecessarily. It is believed that the public record of efforts on the part of the Western powers to reach agreement with the Soviet Government on the terms of such a peace settlement are well known and speak for themselves.

(1) At the first meeting of the Second Session of the Council of Foreign Ministers (Paris, 1946) Secretary of State Byrnes suggested that a special commission be appointed to consider a German peace treaty. On May 15, 1946, he proposed the appointment of special deputies to prepare a draft peace settlement for Germany which the Council could submit to a peace conference to be convened on November 12, 1946.

(2) At the Third Council of Foreign Ministers Session (New York, 1946) Secretary Byrnes insisted that the Council should immediately appoint its deputies for Germany and that these deputies should explore the problem prior to the Moscow session.

(3) The proposed peace treaty was debated at the Moscow Council of Foreign Ministers in March 1947; at London in 1947; at Paris in 1949. The position consistently taken by the United States in favour of a final peace settlement with Germany is thus a matter of public record.

(4) At the Paris session of the deputies of the Council of Foreign Ministers, efforts were made from March 5 to June 22, 1951, without success just to agree on the agenda for a meeting to consider the German question.

The fact of the matter was that during the period of the debates between the Soviet Union and the Western occupation powers between 1946 and 1951 the Soviet Union had initiated a system of government in its zone of control based on armed force and police state methods. The Western Allied Powers could not accept the individuals put forward as representing East Germany as other than instruments of the Soviet Union. The Western powers accordingly have insisted on German reunification based on free elections as a prerequisite for negotiation of a peace treaty with Germany. The Soviet Union has insisted upon acceptance of its hand-picked East German representatives as having an equal voice with the freely elected representatives of West Germany in any reunification. Thus, this Soviet rejection of democratic principles has vitiated efforts to reach agreement on the peace settlement with Germany envisaged during the war and during the immediate post-war period.

The fact remains that the Western powers have supported and support now the right of Germany to have a final peace settlement and the termination of the occupation period. It is the position of the United States that, being thus ready in good faith to bring the occupation period to a close by legitimate means, there can be no legal or moral doubt of the right of the United States to maintain its right of occupation in Berlin and its corollary right of access thereto and that efforts of the Soviet Union to assail and interfere with those rights are in violation of international law.

No. 133

Note of the United Kingdom Government to the Soviet Government on Germany and Berlin, December 31, 1958

I

Her Majesty's Government in the United Kingdom have received the Note addressed to them by the Soviet Government on November 27 about Germany.

The Soviet Government's Note contains certain passages about the events which preceded the last war. The least which can be said about these passages is that in the opinion of Her Majesty's Government they do not conform to historical fact. It is not the purpose of Her Majesty's Government to enter into polemics about the rights and wrongs of events which took place twenty years ago, in political conditions widely different from those of to-day. Nevertheless, Her Majesty's Government think it right to correct any misapprehensions which might exist as a result of the Soviet Government's comments on the European situation at the beginning of the last war.

The Soviet Government's Note says :—

> "It is well known that it was far from at once that Great Britain and also the United States of America and France reached the conclusion that it was necessary to co-operate with the Soviet Union for the purpose of opposing Hitlerite aggression, although readiness to do this had been continuously shown on the part of the Soviet Government. For a long time in Western capitals contrary aspirations had the upper hand ; these became particularly evident during the period of the Munich deal with Hitler."

In this connexion, Her Majesty's Government think it appropriate to recall the position which existed shortly before the outbreak of war in 1939. In May of that year, Her Majesty's Government had suggested to the Soviet Government that it should make a declaration that if France or Britain should be involved in war because of their undertakings to Poland or Roumania, the Soviet Union would help France or Britain if this assistance was called for. The Soviet Government declined to accept this proposal. However, negotiations on the proposed Anglo-Franco-Soviet pact continued, and at Soviet request three-Power military negotiations began in Moscow on August 12, 1939. It was on August 23, with a suddenness which shook Europe, that the German-Soviet non-aggression pact, usually known as the Molotov-Ribbentrop Pact, was announced. It is a matter of surprise to Her

Majesty's Government that th
in the historical part of its N
pact is generally considered
Nor can it be forgotten that
Pact were actually taking pl
were still negotiating in good
names, for good or ill, are p

The attitude of the Soviet
by the remarks of the Soviet
of the Supreme Soviet of the
will be remembered that the
war with Germany. M. Molot

> "The ruling circles of E
> to depict themselves as c
> against Hitlerism, and the
> aim in the war with Germa
> of Hitlerism'. It amount
> French, supporters of the
> 'ideological' war on Germ
> times. . . . But there is a
> with any other ideolo
> of Hitlerism—that is
> understand that an ideolog
> be eliminated by war. It
> wage such a war—a war for
> a fight for 'democracy'."

Such was the position at
the Nazi armies overran Wes
Hitler whose relations with th
by the Molotov-Ribbentrop
into Soviet territory. The S
speed with which at that
Churchill, resolved to ignore
the Soviet Government.

The Soviet Note speaks
of :—

> "the short-sighted calculat

On this point Her Majesty's
views may now be held on the
at that time, Her Majesty's
the historical lessons which
not to pursue a policy
faithfully adhering to their int

The Soviet Government's
tion of the Potsdam Agreem
the argument that the status
view of the purely juridical

AGREEMENT AND NOTES ON BERLIN*

[Signed at Berlin (American Sector), September 3, 1971]

Quadripartite Agreement

The Governments of the United States of America, the French Republic, the Union of Soviet Socialist Republics, and the United Kingdom of Great Britain and Northern Ireland, represented by their Ambassadors, who held a series of meetings in the building formerly occupied by the Allied Control Council in the American Sector of Berlin,

Acting on the basis of their quadripartite rights and responsibilities, and of the corresponding wartime and postwar agreements and decisions of the Four Powers, which are not affected,

Taking into account the existing situation in the relevant area,

Guided by the desire to contribute to practical improvements of the situation,

Without prejudice to their legal positions,

Have agreed on the following:

PART I

General Provisions

1. The four Governments will strive to promote the elimination of tension and the prevention of complications in the relevant area.

2. The four Governments, taking into account their obligations under the Charter of the United Nations, agree that there shall be no use or threat of force in the area and that disputes shall be settled solely by peaceful means.

3. The four Governments will mutually respect their individual and joint rights and responsibilities, which remain unchanged.

4. The four Governments agree that, irrespective of the differences in legal views, the situation which has developed in the area, and as it is defined in this Agreement as well as in the other agreements referred to in this Agreement, shall not be changed unilaterally.

PART II

Provisions relating to the Western Sectors of Berlin

A. The Government of the Union of Soviet Socialist Republics declares that transit traffic by road, rail and waterways through the territory of the German Democratic Republic of civilian persons and goods between the Western Sectors of Berlin and the Federal Republic of Germany will be unimpeded; that such traffic will be facilitated so as to take place in the most simple and expeditious manner; and that it will receive preferential treatment.

Detailed arrangements concerning this civilian traffic, as set forth in Annex I, will be agreed by the competent German authorities.

B. The Governments of the French Republic, the United Kingdom and the United States of America declare that the ties between the Western Sectors of Berlin and the Federal Republic of Germany will be maintained and developed, taking into account that these Sectors continue not to be a constituent part of the Federal Republic of Germany and not to be governed by it.

Detailed arrangements concerning the relationship between the Western Sectors of Berlin and the Federal Republic of Germany are set forth in Annex II.

C. The Government of the Union of Soviet Socialist Republics declares that communications between the Western Sectors of Berlin and areas bordering on these Sectors and those areas of the German Democratic Republic which do not border on these Sectors will be improved. Permanent residents of the Western Sectors of Berlin will be able to travel to and visit such areas for compassionate, family, religious, cultural or commercial reasons, or as tourists, under conditions comparable to those applying to other persons entering these areas.

The problems of the small enclaves, including Steinstücken, and of other small areas may be solved by exchange of territory.

Detailed arrangements concerning travel, communications and the exchange of territory, as set forth in Annex III, will be agreed by the competent German authorities.

D. Representation abroad of the interests of the Western Sectors of Berlin and consular activities of the Union of Soviet Socialist Republics in the Western Sectors of Berlin can be exercised as set forth in Annex IV.

PART III

Final Provisions

This Quadripartite Agreement will enter into force on the date specified in a Final Quadripartite Protocol to be concluded when the measures envisaged in Part II of this Quadripartite Agreement and in its Annexes have been agreed.

DONE at the building formerly occupied by the Allied Control Council in the American Sector of Berlin, this 3rd day of September, 1971, in four originals, each in the English, French and Russian languages, all texts being equally authentic.

For the Government of the French Republic:

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*[Reproduced from The Bulletin, No. 30/Vol. 19 (September 4, 1971) published by the Press and Information Office of the Government of the Federal Republic of Germany.]

For the Government of the Union of Soviet Socialist Republics:

For the Government of the United Kingdom of Great Britain and Northern Ireland:

For the Government of the United States of America:

ANNEX I

Communication from the Government of the Union of Soviet Socialist Republics to the Governments of the French Republic, the United Kingdom and the United States of America

The Government of the Union of Soviet Socialist Republics, with reference to Part II (A) of the Quadripartite Agreement of this date and after consultation and agreement with the Government of the German Democratic Republic, has the honor to inform the Governments of the French Republic, the United Kingdom and the United States of America that:

1. Transit traffic by road, rail and waterways through the territory of the German Democratic Republic of civilian persons and goods between the Western Sectors of Berlin and the Federal Republic of Germany will be facilitated and unimpeded. It will receive the most simple, expeditious and preferential treatment provided by international practice.

2. Accordingly,

   (a) Conveyances sealed before departure may be used for the transport of civilian goods by road, rail and waterways between the Western Sectors of Berlin and the Federal Republic of Germany. Inspection procedures will be limited to the inspection of seals and accompanying documents.

   (b) With regard to conveyances which cannot be sealed, such as open trucks, inspection procedures will be limited to the inspection of accompanying documents. In special cases where there is sufficient reason to suspect that unsealed conveyances contain either material intended for dissemination along the designated routes or persons or material put on board along these routes, the content of unsealed conveyances may be inspected. Procedures for dealing with such cases will be agreed by the competent German authorities.

   (c) Through trains and buses may be used for travel between the Western Sectors of Berlin and the Federal Republic of Germany. Inspection procedures will not include any formalities other than identification of persons.

   (d) Persons identified as through travellers using individual vehicles between the Western Sectors of Berlin and the Federal Republic of Germany on routes designated for through traffic will be able to proceed to their destinations without paying individual tolls and fees for the use of the transit routes. Procedures applied for such travellers shall not involve delay.

   The travellers, their vehicles and personal baggage will not be subject to search, detention or exclusion from use of the designated routes, except in special cases, as may be agreed by the competent German authorities, where there is sufficient reason to suspect that misuse of the transit routes is intended for purposes not related to direct travel to and from the Western Sectors of Berlin and contrary to generally applicable regulations concerning public order.

   (e) Appropriate compensation for fees and tolls and for other costs related to traffic on the communication routes between the Western Sectors of Berlin and the Federal Republic of Germany, including the maintenance of adequate routes, facilities and installations used for such traffic, may be made in the form of an annual lump sum paid to the German Democratic Republic by the Federal Republic of Germany.

3. Arrangements implementing and supplementing the provisions of Paragraphs 1 and 2 above will be agreed by the competent German authorities.

ANNEX II

Communication from the Governments of the French Republic, the United Kingdom and the United States of America to the Government of the Union of Soviet Socialist Republics

The Governments of the French Republic, the United Kingdom and the United States of America, with reference to Part II (B) of the Quadripartite Agreement of this date and after consultation with the Government of the Federal Republic of Germany, have the honour to inform the Government of the Union of Soviet Socialist Republics that:

1. They declare, in the exercise of their rights and responsibilities, that the ties between the Western Sectors of Berlin and the Federal Republic of Germany will be maintained and developed, taking into account that these Sectors continue not to be a constituent part of the Federal Republic of Germany and not to be governed by it. The provisions of the Basic Law of the Federal Republic of Germany and of the Constitution operative in the Western Sectors of Berlin which contradict the above have been suspended and continue not to be in effect.

2. The Federal President, the Federal Government, the *Bundesversammlung*, the *Bundesrat* and the *Bundestag*, including their Committees and *Fraktionen*, as well as other state bodies of the Federal Republic of Germany will not perform in the Western Sectors of Berlin constitutional or official acts which contradict the provisions of Paragraph 1.

3. The Government of the Federal Republic of Germany will be represented in the Western Sectors of Berlin to the authorities of the three Governments and to the *Senat* by a permanent liaison agency.

ANNEX III

Communication from the Government of the Union of Soviet Socialist Republics to the Governments of the French Republic, the United Kingdom and the United States of America

The Government of the Union of Soviet Socialist Republics, with reference to Part II (C) of the Quadripartite Agreement of this date and after consultation and agreement with the Government of the German Democratic Republic, has the honour to inform the Governments of the French Republic, the United Kingdom and the United States of America that:

1. Communications between the Western Sectors of Berlin and areas bordering on these Sectors and those areas of the German Democratic Republic which do not border on these Sectors will be improved.

2. Permanent residents of the Western Sectors of Berlin will be able to travel to and visit such areas for compassionate, family, religious, cultural or commercial reasons, or as tourists, under conditions comparable to those applying to other persons entering these areas. In order to facilitate visits and travel, as described above, by permanent residents of the Western Sectors of Berlin, additional crossing points will be opened.

3. The problems of the small enclaves, including Steinstücken, and of other small areas may be solved by exchange of territory.

4. Telephonic, telegraphic, transport and other external communications of the Western Sectors of Berlin will be expanded.

5. Arrangements implementing and supplementing the provisions of Paragraphs 1 to 4 above will be agreed by the competent German authorities.

ANNEX IV

A. Communication from the Governments of the French Republic, the United Kingdom and the United States of America to the Government of the Union of Soviet Socialist Republics

The Governments of the French Republic, the United Kingdom and the United States of America, with reference to Part II (D) of the Quadripartite Agreement of this date and after consultation with the Government of the Federal Republic of Germany, have the honour to inform the Government of the Union of Soviet Socialist Republics that:

1. The Governments of the French Republic, the United Kingdom and the United States of America maintain their rights and responsibilities relating to the representation abroad of the interests of the Western Sectors of Berlin and their permanent residents, including those rights and responsibilities concerning matters of security and status, both in international organizations and in relations with other countries.

2. Without prejudice to the above and provided that matters of security and status are not affected, they have agreed that:

   (a) The Federal Republic of Germany may perform consular services for permanent residents of the Western Sectors of Berlin.

   (b) In accordance with established procedures, international agreements and arrangements entered into by the Federal Republic of Germany may be extended to the Western Sectors of Berlin provided that the extension of such agreements and arrangements is specified in each case.

   (c) The Federal Republic of Germany may represent the interests of the Western Sectors of Berlin in international organizations and international conferences.

   (d) Permanent residents of the Western Sectors of Berlin may participate jointly with participants from the Federal Republic of Germany in international exchanges and exhibitions. Meetings of international organizations and international conferences as well as exhibitions with international participation may be held in the Western Sectors of Berlin. Invitations will be issued by the *Senat* or jointly by the Federal Republic of Germany and the *Senat*.

3. The three Governments authorize the establishment of a Consulate General of the USSR in the Western Sectors of Berlin accredited to the appropriate authorities of the three Governments in accordance with the usual procedures applied in those Sectors, for the purpose of performing consular services, subject to provisions set forth in a separate document of this date.

B. Communication from the Government of the Union of Soviet Socialist Republics to the Governments of the French Republic, the United Kingdom and the United States of America

The Government of the Union of Soviet Socialist Republics, with reference to Part II (D) of the Quadripartite Agreement of this date and to the communication of the Governments of the French Republic, the United Kingdom and the United States of America with regard to the representation abroad of the interests of the Western Sectors of Berlin and their permanent residents, has the honour to inform the Governments of the French Republic, the United Kingdom and the United States of America that:

1. The Government of the Union of Soviet Socialist Republics takes note of the fact that the three Governments maintain their rights and responsibilities relating to the representation abroad of the interests of the Western Sectors of Berlin and their permanent residents, including those rights and responsibilities concerning matters of security and status, both in international organizations and in relations with other countries.

2. Provided that matters of security and status are not affected, for its part it will raise no objection to:

   (a) The performance by the Federal Republic of Germany of consular services for permanent residents of the Western Sectors of Berlin.

(b) In accordance with established procedures, the extension to the Western Sectors of Berlin of international agreements and arrangements entered into by the Federal Republic of Germany provided that the extension of such agreements and arrangements is specified in each case.

(c) The representation of the interests of the Western Sectors of Berlin by the Federal Republic of Germany in international organizations and international conferences.

(d) The participation jointly with participants from the Federal Republic of Germany of permanent residents of the Western Sectors of Berlin in international exchanges and exhibitions, or the holding in those Sectors of meetings of international organizations and international conferences as well as exhibitions with international participation, taking into account that invitations will be issued by the *Senat* or jointly by the Federal Republic of Germany and the *Senat*.

3. The Government of the Union of Soviet Socialist Republics takes note of the fact that the three Governments have given their consent to the establishment of a Consulate General of the USSR in the Western Sectors of Berlin. It will be accredited to the appropriate authorities of the three Governments, for purposes and subject to provisions described in their communication and as set forth in a separate document of this date.

Note:

The Ambassadors of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America have the honour, with reference to the statements contained in Annex II of the Quadripartite Agreement to be signed on this date concerning the relationship between the Federal Republic of Germany and the Western Sectors of Berlin, to inform the Ambassador of the Union of Soviet Socialist Republics of their intention to send to the Chancellor of the Federal Republic of Germany immediately following signature of the Quadripartite Agreement a letter containing clarifications and interpretations which represent the understanding of their Governments of the statements contained in Annex II of the Quadripartite Agreement. A copy of the letter to be sent to the Chancellor of the Federal Republic of Germany is attached to this note.

The Ambassadors avail themselves of this opportunity to renew to the Ambassador of the Union of Soviet Socialist Republics the assurances of their highest consideration.

His Excellency
The Chancellor of the
Federal Republic of Germany
Bonn

Your Excellency:

With reference to the Quadripartite Agreement signed on September 3, 1971, our Governments wish by this letter to inform the Government of the Federal Republic of Germany of the following clarifications and interpretations of the statements contained in Annex II, which was the subject of consultation with the Government of the Federal Republic of Germany during the Quadripartite Negotiations.

These clarifications and interpretations represent the Understanding of our Governments of this part of the Quadripartite Agreement, as follows:

(a) The Phrase in Paragraph 2 of Annex II of the Quadripartite Agreement which reads: "... will not perform in the Western Sectors of Berlin constitutional or official acts which contradict the provisions of Paragraph 1" shall be interpreted to mean acts in exercise of direct state authority over the Western Sectors of Berlin.

(b) Meetings of the *Bundesversammlung* will not take place and Plenary Sessions of the *Bundesrat* and the *Bundestag* will continue not to take place in the Western Sectors of Berlin. Single Committees of the *Bundesrat* and the *Bundestag* may meet in the Western Sectors of Berlin in connection with maintaining and developing the ties between those Sectors and the Federal Republic of Germany. In the case of *Fraktionen*, meetings will not be held simultaneously.

(c) The Liaison Agency of the Federal Government in the Western Sectors of Berlin includes Departments charged with liaison functions in their respective fields.

(d) Established procedures concerning the applicability to the Western Sectors of Berlin of legislation of the Federal Republic of Germany shall remain unchanged.

(e) The term "state bodies" in Paragraph 2 of Annex II shall be interpreted to mean: The Federal President, The Federal Chancellor, The Federal Cabinet, The Federal Ministers and Ministries, and the Branch Offices of those Ministries, The Bundesrat and The Bundestag, and all Federal Courts.

Accept, Excellency, the renewed assurance of our highest esteem.

For the Government of the French Republic:

For the Government of the United Kingdom
of Great Britain and Northern Ireland:

For the Government of the United States
of America:

(Soviet Reply Note)

The Ambassador of the Union of Soviet Socialist Republics has the honour to acknowledge receipt of the Note of the Ambassadors of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America, dated September 3, 1971, and takes note of the communication of the three Ambassadors.

(Formal close)

(To be signed by the Soviet Ambassador)

Agreed Minute I

It is understood that permanent residents of the Western Sectors of Berlin shall, in order to receive at appropriate Soviet offices visas for entry into the Union of Soviet Socialist Republics, present:

(a) A passport stamped "issued in accordance with the Quadripartite Agreement of September 3, 1971"

(b) An identity card or other appropriately drawn up document confirming that the person requesting the visa is a permanent resident of the Western Sectors of Berlin and containing the bearer's full address and a personal photograph.

During his stay in the Union of Soviet Socialist Republics, a permanent resident of the Western Sectors of Berlin who has received a visa in this way may carry both documents or either of them, as he chooses. The visa issued by a Soviet office will serve as the basis for entry into the Union of Soviet Socialist Republics, and the passport or identity card will serve as the basis for consular services in accordance with the Quadripartite Agreement during the stay of that person in the territory of the Union of Soviet Socialist Republics.

The above-mentioned stamp will appear in all passports used by permanent residents of the Western Sectors of Berlin for journeys to such countries as may require it.

Agreed Minute II

Provision is hereby made for the establishment of a Consulate General of the USSR in the Western Sectors of Berlin. It is understood that the details concerning this Consulate General will include the following:

The Consulate General will be accredited to the appropriate authorities of the three Governments in accordance with the usual procedures applying in those Sectors.

Applicable Allied and German legislation and regulations will apply to the Consulate General. The activities of the Consulate General will be of a consular character and will not include political functions or any matters related to quadripartite rights or responsibilities.

The three Governments are willing to authorize an increase in Soviet commercial activities in the Western Sectors of Berlin as described below. It is understood that pertinent Allied and German legislation and regulations will apply to these activities. This authorization will be extended indefinitely, subject to compliance with the provisions outlined herein. Adequate provision for consultation will be made. This increase will include establishment of an "Office of Soviet Foreign Trade Associations in the Western Sectors of Berlin", with commercial status authorized to buy and sell on behalf of foreign trade associations of the Union of Soviet Socialist Republics. Soyuzpushnina, Prodintorg and Novoexport may each establish a bonded warehouse in the Western Sectors of Berlin to provide storage and display for their goods. The activities of the Intourist office in the British Sector of Berlin may be expanded to include the sale of tickets and vouchers for travel and tours in the Union of Soviet Socialist Republics and other countries. An office of Aeroflot may be established for the sale of passenger tickets and air freight services.

The assignment of personnel to the Consulate General and to permitted Soviet commercial organizations will be subject to agreement with the appropriate authorities of the three Governments. The number of such personnel will not exceed twenty Soviet nationals in the Consulate General; twenty in the office of the Soviet Foreign Trade Associations; one each in the bonded warehouses; six in the Intourist office; and five in the Aeroflot office. The personnel of the Soviet Consulate General and of permitted Soviet commercial organizations and their dependents may reside in the Western Sectors of Berlin upon individual authorization.

The property of the Union of Soviet Socialist Republics at Lietzenburgerstrasse 11 and at Am Sandwerder 1 may be used for purposes to be agreed between appropriate representatives of the three Governments and of the Government of the Union of Soviet Socialist Republics.

Details of implementation of the measures above and a time schedule for carrying them out will be agreed between the four Ambassadors in the period between the signature of the Quadripartite Agreement and the signature of the Final Quadripartite Protocol envisaged in that Agreement.

Final Quadripartite Protocol

The Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the French Republic,

Having in mind Part III of the Quadripartite Agreement of September 3, 1971, and taking note with satisfaction of the fact that the agreements and arrangements mentioned below have been concluded

Have agreed on the following:

1. The four Governments, by virtue of this Protocol, bring into force the Quadripartite Agreement, which, like this Protocol, does not affect quadripartite agreements or decisions previously concluded or reached.

2. The four Governments proceed on the basis that the following agreements and arrangements concluded

between the competent German authorities shall enter into force simultaneously with the Quadripartite Agreement:

(to be filled in after agreements concluded)

3. The Quadripartite Agreement and the consequent agreements and arrangements of the competent German authorities referred to in this Protocol settle important issues examined in the course of the negotiations and shall remain in force together.

4. In the event of a difficulty in the application of the Quadripartite Agreement or any of the above-mentioned agreements or arrangements which any of the four Governments consider serious, or in the event of non-implementation of any part thereof, that Government will have the right to draw the attention of the other three Governments to the provisions of the Quadripartite Agreement and this Protocol and to conduct the requisite quadripartite consultations in order to ensure the observance of the commitments undertaken and to bring the situation into conformity with the Quadripartite Agreement and this Protocol.

5. This Protocol enters into force on the date of signature.

DONE at the building formerly occupied by the Allied Control Council in the American Sector of Berlin this ..... day of .... ., 1971, in four originals each in English, French and Russian languages, all texts being equally authentic.

For the Government of the French Republic:

For the Government of the Union of Soviet Socialist Republics:

For the Government of the United Kingdom of Great Britain and Northern Ireland:

For the Government of the United States of America:

Note of September 3, 1971, Transmitting Text of Quadripartite Agreement*

His Excellency

The Chancellor of the

Federal Republic of Germany,

Bonn.

Your Excellency:

We have the honor by means of this letter to convey to the Government of the Federal Republic of

*[Reproduced from the text provided to International Legal Materials by the U.S. Department of State.]

Germany the text of the Quadripartite Agreement signed this day in Berlin. The Quadripartite Agreement was concluded by the Four Powers in the exercise of their rights and responsibilities with respect to Berlin.

We note that, pursuant to the terms of the Agreement and of the Final Quadripartite Protocol which ultimately will bring it into force, the text of which has been agreed, these rights and responsibilities are not affected and remain unchanged. Our Governments will continue, as heretofore, to exercise supreme authority in the Western Sectors of Berlin, within the framework of the Four Power responsibility which we share for Berlin as a whole.

In accordance with Part II(A) of the Quadripartite Agreement, arrangements implementing and supplementing the provisions relating to civilian traffic will be agreed by the competent German authorities. Part III of the Quadripartite Agreement provides that the Agreement will enter into force on a date to be specified in a Final Quadripartite Protocol which will be concluded when the arrangements envisaged between the competent German authorities have been agreed. It is the request of our Governments that the envisaged negotiations now take place between authorities of the Federal Republic of Germany, also acting on behalf of the Senat, and authorities of the German Democratic Republic.

Part II(B) and (D) and Annexes II and IV of the Quadripartite Agreement relate to the relationship

between the Western Sectors of Berlin and the Federal Republic. In this connection, the following are recalled inter alia:

the communications of the three Western Military Governors to the Parliamentary Council of 2 March, 22 April and 12 May, 1949,

the letter of the three High Commissioners to the Federal Chancellor concerning the exercise of the reserved Allied rights relating to Berlin of 26 May 1952 in the version of the letter X of 23 October 1954,

the Aide Memoire of the three Governments of 18 April 1967 concerning the decision of the Federal Constitutional Court of 20 January 1966 in the Niekisch case.

Our Governments take this occasion to state, in exercise of the rights and responsibilities relating to Berlin, which they retained in Article 2 of the Convention on Relations between the Three Powers and the Federal Republic of Germany of 26 May 1952 as amended October 23, 1954, that Part II(B) and (D) and Annexes II and IV of the Quadripartite Agreement concerning the relationship between the Federal Republic of Germany and the Western Sectors of Berlin accord with the position in the above mentioned documents, which remains unchanged.

With regard to the existing ties between the Federal Republic and the Western Sectors of Berlin, it is the firm intention of our Governments that, as

stated in Part II(B)(1) of the Quadripartite Agreement, these ties will be maintained and developed in accordance with the letter from the three High Commissioners to the Federal Chancellor on the exercise of the reserved rights relating to Berlin of 26 May 1952, in the version of letter X of October 23, 1954, and with pertinent decisions of the Allied Kommandatura of Berlin.

Accept, Excellency, the renewed assurance of our highest esteem.

For the Government of the French Republic:

For the Government of the United Kingdom of Great Britain and Northern Ireland:

For the Government of the United States of America:

s or analogous offences, will be Representatives.

ny national of any of the United an offence against his national or designated by rank, office, or

vill comply with any instructions he apprehension and surrender

forces and civil agencies in any ne.

ority with respect to Germany Kingdom, the United States of Republics, and the Provisional r Allied Governments will take ament and demilitarisation of ace and security.

pose on Germany additional l, military, and other require- rmany. The Allied Representa- to act on their authority, will d instructions for the purpose ts, and of giving effect to the German authorities and the nally the requirements of the ly with all such proclamations,

t at the date and hour set forth of the German authorities or eir obligations hereby or here- l take whatever action may be circumstances.

nglish, Russian, French, and d French are the only authentic

Berlin.

No. 8

Statement by the Governments of the United Kingdom, the United States of America, and the Union of Soviet Socialist Republics, and the Provisional Government of the French Republic on Zones of Occupation in Germany.

Germany, within her frontiers as they were on the 31st December, 1937, will, for the purposes of occupation, be divided into four zones, one to be allotted to each Power as follows: —

an eastern zone to the Union of Soviet Socialist Republics;

a north-western zone to the United Kingdom;

a south-western zone to the United States of America;

a western zone to France.

The occupying forces in each zone will be under a Commander-in-Chief designated by the responsible Power. Each of the four Powers may, at its discretion, include, among the forces assigned to occupation duties under the command of its Commander-in-Chief, auxiliary contingents from the forces of any other Allied Power which has actively participated in military operations against Germany.

2. The area of "Greater Berlin" will be occupied by forces of each of the four Powers. An Inter-Allied Governing Authority (in Russian, Komendatura) consisting of four Commandants, appointed by their respective Commanders-in-Chief, will be established to direct jointly its administration.

5th June, 1945.

No. 9

Statement by the Governments of the United Kingdom, the United States of America, and the Union of Soviet Socialist Republics, and the Provisional Government of the French Republic on Control Machinery in Germany.

In the period when Germany is carrying out the basic requirements of unconditional surender, supreme authority in Germany will be exercised, on instructions from their Governments, by the British, United States, Soviet and French Commanders-in-Chief, each in his own zone of occupation, and also jointly, in matters affecting Germany as a whole. The four Commanders-in-Chief will together constitute the Control Council. Each Commander-in-Chief will be assisted by a Political Adviser.

2. The Control Council, whose decisions shall be unanimous, will ensure appropriate uniformity of action by the Commanders-in-Chief in their respective zones of occupation and will reach agreed decisions on the chief questions affecting Germany as a whole.

3. Under the Control Council, there will be a permanent Co-ordinating Committee composed of one representative of each of the four Commanders-in-Chief, and a Control Staff organised in the following Divisions (which are subject to adjustment in the light of experience):—

No. 25

Communiqué issued by the London Six-Power Conference, June 7, 1948

In accordance with the announcement issued on Wednesday, 2nd June, at the conclusion of the informal discussions on Germany between the representatives of the United States, United Kingdom, France, and the three Benelux countries, a report containing the agreed recommendations on all items discussed was submitted to their respective Governments. These recommendations have been submitted as a whole since their main provisions are mutually dependent and form an indivisible programme. The principal features of this report are the following:—

I. Association of Benelux Countries in the Policy regarding Germany

The recommendations include specific provisions for a close association between the Military Governors and the Benelux representatives in Germany on matters affecting Benelux interests. Moreover, full opportunities will be given the Benelux representatives to be kept informed of developments in the Western Zones.

II. The Rôle of the German Economy in the European Economy and Control of the Ruhr

(*a*) As stated in the communiqué of 6th March it had been agreed that for the political and economic well-being of the countries of Western Europe and of a democratic Germany, there must be a close association of their economic life. This close association, which will enable Germany to contribute to and participate in European recovery, has been ensured by the inclusion on 16th April of the Combined Zone and French Zone in the Organisation for European Economic Co-operation as full members.

(*b*) It was agreed to recommend the establishment of an international authority for the control of the Ruhr in which the United States, United Kingdom, France, the Benelux countries, and Germany would participate, and which does not involve the political separation of the Ruhr area from Germany. It does, however, contemplate control of distribution of coal, coke, and steel of the Ruhr in order that, on the one hand, the industrial concentration in that area shall not become an instrument of aggression, and, on the other, will be able to make its contribution to all countries participating in a European co-operative economic programme, including, of course, Germany itself. A draft agreement containing the provisions for its establishment is attached as Annex I.(1) This agreement is to be concluded by the United States of America, United Kingdom, and France as Occupying Powers. Moreover, the Benelux countries are to be fully associated with the preparation of the more detailed agreement provided for in Article 12, and are to be consulted as to the time when the authority begins to exercise its functions.

(*c*) Arising out of the discussions on the Ruhr it has been recommended that the principle of non-discrimination against foreign interests in Germany be re-affirmed, and that each Government should promptly study the problem of safeguarding foreign interests in order that there may be subsequently established as soon as possible an inter-governmental group to review the question and make recommendations to their Governments.

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III. Evolution of Political and Economic Organisation of Germany

(*a*) Further consideration has been given by all delegations to the problem of the evolution of the political and economic organisation of Germany. They recognise, taking into account the present situation, that it is necessary to give the German people the opportunity to achieve, on the basis of a free and democratic form of government, the eventual re-establishment of German unity, at present disrupted. In these circumstances they have reached the conclusion that the German people in the different States should now be free to establish for themselves the political organisation and institutions which will enable them to assume those governmental responsibilities which are compatible with the minimum requirements of occupation and control, and which ultimately will enable them to assume full governmental responsibilities. The delegations consider that the people in the States will wish to establish a Constitution with provisions which will allow all the German States to subscribe as soon as circumstances permit.

The delegations have therefore agreed to recommend to their Governments that the Military Governors should hold a joint meeting with the Ministers-President of the Western Zones in Germany. At that meeting the Ministers-President will be authorised to convene a Constituent Assembly in order to prepare a Constitution for the approval of the participating States.

Delegates to this Constituent Assembly will be chosen in each of the States in accordance with procedure and regulations determined by the legislative bodies of the individual States.

This Constitution should be such as to enable the Germans to play their part in bringing to an end the present division of Germany, not by the reconstitution of a centralized Reich but by means of a federal form of government which adequately protects the rights of the respective States, and which at the same time provides for adequate central authority and which guarantees the rights and freedoms of the individual. If the Constitution as prepared by the Constituent Assembly does not conflict with these general principles, the Military Governors will authorise its submission for ratification by the people in the respective States.

At the meeting with the Military Governors the Ministers-President will also be authorised to examine the boundaries of the several States in order to determine what modifications might be proposed to the Military Governors for the purpose of creating a definitive system which is satisfactory to the peoples concerned.

(*b*) Further discussions have taken place between the Unted States, United Kingdom, and French Delegations on measures for co-ordinating economic policies and practices in the Combined Zone and the French Zone. Agreed recommendations have been reached on the joint conduct and control of the external trade of the whole area. It has been recognised that a complete economic merger of the two areas cannot effectively take place until further progress has been made towards the establishment of the necessary German institutions common to the entire area.

IV. *Provisional Territorial Arrangements*

The delegations have agreed to submit for the consideration of their Governments proposals for dealing with certain minor provisional territorial adjustments in connexion with the western frontiers of Germany.

V. *Security*

This problem was considered in three aspects:—

* * *

(a) *General Provisions*

The United States, United Kingdom and French Delegations reiterated the firm view of their Governments that there could not be any general withdrawal of their forces from Germany until the peace of Europe is secured and without prior consultation. It was further recommended that the Governments concerned should consult if any of them should consider that there was a danger of resurgence of German military power or of the adoption by Germany of a policy of aggression.

(b) *Measures during the period in which the Occupying Powers retain supreme authority in Germany*

The prohibitions on the German Armed Forces and the German General Staff as contained in Four-Power agreements were re-affirmed, as well as the exercise of controls by the Military Governors with respect to disarmament and demilitarisation, level of industry, and certain aspects of scientific research. To ensure the maintenance of disarmament and demilitarisation in the interests of security, the three Military Governors should set up a Military Security Board in the Western Zones of Germany to carry out the proper inspections and make the necessary recommendations to the Military Governors, who decide the action to be taken.

(c) *Measures after the period in which the Occupying Powers retain supreme authority in Germany*

It was affirmed that Germany must not again be permitted to become an aggressive Power and that, prior to the general withdrawal of the forces of occupation, agreement will be reached among the Governments concerned with respect to necessary measures of demilitarisation, disarmament, and control of industry and with respect to occupation of key areas. Also there should be a system of inspection to ensure the maintenance of the agreed provisions of German disarmament and demilitarisation.

The present recommendations, which in no way preclude and on the contrary should facilitate, eventual Four-Power agreement on the German problem, are designed to solve the urgent political and economic problems arising out of the present situation in Germany. Because of the previous failure to reach comprehensive Four-Power decisions on Germany, the measures recommended mark a step forward in the policy which the Powers represented at these talks are determined to follow with respect to the economic reconstruction of Western Europe, including Germany, and with respect to the establishment of a basis for the participation of a democratic Germany in the community of free peoples.(1)

(1) Annex on the Ruhr not printed.

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of war tension which has hung over us as each day brought out difficult incidents in Berlin. It is a matter in which we all rejoice, and on this side of the House we are very glad that we never faltered in steady support of the policy of His Majesty's Government and of the Foreign Secretary in the whole of this anxious business. We gladly pay our tribute to them. It only shows how important national unity is in these matters, and how desirable it is to exclude party fights as far as possible from these large and important fields.

* * *

No. 32

Extract from Letter from the Military Governors to Dr. Konrad Adenauer, President of the Parliamentary Council, approving the Basic Law

May 12, 1949

1. The Basic Law passed on 8 May by the Parliamentary Council has received our careful and interested attention. In our opinion it happily combines German democratic tradition with the concepts of representative government and a rule of law which the world has come to recognize as requisite to the life of a free people.

2. In approving this constitution for submission to the German people for ratification in accordance with the provisions of Article 144 (1) we believe that you will understand that there are several reservations which we must make. In the first place, the powers vested in the Federation by the Basic Law, as well as the powers exercised by Laender and local Governments, are subject to the provisions of the Occupation Statute which we have already transmitted to you and which is promulgated as of this date.

* * *

4. A third reservation concerns the participation of Greater Berlin in the Federation. We interpret the effect of Articles 23 and 144 (2) of the Basic Law as constituting acceptance of our previous request that while Berlin may not be accorded voting membership in the Bundestag or Bundesrat nor be governed by the Federation she may, nevertheless, designate a small number of representatives to attend the meetings of those legislative bodies.

* * *

No. 33

Kommandatura Letter regarding Statement of Principles for Berlin

May 14, 1949

To: The Chairman of the City Assembly
The Oberbuergermeister
The President of the Kammergericht

1. The three Military Governors have transmitted to the Parliamentary Council in Bonn the text of an Occupation Statute which grants wide legislative, executive, and judicial powers to the German Federal Republic which will shortly be established. The Military Governors have reserved

to themselves only such powers as are necessary to ensure the fundamental aims of the Occupation.

2. Although the Military Governors have not been able, because of the special circumstances of Berlin, to agree at this time that Berlin should be included as a Land in the initial organization of the German Federal Republic, it has been decided to apply, as far as possible, the same liberal measures to Berlin, only reserving, in addition, to the Allied Kommandatura such other powers as are necessary in the present exceptional circumstances in order to ensure the security, the good order, and financial and economic stability of the City.

3. The representative bodies of Greater Berlin have already received considerable powers, by virtue of the Temporary Constitution, but the exercise of these powers has been constantly hindered by the Soviet Authorities who withdrew from the Allied Kommandatura on 1st July 1948, have disrupted the unity of the City, and have attempted to bring its administration to a standstill.

4. The Allied Kommandatura and the American, French, and British Commandants, in their joint and several capacities, have therefore resolved that their relations with the German Authorities of Greater Berlin will in future be guided by the principles set out in the attached document.

FRANK L. HOWLEY, Brig. Gen., U.S.A.
J. GANEVAL, Gen. de Brigade, FRANCE.
G. K. BOURNE, Maj. Gen., U.K.

[*Enclosure in No.* 33]

Statement of principles governing the relationship between the Allied Kommandatura and Greater Berlin

1. (*a*) Greater Berlin shall have, subject only to the limitations set out in this statement, full legislative and executive and judicial powers in accordance with the Temporary Constitution of 1946 or with any subsequent Constitution adopted by the City Assembly and approved by the Allied Kommandatura in accordance with the provisions of this statement;

(*b*) Article 36 of the Temporary Constitution of Berlin will be held in suspense and BK/O(47)34 and BK/O(47)56, which were issued in implementation of that article, will be annulled.

2. In order to ensure the accomplishment of the basic purpose of Occupation, powers in the following fields are specifically reserved to the Allied Kommandatura, including the right to request and verify information and statistics needed by the Occupation Authorities :—

(*a*) Disarmament and demilitarisation, including related fields of scientific research, prohibitions and restrictions on industry and civil aviation ;

(*b*) Restitution, reparations, decartelisation, deconcentration, non-discrimination in trade matters, foreign interests in Berlin, and claims against Berlin or its inhabitants ;

(*c*) Relations with authorities abroad ;

(*d*) Displaced persons and the admission of refugees ;

(*e*) Protection, pres... employees and repres... pation costs and their ...

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(*e*) Protection, prestige and security of Allied Forces, dependents, employees and representatives, their immunities and satisfaction of occupation costs and their other requirements;

(*f*) Respect for the Temporary Constitution of Berlin of 1946 or of any Constitution which may be approved by the Allied Kommandatura to replace the Temporary Constitution;

(*g*) Control over foreign trade and exchange;

(*h*) Control over internal action, only to the minimum extent necessary to ensure use of funds, food and other supplies in such manner as to reduce to a minimum the need for external assistance to Berlin;

(*i*) Control of the care and treatment in German prisons of persons charged before or sentenced by the courts or tribunals of the Occupying Powers or Occupation Authorities; over the carrying out of sentences imposed on them and other questions of amnesty, pardon, or release in relation to them;

(*j*) Supervision of the Berlin Police, in view of the special circumstances prevailing in Berlin, in a manner to be defined in an additional document which will be issued by the Allied Kommandatura on this subject;

(*k*) Legislation or action tending to restrict the freedom of speech, the press, assembly, or association, until such time as these four basic rights are guaranteed by the Berlin Constitution;

(*l*) Such controls as have been or may be imposed by the Allied Kommandatura to ensure that counter-blockade measures, including measures in connection with the airlift and the restriction of exports, shall remain effective during the continuance of the blockade;

(*m*) Control of banking, currency, and credit policy so that it may be fully co-ordinated with the banking and credit policies of larger areas of Germany under Allied supervision.

3. (*a*) It is the hope and expectation of the Commandants that the Occupation Authorities will not have occasion to take action in fields other than those specifically reserved above. The Occupation Authorities, however, reserve the right to resume in whole or in part the exercise of full authority if they consider that to do so is essential to security or to preserve democratic government, or in pursuance of the international obligations of their Governments. Before doing so, they will formally advise the appropriate Berlin Authorities of their decision and of the reasons therefor;

(*b*) In addition, in the special circumstances prevailing in Berlin, the Occupation Authorities reserve the right to intervene, in an emergency, and issue orders to ensure the security, good order and financial and economic stability of the City.

4. Greater Berlin shall have the power, after due notification to the Allied Kommandatura, to legislate and act in the fields reserved to the Allied Kommandatura, except as the Allied Kommandatura itself otherwise specifically directs, or as such legislation or action would be inconsistent with decisions or actions taken by the Occupation Authorities themselves.

5. Any amendment to the Temporary Constitution, any new Constitution approved by the City Assembly designed to replace the Temporary Constitution, any amendment to such new Constitution, or legislation in the fields reserved above will require the express approval of the Allied Kommandatura before becoming effective. All other legislation will become effective 21 days after official receipt by the Allied Kommandatura unless previously disapproved by them provisionally or finally. The Allied Kommandatura will not disapprove such legislation unless, in their opinion, it is inconsistent with the Constitution in force, legislation, or other directive of the Occupation Authorities themselves, or the provisions of this statement, or unless it constitutes a grave threat to the basic purposes of the Occupation.

6. Subject only to the requirements of their security, the Occupation Authorities guarantee that all agencies of the Occupation will respect the civil rights of every person to be protected against arbitrary arrest, search, or seizure, to be represented by counsel, to be admitted to appeal as circumstances warrant, to communicate with relatives, and to have a fair, prompt trial.

7. Orders and instructions of the Allied Kommandatura or the Sector Military Governments, issued before the date of this statement, shall remain in force until repealed or amended by the Allied Kommandatura or the Sector Military Governments as appropriate in accordance with the following provisions:

(*a*) The Allied Kommandatura and Sector Military Government orders or instructions relating to reserved subjects will remain in force and will be codified;

(*b*) The Allied Kommandatura and Sector Military Governments will, as soon as possible, cancel all orders and instructions which are inconsistent with this statement. It may be necessary for certain of these orders and instructions to remain in force until they are replaced by City legislation. In such cases, the Allied Kommandatura or the Sector Military Government, as appropriate, will repeal such orders and instructions on the request of the City Government.

No. 34

Agreement on Revised Internal Procedure for the Allied (Western) Kommandatura, June 7, 1949

1. The Allied Kommandatura, composed of the Commandants of the United States, French, and British Sectors, their Deputies, and the necessary technical committees and staffs shall continue as the Agency for the Allied control of Berlin.

2. The nature and extent of controls exercised by the Allied Kommandatura shall be in harmony with the memorandum forwarded to the Oberbuergermeister setting out the principles which shall govern the relationship between the Allied Kommandatura and Greater Berlin, and also with any relevant international agreements made by the respective governments.

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6. Subject only to the requirements of their security, the Occupation Authorities guarantee that all agencies of the Occupation will respect the civil rights of every person to be protected against arbitrary arrest, search, or seizure, to be represented by counsel, to be admitted to appeal as circumstances warrant, to communicate with relatives, and to have a fair, prompt trial.

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(*a*) The Allied Kommandatura and Sector Military Government orders or instructions relating to reserved subjects will remain in force and will be codified;

(*b*) The Allied Kommandatura and Sector Military Governments will, as soon as possible, cancel all orders and instructions which are inconsistent with this statement. It may be necessary for certain of these orders and instructions to remain in force until they are replaced by City legislation. In such cases, the Allied Kommandatura or the Sector Military Government, as appropriate, will repeal such orders and instructions on the request of the City Government.

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3. In order to permit Greater Berlin to exercise increased responsibilities over domestic affairs, and to reduce the burden of Occupation costs, staff personnel shall be kept to a minimum.

4. In the exercise of the powers reserved to the Allied Kommandatura to approve amendments to the Temporary Constitution of Berlin of 1946, or approve any new Constitution drawn up by the City Assembly to replace the Temporary Constitution, or to approve amendments to any such new Constitution, the decisions of the Allied Kommandatura shall require unanimous agreement.

5. On all other matters action shall be by majority vote.

6. (*a*) The Allied Kommandatura shall not alter or modify any intergovernmental agreement, or any decision of the Allied High Commission, without approval by the Allied High Commission for such action.

(*b*) If a Commandant considers that a majority decision conflicts with any intergovernmental agreement, or any decision of the Allied High Commission, or with the fundamental principles for the conduct of Germany's external relations, or with matters essential to the security, prestige, and requirements of the Occupying Forces, he may appeal to the Allied High Commission. Such an appeal shall serve to suspend action for 30 days, and thereafter unless two of the High Commissioners indicate that the grounds do not justify further suspension.

(*c*) If such an appeal is from an action of the Allied Kommandatura either declining to disapprove or deciding to disapprove German legislation, such legislation shall be provisionally disapproved for the duration of the appeal period.

7. A Commandant who considers that a decision made by less than unanimous vote involving any other matter reserved by the "Statement of Principles Governing the Relationship between the Allied Kommandatura and Greater Berlin" is not in conformity with basic tripartite policies regarding Germany, may appeal to the Allied High Commission. An appeal in this case shall serve to suspend action for a period not to exceed 21 days from the date of the decision unless the Allied High Commission decides otherwise. If such appeal is from an action of the Allied Kommandatura either declining to disapprove or deciding to disapprove German legislation, such legislation shall be provisionally disapproved for the duration of the appeal period.

8. All powers of the Allied Kommandatura shall be uniformly exercised in all Sectors of Berlin under the control of the Allied Kommandatura, in accordance with tripartite policies and directives.

9. (*a*) The Chairmanship of the Allied Kommandatura shall rotate on a monthly basis.

(*b*) The number of Committees shall be kept to a minimum consistent with efficiency.

10. This Agreement will be subject to review by the Commandants on termination of the present exceptional circumstances in Berlin, or whenever, in the opinion of a Commandant, such review is deemed desirable for other reasons.

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June 6, 1950 ; recognising the
ier of peace and friend-
e two nations, have decided
ed as their plenipotentiaries:
Republic) Mr. Otto Grotewohl,
Mr. Georg Dertinger, Minister
Republic of Poland) Mr. Jozef
f Ministers, and Mr. Stefan
n Affairs ; who, after exchang-
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es are agreed that the estab-
the Baltic Sea along a line
Swinemünde] and then along
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rontier, drawn in accordance
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Article III. In order to carry out the marking on the spot of the German-Polish state frontier mentioned in Article I, the High Contracting Parties will establish a mixed German-Polish Commission with its seat in Warsaw, this Commission to consist of eight members, of whom four are to be appointed by the Provisional Government of the German Democratic Republic and four by the Government of the Republic of Poland.

Article IV. The mixed German-Polish Commission will meet not later than August 31, 1950, to carry out the activities indicated in Article III.

Article V. After the completion of the demarcation on the spot of the state frontier, the High Contracting Parties shall draw up an instrument recording the demarcation of the state frontier between Germany and Poland.

Article VI. In carrying out the demarcation of the German-Polish state frontier, the High Contracting Parties shall conclude agreements on the questions of frontier crossings, of local frontier traffic, and of navigation on the waters of the frontier-zone.

These agreements shall be concluded within one month after the coming into force of the instrument recording the demarcation of the state frontier between Germany and Poland mentioned in Article V.

Article VII. The present Agreement is subject to ratification which shall take place within the shortest possible time. The Agreement will come into force at the moment of the exchange of ratification documents which will take place in Berlin. In witness whereof the plenipotentiaries have signed and affixed their seals to the present Agreement.

Article VIII. Executed on July 6, 1950, in Zgorzelec [formerly Görlitz] in two copies, both in the German and Polish languages, both being equally binding.

Otto Grotewohl, Georg Dertinger, under the authority of the President of the German Democratic Republic; Jozef Cyrankiewicz, Stefan Wierblowski, under the authority of the President of the Republic of Poland.

No. 48

Kommandatura Letter Approving Berlin Constitution of 1950

BK-O(50)75

August 29, 1950

Subject: Berlin Constitution

To: Chairman of the City Assembly,
The Oberbuergermeister, and
The President of the Kammergericht.

The Allied Kommandatura Berlin states:

1. The Allied Kommandatura has studied the draft Berlin Constitution which was submitted to the Allied Kommandatura on April 22, 1948,

and the supplement and amendment which were passed by the Berlin City Assembly on August 4, 1950, and submitted for approval on the same date.

2. In approving this Constitution and the proposed changes thereto, the Allied Kommandatura makes the following reservations:

(*a*) The powers vested in the city government by the Constitution are subject to the provisions of the Statement of Principles which was promulgated on May 14, 1949, or any modifications thereof.

(*b*) Article 1, Paragraphs 2 and 3 are suspended.

(*c*) Article 87 is interpreted as meaning that during the transitional period Berlin shall possess none of the attributes of a twelfth Land. The Provisions of this Article concerning the Basic Law will only apply to the extent necessary to prevent a conflict between this law and the Berlin Constitution. Furthermore, the provisions of any Federal law shall apply to Berlin only after they have been voted upon by the House of Representatives and passed as a Berlin law.

3. You are requested to acknowledge receipt of this order, citing number and date.

For the Allied Kommandatura:

EVAN A. TAYLOR,
Chairman, Chief of Staff.

No. 42

Communiqué issued by the Western Foreign Ministers following the Meetings at New York, September 19, 1950

The Foreign Ministers of France, the United Kingdom, and the United States concluded their scheduled meetings at New York on September 18, after having participated in the meeting of the North Atlantic Treaty Council and having consulted representatives of other Governments interested in the problems before them.

As indicated in the interim communiqué issued on September 14, they exchanged views frankly and fully in regard to a wide range of problems of common concern. The Ministers intend, during the opening days of the General Assembly, to continue their exchange of views as occasion may arise. Some of the questions which they discussed will form the subject of United Nations consideration during coming weeks. The Ministers were agreed that the efforts of the United Nations to resist threats to the peace and to achieve peaceful settlements will receive their firmest support.

The Ministers' chief concern during their present meeting was with urgent measures required to safeguard the security of the free world in Europe and in Asia in order that peace will be maintained. The Ministers were agreed that this will continue to be their chief concern and that, in conjunction with the members of the North Atlantic Treaty Organisation and other friendly Governments, they will see to it that the necessary measures to achieve this end are worked out and applied with the greatest possible despatch.

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decided that this group, whic
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The conclusions reached by
affecting Germany are stated

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events in Germany and elsew
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must be involved; and if Western Germany is to be defended, it seems to us only fair and reasonable that the people of Western Germany should help in their own defence.

Many people are quite understandably worried at the prospect of re-arming Germany so shortly after the end of the war. They fear that the spirit of Nazism will rise again and, with it, a German army and General Staff on the old model. That is a point of great anxiety to all the Governments and to everyone who has had to study this problem. But it is something which the rest of the Atlantic Powers could not tolerate. The present leaders of Germany are as strongly opposed as the Atlantic Powers to a re-creation of the German General Staff and of a German army on the old model. Nevertheless, we cannot risk such a danger. We therefore agreed with the Americans that any German contribution to the defence of Western Europe must be in the form of units in the integrated Atlantic Force. The French Government were unable to accept this proposal, and the New York meeting had to break up without reaching any final agreement.

* * *

No. 51

Modifications of "Statement of Principles", 1951

The Allied Kommandatura hereby promulgates the following modifications of the Statement of Principles of May 14, 1949, which, except as modified by this Instrument, continues in force:

I. Paragraph 1 is amended to read as follows:

"1. Berlin shall have, subject only to the limitations set out in this Statement, full legislative and executive and judicial powers in accordance with the Berlin Constitution of 1950 as approved by the Allied Kommandatura on 29 August 1950."

II. The words "non-discrimination in trade matters" are deleted from Paragraph 2 (*b*).

III. Paragraphs 2 (*c*), 2 (*f*), 2 (*g*), and 2 (*j*) are amended to read as follows:

"(*c*) Relations with authorities abroad, but this power will be exercised so as to permit the Berlin authorities to assure the representation of Berlin interests in this field by suitable arrangements;"

"(*f*) respect for the Berlin Constitution of 1950 as approved by the Allied Kommandatura on 29 August 1950;"

"(*g*) control over external trade and exchange and over trade between Berlin and the Western Zones of Germany; and control over monetary and fiscal policies in so far only as these policies seriously affect Berlin's need for external assistance;"

"(*j*) authority over Berlin police to the extent necessary to ensure the security of Berlin."

IV. Paragraphs 2 (*h*), 2 (*k*), 2 (*l*) and 2 (*m*) are deleted.

V. In Paragraph 4, the word "Berlin" is substituted for "Greater Berlin"

VI. Paragraph 5 is ame

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VII. Paragraph 7 is an

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VIII. This Instrument

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Principles", 1951

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(*m*) are deleted.
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VI. Paragraph 5 is amended to read as follows:

"5. Any amendment of the Berlin Constitution or any new Constitution of Berlin will require the express approval of the Allied Kommandatura before becoming effective. All other legislation will be effective without review by the Allied Kommandatura, but will be subject to repeal or annulment by it. The Allied Kommandatura will not repeal or annul legislation unless, in its opinion, it is inconsistent with the provisions of this Statement of Principles as revised, or with legislation or other measures of the Occupation Authorities, or unless it constitutes a grave threat to the basic purposes of the Occupation."

VII. Paragraph 7 is amended to read as follows:

"7. All Occupation legislation will remain in force until repealed or amended by the Allied Kommandatura or the Sector Commandant concerned. In so far as legislation of the Allied Kommandatura or the Sector Commandants is not based on the reserved powers, it will be repealed at the request of the appropriate Berlin authorities."

VIII. This Instrument shall become effective on 8th March 1951.

No. 52

Declaration issued by the United Kingdom, United States and French Foreign Ministers after their Washington Meetings

September 14, 1951

The three Foreign Ministers declare that their Governments aim at the inclusion of a democratic Germany, on a basis of equality, in a Continental European Community, which itself will form a part of a constantly developing Atlantic Community.

The three Ministers recognise that the initiative taken by the French Government concerning the creation of a European Coal and Steel Community and a European Defence Community is a major step towards European unity. They welcome the Schuman Plan as a means of strengthening the economy of Western Europe and look forward to its early realisation. They also welcome the Paris Plan as a very important contribution to the effective defence of Europe, including Germany.

The participation of Germany in the common defence should naturally be attended by the replacement of the present Occupation Statute by a new relationship between the three Governments and the German Federal Republic.

The Government of the United Kingdom desires to establish the closest possible association with the European continental community at all stages in its development.

The three Ministers reaffirm that this policy, which will be undertaken in concert with the other free nations, is directed to the establishment and the maintenance of a durable peace founded on justice and law. Their aim is to reinforce the security and the prosperity of Europe without changing in any way the purely defensive character of the North Atlantic Treaty Organisation. They reaffirm their determination that in no circumstances shall the above arrangements be made use of in furtherance of any aggressive action.

and the appropriate authorities
the Eastern Sector of Berlin,
17 and 21 March respectively.

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eference. Bearing in mind the
rate occasions to appeal to the
facilitate it in the discharge of

its duties, the Commission, to its regret, is obliged to conclude that at present there is little prospect of its being able to pursue its task.

68. However, in view of the fact that subparagraph 4 (*c*) of General Assembly resolution 510 (VI) "directs the Commission, if it is unable forthwith to make these arrangements, to make a further attempt to carry out its task at such time as it is satisfied that the German authorities in the Federal Republic, in Berlin, and in the Soviet Zone will admit the Commission, as it is desirable to leave the door open for the Commission to carry out its task", the Commission will remain at the disposal of the United Nations and the parties concerned, and will make a further attempt to implement its mandate at such time as it seems likely to the Commission that new steps may lead to positive results.

69. The following four representatives on the Commission, whose signatures are appended below, unanimously adopted the report at the twenty-first meeting of the Commission held on 30 April 1952 in the Palais des Nations, Geneva.

Brazil	A. MENDES VIANNA.
Iceland	K. ALBERTSON.
Netherlands	M. KOHNSTAMM.
Pakistan	A. H. ABBASI.

No. 56

Letter from the three Western High Commissioners to Dr. Adenauer on Aid to Berlin, May 26, 1952

As we have already advised you during our discussions on the Conventions between the three Powers and the Federal Republic which have been signed today, the reservation made on 12 May 1949 by the Military Governors concerning Articles 23 and 144 (2) of the Basic Law will, owing to the international situation, be formally maintained by the three Powers in the exercise of their right relating to Berlin after the entry into force of those Conventions.

The three Powers wish to state in this connexion that they are nonetheless conscious of the necessity for the Federal Republic to furnish aid to Berlin and of the advantages involved in the adoption by Berlin of policies similar to those of the Federation.

For this reason they have decided to exercise their right relating to Berlin in such a way as to facilitate the carrying out by the Federal Republic of its declaration attached to the Convention on Relations between the Three Powers and the Federal Republic, and to permit the Federal authorities to ensure representation of Berlin and of the Berlin population outside Berlin.

Similarly, they will have no objection if, in accordance with an appropriate procedure authorised by the Allied Kommandatura, Berlin adopts the same legislation as that of the Federal Republic, in particular regarding currency, credit and foreign exchange, nationality, passports, emigration and immigration, extradition, the unification of the customs and trade area,

trade and navigation agreements, freedom of movement of goods, and foreign trade and payments arrangements.

In view of the declaration of the Federal Republic concerning material aid to Berlin and the charge on the Federal budget of the occupation costs of the three Powers in Berlin in accordance with the provisions of existing legislation, the three Powers will be prepared to consult with the Federal Government prior to their establishment of their Berlin occupation-cost budgets. It is their intention to fix such costs at the lowest level consistent with maintaining the security of Berlin and of the Allied Forces located there.

No. 57

Declaration by the Federal Republic of Germany on Aid to Berlin, May 26, 1952

In view of the special rôle which Berlin has played and is destined to play in the future for the self-preservation of the free world, aware of the ties connecting the Federal Republic with Berlin, and motivated by the desire to strengthen and to reinforce the position of Berlin in all fields, and in particular to bring about insofar as possible an improvement in the economy and the financial situation in Berlin including its productive capacity and level of employment, the Federal Republic undertakes:

(*a*) to take all necessary measures on its part in order to ensure the maintenance of a balanced budget in Berlin through appropriate assistance;

(*b*) to take adequate measures for the equitable treatment of Berlin in the control and allocation of materials in short supply;

(*c*) to take adequate measures for the inclusion of Berlin in assistance received by the Federal Republic from outside sources in reasonable proportion to the unutilised industrial resources existing in Berlin;

(*d*) to promote the development of Berlin's external trade, to accord Berlin such favoured treatment in all matters of trade policy as circumstances warrant, and to provide Berlin within the limit of possibility and in consideration of the participation of Berlin in the foreign currency control by the Federal Republic, with the necessary foreign currency;

(*e*) to take all necessary measures on its part to ensure that the city remain in the currency area of the Deutsche Mark West, and that an adequate money supply is maintained in the city;

(*f*) to assist in the maintaining in Berlin of adequate stockpiles of supplies for emergencies;

(*g*) to use its best efforts for the maintenance and improvement of trade and of communications and transportation facilities between Berlin and the Federal territory, and to co-operate in accordance with the means at its disposal in their protection or their re-establishment;

(*h*) to facilitate the inclusion of Berlin in the international agreements concluded by the Federal Republic, provided that this is not precluded by the nature of the agreements concerned.

Memorandum on the Prin... Allied Ko...

The Foreign Ministers c... States of America, meeting... Allied Kommandatura in B... the principles to govern the... and Greater Berlin when t... Powers and the Federal R... and Instruments come into... controls in the city to the... was publicly made by the... become effective on the sa... related Conventions enter in...

The text of the Declarat...

Foreign Office,
26th May, 1952.

Taking into consideration... the United Kingdom of G... States of America, and the ...

wishing to grant the Berl... with the special situation c... the Allied Kommandatur...

Berlin shall exercise all it... its Constitution as adopted ... by the Allied Kommandatur... hereinafter.

The Allied authorities ret... such measures as may be re... to ensure public order and ... and its economy, trade ...

The Allied authorities will ... fields:—

(*a*) Security, interests a... their representatives, depe... employees of the Allied Fo... only in matters arising ou... or services with the Allied ...

ppointed for life shall retire. In the case
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st, however, retain their full salary.

ARTICLE 98

status of the federal judges must be regulated
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l judge, in his official or unofficial capacity,
ciples of the Basic Law or the constitutional
the Federal Constitutional Court may on
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at the judge be transferred to another office
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status of the judges in the Laender must be
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der may determine that the Land Minister of
ether with a committee for the election of
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ccordance with para. 2. Valid Land constitu-
emain unaffected. The Federal Constitutional
e in the case of impeachment of a judge.

ARTICLE 99

lation the decision on constitutional disputes
ay be assigned to the Federal Constitutional
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Land law to the higher federal courts.

ARTICLE 100

considers unconstitutional a law the validity
ent to its decision, proceedings must be stayed
n of a Land Constitution is involved, the deci-
co[redacted]ompetent for constitutional disputes shall
if a violation of this Basic Law is involved,
the Federal Constitutional Court shall be
shall also apply if the violation of this Basic
w or the incompatibility of a Land law with a
volved.
ation it is doubtful whether a rule of inter-
ns part of federal law and whether it creates

direct rights and duties for the individual (Article 25), the court shall obtain the decision of the Federal Constitutional Court.

3. If the court of a Land, in interpreting the Basic Law, intends to deviate from a decision of the Federal Constitutional Court or the constitutional court of another Land, the said constitutional court must obtain the decision of the Federal Constitutional Court. If, in interpreting other federal law, it intends to deviate from the decision of the Supreme Federal Court or a higher federal court, it must obtain the decision of the Supreme Federal Court.

ARTICLE 101

1. Extraordinary courts shall be inadmissible. No one may be prevented from appearing before his lawful judge.

2. Courts for special matters may be established only by law.

ARTICLE 102

The death sentence shall be abolished.

ARTICLE 103

1. Everyone brought before a court shall have a claim to proper legal hearing.

2. An act may be punished only if it was punishable by law before the act was committed.

3. No one may be punished more than once on account of the same act in pursuance of the general criminal laws.

ARTICLE 104

1. The freedom of the individual may be restricted only on the basis of a formal law and only with due regard to the forms prescribed therein. Detained persons may be subjected neither to physical nor mental ill-treatment.

2. Only the judge shall decide on the admissibility and continued duration of a deprivation of liberty. If such deprivation is not based on the order of a judge, a court decision must be obtained without delay. The police may, on its own authority, hold no one in custody beyond the end of the day following the arrest. Details shall be regulated by legislation.

3. Any person temporarily detained on suspicion of having committed a punishable act must, at the latest on the day following the arrest, be brought before a judge who shall inform him of the reasons for the arrest, interrogate him and give him an opportunity to raise objections. Without delay,

the judge must either issue a warrant of arrest, setting out the reasons therefor, or order his release.

4. A relative of the person detained or a person enjoying his confidence must be notified forthwith of any judicial decision in respect of the ordering or the continued duration of a deprivation of liberty.

X. FINANCE

ARTICLE 105

1. The Federation shall have exclusive legislation on customs and financial monopolies.

2. The Federation shall have concurrent legislation on:

(1) excise taxes and taxes on transactions, with the exception of taxes with localised application, in particular the taxes on real estate acquisition, incremental value and on fire protection,

(2) the taxes on income, property, inheritance and donations,

(3) "Realsteuern" (taxes on real estate and on businesses) with the exception of the fixing of tax rates,

if it makes a claim on the taxes in their entirety or in part to cover federal expenditures or if the conditions of Article 72, para. 2, apply.

3. Federal legislation on taxes the yield of which accrues in entirety or in part to the Laender or the Gemeinden (Gemeindeverbände) shall require the approval of the Bundesrat.

ARTICLE 106

1. Customs, the yield of monopolies, the excise taxes with the exception of the beer tax, the transportation tax, the turnover tax and property dues serving non-recurrent purposes shall accrue to the Federation.

2. The beer tax, the taxes on transactions with the exception of the transportation tax and turnover tax, the income and corporation taxes, the property tax, the inheritance tax, the "Realsteuern" and the taxes with localised application shall accrue to the Laender and, in accordance with Land legislation, to the Gemeinden (Gemeindeverbände).

3. The Federation may, by means of a federal law which shall require the approval of the Bundesrat, make a claim to a part of the income and corporation taxes to cover its expenditures not covered by other revenues, in particular to

cover grants which are to be made to La
tures in the fields of education, public

4. In order to ensure the working
Laender with low revenues and to equal
of expenditure of the Laender, the
and take the funds necessary for this
taxes of those accruing to the Laender,
shall require the approval of the Bun
which taxes shall be utilised for this
amounts and on what basis the gran
among the Laender entitled to equalisa
be handed directly to the Laender.

ARTICLE 107

The final distribution of the taxes
legislation between the Federation and
effected not later than 31st December,
a federal law which shall require the app
This shall not apply to the "Realsteuer
localised application. In this, both Fe
shall be given a legal claim to certain
corresponding to their functions.

ARTICLE 108

1. Customs, financial monopolies,
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tax and the non-recurrent property
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2. In so far as the Federation make
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X. FINANCE

ARTICLE 105

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ARTICLE 106

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tion may, by means of a federal law which pproval of the Bundesrat, make a claim to me and corporation taxes to cover its exvered by other revenues, in particular to

cover grants which are to be made to Laender to meet expenditures in the fields of education, public health and welfare.

4. In order to ensure the working efficiency also of the Laender with low revenues and to equalise the differing burden of expenditure of the Laender, the Federation may make grants and take the funds necessary for this purpose from specific taxes of those accruing to the Laender. A federal law, which shall require the approval of the Bundesrat, shall determine which taxes shall be utilised for this purpose and in what amounts and on what basis the grants shall be distributed among the Laender entitled to equalisation; the grants must be handed directly to the Laender.

ARTICLE 107

The final distribution of the taxes subject to concurrent legislation between the Federation and the Laender shall be effected not later than 31st December, 1952, and by means of a federal law which shall require the approval of the Bundesrat. This shall not apply to the "Realsteuern" and the taxes with localised application. In this, both Federation and Laender shall be given a legal claim to certain taxes or shares in taxes corresponding to their functions.

ARTICLE 108

1. Customs, financial monopolies, the excise taxes subject to concurrent legislation, the transportation tax, the turnover tax and the non-recurrent property dues shall be administered by federal finance authorities. The structure of these authorities and the procedure to be applied by them shall be regulated by federal legislation. The heads of the authorities at middle level shall be appointed by agreement with the Land Governments. The Federation may delegate the administration of the non-recurrent property dues to the Land finance authorities to act on behalf of the Federation (*Auftragsverwaltung*).

2. In so far as the Federation makes a claim to a part of the income and corporation taxes it shall have the right to administer them. It may, however, delegate the administration to the Land finance authorities to act on behalf of the Federation.

3. The remaining taxes shall be administered by Land finance authorities. The Federation may, by means of federal legislation which shall require the approval of the Bundesrat, regulate the structure of these authorities, the procedure to be

applied by them and the uniform training of the officials. The heads of the authorities at middle level must be appointed by agreement with the Federal Government. The administration of the taxes accruing to the Gemeinden (Gemeindeverbände) may be transferred by the Laender in entirety or in part to the Gemeinden (Gemeindeverbände).

4. In so far as the taxes accrue to the Federation, the Land finance authorities shall act on behalf of the Federation. The Laender shall be liable with their revenues for a regular administration of these taxes; the Federal Minister of Finance may supervise the regular administration through federal plenipotentiaries who shall have the right to give instructions to the authorities at middle and lower level.

5. Finance jurisdiction shall be uniformly regulated by federal legislation.

6. The general administrative provisions shall be issued by the Federal Government and, in so far as the administration is incumbent upon the Land finance authorities, with the approval of the Bundesrat.

ARTICLE 109

The Federation and the Laender shall be self-supporting and independent of each other in their budget economy.

ARTICLE 110

1. All revenues and expenditures of the Federation must be estimated for each fiscal year and included in the budget.

2. The budget shall be established by law before the commencement of the fiscal year. Revenue and expenditure must be balanced. Expenditures shall as a rule be approved for one year; they may in special cases be approved for a longer period. Otherwise the federal budget law may contain no provisions which extend beyond the fiscal year or which do not concern the revenues and expenditures of the Federation or its administration.

3. The assets and liabilities shall be indicated in an appendix to the budget.

4. In the case of federal commercial enterprises, only the final result, and not the detailed revenues and expenditures, need be included in the budget.

ARTICLE 111

1. If by the end of a fiscal year the budget for the following year has not been established by law, the Federal

Government shall, until such a law come
powered to effect such payments as are r
(*a*) to maintain legally established inst
out legally determined measures;
(*b*) to meet legally established obligatio
(*c*) to continue building projects, proc
services or to grant further subsid fc
so far as funds have already been appr
of a previous year.

2. In so far as revenues from taxes
sources based on special legislation, or
serves, do not cover the expenditures
Federal Government may realise by way
necessary to conduct current operations up
final sum contained in the previous budg

ARTICLE 112

Expenditure exceeding the budget and
expenditures shall require the approval of t
of Finance. They may only be given in ca
and irrefutable necessity.

ARTICLE 113

Decisions of the Bundestag and Bundes
the budget expenditure proposed by the F
or include, or imply for the future, new
require the approval of the Federal Gover

ARTICLE 114

The Federal Minister of Finance mu
Bundestag and the Bundesrat an annual
revenues and expenditures as well as of as
The audit thereof shall be carried out by
(*Rechnungshof*) the members of which sha
independence. In order to secure a dischar
Government, the general statement of acco
of the assets and liabilities shall be submitte
and the Bundesrat in the course of the next f
with the observations of the Audit Office.
accounts shall be regulated by a federal law.

ARTICLE 115

By way of credits, funds may be obtained
of extraordinary need and as a rule only fo

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Federal Government. The administration
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vernment and, in so far as the administra-
pon the Land finance authorities, with the
ndesrat.

ARTICLE 109

and the Laender shall be self-supporting and
n other in their budget economy.

ARTICLE 110

s and expenditures of the Federation must
ch fiscal year and included in the budget.
shall be established by law before the com-
iscal year. Revenue and expenditure must
ditures shall as a rule be approved for one
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and liabilities shall be indicated in an
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of federal commercial enterprises, only the
the detailed revenues and expenditures,
the budget.

ARTICLE 111

nd of a fiscal year the budget for the
not been established by law, the Federal

Government shall, until such a law comes into force, be empowered to effect such payments as are necessary:

(*a*) to maintain legally established institutions and to carry out legally determined measures;

(*b*) to meet legally established obligations of the Federation;

(*c*) to continue building projects, procurements and other services or to grant further subsidies for these purposes in so far as funds have already been approved by the budget of a previous year.

2. In so far as revenues from taxes, imports and other sources based on special legislation, or working capital reserves, do not cover the expenditures under para. 1, the Federal Government may realise by way of credits the funds necessary to conduct current operations up to one-fourth of the final sum contained in the previous budget.

ARTICLE 112

Expenditure exceeding the budget and any extraordinary expenditures shall require the approval of the Federal Minister of Finance. They may only be given in case of an unforeseen and irrefutable necessity.

ARTICLE 113

Decisions of the Bundestag and Bundesrat which increase the budget expenditure proposed by the Federal Government or include, or imply for the future, new expenditure, shall require the approval of the Federal Government.

ARTICLE 114

The Federal Minister of Finance must present to the Bundestag and the Bundesrat an annual statement of all revenues and expenditures as well as of assets and liabilities. The audit thereof shall be carried out by an Audit Office (*Rechnungshof*) the members of which shall possess judicial independence. In order to secure a discharge for the Federal Government, the general statement of account and a survey of the assets and liabilities shall be submitted to the Bundestag and the Bundesrat in the course of the next fiscal year, together with the observations of the Audit Office. The auditing of accounts shall be regulated by a federal law.

ARTICLE 115

By way of credits, funds may be obtained only in the case of extraordinary need and as a rule only for expenditure for

productive purposes and only on the basis of a federal law. The granting of credits and provision of securities as a charge on the Federation, the effect of which extends beyond the fiscal year, may be undertaken only on the basis of a federal law. The amount of the credits or the extent of the obligation for which the Federation assumes liability must be determined in the law.

XI. TRANSITIONAL AND CONCLUDING PROVISIONS

ARTICLE 116

1. Unless otherwise regulated by law, a German within the meaning of this Basic Law is a person who possesses German nationality or who has been accepted in the territory of the German Reich as at 31st December, 1937, as a refugee or expellee of German stock or as the spouse or descendant of such person.

2. Former German nationals who between 30th January, 1933, and 8th May, 1945, were deprived of their nationality for political, racial or religious reasons, and their descendants, shall be regranted citizenship on application. They shall not be considered to have lost citizenship in so far as they took up residence in Germany after 8th May, 1945, and have not expressed a wish to the contrary.

ARTICLE 117

1. Law which conflicts with Article 3, para. 2, shall remain in force until it is adjusted to this provision of the Basic Law, but not beyond 31st March, 1953.

2. Laws which restrict the right of freedom of movement in consideration of the present housing shortage shall remain in force until repealed by federal legislation.

ARTICLE 118

The reorganisation of the territory comprising the Laender Baden, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern may be accomplished, by agreement between the Laender concerned, in a manner deviating from the provisions of Article 29. Should an agreement not be reached, the reorganisation shall be regulated by federal legislation which must provide for a referendum.

ARTICLE 119

In matters relating to refugees and expellees, in particular their distribution to the Laender, the Federal Government may,

with the approval of the Bundesrat, issue or having the force of law pending a regulation. In special cases the Federal G empowered to issue individual instructions shall, except in case of imminent danger, highest Land authorities.

ARTICLE 120

1. The Federation shall bear the expe costs and, in accordance with more detail federal law, the other internal and external w and the grants towards the burdens of s cluding unemployment insurance and publi unemployed.

2. The revenues shall pass to the Fede time at which the Federation assumes the

ARTICLE 121

The majority of the members of the Bu Federal Convention within the meaning shall be the majority of their statutory nu

ARTICLE 122

1. As from the assembly of the Bunde passed exclusively by the legislative autho this Basic Law.

2. With effect from this date, legislative acting in an advisory capacity in res t competence of which ends in accordance be dissolved.

ARTICLE 123

1. Law existing before the assembly of remain in force, in so far as it does not Basic Law.

2. The State treaties concluded by t concerning matters for which, according t Land legislation is competent, shall remai are valid and continue to be valid accordi principles of law, while reserving all the ri of those concerned, until new State treati concluded by the authorities made competen Basic Law or until they are otherwise grounds of the provisions they contain.

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ARTICLE 119

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with the approval of the Bundesrat, issue orders (*Verordnungen*) having the force of law pending a regulation by federal legislation. In special cases the Federal Government may be empowered to issue individual instructions. The instructions shall, except in case of imminent danger, be directed to the highest Land authorities.

ARTICLE 120

1. The Federation shall bear the expenses for occupation costs and, in accordance with more detailed provisions by a federal law, the other internal and external war-induced burdens, and the grants towards the burdens of social insurance, including unemployment insurance and public assistance for the unemployed.

2. The revenues shall pass to the Federation at the same time at which the Federation assumes the expenditure.

ARTICLE 121

The majority of the members of the Bundestag and of the Federal Convention within the meaning of this Basic Law shall be the majority of their statutory number of members.

ARTICLE 122

1. As from the assembly of the Bundestag, laws shall be passed exclusively by the legislative authorities recognised in this Basic Law.

2. With effect from this date, legislative bodies and bodies acting in an advisory capacity in respect of legislation, the competence of which ends in accordance with para. 1, shall be dissolved.

ARTICLE 123

1. Law existing before the assembly of the Bundestag shall remain in force, in so far as it does not conflict with the Basic Law.

2. The State treaties concluded by the German Reich concerning matters for which, according to this Basic Law, Land legislation is competent, shall remain in force if they are valid and continue to be valid according to general basic principles of law, while reserving all the rights and objections of those concerned, until new State treaties shall have been concluded by the authorities made competent to do so by this Basic Law or until they are otherwise terminated on the grounds of the provisions they contain.

ARTICLE 124

Law concerning matters within the exclusive legislative competence of the Federation shall become federal law within the area of its application.

ARTICLE 125

Law concerning matters of concurrent federal legislation shall become federal law within the area of its application

(1) in so far as it is uniformly valid within one or more zones of occupation,

(2) in so far as it concerns law by which former Reich law has been amended since 8th May, 1945.

ARTICLE 126

Divergences of opinion on the continued validity of law as federal law shall be decided by the Federal Constitutional Court.

ARTICLE 127

Within one year after promulgation of this Basic Law the Federal Government may, with the approval of the Governments of the Laender concerned, extend law of the Bizonal Economic Administration, in so far as it continues in force as federal law according to Articles 125 or 126, to the Laender Baden, Greater Berlin, Rhineland-Palatinate and Wuerttemberg-Hohenzollern.

ARTICLE 128

In so far as in accordance with still valid law, powers to give instructions within the meaning of Article 84, para. 5, still exist, these shall remain in force pending some other legislative regulation.

ARTICLE 129

1. In so far as legal provisions which continue in force as federal law contain an authorisation to issue orders (*Rechtsverordnungen*) or general administrative provisions and to perform administrative acts, this authorisation shall pass to the authorities now competent for the subject matter. In doubtful cases the Federal Government shall decide by agreement with the Bundesrat; the decision must be published.

2. In so far as legal provisions which continue in force as Land law contain such an authorisation, it shall be exercised by the authorities competent according to Land law.

3. In so far as legal provisions within the meaning of paras. 1 and 2 authorise the alteration or amplification or the

issue of legal provisions instead of laws, [illegible] shall lapse.

4. The provisions of paras. 1 and 2 [illegible] priately in so far as legal provisions refer [illegible] longer valid or to institutions no longer in

ARTICLE 130

1. Administrative organs and other inst[illegible] public administration or administration of [illegible] not based on Land law or treaties betwee[illegible] as the amalgamated management of the S[illegible] railways and the Administrative Council [illegible] telecommunications service of the French Z[illegible] shall be under the Federal Government. T[illegible] the approval of the Bundesrat, regulate the t[illegible] or liquidation [of such bodies].

2. The highest disciplinary authority fo[illegible] these administrations and establishments s[illegible] petent Federal Minister.

3. Public law corporations and institu[illegible] supervised by a Land and not based on [illegible] Laender, shall be under the supervision [illegible] highest federal authority.

ARTICLE 131

The legal status of persons, including [illegible] expellees who were employed in the publi[illegible] 1945, and who have left service for rea[illegible] based on civil service or tariff regulations, [illegible] have not been employed or not in a posit[illegible] to their former one, shall be regulated by [illegible] The same shall apply to persons, including [illegible] expellees who were entitled to a pension or c[illegible] 8th May, 1945, and who no longer receive [illegible] equivalent for reasons other than those based [illegible] tariff regulations. Without prejudice to oth[illegible] Land law, legal claims may not be raised un[illegible] comes into force.

ARTICLE 132

1. Officials (*Beamte*) and judges who, [illegible] Basic Law comes into force, have been [illegible] may, within six months after the first meeting [illegible] be placed on the retired list or waiting list

ARTICLE 124

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ARTICLE 125

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ARTICLE 126

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ARTICLE 127

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competent according to Land law.

as legal provisions within the meaning of
uthorise the alteration or amplification or the

issue of legal provisions instead of laws, these authorisations shall lapse.

4. The provisions of paras. 1 and 2 shall apply appropriately in so far as legal provisions refer to regulations no longer valid or to institutions no longer in existence.

ARTICLE 130

1. Administrative organs and other institutions serving the public administration or administration of justice, which are not based on Land law or treaties between Laender, as well as the amalgamated management of the South-West German railways and the Administrative Council for the post and telecommunications service of the French Zone of Occupation, shall be under the Federal Government. The latter shall, with the approval of the Bundesrat, regulate the transfer, dissolution, or liquidation [of such bodies].

2. The highest disciplinary authority for the personnel of these administrations and establishments shall be the competent Federal Minister.

3. Public law corporations and institutions not directly supervised by a Land and not based on treaties between Laender, shall be under the supervision of the competent highest federal authority.

ARTICLE 131

The legal status of persons, including the refugees and expellees who were employed in the public service on 8th May, 1945, and who have left service for reasons other than those based on civil service or tariff regulations, and who hitherto have not been employed or not in a position corresponding to their former one, shall be regulated by federal legislation. The same shall apply to persons, including the refugees and expellees who were entitled to a pension or other assistance on 8th May, 1945, and who no longer receive such or something equivalent for reasons other than those based on civil service or tariff regulations. Without prejudice to other regulations by Land law, legal claims may not be raised until the federal law comes into force.

ARTICLE 132

1. Officials (*Beamte*) and judges who, at the time this Basic Law comes into force, have been appointed for life may, within six months after the first meeting of the Bundestag, be placed on the retired list or waiting list or be transferred

to another office with less remuneration, if they are personally or professionally unsuitable for their office. This provision shall apply appropriately also to employees (*Angestellte*) not subject to notice of dismissal. In the case of employees (*Angestellte*) whose conditions of service require notice of dismissal, notice exceeding that required by tariff regulations may be cancelled within the same period.

2. The provisions shall not apply to members of the public service unaffected by the denazification and demilitarisation laws or who are recognised victim of National Socialism, in so far as there are no important objections against such persons.

3. Those affected by the above shall have recourse to the courts in accordance with Article 19, para. 4.

4. Details shall be determined by an order (*Verordnung*) of the Federal Government, which shall require the approval of the Bundesrat.

ARTICLE 133

The Federation shall succeed to the rights and obligations of the Bizonal Economic Administration.

ARTICLE 134

1. Reich property shall in principle become federal property.

2. It shall, without compensation, be transferred to the authorities now competent to carry out the functions, in so far as it was originally destined mainly for administrative functions which according to this Basic Law are not administrative functions of the Federation, and to the Laender in so far as, according to its present, not solely temporary, use, it serves for administrative functions which according to this Basic Law are now to be fulfilled by the Laender. The Federation may also transfer other property to the Laender.

3. Property which was placed at the disposal of the Reich by the Laender and Gemeinden (Gemeindeverbände) shall, without compensation, become once more the property of the Laender and Gemeinden (Gemeindeverbände), in so far as the Federation does not require it for its own administrative functions.

4. Details shall be regulated by a federal law which shall require the approval of the Bundesrat.

ARTICLE 135

1. If, between 8th May, 1945, and of this Basic Law, a territory has cha to another, in this territory the property the territory belonged shall be transfe which the territory now belongs.

2. In so far as it was originally destin trative functions, or is at present, and used mainly for administrative functic Laender and other public law corporatic longer existing shall be transferred to law corporation or institution now perfo

3. Real estate of Laender no long appurtenances, shall, in so far as it doe to the property within the meaning of p to the Land in the territory of which i

4. In so far as an overriding inter or the particular interest of a territory r deviating from paras. 1 to 3 may be legislation.

5. Otherwise the legal succession a property], in so far as it has not been e 1952, by agreement between the Laende porations or institutions concerned, sh federal legislation which shall require Bundesrat.

6. Participations of the former L enterprises shall pass to the Federatio regulated by a federal law which may mak from this.

7. In so far as property which, accor would accrue to a Land or a public institution, has been disposed of by authorised by means of a Land law, on law or in some other way at the comi Basic Law, the transfer of property sh having been effected before the disposal.

ARTICLE 136

1. The Bundesrat shall meet for the of the first assembly of the Bundestag.

2. Until the election of the first F functions shall be exercised by the Presid

ss remuneration, if they are personally able for their office. This provision v also to employees (*Angestellte*) not smissal. In the case of employees itions of service require notice of dis- that required by tariff regulations the same period.

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ARTICLE 133

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regulated by a federal law which shall the Bundesrat.

ARTICLE 135

1. If, between 8th May, 1945, and the coming into force of this Basic Law, a territory has changed from one Land to another, in this territory the property of the Land to which the territory belonged shall be transferred to the Land to which the territory now belongs.

2. In so far as it was originally destined mainly for administrative functions, or is at present, and not solely temporarily, used mainly for administrative functions, the property of Laender and other public law corporations and institutions no longer existing shall be transferred to the Land or public law corporation or institution now performing these functions.

3. Real estate of Laender no longer existing, including appurtenances, shall, in so far as it does not already belong to the property within the meaning of para. 1, be transferred to the Land in the territory of which it is situated.

4. In so far as an overriding interest of the Federation or the particular interest of a territory require it, a regulation deviating from paras. 1 to 3 may be adopted by federal legislation.

5. Otherwise the legal succession and the settlement [of property], in so far as it has not been effected by 1st January, 1952, by agreement between the Laender or public law corporations or institutions concerned, shall be regulated by federal legislation which shall require the approval of the Bundesrat.

6. Participations of the former Land Prussia in civil law enterprises shall pass to the Federation. Details shall be regulated by a federal law which may make provisions deviating from this.

7. In so far as property which, according to paras. 1 to 3, would accrue to a Land or a public law corporation or institution, has been disposed of by the authority thereby authorised by means of a Land law, on the basis of a Land law or in some other way at the coming into force of the Basic Law, the transfer of property shall be considered as having been effected before the disposal.

ARTICLE 136

1. The Bundesrat shall meet for the first time on the day of the first assembly of the Bundestag.

2. Until the election of the first Federal President, his functions shall be exercised by the President of the Bundesrat.

He shall not have the right to dissolve the Bundestag.

ARTICLE 137

1. The eligibility for election of officials (*Beamte*), employees (*Angestellte*) of the public service and judges of the Federation, of the Laender and of the Gemeinden may be restricted by legislation.

2. For the election of the first Bundestag, of the first Federal Convention and of the first Federal President of the Federal Republic of Germany the Electoral Law to be adopted by the Parliamentary Council shall apply.

3. The functions of the Federal Constitutional Court pursuant to Article 41, para. 2, shall be exercised, pending its establishment, by the German High Court for the Combined Economic Area which shall decide in accordance with its Standing Orders (Rules of Procedure).

ARTICLE 138

Changes in the existing organisation of notaries in the Laender Baden, Bavaria, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern shall require the approval of the Governments of these Laender.

ARTICLE 139

The legal provisions enacted for the liberation of the German people from National Socialism and militarism shall not be affected by the provisions of this Basic Law.

ARTICLE 140

The provisions of Articles 136, 137, 138, 139 and 141 of the German Constitution of 11th August, 1919(3), shall be an integral part of this Basic Law.

ARTICLE 141

Article 7, para. 3, first sentence, shall not apply in a Land in which on 1st January, 1949, another legal Land regulation existed.

ARTICLE 142

Without prejudice to Article 31, provisions of the Land Constitutions shall also remain in force, in so far as they conform to Articles 1 to 18.

ARTICLE 143

1. Whoever by force or the threat of force changes the constitutional order of the Federation or of a Land, deprives

(3) Vol. 112, page 1063.

the Federal President of the powers ... Basic Law, or who by force or th... him to exercise his powers in a sp... at all, or prevents the exercise of his p... Federation or a Land of a territory be... be condemned to penal servitude for 10 years.

2. Whoever publicly incites to an ac... ing of para. 1, or plots or otherwise ar... in connivance with another person, sh... penal servitude up to 10 years.

3. In less serious cases, a sentence ... years' penal servitude in the cases pro... and of not less than one year's impris... provided for in para. 2, may be imposed...

4. Whoever of his own free will gives ... case of participation of several persons, ... may not be punished in accordance wi... paras. 1 to 3.

5. In so far as the action is directe... the constitutional order of a Land, ... Land shall, in the absence of any ... er... law, be competent to pass judgment. O... court (*Oberlandesgericht*), in the district... Federal Government chooses its seat, shal...

6. The aforementioned provisions sh... another regulation by federal law.

ARTICLE 144

1. This Basic Law shall require accep... representative bodies in two-thirds of the ... which it shall initially be valid.

2. In so far as restrictions are impose... of the Basic Law to one of the Laen... Article 23, para. 1, or to a part of one of ... Land or a part of that Land shall have the ... with Article 38, to send representatives to ... in accordance with Article 50, to the Bu...

ARTICLE 145

1. The Parliamentary Council with the ... representatives of Greater Berlin shall i...

the right to dissolve the Bundestag.

ARTICLE 137

ity for election of officials (*Beamte*), em-) of the public service and judges of the Laender and of the Gemeinden may be tion.

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ARTICLE 138

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ARTICLE 139

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ARTICLE 140

of Articles 136, 137, 138, 139 and 141 of it n of 11th August, 1919(3), shall be this Basic Law.

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ARTICLE 142

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ARTICLE 143

force or the threat of force changes the of the Federation or of a Land, deprives

(3) Vol. 112, page 1063.

the Federal President of the powers accorded to him by this Basic Law, or who by force or the threat of danger compels him to exercise his powers in a specific manner or not at all, or prevents the exercise of his powers, or deprives the Federation or a Land of a territory belonging to them shall be condemned to penal servitude for life or not less than 10 years.

2. Whoever publicly incites to an action within the meaning of para. 1, or plots or otherwise arranges such an action in connivance with another person, shall be condemned to penal servitude up to 10 years.

3. In less serious cases, a sentence of not less than two years' penal servitude in the cases provided for in para. 1, and of not less than one year's imprisonment in the cases provided for in para. 2, may be imposed.

4. Whoever of his own free will gives up his activity or, in case of participation of several persons, prevents a conspiracy, may not be punished in accordance with the provisions of paras. 1 to 3.

5. In so far as the action is directed exclusively against the constitutional order of a Land, the highest court of the Land shall, in the absence of any other regulation in Land law, be competent to pass judgment. Otherwise the superior court (*Oberlandesgericht*), in the district of which the first Federal Government chooses its seat, shall be competent.

6. The aforementioned provisions shall be valid pending another regulation by federal law.

ARTICLE 144

1. This Basic Law shall require acceptance by the popular representative bodies in two-thirds of the German Laender in which it shall initially be valid.

2. In so far as restrictions are imposed on the application of the Basic Law to one of the Laender enumerated in Article 23, para. 1, or to a part of one of these Laender, that Land or a part of that Land shall have the right, in accordance with Article 38, to send representatives to the Bundestag and, in accordance with Article 50, to the Bundesrat.

ARTICLE 145

1. The Parliamentary Council with the participation of the representatives of Greater Berlin shall in a public meeting

confirm the adoption(4) of this Basic Law, engross it and promulgate it.

2. This Basic Law shall come into force at the end of the day of its promulgation(4).

3. It shall be published in the Federal Legal Gazette(5).

ARTICLE 146

This Basic Law shall become invalid on the day when a constitution adopted in a free decision by the German people comes into force.

DR. ADENAUER,
Präsident des Parlamentarischen Rates.
SCHÖNFELDER,
1. *Vizepräsident.*
DR. SCHÄFER,
2. *Vizepräsident.*

(4) Adopted on 8th May, 1949, and promulgated on 23rd May, 1949.
(5) Published therein on 23rd May, 1949.

MEMORANDUM regarding the above Basic Law for the Federal Republic of Germany from the Military Governors of the British, French and United States Zones to the President of the Parliamentary Council at Bonn.—12th May, 1949(1)

12th May, 1949.

Dear Dr. Adenauer,

1. The Basic Law passed on 8th May by the Parliamentary Council has received our careful and interested attention. In our opinion it happily combines German democratic tradition with the concepts of representative government and a rule of law which the world has come to recognise as requisite to the life of a free people.

2. In approving this constitution for submission to the German people for ratification in accordance with the provisions of Article 144 (1) we believe that you will understand that there are several reservations which we must make. In the first place, the powers vested in the Federation by the Basic Law, as well as the powers exercised by Laender and local governments are subject to the provisions of the Occupation Statute which we have already transmitted to you and which is promulgated as of this date(2).

(1) Published in the *Military Government Gazette—Germany (British Zone)*, No. 35, on 10th September, 1949.
(2) Page 490.

3. In the second place, it should police powers contained in Article 91 (until specifically approved by the Likewise the remaining police functions be governed by our letter to you of 14 subject.

4. A third reservation concerns Berlin in the Federation. We interpret and 144 (2) of the Basic Law as con our previous request that while Berlin voting membership in the Bundestag governed by the Federation she may, a small number of representatives to those legislative bodies.

5. A fourth reservation relates to A the general question of the re-orga boundaries. Excepting in the case of W Hohenzollern our position on this que since we discussed the matter with you the High Commissioners should unanim this position the powers set forth in t be exercised and the boundaries of all of Württemberg-Baden and Hohenzollern fixed until the time of the peace treaty.

6. Fifthly, we consider that Artic Article 87, para. 3, give to the Federat in the administrative field. The Hig to give careful consideration to the exerc order to ensure that they do not lead to e of authority.

7. At our meeting with you on 25th to you a formula to interpret in Engli Article 72 (2), (3). This formula, whi conveying your meaning, read as follows:

". . . because the maintenance of unity demands it in order to promote t of the Federation or to ensure rea economic opportunity to all persons".

We wish you to know that the High interpret this Article in accordance with t

8. In order to eliminate the possibility troversy, we would like to make it clear tha

ARTICLE 47

itled to refuse to give evidence con-
ave entrusted facts to them in their
to whom they in this capacity have
as concerning these facts themselves.
f refusal to give evidence extends, the
ll be inadmissible.

ARTICLE 48

king election to the Bundestag shall
e necessary for his election campaign.
pre ted from assuming or exercising
N e of dismissal or dismissal for
dmissible.
ave a claim to adequate remuneration,
independence. They shall have the
all publicly owned transport. Details
deral law.

ARTICLE 49

48, paras. 2 and 3, shall apply to the
dium and the Standing Committee as
puties also in the interval between two

THE BUNDESRAT

ARTICLE 50

participate through the medium of the
lation and the administration of the

ARTICLE 51

hall consist of members of the Govern-
which shall appoint and recall them.
sented by other members of their

ll have at least three votes; Laender
lion inhabitants shall have four, Laender
lion inhabitants shall have five votes.
y delegate as many members as it has
ch Land may be given only as a block
bers present or their representatives.

ARTICLE 52

shall elect its President for one year.
hall convene the Bundesrat. He must

convene it if the representatives of at least two Laender or the Federal Government so demand.

3. The Bundesrat shall take its decisions with at least the majority of its votes. It shall draw up its Standing Orders (Rules of Procedure). It shall meet in public. The public may be excluded.

4. Other members or representatives of the Governments of the Laender may belong to the committees of the Bundesrat.

ARTICLE 53

The members of the Federal Government shall have the right, and on demand the obligation, to participate in the debates of the Bundesrat and its committees. They must be heard at any time. The Bundesrat must be kept currently informed by the Federal Government on the conduct of federal affairs.

V. THE FEDERAL PRESIDENT

ARTICLE 54

1. The Federal President shall be elected, without discussion, by the Federal Convention. Every German who is eligible to vote in elections for the Bundestag and has reached the age of 40 years shall be eligible for election.

2. The term of office of the Federal President shall be five years. Immediate re-election shall be admissible only once.

3. The Federal Convention shall consist of the members of the Bundestag and an equal number of members elected by the popular representative bodies of the Laender according to the principles of proportional representation.

4. The Federal Convention shall meet not later than thirty days before the expiry of the term of office of the Federal President, but in the case of premature termination not later than thirty days after this date. It shall be convened by the President of the Bundestag.

5. After the expiry of the electoral period, the time limit of para. 4, sentence 1, shall begin with the first meeting of the Bundestag.

6. The person who has received the votes of the majority of the members of the Federal Convention shall be elected. If such majority is not obtained by any candidate in two ballots, the person who receives most votes in a further ballot shall be elected.

7. Details shall be regulated by a federal law.

ARTICLE 55

1. The Federal President may be a member neither of the Government nor of a legislative body of the Federation or a Land.

2. The Federal President may not hold any other salaried office, carry on a trade or practise a profession or belong to the management or supervisory board of a profit-making enterprise.

ARTICLE 56

On assuming office, the Federal President shall take the following oath in the presence of the assembled members of the Bundestag and the Bundesrat:

"I swear that I shall dedicate my strength to the well-being of the German people, enhance what is to its advantage, ward off what might harm it, uphold and defend the Basic Law and the laws of the Federation, fulfil my duties conscientiously and do justice to every man. So help me God."

The oath may also be taken without the religious asseveration.

ARTICLE 57

In the event of the inability of the Federal President to perform the duties of his office or in the event of a premature vacancy in the office, the functions of the Federal President shall be exercised by the President of the Bundesrat.

ARTICLE 58

Orders and instructions of the Federal President shall require for their validity the countersignature of the Federal Chancellor or the competent Federal Minister. This shall not apply to the appointment and dismissal of the Federal Chancellor, the dissolution of the Bundestag in accordance with Article 63 and a request in accordance with Article 69, para. 3.

ARTICLE 59

1. The Federal President shall represent the Federation in matters concerning international law. He shall conclude treaties with foreign States on behalf of the Federation. He shall accredit and receive envoys.

2. Treaties which regulate the political relations of the Federation or refer to matters of federal legislation shall require, in the form of a federal law, the approval or the participation of the corporations competent at the time for federal legislation. For administrative agreements the provisions concerning the federal administration shall apply appropriately.

ARTICLE

1. The Federal President sha
federal judges and the federal offic
mined by law.

2. He shall exercise the right
Federation in individual cases.

3. He may delegate these pow

4. Article 46, paras. 2 to 4 sha
Federal President.

ARTICLE

1. The Bundestag or the Bu
Federal President before the Fede
account of wilful violation of the
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by at least one-quarter of the memb
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shall require the majority of two-t
Bundestag or of two-thirds of the
prosecution shall be conducted by
the impeaching body.

2. If the Federal Constituti
Federal President is guilty of a wilf
or of any other federal law, it may
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VI. THE FEDER

ARTICLE

The Federal Government shall
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ARTICLE

1. The Federal Chancellor sh
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President.

2. The person who has receive
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ARTICLE 55

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ARTICLE 56

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ARTICLE 57

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ARTICLE 58

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ARTICLE 59

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ARTICLE 60

1. The Federal President shall appoint and dismiss the federal judges and the federal officials unless otherwise determined by law.

2. He shall exercise the right of pardon on behalf of the Federation in individual cases.

3. He may delegate these powers to other authorities.

4. Article 46, paras. 2 to 4, shall apply appropriately to the Federal President.

ARTICLE 61

1. The Bundestag or the Bundersrat may impeach the Federal President before the Federal Constitutional Court on account of wilful violation of the Basic Law or any other federal law. The motion for impeachment must be brought in by at least one-quarter of the members of the Bundestag or one-quarter of the votes of the Bundesrat. The decision to impeach shall require the majority of two-thirds of the members of the Bundestag or of two-thirds of the votes of the Bundesrat. The prosecution shall be conducted by a person commissioned by the impeaching body.

2. If the Federal Constitutional Court finds that the Federal President is guilty of a wilful violation of the Basic Law or of any other federal law, it may declare him to have forfeited his office. After the institution of impeachment proceedings, the Federal Constitutional Court may, by interim order, determine that the Federal President is prevented from performing the duties of his office.

VI. THE FEDERAL GOVERNMENT

ARTICLE 62

The Federal Government shall consist of the Federal Chancellor and the Federal Ministers.

ARTICLE 63

1. The Federal Chancellor shall be elected, without discussion, by the Bundestag on the proposal of the Federal President.

2. The person who has received the votes of the majority of the members of the Bundestag shall be elected. He shall be appointed by the Federal President.

3. If the person nominated is not elected, the Bundestag may, within fourteen days after the ballot, elect a Federal Chancellor by more than one-half of its members.

4. If the Federal Chancellor is not elected within this time-limit a new ballot shall take place immediately, in which the person who receives most votes shall be elected. If the person elected receives the votes of the majority of the members of the Bundestag the Federal President must, within seven days after the election, appoint him. If the person elected does not obtain this majority the Federal President must, within seven days, either appoint him or dissolve the Bundestag.

ARTICLE 64

1. The Federal Ministers shall be appointed and dismissed by the Federal President upon the proposal of the Federal Chancellor.

2. The Federal Chancellor and the Federal Ministers, on assuming office, shall take before the Bundestag the oath provided in Article 56.

ARTICLE 65

The Federal Chancellor shall determine and assume responsibility for general policy. Within the limits of this general policy, each Federal Minister shall direct his department individually and on his own responsibility. The Federal Government shall decide on differences of opinion between the Federal Ministers. The Federal Chancellor shall conduct its business in accordance with Standing Orders (Rules of Procedure) adopted by the Federal Government and approved by the Federal President.

ARTICLE 66

The Federal Chancellor and the Federal Ministers may not hold any other salaried office, carry on a trade or practise a profession or belong to the management or, without the approval of the Bundestag, to the supervisory board of a profit-making enterprise.

ARTICLE 67

1. The Bundestag may express its lack of confidence in the Federal Chancellor only by electing a successor with the majority of its members and submitting a request to the Federal President for the dismissal of the Federal Chancellor. The Federal President must comply with the request and appoint the person elected.

2. There must be an interval of 48 hours between the motion and the election.

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2. The office of the Fede Minister shall end in any cas Bundestag; the office of a Fede termination of the office of the

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VII. THE LEGISLATION

ARTICL

1. The Laender shall ha as this Basic Law does no Federation.

2. The division of competenc the Laender shall be determined visions of this Basic Law concer legislation.

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ARTICLE

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ARTICLE 65

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ARTICLE 67

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ARTICLE 68

1. If a motion of the Federal Chancellor involving a vote of confidence does not obtain the support of the majority of the members of the Bundestag, the Federal President may, upon the proposal of the Federal Chancellor, dissolve the Bundestag within 21 days. The right of dissolution shall lapse as soon as the Bundestag, with the majority of its members, elects another Federal Chancellor.

2. There must be an interval of 48 hours between the introduction of, and the vote on, the motion.

ARTICLE 69

1. The Federal Chancellor shall appoint a Federal Minister as his deputy.

2. The office of the Federal Chancellor or of a Federal Minister shall end in any case with the assembly of a new Bundestag; the office of a Federal Minister also with any other termination of the office of the Federal Chancellor.

3. At the request of the Federal President the Federal Chancellor, at the request of the Federal Chancellor or of the Federal President a Federal Minister, shall be obliged to carry out the duties of his office until the appointment of his successor.

VII. THE LEGISLATION OF THE FEDERATION

ARTICLE 70

1. The Laender shall have the right of legislation in so far as this Basic Law does not accord legislative powers to the Federation.

2. The division of competence between the Federation and the Laender shall be determined in accordance with the provisions of this Basic Law concerning exclusive and concurrent legislation.

ARTICLE 71

In the field of exclusive legislation of the Federation, the Laender shall have powers of legislation only if, and so far as, they are expressly so empowered in a federal law.

ARTICLE 72

1. In the field of concurrent legislation, the Laender shall have powers of legislation so long and so far as the Federation makes no use of its legislative right.

2. The Federation shall have legislative right in this field in so far as a necessity for regulation by federal law exists because:

(1) a matter cannot be effectively regulated by the legislation of individual Laender, or

(2) the regulation of a matter by a Land law could prejudice the interests of other Laender or of the Laender as a whole, or

(3) the preservation of legal or economic unity demands it, in particular the preservation of uniformity of living conditions extending beyond the territory of an individual Land.

ARTICLE 73

The Federation shall have exclusive legislation on:

(1) foreign affairs;

(2) citizenship of the Federation;

(3) freedom of movement, passports, immigration and emigration, and extradition;

(4) currency, money and coinage, weights and measures and regulation of time and calendar;

(5) the unity of customs and commercial territory, commercial and navigation agreements, the freedom of traffic in goods, and the traffic in goods and payments with foreign countries, including customs and frontier protection;

(6) federal railways and air traffic;

(7) post and telecommunications;

(8) the legal status of persons in the employment of the Federation and of public law corporations under direct supervision of the Federal Government;

(9) trade marks, copyright and publishing rights;

(10) co-operation of the Federation and the Laender in the criminal police and in matters concerning the protection of the constitution, the establishment of a Federal Office of Criminal Police, as well as the combating of international crime;

(11) statistics for federal purposes.

ARTICLE 74

Concurrent legislation shall extend to the following fields:

(1) civil law, criminal law and execution of sentences, constitution of courts, court procedure, the bar, notaries and legal advice (*Rechtsberatung*);

(2) census and registry matters;

(3) associations and assemblies;

(4) the right of sojourn and settlement of aliens;

(5) the protection of German w abroad;

(6) matters relating to refugees

(7) public welfare;

(8) citizenship of the Laender;

(9) war damages and compensa

(10) provisions for war-d dependants, the welfare of former pr of war graves;

(11) law relating to the economy supply, crafts, trades, commerce, ba private insurances);

(12) labour law, including the le prises, protection of workers and pr well as social insurance, including u

(13) the furtherance of scientific

(14) the law regarding expropria cerned with the matters enumerated

(15) transfer of land and landed and means of production to public o of publicly controlled economy;

(16) prevention of the abuse of

(17) promotion of agricultural an guarding of food supply, import and forestry products, deep-sea and pa preservation;

(18) transactions in landed prope and agricultural lease, housing, settle

(19) measures against epidemic affecting humans and animals, the l other healing professions, and the t medicines, narcotics and poisons;

(20) protection relating to traffic i in any necessities of life, in fodder, i seeds and seedlings, and protection o diseases and pests;

(21) ocean and coastal shipping inland shipping, meteorological serv inland waterways used for general tra

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ARTICLE 73
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ARTICLE 74
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urn and settlement of aliens ;

(5) the protection of German works of art against removal abroad ;

(6) matters relating to refugees and expellees ;

(7) public welfare ;

(8) citizenship of the Laender ;

(9) war damages and compensation (*Wiedergutmachung*) ;

(10) provisions for war-disabled persons and surviving dependants, the welfare of former prisoners of war and the care of war graves ;

(11) law relating to the economy (mining, industry, power supply, crafts, trades, commerce, banking and stock exchanges, private insurances) ;

(12) labour law, including the legal organisation of enterprises, protection of workers and provision of employment, as well as social insurance, including unemployment insurance ;

(13) the furtherance of scientific research ;

(14) the law regarding expropriation in so far as it is concerned with the matters enumerated in Articles 73 and 74 ;

(15) transfer of land and landed property, natural resources and means of production to public ownership or to other forms of publicly controlled economy ;

(16) prevention of the abuse of economic power ;

(17) promotion of agricultural and forestry production, safeguarding of food supply, import and export of agricultural and forestry products, deep-sea and coastal fisheries and coastal preservation ;

(18) transactions in landed property, law concerning land and agricultural lease, housing, settlements and homesteads ;

(19) measures against epidemic and infectious diseases affecting humans and animals, the licensing for medical and other healing professions, and the trade and traffic in drugs, medicines, narcotics and poisons ;

(20) protection relating to traffic in food and stimulants or in any necessities of life, in fodder, in agricultural and forestry seeds and seedlings, and protection of trees and plants against diseases and pests ;

(21) ocean and coastal shipping and aids to navigation, inland shipping, meteorological service, ocean channels and inland waterways used for general traffic ;

(22) road traffic, motor transport and the construction and maintenance of highways used for long-distance transport;

(23) railways other than federal railways, except mountain railways.

ARTICLE 75

The Federation shall have the right on the basis of Article 72 to issue general provisions concerning:

(1) the legal status of persons employed in the public service of the Laender, Gemeinden and other public law corporations;

(2) the general legal status of the press and motion pictures;

(3) hunting, protection of nature and care of the countryside;

(4) land distribution, regional planning and water conservation;

(5) matters relating to registration and identity cards.

ARTICLE 76

1. Bills shall be introduced in the Bundestag by the Federal Government, by members of the Bundestag or by the Bundesrat.

2. Federal Government bills shall first be submitted to the Bundesrat. The Bundesrat shall have the right to give its opinion on these bills within three weeks.

3. Bundesrat bills shall be submitted to the Bundestag by the Federal Government, which must add a statement of its own views.

ARTICLE 77

1. Federal laws shall be passed by the Bundestag. After their adoption, they shall, without delay, be submitted to the Bundesrat by the President of the Bundestag.

2. The Bundesrat may, within two weeks of the receipt of the adopted bill, demand that a committee composed of members of the Bundestag and Bundesrat be convened to consider the bill jointly. The composition and the procedure of this committee shall be regulated by Standing Orders (Rules of Procedure), which shall be agreed by the Bundestag and shall require the approval of the Bundesrat. The members of the Bundesrat deputed to this committee shall not be bound by instructions. If the approval of the Bundesrat is required for a law, both the Bundestag and the Federal Government may demand that it be convened. Should the committee propose an alteration of the adopted bill, the Bundestag must take a new decision.

3. In so far as the approval required for a law the Bundesrat accordance with para. 2 is complete law passed by the Bundestag. The begin in the case of para. 2, last s the bill as re-adopted by the Bu with the conclusion of the procedu provided for in para. 2.

4. Should the veto be adopted of the Bundesrat, it may be majority of the members of the Bundesrat have adopted the veto by thirds of its votes, the rejection by a majority of two-thirds, or at least of the Bundestag.

ARTICLE

A law passed by the Bundest Bundesrat approves, does not bring with Article 77, para. 2, does not in limit of Article 77, para. 3, or with is overridden by the Bundestag.

ARTICLE

1. The Basic Law may be am expressly alters or adds to the text

2. Such a law shall require th the members of the Bundestag an the Bundesrat.

3. An amendment to this organisation of the Federat co-operation of the Laender in principles laid down in Articles 1 be inadmissible.

ARTICLE

1. By means of a law the Fed Minister or the Land Governments orders (*Rechtsverordnungen*). T scope of such authorisation shall be legal basis must be cited in the or an authorisation may be further t of the authorisation shall require a

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ARTICLE 75

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ARTICLE 76

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3. In so far as the approval of the Bundesrat is not required for a law the Bundesrat may, if the procedure in accordance with para. 2 is completed, within one week veto a law passed by the Bundestag. The time limit for a veto shall begin in the case of para. 2, last sentence, with the receipt of the bill as re-adopted by the Bundestag, in all other cases with the conclusion of the procedure preceding the committee provided for in para. 2.

4. Should the veto be adopted by the majority of the votes of the Bundesrat, it may be rejected by a decision of the majority of the members of the Bundestag. Should the Bundesrat have adopted the veto by a majority of at least two-thirds of its votes, the rejection by the Bundestag shall require a majority of two-thirds, or at least the majority of the members of the Bundestag.

ARTICLE 78

A law passed by the Bundestag shall be enacted if the Bundesrat approves, does not bring in a motion in accordance with Article 77, para. 2, does not impose a veto within the time limit of Article 77, para. 3, or withdraws its veto, or if the veto is overridden by the Bundestag.

ARTICLE 79

1. The Basic Law may be amended only by a law which expressly alters or adds to the text of the Basic Law.

2. Such a law shall require the approval of two-thirds of the members of the Bundestag and two-thirds of the votes of the Bundesrat.

3. An amendment to this Basic Law by which the organisation of the Federation into Laender, the basic co-operation of the Laender in legislation or the basic principles laid down in Articles 1 and 20 are affected, shall be inadmissible.

ARTICLE 80

1. By means of a law the Federal Government, a Federal Minister or the Land Governments may be authorised to issue orders (*Rechtsverordnungen*). The contents, purpose and scope of such authorisation shall be determined in the law. The legal basis must be cited in the order. If a law provides that an authorisation may be further transferred, then the transfer of the authorisation shall require an order (*Rechtsverordnung*).

2. The approval of the Bundesrat shall be required, unless otherwise regulated by federal legislation, for orders (*Rechtsverordnungen*) of the Federal Government or a Federal Minister concerning principles and charges for the use of the facilities of the Federal railways and post and telecommunications, concerning the construction and operation of railways, as well as those issued on the basis of federal laws which require the approval of the Bundesrat or which are executed by the Laender on behalf of the Federation or as their own concern.

ARTICLE 81

1. Should, in the case of Article 68, the Bundestag not be dissolved, the Federal President may, on the request of the Federal Government with the approval of the Bundesrat, declare a state of legislative emergency for a bill, if the Bundestag rejects it despite the fact that the Federal Government has declared it to be urgent. The same shall apply if a bill has been rejected despite the fact that the Federal Chancellor had combined with it the motion described in Article 68.

2. If the Bundestag, after the state of legislative emergency has been declared, again rejects the bill or passes it in a version stated by the Federal Government to be unacceptable, the bill shall be deemed adopted in so far as the Bundesrat approves it. The same shall apply if the bill has not been passed by the Bundestag within four weeks after its re-submission.

3. During the term of office of a Federal Chancellor, any other bill rejected by the Bundestag may be passed within a period of six months after the initial declaration of a state of legislative emergency in accordance with paras. 1 and 2. After expiry of the period, a further declaration of a state of legislative emergency shall be inadmissible during the term of office of the same Federal Chancellor.

4. The Basic Law may neither be amended nor wholly or partially repealed or suspended by a law enacted in accordance with para. 2.

ARTICLE 82

1. Laws enacted according to the provisions of this Basic Law shall be engrossed by the Federal President with countersignature and published in the Federal Legal Gazette. Orders

(*Rechtsverordnungen*) shall be signed and, unless otherwise regulated by law Legal Gazette.

2. Each law and each order specify the date of its coming into such a provision, they shall come int day after the end of the day on Gazette has been issued.

VIII. THE EXECUTION OF FED FEDERAL ADMINIS

ARTICLE 83

The Laender shall execute the fe concern in so far as this Basic Law doe or permit.

ARTICLE 84

1. If the Laender execute the fe concern they shall regulate the establi and the administrative procedure in approved by the Bundesrat do not ot

2. The Federal Government may, Bundesrat, issue general administrativ

3. The Federal Government ensure that the Laender execute the fe with valid law. For this purpose the send commissioners to the highest La their approval and, in the case of this with the approval of the Bundesrat, authorities.

4. Should deficiencies established ment in the execution of federal laws overcome, then, on application by the the Land concerned, the Bundesrat s Land has infringed law. Against the d appeal may be made to the Federal C

5. For the execution of federal la ment may, by federal legislation w approval of the Bundesrat, be grante power to give individual instructions. the Federal Government considers the to the highest Land authorities.

f the Bundesrat shall be required, unless by federal legislation, for orders of the Federal Government or a Federal inciples and charges for the use of the l railways and post and telecommunica- construction and operation of railways, on the basis of federal laws which require undesrat or which are executed by the he Federation or as their own concern.

ARTICLE 81

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ARTICLE 82

according to the provisions of this Basic d by the Federal President with counter- d in the Federal Legal Gazette. Orders

(*Rechtsverordnungen*) shall be signed by the issuing authority and, unless otherwise regulated by law, published in the Federal Legal Gazette.

2. Each law and each order (*Rechtsverordnung*) shall specify the date of its coming into force. In the absence of such a provision, they shall come into force on the fourteenth day after the end of the day on which the Federal Legal Gazette has been issued.

VIII. THE EXECUTION OF FEDERAL LAWS AND THE FEDERAL ADMINISTRATION

ARTICLE 83

The Laender shall execute the federal laws as their own concern in so far as this Basic Law does not otherwise determine or permit.

ARTICLE 84

1. If the Laender execute the federal laws as their own concern they shall regulate the establishment of the authorities and the administrative procedure in so far as federal laws approved by the Bundesrat do not otherwise determine.

2. The Federal Government may, with the approval of the Bundesrat, issue general administrative provisions.

3. The Federal Government shall exercise supervision to ensure that the Laender execute the federal laws in accordance with valid law. For this purpose the Federal Government may send commissioners to the highest Land authorities and, with their approval and, in the case of this approval being refused, with the approval of the Bundesrat, also to the subordinate authorities.

4. Should deficiencies established by the Federal Government in the execution of federal laws in the Laender not be overcome, then, on application by the Federal Government or the Land concerned, the Bundesrat shall decide whether the Land has infringed law. Against the decision of the Bundesrat, appeal may be made to the Federal Constitutional Court.

5. For the execution of federal laws the Federal Government may, by federal legislation which shall require the approval of the Bundesrat, be granted in special cases the power to give individual instructions. They shall, except where the Federal Government considers the case urgent, be directed to the highest Land authorities.

ARTICLE 85

1. Where the execution of federal laws is delegated to the Laender by the Federation, the establishment of the authorities shall remain a concern of the Laender in so far as Federal legislation approved by the Bundesrat does not determine otherwise.

2. The Federal Government may issue, with the approval of the Bundesrat, general administrative provisions. It may regulate the uniform training of officials and employees. The heads of the authorities at middle level shall be appointed with its agreement.

3. The Land authorities shall be subject to the instructions of the highest competent federal authorities. Except where the Federal Government considers it urgent, the instructions shall be directed to the highest Land authorities. Execution of the instructions shall be ensured by the highest Land authority.

4. Federal supervision shall extend to the legality and suitability of the manner of execution. The Federal Government may for this purpose demand submission of reports and documents and send commissioners to all authorities.

ARTICLE 86

If the Federation executes the laws by direct federal administration or by public law corporations or institutions directly supervised by the Federation, the Federal Government shall, in so far as the law does not prescribe details, issue general administrative provisions. It shall regulate, in so far as it is not otherwise determined by the law, the establishment of the authorities.

ARTICLE 87

1. The foreign service, the federal finance administration, the federal railways, the federal postal services and, in accordance with the provisions of Article 89, the administration of the federal waterways and shipping, shall be conducted by a direct federal administration with its own lower level administrative offices. Federal frontier protection authorities and central offices for police information and communications, for the compilation of data for purposes concerning the protection of the constitution and for the criminal police may be established by federal legislation.

2. Public law corporations directly supervised by the Federation shall be those carriers of social insurance whose sphere of competence extends beyond the territory of a Land.

3. In addition, independent central new public law corporations and institut by the Federation may be established b matters on which the Federation has Should the Federation acquire new fu which it has legislative competence, and lower levels may in case of urge the approval of the Bundesrat and c Bundestag.

ARTICLE 88

The Federation shall establish a ban as federal bank.

ARTICLE 89

1. The Federation shall be the own waterways.

2. The Federation shall administ ways through its own authorities. State functions relating to inland shi the territory of a Land and the fu shipping which are conferred on it Federation may delegate the administr ways, in so far as they lie within the this Land, upon request, to act on its *mang*). Should a waterway touch th Laender, the Federation may delegate the Land agreed upon by the Laend

ARTICLE

1. The Federation shall be the ow Autobahnen and Reich highways.

2. The Laender, or such self-gover public law as are competent in acco shall administer the federal Autobahne ways used for long-distance traffic on

3. At the request of a Land, the F into direct federal administration feder federal highways used for long-distan they lie within the territory of this Land

ARTICLE 91

1. In order to avert an imminent or the free democratic basic order of t a Land may call in the police forces

ARTICLE 85

cution of federal laws is delegated to the ation, the establishment of the authorities rn of the Laender in so far as Federal by the Bundesrat does not determine

Government may issue, with the approval neral administrative provisions. It may training of officials and employees. The es middle level shall be appointed with

horities shall be subject to the instructions ent federal authorities. Except where the considers it urgent, the instructions shall ghest Land authorities. Execution of the ensured by the highest Land authority. rvision shall extend to the legality and nner of execution. The Federal Govern- urpose demand submission of reports and commissioners to all authorities.

ARTICLE 86

executes the laws by direct federal adminis- law corporations or institutions directly ederation, the Federal Government shall, in does not prescribe details, issue general sions. It shall regulate, in so far as it is not ed by the law, the establishment of the

ARTICLE 87

ce, the federal finance administration, the federal postal services and, in accord- sions of Article 89, the administration of the nd shipping, shall be conducted by a direct ion with its own lower level administrative rontier protection authorities and central formation and communications, for the com- r purposes concerning the protection of the r the criminal police may be established by

corporations directly supervised by the e those carriers of social insurance whose nce extends beyond the territory of a Land.

3. In addition, independent central federal authorities and new public law corporations and institutions directly supervised by the Federation may be established by federal legislation for matters on which the Federation has the power to legislate. Should the Federation acquire new functions in matters for which it has legislative competence, federal authorities at middle and lower levels may in case of urgent need be established with the approval of the Bundesrat and of the majority of the Bundestag.

ARTICLE 88

The Federation shall establish a bank of currency and issue as federal bank.

ARTICLE 89

1. The Federation shall be the owner of the former Reich waterways.

2. The Federation shall administer the federal waterways through its own authorities. It shall exercise those State functions relating to inland shipping extending beyond the territory of a Land and the functions of ocean-going shipping which are conferred on it by legislation. The Federation may delegate the administration of federal waterways, in so far as they lie within the territory of a Land, to this Land, upon request, to act on its behalf (*Auftragsverwaltung*). Should a waterway touch the territories of several Laender, the Federation may delegate [the administration] to the Land agreed upon by the Laender concerned.

ARTICLE 90

1. The Federation shall be the owner of the former Reich Autobahnen and Reich highways.

2. The Laender, or such self-governing corporations under public law as are competent in accordance with Land law, shall administer the federal Autobahnen and other federal highways used for long-distance traffic on behalf of the Federation.

3. At the request of a Land, the Federation may take over into direct federal administration federal Autobahnen and other federal highways used for long-distance traffic, in so far as they lie within the territory of this Land.

ARTICLE 91

1. In order to avert an imminent danger to the existence or the free democratic basic order of the Federation or a Land, a Land may call in the police forces of other Laender.

2. If the Land in which the danger is imminent is not itself prepared or in a position to combat the danger, the Federal Government may place the police in that Land or the police forces of other Laender under its instructions. The order (*Anordnung*) shall be rescinded after the danger has been overcome; otherwise at any time on demand from the Bundesrat.

IX. THE ADMINISTRATION OF JUSTICE

ARTICLE 92

Judicial authority shall be invested in the judges; it shall be exercised by the Federal Constitutional Court, by the Supreme Federal Court, by the federal courts provided for in this Basic Law and by the courts of the Laender.

ARTICLE 93

1. The Federal Constitutional Court shall decide:

(1) on the interpretation of this Basic Law in the event of disputes concerning the extent of the rights and duties of the highest federal organ or of other participants accorded independent rights by this Basic Law or in the Standing Orders (Rules of Procedure) of the highest federal organ;

(2) in cases of differences of opinion or doubts on the formal and material compatibility of federal law or Land law with this Basic Law, on the compatibility of Land law with some other federal law, on the application of the Federal Government, of a Land Government or of one-third of the members of the Bundestag;

(3) in cases of differences of opinion on the rights and duties of the Federation and the Laender, particularly in the execution of federal law by the Laender, and in the exercise of federal supervision;

(4) on other public law disputes between the Federation and the Laender, between different Laender or within a Land, in so far as appeal to another court is not provided for;

(5) in all other cases provided for in this Basic Law.

2. Furthermore, the Federal Constitutional Court shall act in cases otherwise assigned to it by federal legislation.

ARTICLE 94

1. The Federal Constitutional Court shall consist of federal judges and other members. The members of the Federal Constitutional Court shall be elected half by the Bundestag

and half by the Bundesrat. They
Bundestag, the Bundesrat, the F
corresponding bodies of a Land.

2. A federal law shall regulate
procedure and determine in which ca
the force of law.

ARTICLE 95

1. To preserve the unity of federa
Court shall be established.

2. The Supreme Federal Court s
the decision is of fundamental import
the administration of justice of the

3. The appointment of the judge
Court shall be decided jointly by the F
and a committee for the election of
Land Ministers of Justice and an eq
elected by the Bundestag.

4. Otherwise the constitution c
Court and its procedure shall be regula

ARTICLE 96

1. Higher federal courts shall
spheres of ordinary, administrative, f
jurisdiction.

2. Article 95, para. 3, shall app
higher federal courts with the provis
Federal Minister of Justice and the L
be taken by the Ministers compe
Their conditions of service must be
federal law.

3. The Federation may establi
courts for disciplinary proceedings ag
federal judges.

ARTICLE 97

1. Judges shall be independent
law.

2. Judges who are principally,
employed as such may, against their
the expiry of their term of office, or pe
suspended from office or transferred
placed on the retired list only through
and only on the grounds and in t
legislation. Legislation may set an a

n which the danger is imminent is not
a position to combat the danger, the
may place the police in that Land or the
er Laender under its instructions. The
hall be rescinded after the danger has
rwise at any time on demand from the

DMINISTRATION OF JUSTICE

RTICLE 92

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by the courts of the Laender.

ARTICLE 93

Constitutional Court shall decide:
retation of this Basic Law in the event of
he extent of the rights and duties of the
or of other participants accorded indepen-
asic Law or in the Standing Orders (Rules
e highest federal organ;
differences of opinion or doubts on the
compatibility of federal law or Land law
, on the compatibility of Land law with
w, on the application of the Federal Gov-
Government or of one-third of the members

ferences of opinion on the rights and duties
the Laender, particularly in the execution
e Laender, and in the exercise of federal

e law disputes between the Federation and
different Laender or within a Land, in
nother court is not provided for;
ases provided for in this Basic Law.
the Federal Constitutional Court shall act
ssigned to it by federal legislation.

ARTICLE 94

Constitutional Court shall consist of federal
embers. The members of the Federal
shall be elected half by the Bundestag

and half by the Bundesrat. They may not belong to the Bundestag, the Bundesrat, the Federal Government or corresponding bodies of a Land.

2. A federal law shall regulate its legal constitution and procedure and determine in which cases its decision shall have the force of law.

ARTICLE 95

1. To preserve the unity of federal law, a Supreme Federal Court shall be established.

2. The Supreme Federal Court shall decide in cases where the decision is of fundamental importance for the uniformity of the administration of justice of the higher federal courts.

3. The appointment of the judges of the Supreme Federal Court shall be decided jointly by the Federal Minister of Justice and a committee for the election of judges consisting of the Land Ministers of Justice and an equal number of members elected by the Bundestag.

4. Otherwise the constitution of the Supreme Federal Court and its procedure shall be regulated by federal legislation.

ARTICLE 96

1. Higher federal courts shall be established for the spheres of ordinary, administrative, finance, labour and social jurisdiction.

2. Article 95, para. 3, shall apply to the judges of the higher federal courts with the proviso that the place of the Federal Minister of Justice and the Land Ministers of Justice be taken by the Ministers competent for the particular matter. Their conditions of service must be regulated by a special federal law.

3. The Federation may establish federal disciplinary courts for disciplinary proceedings against federal officials and federal judges.

ARTICLE 97

1. Judges shall be independent and subject only to the law.

2. Judges who are principally, regularly and definitely employed as such may, against their will, be dismissed before the expiry of their term of office, or permanently or temporarily suspended from office or transferred to another office or be placed on the retired list only through the decision of a court and only on the grounds and in the forms prescribed by legislation. Legislation may set an age limit at which judges

who have been appointed for life shall retire. In the case of alterations in the structure of the courts or their districts, judges may be transferred to another court or suspended from office. They must, however, retain their full salary.

ARTICLE 98

1. The legal status of the federal judges must be regulated by a special federal law.

2. If a federal judge, in his official or unofficial capacity, infringes the principles of the Basic Law or the constitutional order of a Land, the Federal Constitutional Court may on the application of the Bundestag and with a two-thirds majority, order that the judge be transferred to another office or placed on the retired list. In the case of wilful infringement dismissal may also be decided upon.

3. The legal status of the judges in the Laender must be regulated by special Land legislation. The Federation may issue general provisions.

4. The Laender may determine that the Land Minister of Justice shall, together with a committee for the election of judges, decide on the appointment of judges in the Laender.

5. The Laender may make an appropriate regulation for Land judges in accordance with para. 2. Valid Land constitutional law shall remain unaffected. The Federal Constitutional Court shall decide in the case of impeachment of a judge.

ARTICLE 99

By Land legislation the decision on constitutional disputes within a Land may be assigned to the Federal Constitutional Court, and the decision of final instance on matters involving the application of Land law to the higher federal courts.

ARTICLE 100

1. If a court considers unconstitutional a law the validity of which is pertinent to its decision, proceedings must be stayed and, if a violation of a Land Constitution is involved, the decision of the Land court competent for constitutional disputes shall be obtained and, if a violation of this Basic Law is involved, the decision of the Federal Constitutional Court shall be obtained. This shall also apply if the violation of this Basic Law by Land law or the incompatibility of a Land law with a federal law is involved.

2. If in litigation it is doubtful whether a rule of international law forms part of federal law and whether it creates

direct rights and duties for the individual [illegible] shall obtain the decision of the Federal C[illegible]

3. If the court of a Land, in interpr[illegible] intends to deviate from a decision of the F[illegible] Court or the constitutional court of anc[illegible] constitutional court must obtain the dec[illegible] Constitutional Court. If, in interpretin[illegible] it intends to deviate from the decision of [illegible] Court or a higher federal court, it must c[illegible] the Supreme Federal Court.

ARTICLE 101

1. Extraordinary courts shall be inad[illegible] be prevented from appearing before his la[illegible]

2. Courts for special matters may b[illegible] law.

ARTICLE 102

The death sentence shall be abolished.

ARTICLE 103

1. Everyone brought before a court [illegible] proper legal hearing.

2. An act may be punished only if [illegible] law before the act was committed.

3. No one may be punished more th[illegible] the same act in pursuance of the general [illegible]

ARTICLE 10[illegible]

1. The freedom of the individual may [illegible] the basis of a formal law and only wit[illegible] forms prescribed therein. Detained persc[illegible] neither to physical nor mental ill-treatme[illegible]

2. Only the judge shall decide on [illegible] continued duration of a deprivation of libe[illegible] tion is not based on the order of a judge. [illegible] be obtained without delay. The polic[illegible] authority, hold no one in custody beyon[illegible] following the arrest. Details shall be re[illegible]

3. Any person temporarily detained c[illegible] committed a punishable act must, at t[illegible] following the arrest, be brought before [illegible] inform him of the reasons for the arrest [illegible] give him an opportunity to raise object[illegible]

or landing fields and air beacons that have a
d are not specifically designed for military
B.

cations, designs, models and reproductions
velopment, manufacture, testing, or inspection
experiments or research in connexion with

manufacturing equipment and tooling used
nufacture, testing or inspection of the war
Schedule, and not capable of conversion to

chemicals:—
the exception of those listed in Schedule B,
By "high explosives" is meant organic ex-
s, bombs, etc.)
s (i.e. nitrocellulose propellants containing
lycol dinitrate or analogous substances).
for any weapons except sporting weapons:

uding liquids and solids customarily included
ception of those listed in Group VIII B of

above 37 per cent concentration.

from bacteriological or plant sources (with
acteriological and plant products which are
ses).
for individual and collective defence used
the armed forces, such as protective masks
ces used for war, detection apparatus, etc.

and material specially designed for training
in the use, handling, manufacture or main-

ANNEX B

he manufacture of which shall be prohibited
icence from the Military Governors
utters.
s of the following kinds:—
e type.
type cutter) with cutter diameter or
ceeding 2 inches (51 mm.), or working stroke
mm.) or pull capacity exceeding 35,000 lbs.

thes of the following kinds:—
iameter capacity (swing over carriage) exceed-

diameter capacity (swing over carriage) of
n.) to 56 inches and with distance between
piece) exceeding 14 feet (4,267 mm.).
diameter capacity (swing over carriage) of
.) to 36 inches (914 mm.) and with distance
18 feet (5,486 mm.).

4. Vertical turret lathes (turret type head, not rotating table) of work diameter capacity exceeding 39 inches (991 mm.).

5. Chucking and facing lathes of work diameter capacity exceeding 96 inches (2,438 mm.) or with travel of carriage exceeding 7 feet (2,134 mm.).

6. Car and locomotive wheel lathe (machines designed specifically for this work) of work diameter capacity exceeding 96 inches (2,438 mm.).

7. Turret lathes of chuck capacity exceeding 24 inches (610 mm.) or of bar capacity exceeding 3 inches (76 mm.).

8. Milling machines of general purpose and universal types, horizontal and vertical, any of whose specifications exceed the following limits:—
(A) Maximum overall weight: 4 tons.
(B) Following rectangular table dimensions:—
(I) Maximum length 48 inches (1,219 mm.).
(II) Maximum width: 14 inches (356 mm.).
(C) Following round table dimensions:—
(I) Maximum table diameter: 24 inches (610 mm.).
(II) Maximum work diameter capacity: 32 inches (813 mm.).

9. Planer milling machines of distance between housing exceeding 4 feet (1,219 mm.) or on length of platen exceeding 12 feet (3,658 mm.) or of number of heads exceeding 3.

10. Grinding machines of the following kinds:—
(A) Cylindrical general purpose machines of work diameter capacity exceeding 30 inches (762 mm.) or of distance between centres exceeding 9 feet (2,743 mm.), but not including machines specifically designed for and limited to finishing rolling mill, calendar, printing and other similar machine parts.
(B) Surface rectangular table machines of platen width exceeding 24 inches (610 mm.) or of platen length exceeding 72 inches (1,829 mm.).
(C) Surface round table machines of table diameter exceeding 36 inches (914 mm.).

11. Gear producing machines of all types whose work diameter capacity exceeds 60 inches (1,524 mm.).

12. Forging hammers of all types, of falling weight exceeding 3½ tons (3·556 metric tons).

13. Forging machines of bar stock diameter or equivalent cross section exceeding 3½ inches (89 mm.).

14. Mechanical presses of an effective operating pressure exceeding 1,000 tons (1,016 metric tons).

15. Hydraulic presses of an effective operating pressure exceeding 1,000 tons (1,016 metric tons).

16. Precision jig boring machines of a lateral displacement of cutter with reference to work (or displacement of work with respect to cutter) exceeding 24 inches (610 mm.).

BASIC LAW for the Federal Republic of Germany.—Bonn, 23rd May, 1949.

(Translation)[1]

Conscious of its responsibility before God and mankind, filled with the resolve to preserve its national and political unity and to serve world peace as an equal partner in a united Europe, the German people,

(1) Published in the *Military Government Gazette—Germany (British Zone)*, No. 35, on 10th September, 1949.

in the Laender Baden, Bavaria, Bremen, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern,

has, by virtue of its constituent power, enacted this Basic Law of the Federal Republic of Germany to give a new order to political life for a transitional period.

It acted also on behalf of those Germans to whom participation was denied.

The entire German people is called upon to accomplish, by free self-determination, the unity and freedom of Germany.

I. BASIC RIGHTS

ARTICLE 1

1. The dignity of man shall be inviolable. To respect and protect it shall be the duty of all State authority.

2. The German people therefore acknowledges inviolable and inalienable human rights as the basis of every human community, of peace and justice in the world.

3. The following basic rights shall be binding as directly valid law on legislation, administration and judiciary.

ARTICLE 2

1. Everyone shall have the right to the free development of his personality, in so far as he does not infringe the rights of others or offend against the constitutional order or the moral code.

2. Everyone shall have the right to life and physical inviolability. The freedom of the individual shall be inviolable. These rights may be interfered with only on the basis of a law.

ARTICLE 3

1. All men shall be equal before the law.

2. Men and women shall have equal rights.

3. No one may be prejudiced or privileged because of his sex, descent, race, language, homeland and origin, faith or religious and political opinions.

ARTICLE 4

1. Freedom of faith and conscience and freedom of religious and ideological (*weltanschauliche*) profession shall be inviolable.

2. Undisturbed practice of religion shall be guaranteed.

3. No one may be compelled perform war service as a combatant by a federal law.

ARTICLE

1. Everyone shall have the ri disseminate his opinion through s tion and, without hindrance, to in accessible sources. Freedom porting by radio and motion p There shall be no censorship.

2. These rights shall be limit general laws, the legal regulations and the right of personal honour.

3. Art and science research Freedom of teaching shall not constitution.

ARTICLE

1. Marriage and the family protection of the State.

2. The care and upbringing of right of parents and the supreme The State shall watch over their

3. Children may be separated will of those entitled to bring the if those so entitled fail to do their a danger of the children being n

4. Every mother shall have a care of the community.

5. Illegitimate children s the same conditions for their phys and their position in society as le

ARTICLE

1. The entire educational syst vision of the State.

2. Those entitled to bring up to decide whether it shall receive

3. Religious instruction shall in the State schools with the e schools. Religious instruction sh State's right of supervision, be giv of the religious societies. No te his will to give religious instructio

3. No one may be compelled against his conscience to perform war service as a combatant. Details shall be regulated by a federal law.

ARTICLE 5

1. Everyone shall have the right freely to express and to disseminate his opinion through speech, writing and illustration and, without hindrance, to instruct himself from generally accessible sources. Freedom of the press and freedom of reporting by radio and motion pictures shall be guaranteed. There shall be no censorship.

2. These rights shall be limited by the provisions of the general laws, the legal regulations for the protection of juveniles and the right of personal honour.

3. Art and science research and teaching shall be free. Freedom of teaching shall not absolve from loyalty to the constitution.

ARTICLE 6

1. Marriage and the family shall be under the special protection of the State.

2. The care and upbringing of children shall be the natural right of parents and the supreme duty incumbent upon them. The State shall watch over their activity.

3. Children may be separated from the family against the will of those entitled to bring them up only on a legal basis if those so entitled fail to do their duty or if on other grounds a danger of the children being neglected arises.

4. Every mother shall have a claim to the protection and care of the community.

5. Illegitimate children shall, through legislation, be given the same conditions for their physcial and spirtual development and their position in society as legitimate children.

ARTICLE 7

1. The entire educational system shall be under the supervision of the State.

2. Those entitled to bring up the child shall have the right to decide whether it shall receive religious instruction.

3. Religious instruction shall form part of the curriculum in the State schools with the exception of non-confessional schools. Religious instruction shall, without prejudice to the State's right of supervision, be given according to the principles of the religious societies. No teacher may be obliged against his will to give religious instruction.

4. The right to establish private schools shall be guaranteed. Private schools as substitute for State schools shall require the sanction of the State and shall be subject to Land legislation. The sanction must be given if the private schools, in their educational aims and facilities, as well as in the scholarly training of their teaching personnel, are not inferior to the State schools and if a separation of the pupils according to the means of the parents is not encouraged. The sanction must be withheld if the economic and legal status of the teaching personnel is not sufficiently assured.

5. A private elementary school shall be permitted only if the educational administration recognises a specific pedagogic interest or, at the request of those entitled to bring up children, if it is to be established as a general community school (*Gemeinschaftsschule*), as a confessional or ideological school, or if a state elementary school of this type does not exist in the Gemeinde.

6. Preparatory schools shall remain abolished.

ARTICLE 8

1. All Germans shall have the right, without prior notification or permission, to assemble peacefully and unarmed.

2. For open air meetings this right may be restricted by legislation or on the basis of a law.

ARTICLE 9

1. All Germans shall have the right to form associations and societies.

2. Associations, the objects or activities of which conflict with the criminal laws or which are directed against the constitutional order or the concept of international understanding, shall be prohibited.

3. The right to form associations to safeguard and improve working and economic conditions shall be guaranteed to everyone and to all professions. Agreements which seek to restrict or hinder this right shall be null and void; measures directed to this end shall be illegal.

ARTICLE 10

Secrecy of the mail as well as secrecy of the post and telecommunications shall be inviolable. Restrictions may be ordered only on the basis of a law.

ARTICLE 11

1. All Germans shall enjoy freedom o
out the federal territory.

2. This right may be restricted only b
for the cases in which an adequate basis
and, as a result, particular burdens would
public, or in which it is necessary for
from neglect, for combating the danger of
to prevent criminal acts.

ARTICLE 12

1. All Germans shall have the right
occupation, place of work and place of t
of an occupation may be regulated by le

2. No one may be compelled to perf
of work except within the framework of
compulsory public service equally applic

3. Forced labour shall be admissible
imprisonment ordered by a court.

ARTICLE 13

1. The dwelling shall be inviolable.

2. Searches may be ordered only
event of imminent danger by other autho
and may be carried out only in the form

3. Interventions and restrictions ma
taken only to avert a common danger
individuals and, on the basis of a la
danger to public safety and order, espe
the housing shortage, combating the d
protecting juveniles exposed to dangers.

ARTICLE 14

1. Property and the right of inherita
The contents and limitations shall be de

2. Property shall involve obligation
taneously serve the general welfare.

3. Expropriation shall be admissi
being of the general public. It may be
lation or on the basis of a law which s
and extent of compensation. The comp
mined after just consideration of the

ablish private schools shall be guaran-
as substitute for State schools shall
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and facilities, as well as in the scholarly
ng personnel, are not inferior to the
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not encouraged. The sanction must be
and legal status of the teaching per-
assured.

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of those entitled to bring up children,
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ssional or ideological school, or if a
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ARTICLE 8

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or which are directed against the
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Agreements which seek to restrict
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RTICLE 10

well as secrecy of the post and
inviolable. Restrictions may be
law.

ARTICLE 11

1. All Germans shall enjoy freedom of movement throughout the federal territory.

2. This right may be restricted only by legislation and only for the cases in which an adequate basis of existence is absent and, as a result, particular burdens would arise for the general public, or in which it is necessary for the protection of juveniles from neglect, for combating the danger of epidemics or in order to prevent criminal acts.

ARTICLE 12

1. All Germans shall have the right freely to choose their occupation, place of work and place of training. The practice of an occupation may be regulated by legislation.

2. No one may be compelled to perform a particular kind of work except within the framework of an established general compulsory public service equally applicable to everybody.

3. Forced labour shall be admissible only in the event of imprisonment ordered by a court.

ARTICLE 13

1. The dwelling shall be inviolable.

2. Searches may be ordered only by a judge or in the event of imminent danger by other authorities provided by law and may be carried out only in the form prescribed therein.

3. Interventions and restrictions may otherwise be undertaken only to avert a common danger or mortal danger to individuals and, on the basis of a law, also to prevent imminent danger to public safety and order, especially for the relief of the housing shortage, combating the danger of epidemics or protecting juveniles exposed to dangers.

ARTICLE 14

1. Property and the right of inheritance shall be guaranteed. The contents and limitations shall be determined by legislation.

2. Property shall involve obligations. Its use shall simultaneously serve the general welfare.

3. Expropriation shall be admissible only for the well-being of the general public. It may be effected only by legislation or on the basis of a law which shall regulate the nature and extent of compensation. The compensation shall be determined after just consideration of the interests of the general

public and the participants. Regarding the extent of compensation, appeal may be made to the ordinary courts in case of dispute.

ARTICLE 15

Land and landed property, natural resources and means of production may, for the purpose of socialisation, be transferred to public ownership or other forms of publicly controlled economy by way of a law which shall regulate the nature and extent of compensation. For the compensation, Article 14, paragraph 3, sentences 3 and 4, shall apply appropriately.

ARTICLE 16

1. No one may be deprived of his German citizenship. The loss of citizenship may occur only on the basis of a law and, against the will of the person concerned, only if the person concerned is not rendered stateless thereby.

2. No German may be extradited to a foreign country. The politically persecuted shall enjoy the right of asylum.

ARTICLE 17

Everyone shall have the right, individually or jointly with others, to address written requests or complaints to the competent authorities and to the popular representative bodies.

ARTICLE 18

Whoever abuses the freedom of expression of opinion, in particular the freedom of the press (Article 5, para. 1), the freedom of teaching (Article 5, para. 3), the freedom of assembly (Article 8), the freedom of association (Article 9), the secrecy of mail, post and telecommunications (Article 10), property (Article 14), or the right of asylum (Article 16, para. 2), in order to attack the free, democratic basic order, shall forfeit these basic rights. The forfeiture and its extent shall be pronounced by the Federal Constitutional Court.

ARTICLE 19

1. In so far as according to this Basic Law a basic right may be restricted by legislation or on the basis of a law, the law must apply in general and not solely to the individual case. Furthermore, the law must name the basic right, indicating the Article.

2. In no case may a basic right be affected in its basic content.

3. The basic rights shall also appl within the country in so far as, accordin may be applied to such persons.

4. Should any person's rights be authority, he may appeal to the courts. authority is not competent, the appeal s courts.

II. THE FEDERATION AND

ARTICLE 20

1. The Federal Republic of Germa social federal State.

2. All State authority emanates fro be exercised by the people in elections means of separate legislative, executive

3. Legislation shall be limited by executive and the administration of jus the law.

ARTICLE 21

1. The parties shall participate in will of the people. They can be freely f organisation must conform to democratic publicly account for the sources of their

2. Parties which, according to their of their members, seek to impair or abol cratic basic order or to jeopardise th Republic of Germany, shall be unc Constitutional Court shall decide on the tutionality.

3. Details shall be regulated by fe

ARTICLE 22

The federal flag shall be black, red a

ARTICLE 23

For the time being, this Basic Law s tory of the Laender Baden, Bavaria, Br Hamburg, Hesse, Lower Saxony, Nor Rhineland-Palatinate, Schleswig-Holst Baden and Wuerttemberg-Hohenzollern. force for other parts of Germany on the

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3. The basic rights shall also apply to juridical persons within the country in so far as, according to their nature, they may be applied to such persons.

4. Should any person's rights be infringed by public authority, he may appeal to the courts. In so far as another authority is not competent, the appeal shall go to the ordinary courts.

II. THE FEDERATION AND THE LAENDER

ARTICLE 20

1. The Federal Republic of Germany is a democratic and social federal State.

2. All State authority emanates from the people. It shall be exercised by the people in elections and plebiscites and by means of separate legislative, executive and judicial organs.

3. Legislation shall be limited by the constitution, the executive and the administration of justice by legislation and the law.

ARTICLE 21

1. The parties shall participate in forming the political will of the people. They can be freely formed. Their internal organisation must conform to democratic principles. They must publicly account for the sources of their funds.

2. Parties which, according to their aims and the behaviour of their members, seek to impair or abolish the free and democratic basic order or to jeopardise the existence of the Federal Republic of Germany, shall be unconstitutional. The Federal Constitutional Court shall decide on the question of unconstitutionality.

3. Details shall be regulated by federal legislation.

ARTICLE 22

The federal flag shall be: black, red and gold.

ARTICLE 23

For the time being, this Basic Law shall apply in the territory of the Laender Baden, Bavaria, Bremen, Greater Berlin, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern. It shall be put into force for other parts of Germany on their accession.

ARTICLE 24

1. The Federation may, by legislation, transfer sovereign powers to international institutions.

2. In order to preserve peace, the Federation may join a system of mutual collective security; in doing so it will consent to those limitations of its sovereign powers which will bring about and secure a peaceful and lasting order in Europe and among the nations of the world.

3. For the settlement of international disputes, the Federation will join a general, comprehensive, obligatory system of international arbitration.

ARTICLE 25

The general rules of international law shall form part of federal law. They shall take precedence over the laws and create rights and duties directly for the inhabitants of the federal territory.

ARTICLE 26

1. Activities tending to disturb or undertaken with the intention of disturbing the peaceful relations between nations, and especially preparing for aggressive war, shall be unconstitutional. They shall be made subject to punishment.

2. Weapons designed for warfare may be manufactured, transported or marketed only with the permission of the Federal Government. Details shall be regulated by a federal law.

ARTICLE 27

All German merchantmen shall form a unified merchant marine.

ARTICLE 28

1. The constitutional order in the Laender must conform to the principles of the republican, democratic and social State based on the rule of law (*Rechtsstaat*) within the meaning of this Basic Law. In the Laender, Kreise and Gemeinden the people must have a representative assembly resulting from universal, direct, free, equal and secret elections. In Gemeinden, the Parish Meeting may take the place of an elected body.

2. The Gemeinden must be guaranteed the right to regulate under their own responsibility all the affairs of the local community in accordance with the laws. The Gemeindeverbände also shall have the right of self-government within the limits of their legal sphere of functions and in accordance with the laws.

3. The Federation shall guaran... order of the Laender shall corresp... the provisions of paragraphs 1 and ...

ARTICLE 29

1. The federal territory sha... law with due regard to regional ... connexions, economic expediency a... reorganisation shall create Laender ... potentiality are able to fulfil efficient... upon them.

2. In areas which, in the reorga... 8th May, 1945, joined another La... certain change in the decision made ... be demanded by popular initiative ... coming into force of the Basic Law(... shall require the consent of one-tenth ... to vote in Landtag elections. Should ... place, the Federal Government must, ... the reorganisation, include a provisi... Land the area concerned shall belo...

3. After adoption of the law, ... intended should join another Land, t... concerns this area must be submitte... popular initiative takes place in ac... referendum must always be carried o...

4. In so far as thereby the ... area, it must be reintroduced in th... enactment, it shall require according... dum in the entire federal territory.

5. In a referendum, the majorit... decide.

6. The procedure shall be regula... reorganisation shall be regulated be... years after promulgation of the Basi... necessary in consequence of the acc... Germany, within two years after such ...

7. The procedure regarding any ... ing territory of the Laender shall be ... which shall require the approval of ... majority of the members of the Bun...

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Article 24

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3. The Federation shall guarantee that the constitutional order of the Laender shall correspond to the basic rights and the provisions of paragraphs 1 and 2.

Article 29

1. The federal territory shall be reorganised by a federal law with due regard to regional unity, historical and cultural connexions, economic expediency and social structure. The reorganisation shall create Laender which by their size and potentiality are able to fulfil efficiently the functions incumbent upon them.

2. In areas which, in the reorganisation of Laender after 8th May, 1945, joined another Land without plebiscite, a certain change in the decision made concerning this subject may be demanded by popular initiative within one year after the coming into force of the Basic Law(*). The popular initiative shall require the consent of one-tenth of the population qualified to vote in Landtag elections. Should the popular initiative take place, the Federal Government must, in the draft law regarding the reorganisation, include a provision determining to which Land the area concerned shall belong.

3. After adoption of the law, in each area which it is intended should join another Land, that part of the law which concerns this area must be submitted to a referendum. If a popular initiative takes place in accordance with para. 2 a referendum must always be carried out in the area concerned.

4. In so far as thereby the law is rejected at least in one area, it must be reintroduced in the Bundestag. After re-enactment, it shall require accordingly acceptance by referendum in the entire federal territory.

5. In a referendum, the majority of the votes cast shall decide.

6. The procedure shall be regulated by a federal law. The reorganisation shall be regulated before the expiry of three years after promulgation of the Basic Law and, should it be necessary in consequence of the accession of another part of Germany, within two years after such accession.

7. The procedure regarding any other change in the existing territory of the Laender shall be regulated by a federal law, which shall require the approval of the Bundesrat and of the majority of the members of the Bundestag.

(*) Entered into force on 23rd May, 1949.

ARTICLE 30

The exercise of the powers of the State and the performance of State functions shall be the concern of the Laender, in so far as this Basic Law does not otherwise prescribe or permit.

ARTICLE 31

Federal law shall supersede Land law.

ARTICLE 32

1. The maintenance of relations with foreign States shall be the affair of the Federation.

2. Before the conclusion of a treaty affecting the special conditions of a Land, the Land must be consulted sufficiently early.

3. In so far as the Laender are competent to legislate, they may, with the approval of the Federal Government, conclude treaties with foreign States.

ARTICLE 33

1. Every German shall have in each Land the same civil (*staatsbürgerliche*) rights and duties.

2. Every German shall have equal access to any public office in accordance with his suitability, ability and professional achievements.

3. Enjoyment of municipal and national civil (*bürgerliche and staatsbürgerliche*) rights, access to public offices, as well as the rights acquired in the public service, shall be independent of religious confession. No one may be prejudiced on account of his adherence or non-adherence to a confession or ideology (*Weltanschauung*).

4. The exercise of State authority (*hoheitsrechtliche Befugnisse*) shall normally be assigned as permanent functions to members of the public service who are in a status of service and loyalty under public law.

5. Law regarding the public service shall be regulated with due regard to the established principles concerning the legal status of professional officials (*Berufsbeamtentum*).

ARTICLE 34

If any person, in exercising the duties of a public office entrusted to him, violates his official obligation towards a third party, liability shall in principle rest with the State or his employing authority. In the case of wilful intent or gross

negligence, the right of recourse shall to the claim for damages and in recourse, appeal to the ordinary cour

ARTICLE 35

All federal and Land authorities mutual legal and official assista

ARTICLE 36

In the highest federal authorities from all Laender shall be employed i employed in the other federal offices from the Land in which they are em

ARTICLE 37

1. If a Land fails to fulfil its Federation under the Basic Law or a Federal Government may, with the a take the necessary measures to force t compulsion to fulfil its duties.

2. In order to carry out federal Government or its commissioner sha orders to all Laender and their author

III. THE BUNDE

ARTICLE 38

1. The deputies of the German E by the people in universal, free, eq They shall be representatives of to orders and instructions and subject

2. Any person who has reached be eligible to vote, and any person of 25 shall be eligible for election.

3. Details shall be determined by

ARTICLE 39

1. The Bundestag shall be elected Its electoral period shall end four yea or with its dissolution. The new ele the last three months of the electoral dissolution, at the latest after 60 days.

2. The Bundestag shall meet no after the election, nevertheless not befor period of the previous Bundestag.

ARTICLE 30

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negligence, the right of recourse shall be reserved. In respect to the claim for damages and in respect to the right of recourse, appeal to the ordinary courts must not be excluded.

ARTICLE 35

All federal and Land authorities shall render each other mutual legal and official assistance.

ARTICLE 36

In the highest federal authorities civil servants (*Beamte*) from all Laender shall be employed in equitable ratio. Persons employed in the other federal offices shall normally be selected from the Land in which they are employed.

ARTICLE 37

1. If a Land fails to fulfil its obligations towards the Federation under the Basic Law or any other federal law, the Federal Government may, with the approval of the Bundesrat, take the necessary measures to force the Land by way of federal compulsion to fulfil its duties.

2. In order to carry out federal compulsion, the Federal Government or its commissioner shall have the right to give orders to all Laender and their authorities.

III. THE BUNDESTAG

ARTICLE 38

1. The deputies of the German Bundestag shall be elected by the people in universal, free, equal, direct and secret elections. They shall be representatives of the whole people, not bound to orders and instructions and subject only to their conscience.

2. Any person who has reached the age of 21 years shall be eligible to vote, and any person who has reached the age of 25 shall be eligible for election.

3. Details shall be determined by a federal law.

ARTICLE 39

1. The Bundestag shall be elected for a term of four years. Its electoral period shall end four years after its first assembly or with its dissolution. The new election shall take place in the last three months of the electoral period ; in the case of its dissolution, at the latest after 60 days.

2. The Bundestag shall meet not later than thirty days after the election, nevertheless not before the end of the electoral period of the previous Bundestag.

3. The Bundestag shall determine the closure and resumption of its sessions. The President of the Bundestag may convene it at an earlier date. He shall be obliged to do so if one-third of the members, the Federal President or the Federal Chancellor so demand.

ARTICLE 40

1. The Bundestag shall elect its President, his deputies and its clerks. It shall draw up its Standing Orders (Rules of Procedure).

2. The President shall have charge of, and exercise police power in, the Bundestag building. No search or seizure may take place without his permission in the precincts of the Bundestag.

ARTICLE 41

1. The review of elections shall be the responsibility of the Bundestag. It shall decide also whether a deputy has lost his membership of the Bundestag.

2. An appeal to the Federal Constitutional Court against a decision of the Bundestag shall be admissible.

3. Details shall be regulated by a federal law.

ARTICLE 42

1. Meetings of the Bundestag shall be public. Upon a motion of one-tenth of its members or upon a motion of the Federal Government the public may, by a two-thirds majority, be excluded. A decision on the motion will be made in a closed meeting.

2. Decisions of the Bundestag shall require the majority of votes cast in so far as the Basic Law does not determine otherwise. Standing Orders (Rules of Procedure) may admit exceptions in the case of elections to be held by the Bundestag.

3. Accurate reports of the public meetings of the Bundestag and of its committees shall be privileged.

ARTICLE 43

1. The Bundestag and its committees may demand the presence of any member of the Federal Government.

2. The members of the Bundesrat and of the Federal Government as well as the persons commissioned by them shall have access to all meetings of the Bundestag and its committees. They must be heard at any time.

ARTICLE

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public proceedings. The public m

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apply appropriately to the inves
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2. Wider powers, in particula
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ARTICLE

1. A deputy may at no
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or in one of its committees. This
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2. A deputy may be called to
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unless he be apprehended while
in the course of the following day.

3. Furthermore, the permission
required in respect of any other
freedom of a deputy or for the initi
a deputy in accordance with Article

4. Any criminal proceedings
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t be heard at any time.

ARTICLE 44

1. The Bundestag shall have the right and, upon the motion of one-fourth of its members, the obligation to set up an investigating committee, which shall take the necessary evidence in public proceedings. The public may be excluded.

2. The provisions relating to criminal procedure shall apply appropriately to the investigations. Secrecy of the mail, post and telecommunications shall remain unaffected.

3. The courts and administrative authorities shall be obliged to provide legal and official assistance.

4. The decisions of the investigating committees shall not be subject to judicial review. The courts shall be free to evaluate and judge the facts on which the investigation is based.

ARTICLE 45

1. The Bundestag shall appoint a Standing Committee which shall safeguard the rights of the Bundestag *vis-à-vis* the Federal Government in the interval between two electoral periods. The Standing Committee shall also have the rights of an investigating committee.

2. Wider powers, in particular the right to legislate, to elect the Federal Chancellor and to impeach the Federal President, shall not be within the province of the Standing Committee.

ARTICLE 46

1. A deputy may at no time be subject to legal or disciplinary action or otherwise be called to account outside the Bundestag because of his vote or any utterance in the Bundestag or in one of its committees. This shall not apply in the case of defamatory insults.

2. A deputy may be called to account or arrested for a punishable offence only with the permission of the Bundestag, unless he be apprehended while committing the offence or in the course of the following day.

3. Furthermore, the permission of the Bundestag shall be required in respect of any other restriction of the personal freedom of a deputy or for the initiating of proceedings against a deputy in accordance with Article 18.

4. Any criminal proceedings and any proceedings in accordance with Article 18 against a deputy, any detention and any other restriction of his personal freedom shall be suspended upon the demand of the Bundestag.

ARTICLE 47

Deputies shall be entitled to refuse to give evidence concerning persons who have entrusted facts to them in their capacity as deputies or to whom they in this capacity have entrusted facts, as well as concerning these facts themselves. In so far as this right of refusal to give evidence extends, the seizure of documents shall be inadmissible.

ARTICLE 48

1. Any person seeking election to the Bundestag shall have a claim to the leave necessary for his election campaign.

2. No one may be prevented from assuming or exercising the office of a deputy. Notice of dismissal or dismissal for this reason shall be inadmissible.

3. Deputies shall have a claim to adequate remuneration, which shall ensure their independence. They shall have the right to free travel in all publicly owned transport. Details shall be regulated by a federal law.

ARTICLE 49

Articles 46, 47 and 48, paras. 2 and 3, shall apply to the members of the Praesidium and the Standing Committee as well as to their chief deputies also in the interval between two electoral periods.

IV. THE BUNDESRAT

ARTICLE 50

The Laender shall participate through the medium of the Bundesrat in the legislation and the administration of the Federation.

ARTICLE 51

1. The Bundesrat shall consist of members of the Governments of the Laender which shall appoint and recall them. They may be represented by other members of their Governments.

2. Each Land shall have at least three votes; Laender with more than two million inhabitants shall have four, Laender with more than six million inhabitants shall have five votes.

3. Every Land may delegate as many members as it has votes. The votes of each Land may be given only as a block vote and only by members present or their representatives.

ARTICLE 52

1. The Bundesrat shall elect its President for one year.

2. The President shall convene the Bundesrat. He must

convene it if the representatives c
the Federal Government so demanc

3. The Bundesrat shall take
the majority of its votes. It shall c
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4. Other members or represen
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ARTICLE

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V. THE FEDERAL

ARTICLE

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years. Immediate re-election shall

3. The Federal Convention sha
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to the principles of proportion

4. The Federal Convention shall
days before the expiry of the term
President, but in the case of prema
than thirty days after this date. It
President of the Bundestag.

5. After the expiry of the electo
of para. 4, sentence 1, shall begin wi
Bundestag.

6. The person who has received
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such majority is not obtained by any
the person who receives most votes
be elected.

7. Details shall be regulated by a

To : R. Sabel

From : J. Waltuch

6, November 1978

Re : Jurisdiction of Israeli Courts Over Residents of Autonomous Regions Charged With Terrorist Activity or Other Security Offenses, After the Withdrawal of Military Government

I General Principles of International Law

There is ample base of jurisdiction under widely accepted principles of International Law for prosecution in Israeli Courts of perpetrators of terrorist acts and other security offenses committed outside Israel territory.

Of these bases, the one most widely asserted is that termed the"protective principle". The 1931 Resolutions of the Institut de Droit International declare in Article 4 :

> " Any state has the right to punish acts committed outside its territory, even by aliens, when the acts constitute :
> (a) An attack against its security;
> (b) A falsifications of its money, its stamps, seal or official marks (marques).
> This rule is applicable even when the facts considered are not punishable by the penal law of the country on the territory of which they have been committed."

The Bustamante Code, Convention on Private International Law, adopted in 1928 and in force between fifteen Latin American Republics, states in Article 305 :

> " Those committing an offense against the internal or external security of a contracting State or against its public credit, whatever the nationality or domicile of the delinquent person, are subject in a foreign country to the penal law of each contracting State."

Such jurisdiciton is asserted in the legislation of a large number of countries. The classic statement of the rule was found in Article 7 of the old French Code of Criminal Procedure, which has now become Article 694 of the revised

2/..

Code of Criminal Procedure :

> " Every foreigner who outside the territory of the Republic renders himself guilty, either as a perpetrator or as an accomplice, of a felony or misdemeanor against the security of the State or the counterfeiting of the seal of the State, or current national monies may be prosecuted and tried according to the provisions of French law if he is arrested in France or if the Government obtains his extradition".

The 1950 Hungarian Penal Code broadened the scope of the protective principle to include acts committed abroad by an alien, regardless of the law of the place of the crime, if the act violates "a fundamental interest relating to the democratic, political and economic order of the Hungarian Peoples Republic." Gorove, 'Hungary: International Aspects of the New Penal Code,' 3 AJCL 82, 85 (1954). The 1961 Hungarian Criminal Code attains similar results by making punishable acts done abroad by aliens which amount to "crimes against the state," and including therin crimes "to the prejudice of another socialist state." Sections 5 and 133.

The protective principle is not far removed from the form of the objective-territorial principle found in the New York Penal Law, Section 1933, which reads:

> " A person who commits an act without this state which affects persons or property within this state, or the public health, morals or decency of this state, and which, if committed within this state, would be a crime, is punishable as it the act were committed within this state."

Universal jurisdiction over piracy has long been widely recognized both under customary international law and treaty; whatever the nationality of the offender or of the victim, and wherever on the high seas the offence was committed. Articles 14-22 of the 1958 Geneva Convention on the High Seas deal with piracy in detail. Article 15 defines piracy as:

> " Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passangers of a private ship or a private aircraft, and directed:
>
> (a) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
>
> (b) Against a ship, aircraft, persons or property in a

place outside the jurisdiction of any state" (emphasis added). U.N. Doc. A/CONF. 13/L 53; 52 AJIL 842 (1958); 450 UNTS 82.

Article 308 of the previously cited Bustamante Code of 1928, under the heading 'Offenses Committed Outside the National Territory', provides:

> " Piracy, trade in negroes and slave traffic, white slavery, the destruction or injury of submarine cables, and all other offenses of a similar nature against international law committed on the high seas, in the open air, and on territory not yet organized into a state, shall be punished by the captor in accordance with the penal laws of the latter." (emphasis added)

Various national criminal codes declare their applicabilty to such offenses on a basis akin to the jurisdiction over piracy. For example, the German Criminal Code states that, regardless of the place of the offence, it is applicable to crimes committed abroad by aliens, if they are "major crimes with explosives..." There is little evidence of any international protest against the assertion of the right to take jurisdiction on this basis.

With respect to war crimes, there is also considerable evidence of a practice permitting universal jurisdiction, although some would limit war crimes jurisdiction to the state against whose interests or whose nationals the offence was committed. The United Nations War Crimes Commission states in its Digest of Laws and Cases:

> " According to generally recognized doctrine... the right to punish war crimes is not confined to the State whose nationals have suffered or on whose territory the offence took place but is possessed by any independent state whatsoever, just as is the right to punish the offence of piracy."
> 15 Law Reports of the Trials of War Criminals, p. 26 (1949).

In the Eichmann Case, the court relied not only upon an extended protective principle but also on the universality principle in trying a German for crimes committed outside the territory of Israel and against persons who were not legally nationals of Israel, at a time three years or more before there was any State of Israel. The Court found it had jurisdiction because of "the universal character of the crimes in question and their specific character as being designed to exterminate the Jewish People." 56 AJIL 805, 808 (1962)

The four Geneva Conventions of 1949 each contain provisions for universal jurisdiction over serious violations. Article 49 of the Convention on the Wounded and Sick of Armies in the Field 75 UNTS 31, 62; Article 50 of the Convention on the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, ibid., 85, 116;

Article 129 of the Prisoners of War Convention, ibid., 135, 236; and Article 146 of the Convention Relative to the Protection of Civilian Persons in Time of War, ibid., 287, 386 provide that:

> " Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts.

II Historical Analogies

A. Capitulations

Capitulations demonstrated the obverse side of the coin from what is at issue regarding residents of the autonomous regions. Under the capitulations in the former Ottoman Empire, and in China and other Oriental States, certain foreigners residing in those regions came, as a result of treaties (the so-called "capitulations") under the control of their own states' consuls or special courts, and were removed from the normal jurisdiction of the territorial sovereign. This was jurisdiction based on nationality under a regime of extra-territoriality. Similar practices had been followed from earliest times on the basis of the principle of the personality of laws. Since the Second World War the regime of extra-territoriality based on capitulations has come to an end, and is now only of historical interest.

B. Status of Forces Agreements and Base Agreements

Status of Forces Agreements sometimes make provisions giving the sending state jurisdiction over nationals of the territorial state or its resident aliens for offenses committed against the security, armed forces, civilian personnel or installations of the sending states. Base agreements frequently contain such provisions. See e.g. the Agreement between the U.S. and England of March 27, 1941 (U.S. EAS 181; 54 Stat. 2405; 203 LNTS 201) parts of which are reprinted in 6 Whiteman 406 and are appended hereto as Appendix "A".

C. German Transitional Self - Government in 1949.

The closest analogy to the situation presently under consideration is the granting in 1949 of limited self-rule to West Germany by the U.S.,

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England and France. As explained in Oppenheim-Lauterpacht:

> "' Until 1949... authority, wielded by military commanders, was exercised both jointly, with respect to Germany as a whole, and by each of the... four powers in respect of the part of German territory placed under its control. During that period, in which the internal and external sovereignty of the German State was suspended, the state of war, however nominal, continued." (emphasis added)
> Lauterpacht, H., Oppenheim International Law, Vol.II Section 265a, p. 602 (seventh Ed. 1952).

On April 8, 1949, in the exercise of the supreme authority formally stated to be retained by the Governments of France, the United States and the United Kingdom, the Military Governors and Commanders-in-Chief of the respective three zones in Germany proclaimed a so-called "Occupation Statute" transferring to the Federal State and the participating Laender full legislative, executive and juridical powers, subject to the limitations of the Statute, in accordance with the Basic Law of the Republic and with the constitutions of the States. The powers reserved for the occupying states included the following: disarmament and demilitarization; foreign affairs; protection, prestige and security of the Allied Forces; control over foreign trade and exchange; control of the care and treatment in German prisons of persons charged before or sentenced by the courts or tribunals of occupying Powers or occupation authorities. Moreover, the Statute reserved for the occupation authorities, acting under the instructions of their Governments, the right to resume the exercise of full authority if considered essential to security or to the preservation of democratic government in Germany or in pursuance of the international obligations of their governments. With the enactment of the Statute, the Military Government was terminated and the functions of the Allied authorities became mainly supervisory. The text of the Statute is appended hereto as Appendix "B".

The Government of the German Federal Republic was formally constituted and the President of the Republic elected after regular elections had taken place in August 1949.

On May 8, 1949 the Parliamentary Council passed the Basic Law for the Federal Republic of Germany, and on May 12, 1949 the three Allied Military Governors issued a memorandum to Dr. Adenauer, the President of the Parliamentary Council, sta

certain reservations regarding the powers created in the Federation, the Laender and the police. A copy of the memorandum is appended as Appendix "C".

CONCLUSION

Ample authority exists in customary international law, in international and municipal practice as is evidenced by conventions and municipal legislation, and in analogous historical precedent, to support a position by Israel in favour of retaining jurisdiction over residents of the autonomous regions and others who are charged with the commission of terrorist activities or security offenses.

Appendix "A" P.1

Portugal deposited its instrument of ratification of that Agreement with the following declaration:

> "The Portuguese Government declares, that, in relation to Member States who have appended, or may in future append, reservations or declarations to their acts of ratification of this Agreement, it reserves the right to follow the principle of reciprocity in the interpretation and application of the provisions involved." 200 UNTS 452.

Regarding the implementation of the statement, *supra*, of the U.S. Senate and of the provisions of article VII, par. 9, of the NATO Status of Forces Agreement, see Snee and Pye, *A Report on the Actual Operation of Article VII of the Status of Forces Agreement* (1956) and Snee and Pye, *Status of Forces Agreements and Criminal Jurisdiction* (1957), and works therein cited. Further, see the annual hearings before and reports of the Subcommittee of the Senate Armed Services Committee To Review Operation of Article VII of the Status of Forces Treaty (commencing in 1955, 84th Cong., 1st sess.).

Regarding employment of counsel and payment of counsel fees, etc., by the United States in foreign trials of members of U.S. armed forces, see 10 U.S.C. § 1037.

> "On 24 April 1959, United States Army authorities in NATO Status of Forces Agreement countries, the laws of which permit trials *in absentia*, were directed to retain within the territory of such countries military personnel of their commands who are alleged to have committed offenses subject to the primary or exclusive jurisdiction of those countries until such time as the local authorities have taken final action thereon. The removal of such personnel from the territory of a receiving State prior to the completion of criminal proceedings against them is authorized only when the foreign authorities concerned (1) consent to such removal and also agree to waive their right to try such personnel *in absentia* or (2) consent to such removal but refuse to waive their right to try *in absentia* and the accused after having been fully advised by competent Army military authorities of the possibility that he might be tried *in absentia* and convicted if he departs the foreign territory, consents to trial *in absentia*.
>
> "This policy seeks particularly to avoid the involuntary transfer or departure of a serviceman, a civilian employee or dependent who desires to remain within the jurisdiction where he is alleged to have committed an offense in order that he may personally be present for any trial before the foreign court concerned." DA Ltr AGAM-P ... 250.1 (21 Apr 59), 21 April 1959, based on *JAGW 1959/3778*, 22 ... 1959. Quoted from Judge Advocate Legal Service, July 1, 1959, p. ... (Department of the Army Pamphlet No. 27-101-11). 53 Am. J. Int'l L. (1959) 915-916.

Pursuant to the Arrangement relating to Naval and Air Bases between the United States and the United Kingdom of September ... 1940 (U.S. EAS 181; 54 Stat. 2405; 203 LNTS 201), an Agreement was signed at London on March 27, 1941, which provided in part:

"Article IV.

"*Jurisdiction.*

Leased Bases Agreement (1941)

"(1) In any case in which—

"(*a*) a member of the United States forces, a national of the United States or a person who is not a British subject shall ...

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Appendix "A" p. 2

charged with having committed, either within or without the Leased Areas, an offence of a military nature, punishable under the law of the United States, including, but not restricted to, treason, an offence relating to sabotage or espionage, or any other offence relating to the security and protection of United States naval and air Bases, establishments, equipment or other property or to operations of the Government of the United States in the Territory; or

"(*b*) a British subject shall be charged with having committed any such offence within a Leased Area and shall be apprehended therein; or

"(*c*) a person other than a British subject shall be charged with having committed an offence of any other nature within a Leased Area,

the United States shall have the absolute right in the first instance to assume and exercise jurisdiction with respect to such offence.

"(2) If the United States shall elect not to assume and exercise such jurisdiction the United States Authorities shall, where such offence is punishable in virtue of legislation enacted pursuant to Article V or otherwise under the law of the Territory, so inform the Government of the Territory and shall, if it shall be agreed between the Government of the Territory and the United States Authorities that the alleged offender should be brought to trial, surrender him to the appropriate authority in the Territory for that purpose.

"(3) If a British subject shall be charged with having committed within a Leased Area an offence of the nature described in paragraph (1)(*a*) of this Article, and shall not be apprehended therein, he shall, if in the Territory outside the Leased Areas, be brought to trial before the courts of the Territory; or, if the offence is not punishable under the law of the Territory, he shall, on the request of the United States Authorities, be apprehended and surrendered to the United States Authorities, and the United States shall have the right to exercise jurisdiction with respect to the alleged offence.

"(4) When the United States exercises jurisdiction under this Article and the person charged is a British subject, he shall be tried by a United States court sitting in a Leased Area in the Territory.

"(5) Nothing in this Agreement shall be construed to affect, prejudice or restrict the full exercise at all times of jurisdiction and control by the United States in matters of discipline and internal administration over members of the United States forces, as conferred by the law of the United States and any regulations made thereunder.

"ARTICLE V.

"*Security Legislation.*

"The Government of the Territory will take such steps as may from time to time be agreed to be necessary with a view to the enactment of legislation to ensure the adequate security and protection of the United States naval and air Bases, establishments,

Appendix "A" p. 3

"'United States forces' means the naval and military forces of the United States of America.

"'British subject' includes British protected person."

Agreement regarding Leased Naval and Air Bases, March 27, 1941, U.S. EAS 235; 55 Stat. 1560, 1562–1564, 1570–1571; 204 LNTS 15, 18–22, 29–32. Regarding the applicability to such bases of the United States Fair Labor Standards Act of 1938 (29 U.S.C. § 201) and the Federal Tort Claims Act of 1946, as amended (28 U.S.C. § 2680 (k)), see *Vermilya-Brown Co.* v. *Connell, et al.*, 335 U.S. 377 (1948), and *U.S.* v. *Spelar*, 338 U.S. 217 (1949). See also *Hans* v. *The Queen*, [1955] Int'l L. Rep. 154 ("custody" within the meaning of the Criminal Code of Bermuda).

In a note dated July 19, 1950, addressed by the British Ambassador at Washington (Franks) to the Secretary of State (Acheson) it was proposed "that Article VI of the Agreement of 27th March, 1941 shall have effect as if the words '(except where, under Article IV, jurisdiction is to be exercised by the United States or is not exercisable by the courts of the Territory)' were substituted for the words '(except in cases where the United States authorities elect to assume and exercise jurisdiction in accordance with Article IV(1))'." This proposal was accepted in a note dated August 1, 1950, from Secretary Acheson to Ambassador Franks, as was the latter's proposal to substitute the following provisions for those in article IV of the Agreement of March 27, 1941 (*supra*):

Leased Bases, Amended Agreement (1950)

"ARTICLE IV

"*Jurisdiction*

"(1) The Government of the United States of America shall have the right to exercise the following jurisdiction over offences committed in the Territory:

"(a) Where the accused is a member of a United States force,

"(i) if a state of war exists, exclusive jurisdiction over all offences wherever committed;

"(ii) if a state of war does not exist, exclusive jurisdiction over security offences wherever committed and United States interest offences committed inside the Leased Areas; concurrent jurisdiction over all other offences wherever committed.

"(b) Where the accused is a British subject or a local alien and a civil court of the United States is sitting in the Territory, exclusive jurisdiction over security offences committed inside the Leased Areas.

"(c) Where the accused is not a member of a United States force, a British subject or a local alien, but is a person subject to United States military or naval law,

"(i) if a state of war exists, exclusive jurisdiction over security offences committed inside the Leased Areas; and United States

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Appendix "A" p.4

interest offences committed inside the Leased Areas; concurrent jurisdiction over all other offences wherever committed;

"(ii) if a state of war does not exist and there is no civil court of the United States sitting in the Territory, exclusive jurisdiction over security offences which are not punishable under the law of the Territory; concurrent jurisdiction over all other offences committed inside the Leased Areas.

"(iii) if a state of war does not exist and a civil court of the United States is sitting in the Territory, exclusive jurisdiction over security offences committed inside the Leased Areas; concurrent jurisdiction over all other offences wherever committed.

"(d) Where the accused is not a member of a United States force, a British subject or a local alien, and is not a person subject to United States military or naval law, and a civil court of the United States is sitting in the Territory, exclusive jurisdiction over security offences committed inside the Leased Areas; concurrent jurisdiction over all other offences committed inside the Leased Areas and, if a state of war exists, over security offences committed outside the Leased Areas.

"(2) Wherever, under paragraph (1) of this Article, the Government of the United States of America has the right to exercise exclusive jurisdiction over security offences committed inside the Leased Areas, such right shall extend to security offences committed outside the Leased Areas which are not punishable under the law of the Territory.

"(3) In every case in which under this Article the Government of the United States of America has the right to exercise jurisdiction and the accused is a British subject, a local alien or, being neither a British subject nor a local alien, is not a person subject to United States military or naval law, such jurisdiction shall be exercisable only by a civil court of the United States sitting in the Territory.

"(4) In every case in which under this Article the Government of the United States of America has the right to exercise exclusive jurisdiction, the following provisions shall have effect:

"(a) The United States authorities shall inform the Government of the Territory as soon as is practicable whether or not they elect to exercise such jurisdiction over any alleged offences which may be brought to their attention by the competent authorities of the Territory or in any other case in which the United States authorities are requested by the competent authorities of the Territory to furnish such information.

"(b) If the United States authorities elect to exercise such jurisdiction, the accused shall be brought to trial accordingly, and the courts of the Territory shall not exercise jurisdiction except in aid of a court or authority of the United States, as required or permitted by the law of the Territory.

"(c) If the United States authorities elect not to exercise such jurisdiction, and if it shall be agreed between the Government of the Territory and the United States authorities that the alleged

Appendix "A" p.5

offender shall be brought to trial, nothing in this Article shall affect the exercise of jurisdiction by the courts of the Territory in the case.

"(5) In every case in which under this Article the Government of the United States of America has the right to exercise concurrent jurisdiction, the following provisions shall have effect:

"(a) The case shall be tried by such court as may be arranged between the Government of the Territory and the United States authorities.

"(b) Where an offence is within the jurisdiction of a civil court of the Territory and of a United States military or naval court, conviction or acquittal of the accused by one such court shall not exclude subsequent trial by the other, but in the event of such subsequent trial the court in awarding punishment shall have regard to any punishment awarded in the previous proceedings.

"(c) Where the offence is within the jurisdiction of a civil court of the Territory and of a civil court of the United States, trial by one shall exclude trial by the other.

"(6) Notwithstanding anything contained elsewhere in this Article, when a state of war exists in which the Government of the United Kingdom is, and the Government of the United States of America is not, engaged, then in any case in which the Government of the United States of America would, but for this paragraph, have exclusive jurisdiction, that jurisdiction shall be concurrent in respect of any of the following offences against any part of His Majesty's dominions committed outside the Leased Areas or, if not punishable by the Government of the United States of America in the Territory, inside the Leased Areas:

"(a) treason;

"(b) any offence of the nature of sabotage or espionage or against any law relating to official secrets;

"(c) any other offence relating to operations, in the Territory, of the Government of any part of His Majesty's dominions, or to the safety of His Majesty's naval, military or air bases or establishments or any part thereof or of any equipment or other property of any such Government in the Territory.

"(7) Nothing in this Article shall give the Government of the United States of America the right to exercise jurisdiction over a member of a United Kingdom Dominion or Colonial armed force, except that, if a civil court of the United States is sitting in the Territory and a state of war does not exist or a state of war exists in which the Government of the United States of America is, and the Government of the United Kingdom is not, engaged, the Government of the United States of America shall have the right, where the accused is a member of any such force, to exercise concurrent jurisdiction over security offences committed inside the Leased Areas.

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Appendix "A" p.6

"(8) Nothing in this Article shall affect the jurisdiction of a civil court of the Territory except as expressly provided in this Article.

"(9) In this Article the following expressions shall have the meanings hereby assigned to them:

"(a) 'British subject' shall not include a person who is both a British subject and a member of a United States force.

"(b) 'local alien' means a person, not being a British subject, a member of a United States force or a national of the United States, who is ordinarily resident in the Territory.

"(c) 'member of a United States force' means a member (entitled to wear the uniform) of the naval, military or air forces of the United States of America.

"(d) 'security offence' means any of the following offences against the United States and punishable under the law thereof:

"(i) treason;

"(ii) any offence of the nature of sabotage or espionage or against any law relating to official secrets;

"(iii) any other offence relating to operations, in the Territory, of the Government of the United States of America, or to the safety of the United States Naval or Air Bases or establishments or any part thereof or of any equipment or other property of the Government of the United States of America in the Territory.

"(e) 'state of war' means a state of actual hostilities in which either the Government of the United Kingdom or the Government of the United States of America is engaged and which has not been formally terminated, as by surrender.

"(f) 'United States interest offence' means an offence which (excluding the general interest of the Government of the Territory in the maintenance of law and order therein) is solely against the interests of the Government of the United States of America or against any person (not being a British subject or local alien) or property (not being property of a British subject or local alien) present in the Territory by reason only of service or employment in connexion with the construction, maintenance, operation or defence of the bases."

Agreement amending articles IV and VI of the Leased Bases Agreement of March 27, 1941, exchange of notes, July 19/August 1, 1950, U.S. TIAS 2105; 1 UST 585, 587-590; 88 UNTS 273-285. A similar jurisdictional formula was included in the Agreement concerning a Long-Range Proving Ground for Guided Missiles to be Known as "The Bahamas Long Range Proving Ground" between the United States and the United Kingdom, July 21, 1950, U.S. TIAS 2099; 1 UST 545; 97 UNTS 193. *Cf.* the extensions of this Agreement regarding the Turks and Caicos Islands, U.S. TIAS 2426; 3 UST 2594; 127 UNTS 3; Saint Lucia, U.S. TIAS 3595; 7 UST 1939; 249 UNTS 59; Ascension Island, U.S. TIAS 3603; 7 UST 1999; 249 UNTS 91. See also Agreements for the Establishment of an Oceanographic Research Station in Barbados, U.S. TIAS 3672; 7 UST 2901; 261 UNTS 3; Turks and Caicos Islands, U.S. TIAS 3696; 7 UST 3169; 282 UNTS 43; Bahamas Islands, U.S. TIAS 3927; 8 UST 1741; 299 UNTS 167.

Appendix "B" p. 1.

OCCUPATION STATUTE defining the respective powers and responsibilities of the future German Government and the Allied Control Authority.—8th April, 1949(1)

In the exercise of the supreme authority which is retained by the Governments of France, the United States and the United Kingdom,

We, General Pierre Koenig, Military Governor and Commander-in-Chief of the French Zone of Germany,

General Lucius D. Clay, Military Governor and Commander-in-Chief of the United States Zone of Germany, and

General Sir Brian Hubert Robertson, Military Governor and Commander-in-Chief of the British Zone of Germany,

Do hereby jointly proclaim the following Occupation Statute:—

1. During the period in which it is necessary that the occupation continue, the Governments of France, the United States and the United Kingdom desire and intend that the German people shall enjoy self-government to the maximum possible degree consistent with such occupation. The Federal State and the participating Länder shall have, subject only to the limitations in this Instrument, full legislative, executive and judicial powers in accordance with the Basic Law(2) and with their respective constitutions.

2. In order to ensure the accomplishment of the basic purposes of the occupation, powers in the following fields are specifically reserved, including the right to request and verify information and statistics needed by the occupation authorities:

(*a*) disarmament and demilitarisation, including related fields of scientific research, prohibitions and restrictions on industry, and civil aviation;

(*b*) controls in regard to the Ruhr, restitution, reparations, decartelisation, deconcentration, non-discrimination in trade matters, foreign interests in Germany and claims against Germany;

(*c*) foreign affairs, including international agreements made by or on behalf of Germany;

(*d*) displaced persons and the admission of refugees;

(*e*) protection, prestige, and security of Allied forces, dependents, employees and representatives, their immunities

(1) *Germany* No. 1 (1949) (Cmd. 7677), page 6.
(2) Page 503.

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requirements;

(*f*) respect for the Basic Law and

(*g*) control over foreign trade and

(*h*) control over internal action,
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(*i*) control of the care and t m
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Appendix "B" p. 2

and satisfaction of occupation costs and their other requirements;

(*f*) respect for the Basic Law and the Land constitutions;

(*g*) control over foreign trade and exchange;

(*h*) control over internal action, only to the minimum extent necessary to ensure use of funds, food and other supplies in such manner as to reduce to a minimum the need for external assistance to Germany;

(*i*) control of the care and treatment in German prisons of persons charged before or sentenced by the courts or tribunals of the occupying powers or occupation authorities; over the carrying out of sentences imposed on them; and over questions of amnesty, pardon or release in relation to them.

3. It is the hope and expectation of the Governments of France, the United States and the United Kingdom that the occupation authorities will not have occasion to take action in fields other than those specifically reserved above. The occupation authorities, however, reserve the right, acting under instructions of their Governments, to resume, in whole or in part, the exercise of full authority if they consider that to do so is essential to security or to preserve democratic government in Germany or in pursuance of the international obligations of their Governments. Before so doing, they will formally advise the appropriate German authorities of their decision and of the reasons therefor.

4. The German Federal Government and the Governments of the Länder shall have the power, after due notification to the occupation authorities, to legislate and act in the fields reserved to these authorities, except as the occupation authorities otherwise specifically direct, or as such legislation or action would be inconsistent with decisions or actions taken by the occupation authorities themselves.

5. Any amendment of the Basic Law will require the express approval of the occupation authorities before becoming effective. Land constitutions, amendments thereof, all other legislation, and any agreements made between the Federal State and foreign Governments, will become effective 21 days after official receipt by the occupation authorities unless previously disapproved by them, provisionally or finally. The occupation authorities will not disapprove legislation unless in their opinion it is inconsistent with the Basic Law, a Land constitution, legislation or other directives of the occupation

Appendix "B" p.3

authorities themselves or the provisions of this Instrument, or unless it constitutes a grave threat to the basic purposes of the occupation.

6. Subject only to the requirements of their security, the occupation authorities guarantee that all agencies of the occupation will respect the civil rights of every person to be protected against arbitrary arrest, search or seizure; to be represented by counsel; to be admitted to bail as circumstances warrant; to communicate with relatives; and to have a fair and prompt trial.

7. Legislation of the occupation authorities enacted before the effective date of the Basic Law shall remain in force until repealed or amended by the occupation authorities in accordance with the following provisions:—

(*a*) legislation inconsistent with the foregoing will be repealed or amended to make it consistent herewith;

(*b*) legislation based upon the reserved powers, referred to in paragraph 2 above, will be codified;

(*c*) legislation not referred to in (*a*) and (*b*) will be repealed by the occupation authorities on request from appropriate German authorities.

8. Any action shall be deemed to be the act of the occupation authorities under the powers herein reserved, and effective as such under this Instrument, when taken or evidenced in any manner provided by any agreement between them. The occupation authorities may in their discretion effectuate their decisions either directly or through instructions to the appropriate German authorities.

9. After 12 months and in any event within 18 months of the effective date(3) of this Instrument the occupying Powers will undertake a review of its provisions in the light of experience with its operation and with a view to extending the jurisdiction of the German authorities in the legislative, executive and judicial fields.

(3) 21st September, 1949.

AGREEMENT as to Tripartite Controls in respect of the Federal Republic of Germany.—8th April, 1949(1)

The Governments of the United Kingdom, France and the United States agree to enter into a trizonal fusion agreement prior to the entry into effect of the Occupation Statute. The

(1) *Germany* No. 1 (1949) (Cmd. 7677), page 8.

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Appendix "C" p. 1

confirm the adoption(4) of this Basic Law, engross it and promulgate it.

2. This Basic Law shall come into force at the end of the day of its promulgation(4).

3. It shall be published in the Federal Legal Gazette(5).

ARTICLE 146

This Basic Law shall become invalid on the day when a constitution adopted in a free decision by the German people comes into force.

DR. ADENAUER,
Präsident des Parlamentarischen Rates.
SCHÖNFELDER,
1. *Vizepräsident.*
DR. SCHÄFER,
2. *Vizepräsident.*

(4) Adopted on 8th May, 1949, and promulgated on 23rd May, 1949.
(5) Published therein on 23rd May, 1949.

MEMORANDUM regarding the above Basic Law for the Federal Republic of Germany from the Military Governors of the British, French and United States Zones to the President of the Parliamentary Council at Bonn.—12th May, 1949(1)

12th May, 1949.

Dear Dr. Adenauer,

1. The Basic Law passed on 8th May by the Parliamentary Council has received our careful and interested attention. In our opinion it happily combines German democratic tradition with the concepts of representative government and a rule of law which the world has come to recognise as requisite to the life of a free people.

2. In approving this constitution for submission to the German people for ratification in accordance with the provisions of Article 144 (1) we believe that you will understand that there are several reservations which we must make. In the first place, the powers vested in the Federation by the Basic Law, as well as the powers exercised by Laender and local governments are subject to the provisions of the Occupation Statute which we have already transmitted to you and which is promulgated as of this date(2).

(1) Published in the *Military Government Gazette—Germany (British Zone)*, No. 35, on 10th September, 1949.
(2) Page 490.

3. In the second place, it should police powers contained in Article 91 (until specifically approved by the Likewise the remaining police function be governed by our letter to you of 1 subject.

4. A third reservation concerns the Berlin in the Federation. We interpret and 144 (2) of the Basic Law as con our previous request that while Berlin voting membership in the Bundestag governed by the Federation she may, a small number of representatives to those legislative bodies.

5. A fourth reservation relates to the general question of the re-org boundaries. Excepting in the case of W Hohenzollern our position on this que since we discussed the matter with you the High Commissioners should unanim this position the powers set forth in t be exercised and the boundaries of all of Württemberg-Baden and Hohenzollern fixed until the time of the peace treaty.

6. Fifthly, we consider that Arti Article 87, para. 3, give to the Fe in the administrative field. The Hig to give careful consideration to the exerc order to ensure that they do not lead to e of authority.

7. At our meeting with you on 25th to you a formula to interpret in Eng Article 72 (2), (3). This formula, wh conveying your meaning, read as follows

". . . because the maintenance o unity demands it in order to promote of the Federation or to ensure re economic opportunity to all persons".

We wish you to know that the High interpret this Article in accordance with

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Appendix "C" p. 2

tion(¹) of this Basic Law, engross it and

Law shall come into force at the end of the gation(¹).

published in the Federal Legal Gazette( ).

ARTICLE 146

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DR. ADENAUER,
Präsident des Parlamentarischen Rates.
SCHÖNFELDER,
1. *Vizepräsident.*
DR. SCHÄFER,
2. *Vizepräsident.*

M 1949, and promulgated on 23rd May, 1949.
n on 23rd May, 1949.

I regarding the above Basic Law for the blic of Germany from the Military Governors a, French and United States Zones to the the Parliamentary Council at Bonn.—12th

12*th May*, 1949.

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Law passed on 8th May by the Parliamentary ved our careful and interested attention. In ppily combines German democratic tradition of representative government and a rule of ld has come to recognise as requisite to the le.

ng this constitution for submission to the or ratification in accordance with the pro- 144 (1) we believe that you will understand eral reservations which we must make. In e powers vested in the Federation by the li the powers exercised by Laender and s subject to the provisions of the e which we have already transmitted to you mulgated as of this date(²).

Military Government Gazette—Germany (British Zone), mber, 1949.

3. In the second place, it should be understood that the police powers contained in Article 91 (2) may not be exercised until specifically approved by the occupation authorities. Likewise the remaining police functions of the federation shall be governed by our letter to you of 14th April, 1949, on this subject.

4. A third reservation concerns the participation of Greater Berlin in the Federation. We interpret the effect of Articles 23 and 144 (2) of the Basic Law as constituting acceptance of our previous request that while Berlin may not be accorded voting membership in the Bundestag or Bundesrat nor be governed by the Federation she may, nevertheless, designate a small number of representatives to attend the meetings of those legislative bodies.

5. A fourth reservation relates to Articles 29 and 118 and the general question of the re-organisation of Laender boundaries. Excepting in the case of Württemberg-Baden and Hohenzollern our position on this question has not changed since we discussed the matter with you on 2nd March. Unless the High Commissioners should unanimously agree to change this position the powers set forth in these articles shall not be exercised and the boundaries of all of the Laender excepting Württemberg-Baden and Hohenzollern shall remain as now fixed until the time of the peace treaty.

6. Fifthly, we consider that Article 84, para. 4 and Article 87, para. 3, give to the Federation very wide powers in the administrative field. The High Commissioners will have to give careful consideration to the exercise of such powers in order to ensure that they do not lead to excessive concentration of authority.

7. At our meeting with you on 25th April, we proposed to you a formula to interpret in English the intention of Article 72 (2), (3). This formula, which you accepted as conveying your meaning, read as follows:—

". . . because the maintenance of legal or economic unity demands it in order to promote the economic interests of the Federation or to ensure reasonable equality of economic opportunity to all persons".

We wish you to know that the High Commissioners will interpret this Article in accordance with this text.

8. In order to eliminate the possibility of future legal controversy, we would like to make it clear that when we approved

Appendix "C" p. 3

constitutions for the Länder we provided that nothing contained in those constitutions could be interpreted as restricting the provisions of the Federal Constitution. Conflict between Länder constitutions and the provisional Federal constitution must therefore, be resolved in favour of the latter.

9. We should also like it to be clearly understood that, upon the convening of the legislative bodies provided for in the Basic Law, and upon the election of the President and the election and appointment of the Chancellor and the Federal Ministers, respectively, in the manner provided for in the Basic Law, the Government of the Federal Republic of Germany will then be established and the Occupation Statute shall thereupon enter into force(a).

10. On the completion of their final task as laid down in Article 145 (1) the Parliamentary Council will be dissolved. We wish to take this occasion to compliment the members of the Parliamentary Council on their successful completion of a difficult task performed under trying circumstances, on the manifest care and thoroughness with which they have done their work and on their devotion to the democratic ideals towards the achievement of which we are striving.

B. H. ROBERTSON, *General,*
Military Governor, British Zone.
PIERRE KOENIG, *Général d'Armée,*
Military Governor, French Zone.
LUCIUS D. CLAY, *General U.S. Army,*
Military Governor, U.S. Zone.

(a) 21st September, 1949.

ECONOMIC CO-OPERATION AGREEMENT between the Federal Republic of Germany and the United States of America, with Annex.—Bonn, 15th December, 1949(b)

The Government of the United States of America and the Government of the Federal Republic of Germany:

Recognising that the restoration or maintenance in European countries of principles of individual liberty, free institutions, and genuine independence rests largely upon the establishment of sound economic conditions, stable international economic relationships, and the achievement by the countries of Europe of a healthy economy independent of extraordinary outside assistance,

(b) United States *Treaties and other International Acts Series*, No. 2024.

Recognising that a strong economy is essential for the attain United Nations,

Considering that the achieveme for a European recovery plan o operation, open to all nations w plan, based upon a strong prod of foreign trade, the creation o financial stability and the develop tion, including all possible steps valid rates of exchange and t

Considering that in furtheran Government of the Federal Repub a member of the Organisation fo operation, created pursuant to the for European Economic Co-operat April, 1948,(c) under which the sig agreed to undertake as their immed execution of a joint recovery prog

Considering also that, in furt the Government of the United St the Economic Co-operation Act o viding for the furnishing of assi of America to nations participatin European recovery, in order to e their own individual and con independent of extraordinary outs

Desiring to set forth the under furnishing of assistance by the States of America, the receipt of su Republic of Germany, and th Governments will take indiv the recovery of the Federal Repub joint programme for European rec

Have agreed as follows:

ARTICLE

(*Assistance and C*

1. The Government of the undertakes to assist the Federal

(c) Vol. 151, p
(c) Vol. 152, p
(c) Page 924.

[illegible] sustaining federal constitutional guaranty of due process may be vindicated in federal courts. Id.

7. Construction

Commonwealth of Puerto Rico has not become a state in the federal union like the 48 states, but it has become a "state" within a common and accepted meaning of the word. Mora v. Mejias, C.A.Puerto Rico 1953, 206 F.2d 377.

Puerto Rico is duly constituted, existing political entity, but is not state in federal union as are other 50 states. Sanchez v. U. S., D.C.Puerto Rico 1974, 376 F.Supp. 239.

8. Jurisdiction of the Federal Courts

Compact under which government of Commonwealth of Puerto Rico was established, (sections 731b–731d of this title), did not disturb jurisdiction of federal courts. Mora v. Mejias, C.A.Puerto Rico 1953, 206 F.2d 377.

Compact granting Puerto Rico commonwealth status was at most regulatory and did not change Puerto Rico's fundamental political relationship to United States and compact did not alter jurisdiction of the federal courts as regards Puerto Rico. Nestle Products, Inc. v. U. S., 1970, 310 F. Supp. 792, 64 Cust.Ct. 158, C.D. 3976.

Amounts levied on importation of coffee into Puerto Rico are tariff duties and not taxes and protest to assessment of levies are cognizable in United States Customs Court, notwithstanding compact granting Puerto Rico commonwealth status. Id.

United States Custom Court had jurisdiction to entertain protest seeking recovery of supplemental customs duties levied on importation of coffee into Puerto Rico, notwithstanding that resolution increasing duties was promulgated by Secretary of Agriculture of Puerto Rico and approved by the Governor thereof subsequent to effective date of compact granting Puerto Rico commonwealth status. Id.

Where labor union and its officials were allegedly engaged in activities which undertook not only to criticize collective bargaining agreement but also were calculated to force parties to permit union and its officials to participate in it, and if that failed to impair operation of its terms so that union would be enabled to bargain for a different or modified agreement, Taft-Hartley Act, section 141 et seq. of Title 29, applied, and District Court for Puerto Rico had jurisdiction of action by National Labor Relations Board for an injunction pending hearing on unfair labor charges. Cosentino v. International Longshoremen's Ass'n, District Council of Ports of Puerto Rico, D.C.Puerto Rico 1954, 126 F.Supp. 420.

Where defendant had been indicted for alleged violation, in Puerto Rico, of sections 371, 2383 of Title 18, fact that Puerto Rico had acquired commonwealth status would not make defendant's removal from New York to the District of Puerto Rico for trial unlawful. Arbona v. Kenton, D.C.N.Y.1954, 126 F.Supp. 224.

4. United States Government

Even though a commonwealth status has been acquired by Puerto Rico, there remains a government of the United States in Puerto Rico. Arbona v. Kenton, D.C.N.Y.1954, 126 F.Supp. 306.

5. Regulations

Under section 6 of Act July 3, 1950, set out as a note under this section which expressly provided that all laws or parts of laws inconsistent with sections 731b–731e of this title were repealed, wine regulations requesting the fill of a container issued under the Federal Alcohol Administration Act, section 201 et seq. of Title 27, were not applicable in the Commonwealth of Puerto Rico insofar as wine bottled within the Commonwealth for sale, distribution and consumption within the Commonwealth was concerned. Trigo Bros. Packing Corp. v. Davis, D.C. Puerto Rico 1958, 159 F.Supp. 841, vacated on other grounds 266 F.2d 174.

6. Injunction

Failure to provide opportunity to cast negative vote in plebiscite as to whether or not Puerto Rico should become state, become independent, or maintain commonwealth arrangement did not invalidate this chapter or ballots prepared in accordance therewith and would not justify an injunction. Garcia Marrero v. Sanchez Vilella, C.A.Puerto Rico 1968, 390 F.2d 153.

§ 731c. Submission of sections 731b–731e to people of Puerto Rico for referendum; convening of constitutional convention; requisites of constitution.

Constitutional Convention. A constitutional convention to draft a constitution for the island of Puerto Rico convened in San Juan on Sept. 17, 1951 and concluded its deliberations on Feb. 6, 1952.

Referendum. Act July 3, 1950, c. 446, §§ 1–6, 64 Stat. 319, which is classified to sections 731b, 731b note and 731c–731e of this title, was submitted to the qualified voters of Puerto Rico through an island-wide referendum held on June 4, 1951.

§ 731d. Ratification of constitution by Congress

CONSTITUTION OF THE COMMONWEALTH OF PUERTO RICO

Approved by the Constitutional Convention of Puerto Rico on Feb. 6, 1952; ratified by the people of Puerto Rico on Mar. 3, 1952; amended and approved by Congress by Joint Res. July 3, 1952, c. 567, 66 Stat. 327; proclaimed by the Governor of Puerto Rico to be in force and effect on July 25, 1952.

We, the people of Puerto Rico, in order to organize ourselves politically on a fully democratic basis, to promote the general welfare, and to secure for ourselves and our posterity the complete enjoyment of human rights, placing our trust in Almighty God, do ordain and establish this Constitution for the commonwealth which, in the exercise of our natural rights, we now create within our union with the United States of America.

In so doing, we declare:

The democratic system is fundamental to the life of the Puerto Rican community;

We understand that the democratic system of government is one in which the will of the people is the source of public power, the political order is subordinate to the rights of man, and the free participation of the citizen in collective decisions is assured;

We consider as determining factors in our life our citizenship of the United States of America and our aspiration continually to enrich our democratic heritage in the individual and collective enjoyment of its rights and privileges; our loyalty to the principles of the Federal Constitution; the co-existence in Puerto Rico of the two great cultures of the American Hemisphere; our fervor for education; our faith in justice; our devotion to the courageous, industrious, and peaceful way of life; our fidelity to individual human values above and beyond social position, racial differences, and economic interests; and our hope for a better world based on these principles.

Article I

THE COMMONWEALTH

SECTION 1.—The Commonwealth of Puerto Rico is hereby constituted. Its political power emanates from the people and shall be exercised in accordance with their will, within the terms of the compact agreed upon between the people of Puerto Rico and the United States of America.

SECTION 2.—The government of the Commonwealth of Puerto Rico shall be republican in form and its legislative, judicial and executive branches as established by this Constitution shall be equally subordinate to the sovereignty of the people of Puerto Rico.

SECTION 3.—The political authority of the Commonwealth of Puerto Rico shall extend to the Island of Puerto Rico and to the adjacent islands within its jurisdiction.

SECTION 4.—The seat of the government shall be the city of San Juan.

Article II

BILL OF RIGHTS

SECTION 1.—The dignity of the human being is inviolable. All men are equal before the law. No discrimination shall be made on account of race, color, sex, birth, social origin or condition, or political or religious ideas. Both the laws and the system of public education shall embody these principles of essential human equality.

SECTION 2.—The laws shall guarantee the expression of the will of the people by means of equal, direct and secret universal suffrage and shall protect the citizen against any coercion in the exercise of the electoral franchise.

SECTION 3.—No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof. There shall be complete separation of church and state.

SECTION 4.—No law shall be made abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

SECTION 5.—Every person has the right to an education which shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. There shall be a system of free and wholly nonsectarian public education. Instruction in the elementary and secondary schools shall be free and shall be compulsory in the elementary schools to the extent permitted by the facilities of the state. No public property or public funds shall be used for the support of schools or educational institutions other than those of the state. Nothing contained in this provision shall prevent the state from furnishing to any child non-educational services established by law for the protection or welfare of children. Compulsory attendance at elementary public schools to the extent permitted by the facilities of the state as herein provided shall not be construed as applicable to those who receive elementary education in schools established under non-governmental auspices.

SECTION 6.—Persons may join with each other and organize freely for any lawful purpose, except in military or quasi-military organizations.

SECTION 7.—The right to life, liberty and the enjoyment of property is recognized as a fundamental right of man. The death penalty shall not exist. No person shall be deprived of his liberty or property without due process of law. No person in Puerto Rico shall be denied the equal protection of the laws. No laws impairing the obligation of contracts shall be enacted. A minimum amount of property and possessions shall be exempt from attachment as provided by law.

SECTION 8.—Every person has the right to the protection of law against abusive attacks on his honor, reputation and private or family life.

SECTION 9.—Private property shall not be taken or damaged for public use except upon payment of just compensation and in the manner provided by law. No law shall be enacted authorizing condemnation of printing presses, machinery or material devoted to publications of any kind. The buildings in which these objects are located may be condemned only after a judicial finding of public convenience and necessity pursuant to procedure that shall be provided by law, and may be taken before such a judicial finding only when there is placed at the disposition of the publication an adequate site in which it can be installed and continue to operate for a reasonable time.

SECTION 10.—The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.

Wire-tapping is prohibited.

No warrant for arrest or search and seizure shall issue except by judicial authority and only upon probable cause supported by oath or affirmation, and particularly describing the place to be searched and the persons to be arrested or the things to be seized.

Evidence obtained in violation of this section shall be inadmissible in the courts.

SECTION 11.—In all criminal prosecutions, the accused shall enjoy the right to have a speedy and public trial, to be informed of the nature and cause of the accusation and to have a copy thereof, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, to have assistance of counsel, and to be presumed innocent.

In all prosecutions for a felony the accused shall have the right of trial by an impartial jury composed of twelve residents of the district, who may render their verdict by a majority vote which in no case may be less than nine.

No person shall be compelled in any criminal case to be a witness against himself and the failure of the accused to testify may be neither taken into consideration nor commented upon against him.

No person shall be twice put in jeopardy of punishment for the same offense.

Before conviction every accused shall be entitled to be admitted to bail.

Incarceration prior to trial shall not exceed six months nor shall bail or fines

be excessive. No person shall be imprisoned for debt.

SECTION 12.—Neither slavery nor involuntary servitude shall exist except in the latter case as a punishment for crime after the accused has been duly convicted. Cruel and unusual punishments shall not be inflicted. Suspension of civil rights including the right to vote shall cease upon service of the term of imprisonment imposed.

No ex post facto law or bill of attainder shall be passed.

SECTION 13.—The writ of habeas corpus shall be granted without delay and free of costs. The privilege of the writ of habeas corpus shall not be suspended, unless the public safety requires it in case of rebellion, insurrection or invasion. Only the Legislative Assembly shall have the power to suspend the Privilege of the writ of habeas corpus and the laws regulating its issuance.

The military authority shall always be subordinate to civil authority.

SECTION 14.—No titles of nobility or other hereditary honors shall be granted. No officer or employee of the Commonwealth shall accept gifts, donations, decorations or offices from any foreign country or officer without prior authorization by the Legislative Assembly.

SECTION 15.—The employment of children less than fourteen years of age in any occupation which is prejudicial to their health or morals or which places them in jeopardy of life or limb is prohibited.

No child less than sixteen years of age shall be kept in custody in a jail or penitentiary.

SECTION 16.—The right of every employee to choose his occupation freely and to resign therefrom is recognized, as is his right to equal pay for equal work, to a reasonable minimum salary, to protection against risks to his health or person in his work or employment, and to an ordinary workday which shall not exceed eight hours. An employee may work in excess of this daily limit only if he is paid extra compensation as provided by law, at a rate never less than one and one-half times the regular rate at which he is employed.

SECTION 17.—Persons employed by private businesses, enterprises and individual employers and by agencies or instrumentalities of the government, operating as private businesses or enterprises, shall have the right to organize and to bargain collectively with their employers through representatives of their own free choosing in order to promote their welfare.

SECTION 18.—In order to assure their right to organize and to bargain collectively, persons employed by private businesses, enterprises and individual employers and by agencies or instrumentalities of the government operating as private businesses or enterprises, in their direct relations with their own employers shall have the right to strike, to picket and to engage in other legal concerted activities.

Nothing herein contained shall impair the authority of the Legislative Assembly to enact laws to deal with grave emergencies that clearly imperil the public health or safety or essential public services.

SECTION 19.—The foregoing enumeration of rights shall not be construed restrictively nor does it contemplate the exclusion of other rights not specifically mentioned which belong to the people in a democracy. The power of the Legislative Assembly to enact laws for the protection of the life, health and general welfare of the people shall likewise not be construed restrictively.

Article III
THE LEGISLATURE

SECTION 1.—The legislative power shall be vested in a Legislative Assembly, which shall consist of two houses, the Senate and the House of Representatives, whose members shall be elected by direct vote at each general election.

SECTION 2.—The Senate shall be composed of twenty-seven Senators and the House of Representatives of fifty-one Representatives, except as these numbers may be increased in accordance with the provisions of Section 7 of this Article.

SECTION 3.—For the purpose of election of members of the Legislative Assembly, Puerto Rico shall be divided into eight senatorial districts and forty representative districts. Each senatorial district shall elect two Senators and each representative district one Representative.

There shall also be eleven Senators and eleven Representatives elected at large. No elector may vote for more than one candidate for Senator at Large or for more than one candidate for Representative at Large.

SECTION 4.—In the first and subsequent elections under this Constitution the division of senatorial and representative districts as provided in Article VIII shall be in effect. After each decennial census beginning with the year 1960, said division shall be revised by a Board composed of the Chief Justice of the Supreme Court as Chairman and of two additional members appointed by the Governor with the advice and consent of the Senate. The two additional members shall not belong to the same political party. Any revision shall maintain the number of senatorial and representative districts here created, which shall be composed of contiguous and compact territory and shall be organized, insofar as practicable, upon the basis of population and means of communication. Each senatorial district shall always include five representative districts.

The decisions of the Board shall be made by majority vote and shall take effect in the general elections next following each revision. The Board shall cease to exist after the completion of each revision.

SECTION 5.—No person shall be a member of the Legislative Assembly unless he is able to read and write the Spanish or English language and unless he is a citizen of the United States and of Puerto Rico and has resided in Puerto Rico at least two years immediately prior to the date of his election or appointment. No person shall be a member of the Senate who is not over thirty years of age, and no person shall be a member of the House of Representatives who is not over twenty-five years of age.

SECTION 6.—No person shall be eligible to election or appointment as Senator or Representative for a district unless he has resided therein at least one year immediately prior to his election or appointment. When there is more than one representative district in a municipality, residence in the municipality shall satisfy this requirement.

SECTION 7.—If in a general election more than two-thirds of the members of either house are elected from one political party or from a single ticket, as both are defined by law, the number of members shall be increased in the following cases:

(a) If the party or ticket which elected more than two-thirds of the members of either or both houses shall have obtained less than two-thirds of the total number of votes cast for the office of Governor, the number of members of the Senate or of the House of Representatives or of both bodies, whichever may be the case, shall be increased by declaring elected a sufficient number of candidates of the minority party or parties to bring the total number of members of the minority party or parties to nine in the Senate and to seventeen in the House of Representatives. When there is more than one minority party, said additional members shall be declared elected from among the candidates of each minority party in the proportion that the number of votes cast for the candidate of each of said parties for the office of Governor bears to the total number of votes cast for the candidates of all the minority parties for the office of Governor.

When one or more minority parties shall have obtained representation in a proportion equal to or greater than the proportion of votes received by their respective candidates for Governor, such party or parties shall not be entitled to additional members until the representation established for each of the other minority parties under these provisions shall have been completed.

(b) If the party or ticket which elected more than two-thirds of the members of either or both houses shall have obtained more than two-thirds of the total number of votes cast for the office of Governor, and one or more minority parties shall not have elected the number of members in the Senate or in the House of Representatives or in both houses, whichever may be the case, which corresponds to the proportion of votes cast by each of them for the office of Governor, such additional number of their candidates shall be declared elected as is necessary in order to complete said proportion as nearly as possible, but the number of Senators of all the minority parties shall never, under this provision, be more than nine or that of Representatives more than seventeen.

In order to select additional members of the Legislative Assembly from a minority party in accordance with these provisions, its candidates at large who have not been elected shall be the first to be declared elected in the order of the votes that they have obtained, and thereafter its district candidates who, not having been elected, have obtained in their respective districts the highest proportion of the total number of votes cast as compared to the proportion of votes cast in favor of other candidates of the same party not elected to an equal office in the other districts.

The additional Senators and Representatives whose election is declared under this section shall be considered for all purposes as Senators at Large or Representatives at Large.

The measures necessary to implement these guarantees, the method of adjudicating fractions that may result from the application of the rules contained in this section, and the minimum number of votes that a minority party must cast in favor of its candidate for Governor in order to have the right to the representation provided herein shall be determined by the Legislative Assembly.

SECTION 8.—The term of office of Senators and Representative shall begin on the second day of January immediately following the date of the general election in which they shall have been elected. If, prior to the fifteen months immediately preceding the date of the next general election, a vacancy occurs in the office of Senator or Representative for a district, the Governor shall call a special election in said district within thirty days following the date on which the vacancy occurs. This election shall be held not later than ninety days after the call, and the person elected shall hold office for the rest of the unexpired term of his predecessor. When said vacancy occurs during a legislative session, or when the Legislative Assembly or the Senate has been called for a date prior to the certification of the results of the special election, the presiding officer of the appropriate house shall fill said vacancy by appointing the person recommended by the central committee of the political party of which his predecessor in office was a member. Such person shall hold the office until certification of the election of the candidate who was elected. When the vacancy occurs within fifteen months prior to a general election, or when it occurs in the office of a Senator at Large or a Representative at Large, the presiding officer of the appropriate house shall fill it, upon the recommendation of the political party of which the previous holder of the office was a member, by appointing a person selected in the same manner as that in which his predecessor was selected. A vacancy in the office of a Senator at Large or a Representative at Large elected as an independent candidate shall be filled by an election in all districts.

SECTION 9.—Each house shall be the sole judge of the election, returns and qualifications of its members; shall choose its own officers; shall adopt rules for its own proceedings appropriate to legislative bodies; and, with the concurrence of three-fourths of the total number of members of which it is composed, may expel any member for the causes established in Section 21 of this Article, authorizing impeachments. The Senate shall elect a President and the House of Representatives a Speaker from among their respective members.

SECTION 10.—The Legislative Assembly shall be deemed a continuous body during the term for which its members are elected and shall meet in regular session each year commencing on the second Monday in January. The duration of regular sessions and the periods of time for introduction and consideration of bills shall be prescribed by law. When the Governor calls the Legislative Assembly into special session it may consider only those matters specified in the call or in any special message sent to it by him during the session. No special session shall continue longer than twenty calendar days.

SECTION 11.—The sessions of each house shall be open.

SECTION 12.—A majority of the total number of members of which each house is composed shall constitute a quorum, but a smaller number may adjourn from day to day and shall have authority to compel the attendance of absent members.

SECTION 13.—The two houses shall meet in the Capitol of Puerto Rico and neither of them may adjourn for more than three consecutive days without the consent of the other.

SECTION 14.—No member of the Legislative Assembly shall be arrested while the house of which he is a member is in session, or during the fifteen days before or after such session, except for treason, felony or breach of the peace. The members of the Legislative Assembly shall not be questioned in any other place for any speech, debate or vote in either house or in any committee.

SECTION 15.—No Senator or Representative may, during the [illegible]

ors elected or chosen, be appointed to any civil office in the Government of Puerto Rico, its municipalities or instrumentalities, which shall have been created or the salary of which shall have been increased during said term. No person may hold office in the Government of Puerto Rico, its municipalities or instrumentalities and be a Senator or Representative at the same time. These provisions shall not prevent a member of the Legislative Assembly from being designated to perform functions ad honorem.

SECTION 16.—The Legislative Assembly shall have the power to create, consolidate or reorganize executive departments and to define their functions.

SECTION 17.—No bill shall become a law unless it has been printed, read, referred to a committee and returned therefrom with a written report, but either house may discharge a committee from the study and report of any bill and proceed to the consideration thereof. Each house shall keep a journal of its proceedings and of the votes cast for and against bills. The legislative proceedings shall be published in a daily record in the form determined by law. Every bill, except general appropriation bills, shall be confined to one subject, which shall be clearly expressed in its title, and any part of an act whose subject has not been expressed in the title shall be void. The general appropriation act shall contain only appropriations and rules for their disbursement. No bill shall be amended in a manner that changes its original purpose or incorporates matters extraneous to it. In amending any article or section of a law, said article or section shall be promulgated in its entirety as amended. All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills.

SECTION 18.—The subjects which may be dealt with by means of joint resolution shall be determined by law, but every joint resolution shall follow the same legislative process as that of a bill.

SECTION 19.—Every bill which is approved by a majority of the total number of members of which each house is composed shall be submitted to the Governor and shall become law if he signs it or if he does not return it, with his objections, to the house in which it originated within ten days (Sundays excepted) counting from the date on which he shall have received it.

When the Governor returns a bill, the house that receives it shall enter his objections on its journal and both houses may reconsider it. If approved by two-thirds of the total number of members of which each house is composed, said bill shall become law.

If the Legislative Assembly adjourns sine die before the Governor has acted on a bill that has been presented to him less than ten days before, he is relieved of the obligation of returning it with his objections and the bill shall become law only if the Governor signs it within thirty days after receiving it.

Every final passage or reconsideration of a bill shall be by a roll-call vote.

SECTION 20.—In approving any appropriation bill that contains more than one item, the Governor may eliminate one or more of such items or reduce their amounts, at the same time reducing the total amounts involved.

SECTION 21.—The House of Representatives shall have exclusive power to initiate impeachment proceedings and, with the concurrence of two-thirds of the total number of members of which it is composed, to bring an indictment. The Senate shall have exclusive power to try and to decide impeachment cases, and in meeting for such purposes the Senators shall act in the name of the people and under oath or affirmation. No judgment of conviction in an impeachment trial shall be pronounced without the concurrence of three-fourths of the total number of members of which the Senate is composed, and the judgment shall be limited to removal from office. The person impeached, however, may be liable and subject to indictment, trial, judgment and punishment according to law. The causes of impeachment shall be treason bribery, other felonies, and misdemeanors involving moral turpitude. The Chief Justice of the Supreme Court shall preside at the impeachment trial of the Governor.

The two houses may conduct impeachment proceedings in their regular or special sessions. The presiding officers of the two houses, upon written request of two-thirds of the total number of members of which the House of Representatives is composed, must convene them to deal with such proceedings.

SECTION 22.—The Governor shall appoint a Controller with the advice and consent of a majority of the total number of members of which each house is composed. The Controller shall meet the requirements prescribed by law and shall hold office for a term of ten years and until his successor has been appointed and qualifies. The Controller shall audit all the revenues, accounts and expenditures of the Commonwealth, of its agencies and instrumentalities and of its municipalities, in order to determine whether they have been made in accordance with law. He shall render annual reports and any special reports that may be required of him by the Legislative Assembly or by the Governor.

In the performance of his duties the Controller shall be authorized to administer oaths, take evidence and compel, under pain of contempt, the attendance of witnesses and the production of books, letters, documents, papers, records and all other articles deemed essential to a full understanding of the matter under investigation.

The Controller may be removed for the causes and pursuant to the procedure established in the preceding section.

Article IV

THE EXECUTIVE

SECTION 1.—The executive power shall be vested in a Governor, who shall be elected by direct vote in each general election.

SECTION 2.—The Governor shall hold office for the term of four years from the second day of January of the year following his election and until his successor has been elected and qualifies. He shall reside in Puerto Rico and maintain his office in its capital city.

SECTION 3.—No person shall be Governor unless, on the date of the election, he is at least thirty-five years of age, and is and has been during the preceding five years a citizen of the United States and a citizen and bona fide resident of Puerto Rico.

SECTION 4.—The Governor shall execute the laws and cause them to be executed.

He shall call the Legislative Assembly or the Senate into special session when in his judgment the public interest so requires.

He shall appoint, in the manner prescribed by this Constitution or by law, all officers whose appointment he is authorized to make. He shall have the power to make appointments while the Legislative Assembly is not in session. Any such appointments that require the advice and consent of the Senate or of both houses shall expire at the end of the next regular session.

He shall be the commander-in-chief of the militia.

He shall have the power to call out the militia and summon the posse comitatus in order to prevent or suppress rebellion, invasion or any serious disturbance of the public peace.

He shall have the power to proclaim martial law when the public safety requires it in case of rebellion or invasion or imminent danger thereof. The Legislative Assembly shall meet forthwith on their own initiative to ratify or revoke the proclamation.

He shall have the power to suspend the execution of sentences in criminal cases and to grant pardons, commutations of punishment, and total or partial remissions of fines and forfeitures for crimes committed in violation of the laws of Puerto Rico. This power shall not extend to cases of impeachment.

He shall approve or disapprove in accordance with this Constitution the joint resolutions and bills passed by the Legislative Assembly.

He shall present to the Legislative Assembly, at the beginning of each regular session, a message concerning the affairs of the Commonwealth and a report concerning the state of the Treasury of Puerto Rico and the proposed expenditures for the ensuing fiscal year. Said report shall contain the information necessary for the formulation of a program of legislation.

He shall exercise the other powers and functions and discharge the other duties assigned to him by this Constitution or by law.

SECTION 5.—For the purpose of exercising executive power, the Governor shall be assisted by Secretaries whom he shall appoint with the advice and consent of the Senate. The appointment of the Secretary of State shall in addition require the advice and consent of the House of Representatives, and the person appointed shall fulfill the requirements established in Section 3 of this Article. The Secretaries shall collectively constitute the Governor's advisory council, which shall be designated as the Council of Secretaries.

SECTION 6.—Without prejudice to the power of the Legislative Assembly to create, reorganize and consolidate executive departments and to define their functions, the following departments are hereby established: State, Justice, Education, Health, Treasury, Labor, Agriculture and Commerce, and Public Works. Each of these executive departments shall be headed by a Secretary.

SECTION 7.—When a vacancy occurs in the office of Governor, caused by death, resignation, removal, total and permanent incapacity, or any other absolute disability, said office shall devolve upon the Secretary of State, who shall hold it for the rest of the term and until a new Governor has been elected and qualifies. In the event that vacancies exist at the same time in both the office of Governor and that of Secretary of State, the law shall provide which of the Secretaries shall serve as Governor.

SECTION 8.—When for any reason the Governor is temporarily unable to perform his functions, the Secretary of State shall substitute for him during the period he is unable to serve. If for any reason the Secretary of State is not available, the Secretary determined by law shall temporarily hold the office of Governor.

SECTION 9.—If the Governor-elect shall not have qualified, or if he has qualified and a permanent vacancy occurs in the office of Governor before he shall have appointed a Secretary of State, or before said Secretary, having been appointed, shall have qualified, the Legislative Assembly just elected, upon convening for its first regular session, shall elect, by a majority of the total number of members of which each house is composed, a Governor who shall hold office until his successor is elected in the next general election and qualifies.

SECTION 10.—The Governor may be removed for the causes and pursuant to the procedure established in Section 21 of Article III of this Constitution.

Article V

THE JUDICIARY

SECTION 1.—The judicial power of Puerto Rico shall be vested in a Supreme Court, and in such other courts as may be established by law.

SECTION 2.—The courts of Puerto Rico shall constitute a unified judicial system for purposes of jurisdiction, operation and administration. The Legislative Assembly may create and abolish courts, except for the Supreme Court, in a manner not inconsistent with this Constitution, and shall determine the venue and organization of the courts.

SECTION 3.—The Supreme Court shall be the court of last resort in Puerto Rico and shall be composed of a Chief Justice and four Associate Justices. The number of Justices may be changed only by law upon request of the Supreme Court.

SECTION 4.—The Supreme Court shall sit, in accordance with rules adopted by it, as a full court or in divisions. All the decisions of the Supreme Court shall be concurred in by a majority of its members. No law shall be held unconstitutional except by a majority of the total number of Justices of which the Court is composed in accordance with this Constitution or with law.

SECTION 5.—The Supreme Court, any of its divisions, or any of its Justices may hear in the first instance petitions for habeas corpus and any other causes and proceedings as determined by law.

SECTION 6.—The Supreme Court shall adopt for the courts rules of evidence and of civil and criminal procedure which shall not abridge, enlarge or modify the substantive rights of the parties. The rules thus adopted shall be submitted to the Legislative Assembly at the beginning of its next regular session and shall not go into effect until sixty days after the close of said session, unless disapproved by the Legislative Assembly, which shall have the power both at said session and subsequently to amend, repeal or supplement any of said rules by a specific law to that effect.

SECTION 7.—The Supreme Court shall adopt rules for the administration of the courts. These rules shall be subject to the laws concerning procurement, personnel, audit and appropriation of funds, and other laws which apply generally to all branches of the government. The Chief Justice shall direct the administration of the courts and shall appoint an administrative director who shall hold office at the will of the Chief Justice.

SECTION 8.—Judges shall be appointed by the Governor with the advice and consent of the Senate. Justices of the Supreme Court shall not assume office until after confirmation by the Senate and shall hold their offices during good behavior. The terms of office of the other judges shall be fixed by law and

The present electoral precinct of Río Piedras, excluding wards Hato Rey, Puerto Nuevo and Caparra Heights of the Capital of Puerto Rico; 9.—The municipalities of Cataño, Guaynabo and Toa Baja; and 10.—The municipalities of Toa Alta, Corozal and Naranjito.

III.—Senatorial District of Arecibo, which shall be composed of the following Representative Districts: 11.—The municipalities of Vega Baja, Vega Alta and Dorado; 12.—The municipalities of Manatí and Barceloneta; 13.—The municipalities of Ciales and Morovis; 14.—The municipality of Arecibo; and 15.—The municipality of Utuado.

IV.—Senatorial District of Aguadilla, which shall be composed of the following Representative Districts: 16.—The municipalities of Camuy, Hatillo and Quebradillas; 17.—The municipalities of Aguadilla and Isabela; 18.—The municipalities of San Sebastián and Moca; 19.—The municipalities of Lares, Las Marías and Hormigueros; and 20.—The municipalities of Añasco, Aguada and Rincón.

V.—Senatorial District of Mayagüez, which shall be composed of the following Representative Districts: 21.—The municipality of Mayagüez; 22.—The municipalities of Cabo Rojo, Hormigueros and Lajas; 23.—The municipalities of San Germán and Sábana Grande; 24.—The municipalities of Yauco and Guánica; and 25.—The municipalities of Guayanilla and Peñuelas.

VI.—Senatorial District of Ponce, which shall be composed of the following Representative Districts: 26.—The first, second, third, fourth, fifth and sixth wards and the City Beach of the municipality of Ponce; 27.—The municipality of Ponce, except for the first, second, third, fourth, fifth and sixth wards and the City Beach; 28.—The municipalities of Adjuntas and Jayuya; 29.—The municipalities of Juana Díaz, Santa Isabel and Villalba; and 30.—The municipalities of Coamo and Orocovis.

VII.—Senatorial District of Guayama, which shall be composed of the following Representative Districts: 31.—The municipalities of Aibonito, Barranquitas and Comerío; 32.—The municipalities of Cayey and Cidra; 33.—The municipalities of Caguas and Aguas Buenas; 34.—The municipalities of Guayama and Salinas; and 35.—The municipalities of Patillas, Maunabo and Arroyo.

VIII.—Senatorial District of Humacao, which shall be composed of the following Representative Districts: 36.—The municipalities of Humacao and Yabucoa; 37.—The municipalities of Juncos, Gurabo and San Lorenzo; 38.—The municipalities of Naguabo, Ceiba and Las Piedras; 39.—The municipalities of Fajardo and Vieques and the Island of Culebra; and 40.—The municipalities of Río Grande, Loíza and Luquillo.

SECTION 2.—Electoral zones numbers 1, 2, 3 and 4 included in three representative districts within the senatorial district of San Juan are those presently existing for purposes of electoral organization in the second precinct of San Juan

Article IX

TRANSITORY PROVISIONS

SECTION 1.—When this Constitution goes into effect all laws not inconsistent therewith shall continue in full force until amended or repealed, or until they expire by their own terms.

Unless otherwise provided by this Constitution, civil and criminal liabilities, rights, franchises, concessions, privileges, claims, actions, causes of action, contracts, and civil, criminal and administrative proceedings shall continue unaffected, notwithstanding the taking effect of this Constitution.

SECTION 2.—All officers who are in office by election or appointment on the date this Constitution takes effect shall continue to hold their offices and to perform the functions thereof in a manner not inconsistent with this Constitution, unless the functions of their offices are abolished or until their successors are selected and qualify in accordance with this Constitution and laws enacted pursuant thereto.

SECTION 3.—Notwithstanding the age limit fixed by this Constitution for compulsory retirement, all the judges of the courts of Puerto Rico who are holding office on the date this Constitution takes effect shall continue to hold their judicial offices until the expiration of the terms for which they were appointed, and in the case of Justices of the Supreme Court during good behavior.

SECTION 4.—The Commonwealth of Puerto Rico shall be the successor of the People of Puerto Rico for all purposes, including without limitation the collection and payment of debts and liabilities in accordance with their terms.

SECTION 5.—When this Constitution goes into effect, the term "citizen of the Commonwealth of Puerto Rico" shall replace the term "citizen of Puerto Rico" as previously used.

SECTION 6.—Political parties shall continue to enjoy all rights recognized by the election law, provided that on the effective date of this Constitution they fulfill the minimum requirements for the registration of new parties contained in said law. Five years after this Constitution shall have taken effect the Legislative Assembly may change these requirements, but any law increasing them shall not go into effect until after the general election next following its enactment.

SECTION 7.—The Legislative Assembly may enact the laws necessary to supplement and make effective these transitory provisions in order to assure the functioning of the government until the officers provided for by this Constitution are elected or appointed and qualify, and until this Constitution takes effect in all respects.

SECTION 8.—If the Legislative Assembly creates a Department of Commerce, the Department of Agriculture and Commerce shall thereafter be called the Department of Agriculture.

SECTION 9.—The first election under the provisions of this Constitution shall be held on the date provided by law, but not later than six months after the effective date of this Constitution. The second general election under this Constitution shall be held in the month of November 1956 on a day provided by law.

SECTION 10.—This Constitution shall take effect when the Governor so proclaims, but not later than sixty days after its ratification by the Congress of the United States.

Done in Convention, at San Juan, Puerto Rico, on the sixth day of February, in the year of Our Lord one thousand nine hundred and fifty-two.

Notes of Decisions

Generally 1
Law governing 2

1. Generally

Section 731b et seq. of this title relating to organization of Puerto Rican government and the Federal Relations Act incorporated therein and the Puerto Rican Constitution established a compact between Puerto Rican people and United States and create a new relationship between them, as a result of which Congress cannot amend Puerto Rican Constitution and both parties must consent to amendment of such Acts, and as a further result of which Puerto Rico is no longer a possession, territory or dependency but enjoys self-government and has a government which is no longer a Federal Government agency exercising delegated power. Mora v. Torres, D.C.Puerto Rico 1953, 113 F.Supp. 302, affirmed 206 F.2d 377.

2. Law governing

Since enactment and acceptance by people of Puerto Rico of July 3, 1952 act out as note under this section, Puerto Rico is no longer a territory and if Congress of United States proposes in future to make a statute applicable to Puerto Rico it will have to make it so, other than by use of term "Territory". Consejo v. International Longshoremen's Assn., District Council of Ports of Puerto Rico, D.C.Puerto Rico 1954, 123 F.Supp. 624.

Statements that since enactment of Joint Res. July 3, 1952 act out as note under this section, Puerto Rico is no longer a territory and if Congress of United States proposes in future to make a statute applicable to Puerto Rico it will have to make it so other than by use of term "Territory" were dicta when made in case which arose under statute enacted prior to said Joint Res. Id.

Even after enactment and acceptance by people of Puerto Rico of Joint Res. July 3, 1952 act out as note under this section, body of existing federal laws would continue to apply to Puerto Rico wherever they were previously applicable. Id.

§ 732. Repealed. July 3, 1950, c. 446, § 5(2), 64 Stat. 320, eff. July 25, 1952

Reference. Section, Acts Mar. 2, 1917, c. 145, § 4, 39 Stat. 953; May 17, 1932, c. 190, 47 Stat. 152, which derived from Act Apr. 12, 1900, c. 191, § 6, 31 Stat. 79, designated San Juan as the capital of Puerto Rico. Said subject matter is now covered by the Constitution of the Commonwealth of Puerto Rico.

Effective Date of Repeal. The repealing Act provided that the repeal of former section 732 of this title and other sections in this chapter should become effective when the Constitution of Puerto Rico became effective. Under section 731d of this title, such Constitution, upon approval by the Congress of the United States, "shall become effective in accordance with its terms". Congress, by Joint Res. July 3, 1952, c. 567, 66 Stat. 327, approved, with certain conditions, such Constitution; the approving Act further provided that the Constitution, as so approved, "shall become effective when the Constitutional Convention of Puerto Rico shall have declared in a formal resolution its acceptance in the name of Puerto Rico of the conditions of approval herein contained, and when the Governor of Puerto Rico, being duly notified by the proper officials of the Constitutional Convention of Puerto Rico that such resolution of acceptance has been formally adopted, shall issue a proclamation to that effect". The Constitution was proclaimed by the Governor of Puerto Rico on July 25, 1952 and became effective on that date.

§ 733a—1. Repealed. June 27, 1952, c. 477, Title IV, § 403(a) (14), 66 Stat. 279

Section, related to nonapplication of former section 304(c) of Title 8, Aliens and Nationality, and is not now covered.

§ 734. United States laws extended to Puerto Rico; internal revenue receipts covered into treasury

The statutory laws of the United States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Puerto Rico as in the United States, except the internal revenue laws other than those contained in the Philippine Trade Act of 1946 or the Philippine Trade Agreement Revision Act of 1955: *Provided, however*, That after May 1, 1946, all taxes collected under the internal revenue laws of the United States on articles produced in Puerto Rico and transported to the United States, or consumed in the Island shall be covered into the Treasury of Puerto Rico. As amended Aug. 1, 1955, c. 438, Title III, § 303, 69 Stat. 427.

References in Text. The Philippine Trade Agreement Revision Act of 1955, referred to in the text, is classified to [illegible] Title 22, Foreign

1955 Amendment. Act Aug. 1, 1955, amended section by inserting "or the Philippine Trade Agreement Revision Act of 1955".

I. The Status of Northern Ireland can be described, since 1920, as one of limited self-rule within the framework of the sovereignty of the United Kingdom. From 1920-1973 Northern Ireland was governed by the British Government of Ireland Act, 1920. This was largely repealed at the end of 1973, and replaced by the Northern Ireland Constitution Act 1973, and the Northern Ireland Assembly Act 1973 which came into force at the beginning of 1974. On July 17, 1974 the Northern Ireland Act 1974 came into force. Its provisions are summarised below.

II. The Constitution of Northern Ireland under the Government of Ireland Act 1920

1. Legislative Powers

A Parliament was established consisting of the Queen, Senate and Commons. The House of Commons was elected by proportional representation, and the Senate consisted of the Lord Mayor of Belfast, the Mayor of Londonderry, and 24 senators elected by the House of Commons.

The Parliament had a general power "to make laws for the peace, order and good government of Northern Ireland " This power was subject to the following limitations:

(a) territorial limitation as to the area of Ireland for which it could legislate;

(b) The Parliament had no power to legislate in respect of matters declared to be "excepted or reserved" (As regards excepted and reserved matters under the 1973 legislation, see below).

(c) prohibition against religious discrimination and taking property without compensation;

(d) restrictions on taxing power;

(e) subordination to legislation of the U.K. Parliament

The Parliament of Northern Ireland had no power to repeal or alter any Act of the U.K. Parliament passed after the entry into force of the 1920 Act and extending to Northern Ireland. Acts of the U.K. Parliament passed before the appointed day could be repealed or amended provided the subject matter was within the

../2

legislative competence of the Northern Ireland Parliament.

Courts could declare Acts of the Northern Ireland Parliament invalid on the ground that one or other of the above limitations had been disregarded.

2. Executive Powers

The executive power as regards "transferred services" (i.e. services over which the U.K. government did not exercise control) was delegated to the Governor of Northern Ireland, and through him to the various government departments.

3. Judiciary

Northern Ireland has its own system of courts, and an independent legal system based on English common law and equity.

III. The Northern Ireland Constitution Act 1973 declares that Northern Ireland is part of Her Majesty's dominions and of the United Kingdom, and will not cease to have this status without the consent of a majority of the people of Northern Ireland voting in a poll held for the purpose of deciding this point A poll may not be held under the Act earlier than 9th March 1983.
(It is worth noting that in a poll held under the Northern Ireland (Border Poll) Act 1972 (now repealed), on 8 March 1973, 60% of the electorate voted in favour of Northern Ireland remaining part of the United Kingdom).
On 30 March 1972, Northern Ireland was placed under a temporary government. All functions belonging to the former governor and heads of departments were to be exercised by the Secretary of State for Northern Ireland, and the legislature functions of the former parliament could be exercised by Order in Council. They were assisted by a Northern Ireland Commission, composed of persons ordinarily resident in N. Ireland.

The temporary government came to an end on 1st January 1974, when the N. Ireland Constitution Act 1973, Part II came into force. At the same time, a new legislature was established, called the Northern Ireland Assembly (Northern Ireland Assembly Act, 1973).

1. Legislative Powers

Legislative powers of the Northern Ireland Assembly are exercised by "measures" passed by the Assembly and approved by the Queen

/3

in Council.

The N. Ireland Assembly consists of 78 members, elected on the principle of proportional representation. Each Assembly lasts 4 years and is then dissolved.

A measure has the same force and effect as an Act of Parliament of the United Kingdom, and may repeal or amend any provision made by or under any Act of Parliament insofar as it is part of the law of N. Ireland. This does not apply to "excepted" or "reserved" matters (These include, the following:)

Excepted Matters

International relations, including treaties, and the making of peace or war and neutrality; nationality, immigration and aliens; taxes levied under any law applying to the United Kingdom as a whole; the appointment and removal of judges; the appointment and office of the Director of Public Prosecutions for N. Ireland; elections; coinage and bank notes; special powers and other provisions for dealing with terrorism or subversion

Reserved Matters

The maintenance of public order; criminal law, including the creation of offences and penalties; prevention and detection of crime and powers of arrest; prosecutions; surrender of fugitive offenders between Northern Ireland and the Republic of Ireland; police force; firearms and explosives; etc)

The consent of the Secretary of State is required in relation to a proposed measure which contains any provision relating to an excepted matter or a reserved matter; and he may not give his consent where a provision deals with an excepted matter unless he considers it to be auxillary to other provisions dealing with expected or reserved matters.

2. Executive Authorities

As regards transferred matters (i.e. those that are not excepted or reserved) powers are excercised through N. Ireland Executive and Northern Ireland departments.

Any reserved matter may be made a transferred matter by Order in Council.

Any measure discriminating against a person or class of persons on the ground of religious belief or political opinion is void.

The Supreme Authority of U.K. Parliament remains unaffected.

3. Relations with the Republic of Ireland

A Northern Ireland executive authority may (1) consult on any matter with any authority of the Republic of Ireland; (2) enter into agreements or arrangements with any authority of the Republic of Ireland in respect of any transferred matter. Provisions may be made for transferring, to any authority designated by or constituted under the agreement or arrangement, any function which would otherwise be exerciseable by any authority in N. Ireland. Any such measure would need the consent of the Secretary of State.

4. Northern Ireland Act 1974

The Northern Ireland Act 1974 provides for -

(1) the dissolution of the Northern Ireland Assembly and its prorogation until dissolution

(2) The establishment of temporary government during the period of dissolution. Under temporary government, legislation is carried out by British Order in Council, and the executive function by the Secretary of State.

The Act also provides for the establishment of a constitutional convention for Northern Ireland. The purpose of the Convention which is to consist of a Chairman and 78 members, is to consider "what provision for the government of Northern Ireland is likely to command the most widespread acceptance throughout the community there."

(20.2.78)

Materials on Administrative Autonomy, Self Rule and the Withdrawal of Military Governments from occupied territories

TABLE OF CONTENTS

../2

XI. Modification of "Statement of Principles", - 8 March 1951.

XII. Letter from Western High Commissioners to Dr. Adenauer re Berlin, - 26 May 1952.

XIII. Memorandum on the Principles Governing the Relationship between the Allied Kommandatura and Greater Britain. - 26 May 1952.

XIV. Statement by the United States Department of State on Legal Aspects of the Berlin Situation - 20 December 1958.

XV. Quadripartite Agreement and Notes on Berlin - 3 September 1971.

XVI. Treaty of Peace with Italy, Annex IV Providing Autonomy for South Tirol - 5 September 1946.

XVII. Further Agreements Between Italy and Austria Regarding South Tirol Autonomy - 28 February-7 March 1970.

XVIII. Spain: Catalonian and Basque Autonomy - 25 November 1977.

XIX. Spain: Further Developments Regarding Basque and Catalonian Autonomy - 21 April 1978.

XX. Spain: Granting of Further Provisional Regional Autonomy Statutes - 28 July 1978.

XXI. Autonomous Regions in the Peoples Republic of China - Constitution of 20 September 1954.

XXII. Provisions of French-Tunisian Convention Dealing With Autonomy - 3 June 1955.

OUTLINE OF
DEGREES OF AUTONOMY IN US TERRITORIES
AND OTHER POSSESSIONS

see: 2 Whiteman 1321-1330; 1 Moore 429-611; 1 Hackworth 477-524
American Jurisprudence (2d). States, territories & dependencies(index)

I. "COMMONWEALTH"

Until January 1978 applied only to Puerto Rico, now also applies to Mariana Islands.

A. Puerto Rico's constitution proclaimed 3 July 1952 (48 USC 731d, 732 note -). Population ethnically different from that of US. People descended from Spanish colonists, indigenous Indians and Africans (former slaves). Mostly inter-racial admixture. Language is Spanish. Religion predominantly Roman Catholic. Taken by US from Spain in Spanish-American War 1898, ceded outright to US. in the Treaty of Paris 1898, along with Philippines and Guam (Cuba was freed, but under US "tutelage"). The Jones Act of 1917 granted full American citizenship and a substantial measure of home rule to Puerto Rico. There was progressive development toward self rule in the island. Since 1948 the governor ~~was~~ has been elected by the people. In 1951 it adopted a constitution and became a "Free commonwealth". There is a minority statehood movement and a minority independence movement, with the latter sometimes employing violent tactics (bombings, assassinations, etc.).

Communist delegations to the UN, particularly the Cuban representatives, have repeatedly charged the US with colonialism with regard to Puerto Rico and the US has made answer. See 5 Whiteman, p.61-66; 1974 Digest US Practice 51, 52; 1975 Digest of US Practice 90-92.

General Assembly Resolution 748 of November 27 1953 is often cited. This resolution, which recognized the termination of Puerto Rico's status as a non-self-governing territoty under Chapter XI of the Charter, states:

> "that, in the framework of their constitution and the compact agreed upon with the United States of America, the people of the Commonwealth of Puerto Rico have been invested with the attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity." (emphasis added) (cited in 1975 Digest of US Practice, p. 104).

B. Northern Mariana Islands (NMI):

Voted in 1975 to become a Commonwealth of the U.S., effective January 1978. Formerly a "strategic trusteeship", part of the "Trust Territory of the Pacific Islands" (see below), thus adding a far larger measure of self-government, but retaining US protection and other benefits. Will for the first time elect a native governor. Inhabited mostly by Japanese, Chamorros and Micronesians. A Spanish possession from 1668-1898, the group was sold to Germany in 1899. Japan occupied the Islands in 1914, received a mandate in 1922, claimed them as possession in 1935. They were captured by US forces in 1944, and in 1947 were included in US Trust Territory of the Pacific Islands. (a "strategic trust", created by agreement-but not bilateral treaty - between US and UNSC). (US TIAS 1665; 61 Stat, 3301; 8 UNTS 189) (61 Stat. 397; 48 USS 1681 note).

For excerpts from the joint communiqué of 4 June 1973 setting forth part of the preliminary agreement with respect to the future political relationship between the Marianos and the US, see 1973 Digest of US Practice p 59-62. Speaks of exploring "means to reconcile the plenary power of congress under Article IV, section 3, clause 2. with the exercise by the Commonwealth of the Marianas of maximum self-government with respect to internal affairs" ibid p. 60, and "The United States would have responsibility for and complete authority in the fields of defense and foreign affairs." id.

Restrictions on foreign investment were lifted by the US Dept. of the Interior effective 1 April 1974. In that year also, the US agreed to Micronesian participation on the US Delegation to the Law of the Sea Conference at Caracas and signed an agreement with the UN Development Program which enabled the trust territory to participate in various programs of economic assistance. In March 1974 a Micronesian delegation attended the 30th plenary session of ECAFE at Colombo, thus participating in a UN conference for the first time. The US launched a "Program of

../3

Education for Self-Government" which apparantly was somewhat controversial, as evidenced from the June 10, 1974 statement to the trusteeship council of Ambassador Barbara White - "... in spite of some earlier misunderstandings, the Congress of Micronesia recognizes the value of the present program (the "Program of Education for Self-Government") and is paying close attention to it" see 1974 Digest of US Practice, p. 58.

The Covenant to Establish a Commonwealth of the Northern MarianaIslands in Political Union with the United States of America was signed at Saipan on 15 Feb. 1975. It provided for the acquisition of US citizenship or nationality by specified persons citizens of or domiciled in the Marianas. Note that Puerto Ricans were entitled to US citizenship before the change to commonwealth status. The full text of the Covenant may be found in Cong. Rec. Vol. 121, No. 43, 17 March 1975 pp. 4083-4091 (daily ed.) and in UN Doc.T/1759, 10 March 1975, For a summary see 1975 Digest of US Practice 97-103. Its salient features:

Local self-government is vested in the people of the Islands, and foreign affairs and defense responsibilities are vested in the US.

The Covenant, the US Constitution and treaties and laws of the US applicable to the Marianas will be the supreme law of the Northern Mariana Islands.

The US may enact legislation in accordance with its constitutional processes which will be applicable to the Northern Mariana Islands, but if such legislation cannot also be made applicable to the several states, the Northern Mariana Islands must be specifically named therein for it to become effective in the NMI. In order to respect the right of self-government granted by this Covenant the US agrees to limit the exercise of that authority so that the fundamental provisions of the Covenant, namely .. (Articles and sections specified) ... may be modified only with the consent of the Government of the US and the Government of the NMI.

../4

The Constitution of the NMI is to be submitted to the US Government for approval on the basis of its consistency with the Covenant and Provisions of the US Constitution, treaties and laws of the United States applicable to the NMI.

Amendments to the constitution of the NMI may be made by the people of the NMI without approval by the US Government, but appropriate US Courts will be competent to determine the consistency of the NMI constitution and any amendments thereto with the Covenant and the US Constitution, treaties and laws.

Activities of the US Government and its contractors in the NMI are to be governed by the laws of the US regarding coastal shipments and conditions of employment, including wages and hours of employees (this means such things as cabotage rights, so that when US lines are struck by the West Coast Unions, NMI interests cannot resort to alternative foreign lines, a point which may have substantial relevance to labour relations in Judea, Samaria and Gaza).

NMI not included within customs territory of the US, and its Government may levy duties on goods imported into its territory from any area outside the customs territory of the US and may impose duties on exports, Imports into US customs territory will be treated in the same manner as imports from Guam (very favourably).

Generally, tax treatment of NMI will be the same as of Guam (very favourable -- see Time magazine 16 Jan. 1978, pp28-32).

Substantial direct financial support to NMI from US for at least 7 years, then full range of Federal programs and service available to the territories of the US.

Public lands to be transferred to the Government of NMI but provision for fifty year lease with option to renew for another 50 of over 18,000 Acres to US for military purposes. Detailed arrangements in separate Technical Agreement provide for lease-back at $1.- per acre.

../5

For 25 years and possibly thereafter, regulation of the alienation of permanent and long term interests in real property so as ~~it~~ to restrict its acquisition to persons of NMI descent.

US has power of eminent domain, but restricted to minimum area necessary to accomplish the public purpose; required to attempt to acquire such property by voluntary means before exercising the power, and prerequisite of congressional authorization and appropriation.

Cases or controversies arising under the Covenant to be justiciable in the US Courts, and undertakings by the two Governments in the Covenant to be enforceable in such courts.

NMI may participate in regional and international organizations and conferences concerned with social, economic, educational, scientific, technical and cultural matters to the extent authorized for other territories and possessions under like circumstances.

The Special Assistant to the Legal Adviser of the US State Department in a memo, 5 March 1975, stated: "that self-government is something other than independence seems obvious, in that it is presented as an alternative to independence in both the trusteeship Agreement and the UN Charter.

... this difference between self-government and independence was recognized by the General Assembly in 1960 when, in Resolution 1541, it defined three ways in which a dependent territory could reach self-government; these were:

(1) emergence as a sovereign independent state;

(2) free association with an independent state; and

(3) integration with an independent state.

The Commonwealth status proposed for the Northern Mariana Islands would fall within the third category." 1974 Digest of US Practice, p.104.

II. "POSSESSIONS" - (not relevant to the present survey)

Non-administered territories under US sovereignty, i.e., those which have no indigenous populations and consequently no established governments. Baker I., Howland I., Jarvis I., Johnston I., Sand I., Kingman Reef, Midway I., Novasso I., Palmyra I., Swan I., Wake I.

Midway is the site of important or formerly important civil and military air bases. Wake is the site of a naval reservation including a naval air base and submarine base. Presumably the inhabitants of these islands are almost all American citizens.

III. "UNINCORPORATED TERRITORIES"

Territories under US sovereignty. Guam, American Samoa (with Swain's I.), Virgin Islands of US.

Guam: taken in Spanish-American War 1898. Inhabited mostly by Chamorros. By Organic Act of Guam (1950) became an unincorporated territory of the US administered by the Department of the Interior.

American Samoa: Almost entire population Polynesians. Administered by the Department of the Navy until 1951, when administration was transferred to the Department of the Interior.

Virgin Islands: Purchased in 1917 from Denmark.

These three territories recently were the subject of Reports by UNGA Sub-committee II of the Committee of Twenty-Four. The Report is at UN. Doc. A/AC.109/L.955, June 21, 1974 and UN. Doc. A/AC.109/L 960, July 19, 1974. The US reply thereto appears at 1974 Digest of US Practice pp. 47-49. The US Representative said, inter alia, "with respect to the three territories, my government is firmly committed to increasing self-government and to giving paramount attention to the welfare of the indigenous population . . . the right to self-determination involves a free choice among alternatives (including the alternative of the status quo ..J.W.). My delegation therefore would have preferred to see this view stated in the reports under consideration and, in its absence, wishes to record its reservations with regard to the formulation which now appears under conclusions and recommendations in these reports." 1974 Digest of US Practice p.49.

../7

IV. DISPUTED TERRITORIES (not explored here)

Eighteen Pacific Islands in dispute between US and UK. Upon Canton and Enderbury, the US and UK have imposed a condominium. Seven Pacific islands in dispute with New Zealand. Islands in Caribbean claimed by US and Colombia, concerning which an agreement maintaining "the status quo" was concluded in 1928 between Colombia and the US (U.S.T.S. 760½; IV Trenwith, Treaties, etc. (1938) 4023) - agreed that the Government of Colombia "will refrain from objecting to the maintenance by the US of the services which it has established or may establish for aids to navigation, and the Government of the US will refrain from objecting to the utilization by Colombian nationals of waters appurtenant to the Islands for purposes of fishing.

V. TRUST TERRITORY

Pacific Islands (Carolines, Marshalls and Marianas (until Jan 1978 -see above) excepting Guam). Administered under strategic trusteeship agreement between US and U.N.S.C. (U.S. Tias 1665; 61 Stat. 3301; 8 UNTS 189) (61 Stat. 397; 48 USC 1681 Note). The US has "full powers of administration, legislation and jurisdiction" over the territory, subject to the provisions of the agreement; the US, however, does not claim sovereignty.

Note UN Charter, Article 76, par. b: "to promote ..., and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, ...", thus explicitly distinguishing between the two.

In response to a US proposal, Articles 82, 83 were added to the UN Charter, which provides that there be "strategic" trust territories, and that all functions of the UN with respect to those territories be exercised by the Security Council. See: "Additional Chapter Proposed by the United States." 1 Whiteman 733, 734. U.S.TS 993; 59 Stat. 1031, 1050. The U.S. position was stated by Ralph Bunche:

> "... the strategic area concept is designed to meet the special situation wherein a particular territory or a part of a territory is of vital importance to security, and must therefore be maintained

../8

and operated as a military or naval base or security zone. Any areas designated as strategic would normally be areas in which strategic considerations are clearly controlling.

... the administering authority would have as much control over a strategic area as it would find necessary to preserve the essential function of the area. The administering authority would be bound, however, to protect and promote the well-being of the civilian inhabitants of the area in conformance with the basic objectives of the trustee system."

Bunch, "Trusteeship and Non-Self-Governing territories in the Charter of the United Nations," XIII Bulletin, Dept. of State, No. 340, Dec 30, 1945, pp. 1037,1043,; 1 Whiteman 766.

In fact, only one "strategic" Trusteeship Agreement was concluded, that for the Trust Territory of the Pacific Islands, which was approved on 2 April 1947, by the UNSC, and on 18 July 1947 by the President of the US, pursuant to authority of a Joint Resolution of the US Congress of that date. U.S. TIAS 1665; 61 Stat. 3301; 8 UNTS 189.

During the Security Council consideration of the United States offer to place the territory under a strategic trusteeship, Sen. Warren R. Austin, the US Representative to the Security Council, stated:

"... The ... agreement ... relates only to the former Japanese mandated islands, which never belonged to Japan ... the United States was, and is, occupying the territory formerly mandated to Japan ...

"Tens of thousands of American lives, vast expenditure and years of bitter fighting were needed to drive the Japanese aggressors from these islands, which constitute an integrated strategic physical complex vital to the security of the United States. The American people are firmly resolved that this area shall never again be used as a springboard for aggression against the United States ...

"The first of the four basic objectives of the trusteeship system set forth in Article 76 of the Charter is 'to further international peace and security.' Since the area of the former Japanese mandated islands is

../9

of paramount strategic importance, the United States proposes, in accordance with Article 82 of the Charter, that the trust territory 'be designated ... a strategic area.' "

U.N.S.C. Off. Rec., 113th Meeting. Feb. 26, 1947, pp. 407, 408-410; 1 Whiteman 770-772.

The United States comment on draft article 1 of the draft agreement stated, inter alia:

"The entire territory of the Pacific Islands is designated as strategic under the provisions of Article 82 of the Charter in order to enable the United States to safeguard its own national security and at the same time to discharge its obligations for general security under the United Nations. The importance of these requirements was clearly shown in the last war."

Draft Trusteeship Agreement for the Japanese Mandated Islands, Dept. of State Publication 2784, 1947. pp. 3-4; U.S. Delegation, Doc. US/S/119, P.1: 1 Whiteman 775.

The US comment on draft article 2 stated:

"Although the United States has not been the mandatory power responsible for these islands, the United States was primarily responsible for their liberation, is presently responsible for their administration, and considers them essential to the security of this country and to the maintenance of international peace and security. For these reasons this Government considers that the United States should be designated as the sole administering authority."

Draft Agreement, op. cit. p. 4: U.S. Delegation, Doc. US/S/119, p. 2; 1 Whiteman 777.

Article 5 of the Trusteeship Agreement provides that the administering authority shall be entitled:

"1. to establish naval, military and air bases and to erect fortifications in the trust territory;

2. to station and employ armed forces in the territory;

../10

3. to make use of volunteer forces, facilities and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for the local defense and the maintenance of law and order within the trust territory."

U.S.TIAS 1665; 61 Stat. 3301, 3302; 8 UNTS 189, 192

1 Whiteman 789.

Article 5 was adopted unanimously in the Security Council without comment. U.N.S.C. Off. Rec., 124th Meeting, April 2, 1947, p. 659.

Article 6 of the trusteeship Agreement requires the adminstering authority to:

1. Foster the development of such political institutions as are suited to the trust territory and shall promote the development of the inhabitants of the trust territory toward self-government or independence (emphasis added) as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned; and to this end shall give to the inhabitants of the trust territory a progressively increasing share in the administrative services in the territories; shall develop their participation in government; shall give due recognition to the customs of the inhabitants in providing a system of law for the territory; and shall take other appropriate measures toward these ends;

2. Promote the economic advancement and self-sufficiency of the inhabitants, and to this end shall regulate the use of national resources ...

3 Promote the social advancement of the inhabitants, and to this end shall protect the rights and fundamental freedoms of all elements of the population without discrimination; protect the health ...

4. Promote the educational advancement of the inhabitants ..."

U.S.TIAS 1665; 61 Stat. 3301, 3302-3303; 8 UNTS 189, 192-194; 1 Whiteman 790-791.

The proposed US text of article 6 did not include the words "or independence" after "self government" in paragraph 1. Draft Agreement, op cit., p.6; US Delegation Doc. US/S/119, p.3; 1 Whiteman 791. The language, "or independence, as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned" was included after extensive discussion in the Security Council, prompted by the proposal of the Representative of the USSR to insert the words "or independence" after the words "towards self-government." The US accepted the principle, but insisted on the additional words: "as may be appropriate to the particular circumstances of the trust territory and its people." Sen. Austin stated:

> "In accepting article 6 as modified in order to include the objective of independence of the trust territory, the United States feels that it must record its opposition, not to the principle of independence, to which no people could be more consecrated than the people of the United States, but to the idea that in this case independence could possibly be achieved in the forseeable future. To be free and independent, a community of people must have acquired at least some of the attributes of a sovereign State. Until this community of persons becomes an integrated community, capable of undisputed and exclusive control over all persons and things within the trust territory, and can regulate its internal affairs independently and give a sufficient guarantee of stability, this area must continue to be maintained by an outside Power capable of providing for its needs and interests . . ."
>
> UNSC Off. Rec., 116th Meeting, Mar.7,1947, pp 473-475; 1 Whiteman 792-793.

After the US stated its position, Mr. Gromyko of the USSR indicated no objection to the additions proposed by the US, but suggested a further additional phrase: "and the freely expressed wishes of the peoples concerned." The US accepted this third suggested amendment, and the final version was unanimously adopted. UNSC Off. Rec., 124th Meeting, Apr.2, 1947, pp.660, 662; 1 Whiteman 793.

../12

Administrative responsibility for the government of the trust territory was transferred to the Department of the Interior pursuant to Executive Order No. 10265 on 29 June 1951. Prior to that date, the trust territory had been the administrative responsibility of the Department of the Navy. A Code of the Trust Territory of the Pacific Islands was promulgated on 22 December 1952 by Executive Order No. 32 of the High Commissioner of the Trust Territory of the Pacific Islands. It provided that the laws applicable in the trust territory shall be found in: (a) the trusteeship Agreement; (b) such laws of the US as shall, by their own force, be in effect in the trust territory, including Executive Orders of the President; (c) the Code and regulations of the Government of the trust territory; (d) District Orders promulgated by the District Administrators of the trust territory either with the approval of the High Commissioner or as otherwise valid under the Code; (e) the acts of legislative bodies convened under Charter from the High Commissioner when the acts are approved by the High Commissioner or otherwise confirmed as law as may be provided by charter or the laws and regulations of the trust territory; and (f) duly enacted Municipal Ordinances. Local Customs not in conflict with the laws of the trust territory or the laws of the US in effect in the trust territory were preserved. The recognized customary law of the various parts of the trust territory in matters in which it is applicable, as determined by the courts, have the full force and effect of law, so far as such customary law is not in conflict with the laws mentioned above. The rules of the common law as generally understood and applied in the US are the rules of decision in the courts of the trust territory in cases to which they apply, in the absence of written laws applicable as listed above, or local customary law applicable, and except as to the law concerning ownership, use, inheritance and transfer of land. As to the last mentioned, the law in effect on 1 December 1941 remained in full force until thereafter changed by express written enactment. Further, as to criminal prosecution, common law did not apply, but only the written law of the trust territory or recognized customary law not inconsistent therewith.

The Code contains also, a "Bill of Rights" similar to that in the US Constitution, but which expressly abolishes the death penalty; provides for

../13

"No discrimination on account of race, sex, language or religion," Freedom of migration and movement within the trust territory, free elementary education, "No imprisonment for failure to discharge contractual obligation," protection of trade and property rights against non-citizens, and a provision that "due recognition shall be given to local customs in providing a system of law".

Appeals from the highest court of the trust territory may be taken to the US Court of Appeals, Ninth Circuit. All official negotiation with international organizations is through the State Department of the Administering Authority. (But see "Recent Developments" infra.), and the administering authority (the US) affords diplomatic and consular protection to the inhabitants of the trust territory when outside the territorial limits of the trust territory or of the territory of the administering authority. US. TIAS 1665; 61 Stat. 3301, 3304; 8 UNTS 189, 196-198; 1 Whiteman 819. An annual immigration quota of 100 was assigned to the trust territory by Presidential Proclamation No. 2980, July 2, 1952, 17 F.R. 6019, 66 Stat. c 36, 8 USC 1151; and US visas are required for immigrants and nonimmigrants. 1 Whiteman 822.

Under Article 15 of the Agreement, the terms of the agreement shall not be altered, amended or terminated without the consent of the U.S. US TIAS 1665; 61 Stat. 3301, 3305; 8 UNTS 189, 198; 1 Whiteman 834. The USSR had proposed an amendment to Article 15 which would have allowed the agreement to be altered and amended, or the term of its validity discontinued by the decision of the Security Council, which proposal the US opposed. The US did not vote on the issue, and the Soviet Union 's amendment was nonetheless rejected by 8 votes to 1, with two abstentions. UNSC Off. Rec., 124th Meet. Apr. 2, 1947 p. 679. The original US text of article 15 was adopted by 8 votes with 3 abstentions (Poland, Syria, USSR). ibid p. 6.679-680; 1 Whiteman 837, 838.

In 1966, the people of the territory, acting through their popularly elected legislature, (the Congress of Micronesia) called upon the President of the United States to consider their future status. By that time, the legal status of the territory was defined by:

../14

(a) the Trusteeship Agreement, US. TIAS 1665; 61 Stat. 3301; 8 UNTS 189;

(b) E.O. No. 11021 of 7 May 1962, placing in the Secretary of the Interior responsibility for the civil administration of the territory. 27 Fed. Reg. 4409-4410;

(c) Secretary of the Interior's Order No. 2876 of January 30, 1964, describing the nature and extent of authority exercised by the High Commissioner, 29 Fed. Reg. 1855;

(d) Secretary of the Interior's Order No. 2882 of September 28, 1964, as amended, creating the Congress of Micronesia and granting it certain legislative authority. 29 Fed. Reg. 13613-13615; 30 Fed. Reg. 7765-7766 (June 10, 1965); 31 Fed. Reg. 9138 (June 28, 1966); 32 Fed. Reg. 11339 (July 29, 1967).

(e) Public Law 90-16 of May 10, 1967, providing for appointment of the High Commissioner by the President by and with the advice and consent of the Senate. 81 Stat. 15;

(f) The Trust Territory Code of December 22, 1952, as amended;

(g) Public Laws enacted by the Congress of Micronesia.

Recent Developments

In January of 1974 Sec. of the Interior Rogers C.B. Morton announced the commencement by the Trust Territory Administration of a greatly expanded program of education for self-government. He ordered the lifting of restrictions on foreign investment in the trust territory effective 1 April 1974; specifically each district economic development board will be able to consider business applications from any nations within the Business Permit Act. But under the terms of that Act, the High Commissioner has the final authority to review each recommendation of the district economic development board He asked the High Commissioner to submit a forecast of manpower needs over the next three years "so we might determine how more Micronesians can be placed in key positions." 1974 Digest of U.S. Practice p. 55.

Also in 1974, the US agreed to Micronesian participation on the US Delegation to the Law of the Sea Conference at Caracas; signed an agreement on behalf of the trust territory to enable the territory to participate in various programs of economic assistance and to obtain UN training fellowships for Micronesians; supported

Micronesian membership in the Asian Development Bank, and indicated it would sponsor such membership following enactment of the necessary legislation by the US Congress. In March 1974, a Micronesian delegation attended the 30th plenary session of ECAFE in Colombo, thus participating in a UN conference for the first time.

In a June 10, 1974 statement to the UN trusteeship Council, US Ambassador Barbara White, indicated that both sides, i.e, US and Micronesia, hope that the results of the then pending negotiations, "will be a compact establishing a relationship of free association between the UN and Micronesia". 1974 Digest of US Practice p.58 (such a "free association" would presumably permit unilateral termination, but again it is assumed that provision would be made for the maintenance of US interests, including of course, military installations). As it happened, as outlined above, the Marianas opted for status separate from the rest of Micronesia -- in the form of a Commonwealth of the US. As previously indicated, there seemed to be some controversy about the "Program of Education for self-Government", as Ambassador White indicated, "in spite of some earlier misunderstandings, the Congress of Micronesia recognizes the value of the present program and is paying close attention to it." 1974 Digest of US Practice p. 58.

By 1974 the US Court of Claims was able to say that while the United States "has retained direct control in certain fields, such as foreign affairs, the daily administration of the islands has largely shifted into the hands of the local government." In addition, the trust territory "operates under its own comprehensive legal code. Inhabitants of the islands are citizens of the territory, not of the United States." Porter -v- United States, 496 F. 2d 583 (1974), quoted in 1974 Digest of US Practice, p. 59.

By January 1978, the Marianas had left the territory, pursuant to the Covenant described in I above, and a plebescite held in 1975, and had become a US Commonwealth. Negotiations between the US and Micronesian representatives have continued for six years, with a view toward a change in status. The Trusteeship Agreement will expire in 1981, and President Carter has insisted that a change in status be negotiated by that time. His administration has stated its willingness to consider a range of options, from free association with the US to commonwealth status, to independence. TIME. 16 Jan. 78, p. 28. To date the US has invested more than

./16

$250.- million in the islands, with a population of 260,000. Unemployment runs 13% in the trust territory; the suicide rate is 20 per 100,000 people, or nearly double that of the US. id.p. 29. In 1976 the remaining Micronesian representatives and the US initialed a draft compact calling for a "free association" in which the islands would gain much independence and the US would oversee their defense and foreign relations, but the arrangement fell apart because individual island groups wanted to strike separate deals with the US. The 26,000 residents of the Marshalls voted in a referendum to negotiate separately from the territory as a whole for a change in status. Now the island of Palau (pop. 13,000) wants to do the same. id at 29.

J.W.