

REPORT OF THE COMMISSION

**APPOINTED BY THE GOVERNMENT
OF PALESTINE TO INQUIRE INTO
THE AFFAIRS OF THE ORTHODOX
PATRIARCHATE OF JERUSALEM**

BY

The Commissioners

SIR ANTON BERTRAM, M.A., K.C.

Chief Justice of Ceylon

Sometime Puisne Judge of the Supreme Court of Cyprus

AND

HARRY CHARLES LUKE, B.LITT., M.A.

Assistant Governor of Jerusalem

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PUBLIC NOTICE

1. In accordance with the provisions of the Commissions of Inquiry Ordinance, 1921, His Excellency the High Commissioner has been pleased to appoint Sir Anton Bertram, Chief Justice of Ceylon, to be Chairman, and Commander H. C. Luke, Acting Governor of Jerusalem, to be member, of a Commission to inquire into and report on the present controversies between the Orthodox Patriarch and members of his Synod, and to advise the High Commissioner :

a. Whether there is any authority provided by the constitution of the Orthodox Church which is empowered to adjudicate upon and to decide the dispute ;

b. If the answer to the first question is in the negative, what action should be taken by the Palestine Administration with a view to the immediate restoration of order in the affairs of the Patriarchate ;

c. What measures are advisable for the liquidation of the debts of the Patriarchate.

2. The High Commissioner has been further pleased, on the nomination of His Beatitude the Patriarch of Jerusalem, to appoint the Very Reverend Archimandrite Timotheos Themeles as an assessor to the Commission.

3. The Episcopal members of the Holy Synod of Jerusalem were similarly invited to nominate an assessor, but have expressed themselves as unable to comply with the invitation.

4. The High Commissioner has also been pleased to appoint the following members of the Orthodox Community of Jerusalem to be assessors to the said Commission :

Mr. Yacoub Farraj,
Mr. George Siksek.

5. The Commission will have power to :

a. Examine all such persons as witnesses as it may think necessary ;

b. Take evidence on oath or declaration ;

c. Summon any person residing in Palestine to give evidence or produce any document in his possession ;

d. Admit or exclude the public and the press from any meeting of the Commission ;

e. Exercise any other powers mentioned in Art. 2 of the Commissions of Inquiry Ordinance.

Mr. L. G. A. Cust will be Secretary of the Commission. All communications concerning the Commission should be addressed to him at the Governorate, Jerusalem.

W. H. DEEDES,
Civil Secretary.

January 17th, 1921.

REPORT

JERUSALEM,

24 *March*, 1921.

We, the Commissioners appointed by Your Excellency to inquire into and report on the present controversies between the Orthodox Patriarch of Jerusalem and members of his Synod, that is to say :

(1) Whether there is an authority provided by the constitution of the Orthodox Church which is empowered to adjudicate upon and to decide the dispute ;

(2) If the answer to the first question is in the negative, what action should be taken by the Palestine Administration with a view to the immediate restoration of order in the affairs of the Patriarchate ;

(3) What measures are advisable for the liquidation of the debts of the Patriarchate ;

beg leave to present to Your Excellency the following Report.

ANTON BERTRAM

H. C. LUKE

To His Excellency

The Right Honourable Sir Herbert Samuel, P.C., G.B.E.,
High Commissioner for Palestine.

PART I

GENERAL



PART I

GENERAL

Preliminary

1. The origin of the investigations of this Commission is a dispute between the Orthodox Patriarch of Jerusalem and the majority of his Synod. This majority, which includes all the Bishops of the Patriarchate, has withdrawn from the Synod, broken off relations with the Patriarch, and denounced him to certain of the Orthodox Eastern Churches. This withdrawal having made the constitution of a quorum impossible, the Synod has ceased to function.

2. Subject to the large personal powers of the Patriarch, the Patriarch in Synod is the governing body of the Patriarchate, and the administrative working of the Patriarchate is thus to a large extent temporarily paralysed. In addressing their appeal to the Churches referred to, the Bishops have formulated certain charges against the Patriarch and they have explained to the High Commissioner, in a personal interview, that they have invited these Churches to try the Patriarch upon these charges and, if necessary, to depose him. The task before the Commission is, in the first place, to advise the High Commissioner whether there is any authority

provided by the Constitution of the Orthodox Eastern Church which is empowered to adjudicate upon, and to decide, the dispute and, in particular, whether the group of Churches appealed to is the competent authority for the purpose. In the second place, if our answer to the first question is in the negative, we are asked to advise what action should be taken by the Government of Palestine with a view to the immediate re-establishment of order in the affairs of the Patriarchate.

3. The need for the re-establishment of order is indeed imperative. The present crisis has arisen at a time when, owing to the circumstances of the late war, the Patriarchate is temporarily insolvent. Its debts have swollen to an unprecedented figure and it can neither pay these debts nor meet its current expenditure. It is temporarily protected against the demands of its creditors by a special moratorium. This moratorium is, in effect, a declaration of bankruptcy. We are, therefore, further invited to declare what measures are in our opinion advisable for the liquidation of the debts of the Patriarchate.

4. At the outset of our investigations we were met by an initial difficulty. The Right Reverend Bishops, who had addressed their appeal to the Churches referred to, explained to us in personal interviews that they were unable officially to recognize the Commission. Having addressed their appeal to what they considered was the competent tribunal, they were unable to acknowledge the jurisdiction of any other tribunal to inquire into the dispute. We pressed them to

assist us, at least to the extent of demonstrating to us their contention that the Churches appealed to were in fact the competent tribunal, and we explained to them that if we were satisfied that this or any other authority in the Orthodox Church was empowered to adjudicate upon the dispute, our own investigations would *ipso facto* cease, except in so far as they were concerned with the relief of the financial situation. The Right Reverend Bishops regretted that they were unable to meet our wishes even to this extent. They handed to us a memorandum explaining generally their position with respect to the Patriarch, and a *note verbale* defining the reasons of their inability to appear before us. They freely admitted the right of the Government to interest itself in the matter, but regretted their own inability to participate in the proceedings.

5. As it appeared both from the memorandum submitted to us and from other documents previously submitted to Government, that the principal reason and the immediate occasion for their breach with the Patriarch was a complaint of arbitrary and autocratic administration, we requested them to furnish us with particulars of the acts of the Patriarch of which they complained. They were unable to do this as they considered such a proceeding would be equivalent to taking part in a suit before us. They also explained that they were unable to furnish us with a copy of the charges which they had formulated before the Churches appealed to. We have, however, been furnished from another source with a copy of

these charges, which we feel justified in treating as authentic.

6. While unable to assist us in the manner indicated, the Right Reverend Bishops nevertheless explained that they were ready to furnish us with anything in the nature of information which we might desire. They kindly supplied to us various books and papers which have been of great use to us and, in particular, the learned Archimandrite Kallistos, acting on their behalf, was good enough to furnish us not only with references to the authorities for various contentions already submitted to the Government, but also with a considered and detailed discussion of the question of jurisdiction of the Churches, and to lend us books necessary for the verification of the references therein. We desire to express very fully our obligations to the learned Archimandrite for this valuable memorandum, which has greatly assisted us and which, indeed, has formed the basis of an important part of our investigations. We desire at the same time to acknowledge similar kind assistance which was personally rendered to us by another learned member of the fraternity in sympathy with the attitude of the Bishops, the Very Reverend Archimandrite Arsenios. We may further add that in the course of our investigations we have had other personal interviews both with individual members of the Episcopate and with the whole Episcopal body, which enabled us to appreciate their personal standpoint more fully and sympathetically than otherwise would have been possible.

7. Before we commenced our investigations we requested both the Patriarch and the Bishops, in pursuance of the legislative Ordinance recently enacted, to nominate assessors to assist us in our inquiries. The Bishops for reasons above explained were unable to do so. The Patriarch nominated as his assessor the Chief Secretary of the Patriarchate, the Very Reverend Archimandrite Timotheos Themeles, but the Reverend Archimandrite, having been acquainted at our preliminary meeting with the procedure we proposed to adopt, preferred to withdraw from the position of assessor and himself to present the case for the Patriarch before the Commission. H. E. the High Commissioner was further pleased to appoint as assessors two lay members of the Orthodox Community, Messrs. Y. Farraj and G. Siksek. The wide local knowledge of these gentlemen was of the greatest help to us, and we desire most cordially to acknowledge their services. For the latter part of our inquiry—that concerned with the financial question—we had the invaluable assistance of Mr. J. B. Barron. We cannot speak too highly of the advantage we derived from his co-operation. We also desire to take this opportunity of acknowledging the services of the Secretary to the Commission, Mr. L. G. A. Cust, whose efficient and resourceful assistance greatly lightened our labours.

General Introduction

8. The Patriarchate of Jerusalem is the most venerable and dignified historic institution for which the new Government of Palestine has become responsible. The Bishopric of Jerusalem, on which the Patriarchate of Jerusalem was subsequently based, dates back to James, the 'Lord's Brother', in the days of the Apostles. The importance it always possessed as the 'Mother of the Churches' was signally enhanced by the re-discovery and establishment of the sacred Shrines in the reign of the Emperor Constantine. By the Seventh Canon of the First Oecumenical Council, held at Nicaea in 325, it received an honorary Primacy described as a 'succession of honour', and in 451 at the Council of Chalcedon it was elevated into a Patriarchate, the other Patriarchates being Rome, Constantinople, Alexandria and Antioch. Ever since the days of Constantine, for 1,700 years, Jerusalem has been one of the chief centres of Christendom; and the Patriarch of Jerusalem, with the Brotherhood of the Holy Sepulchre which has grown up around him and of which he is the official Head, has, with various vicissitudes and interruptions, been the guardian or, at least, the principal guardian of the Holy Places, to which pilgrims and worshippers from all the nations of Christendom have continuously resorted. On the division between East and West, as one of the four Patriarchs, he became one of the four Heads

of the Orthodox Eastern Church. All the various independent Churches which compose the Orthodox Eastern Church have been accustomed to regard the Four Patriarchs with special reverence and have from time to time received spiritual counsel from them. Though the developments of the last century have created numerous new ecclesiastical centres, the Four Patriarchs still constitute the most venerable authority which the Church possesses. They are referred to an official instrument of the year 1847, subsequently cited in this Report, as 'the most Holy, Patriarchal and Apostolic Sees upon which sacred four as upon a four-square base is founded the assembled unity of the one Holy and Catholic Church of Christ'.

9. The boundaries of the Patriarchate extend beyond the present boundaries of Palestine into regions under French protection in the North, and to those beyond the Jordan and the Dead Sea in the West, and include the Peninsula of Sinai, excepting the Monastery of St. Katharine and the adjacent communities under the autocephalous Church of Mt. Sinai. The Patriarchate comprises a population of Orthodox Christians variously estimated as from 40,000 to 80,000.¹ The true figure is probably about

¹ In an official estimate prepared by the Patriarchate for the purposes of its schools in 1904, the Orthodox population is estimated at 49,596. The principal centres are Jerusalem 6,000, Bethlehem 3,600, Beit Jala 4,340, Ramallah 4,500, Jaffa 2,900, Nazareth 3,040, Acre 1,500, Housoun 1,600, Es Salt 3,000, Kerak 1,600.

10 *The Orthodox Patriarchate of Jerusalem*

60,000. Besides the Monastery of the Holy Sepulchre it has many other monasteries throughout the Holy Land. No less than thirty-four of these are situated in Jerusalem itself or in the immediate neighbourhood. Many of these monasteries are, of course, very small buildings and are not independent communities, but *μετόχια* of the principal monastery. Outside Jerusalem and the immediate neighbourhood there are eighteen local monasteries, excluding the famous Monastery of Mar Saba. It maintains, generally with the help of local endowments, similar institutions in Constantinople, Moscow, Athens, Cyprus, Crete, the Peloponnese, Tiflis, Smyrna, Samos, Adrianople and other places. Up to the present war the Patriarchate supported numerous educational institutions in Palestine, including a High School at Jerusalem and elementary schools in all parts of the country. Until recent years, it also maintained a distinguished Theological Seminary at the Convent of the Holy Cross near Jerusalem. The school is furnished with an admirable library and is situated among surroundings ideally adapted for theological study. It also maintained a hospital in Jerusalem and was responsible for other charitable works.

10. The funds required for the heavy expenses of the Patriarchate were met partly from local endowments, partly from the revenues of valuable lands in Russia, the gifts of pious donors in past ages, and partly from the lavish contributions of pilgrims, mainly Russian, who have flocked to the Holy Land

in increasing numbers during the past two generations. By far the greater part of the income of the Patriarchate has thus been derived from Russian sources, and the disastrous effect of the Russian Revolution upon its financial position will be readily realized. The Russian lands above referred to are, as a matter of fact, situated in Bessarabia, which, since the conclusion of the war, has been transferred to the kingdom of Rumania. Though no income has been received from these lands from the commencement of the late war, it is hoped that this source of revenue will ultimately be restored.

11. The fact which perhaps most strikingly impresses an inquirer into the present condition of the Patriarchate of Jerusalem is that while the laity and the parochial clergy are almost exclusively Arabic-speaking and describe themselves as Arabs, the fraternity of the Holy Sepulchre is exclusively—or all but exclusively—Greek. For the understanding of the situation an historical retrospect is necessary. The subjects of the later Roman Empire from the days of Constantine to the Fall of Constantinople were accustomed to describe themselves not as Greeks but as Romans. This designation continued down to the days of the Arab and Turkish Conquests. The Moslem conquerors, according to their custom, dealt with the Religious and not with the Civil Heads of the countries they conquered. Moreover, in the Near East, religion, and not race, has always tended to be the criterion of nationality. Accordingly, when in 1453 the Turks captured Constantinople, the

Conqueror, who described himself thenceforward as the 'Sultan of Rûm' constituted the Oecumenical Patriarch, as the Civil Head or 'Ethnarch' of his co-religionists in the whole Turkish Empire. He was officially known as the 'Patriarch of the Romans', and all Orthodox Ottoman subjects, irrespective of race, were known as 'Romans'. Nor was the designation an official designation only. The members of the Orthodox Church in the Turkish dominions thought of themselves as 'Romans'. To this day, Orthodox peasants, not only in Greece, but even at times in Serbia and Bulgaria, speak of themselves as 'Romans', while 'Romaic' is the name for colloquial, as opposed to 'high' Greek. The word 'Roman' thus included, not only the Greeks of Hellas, the islands, the capital city and the various Greek centres of Asia Minor, but also the Serbs, the Rumanians and the Bulgarians of the Balkan Peninsula, and the Arabic-speaking Orthodox Communities of Syria, Palestine and Egypt.

12. The history of the Christian population of Turkey in modern times is to a great extent the history of the disintegration of this artificial unity. In the Patriarchates of Antioch and Jerusalem the Arabic-speaking Orthodox population long ago ceased to have a common national consciousness with its Greek Ecclesiastical authorities. In Turkish eyes Greek Bishops, Greek Monks and Arabic-speaking laity were all alike 'Roman', and were so officially described; but this official designation had ceased to correspond with the facts. On the one hand the

Arabic-speaking Christians had become, to a certain extent, identified in sentiment with the Arabic-speaking population around them and described themselves as Arabs, while on the other hand the Greek Ecclesiastics and Monks had acquired a new national consciousness or, rather, had retained their old national consciousness under a new name. They conceived of themselves no longer as 'Romans' but as 'Hellenes'. Under the later Roman Empire the word 'Hellene' had gone out of common use and retained only a local or an historical significance. But with the gradual liberation of the Greek race, which commenced with the Greek War of Independence, the word 'Hellene', as a national designation, revived; and nowadays all those who either are, or conceive themselves to be, members of the Greek race, whether in the Turkish Empire or in free Greece or in any other country, have come to cherish a common consciousness as 'Hellenes'. The existence of this conception was never officially recognized by the Turkish Empire. The Orthodox subjects of the Turkish Empire were known as Roman ('Rûm'), whatever national or other consciousness they might see fit to cherish. The subjects of the kingdom of Greece were known as 'Yunnan' (*i.e.* Ionian¹). In

¹ Constant confusion is caused in English by the fact that it is customary to render both these words in English by the word 'Greek'. It is thus a very common misnomer to describe the Patriarchate of Jerusalem as a 'Greek Patriarchate'. This is not correct. The Patriarchate of Jerusalem, as at present constituted, is a Church with a Greek Episcopal Hierarchy and

modern Palestine this historical development is forgotten and the actual severance is clearly defined. The Monastic Clergy—whose mother tongue is Greek—think of themselves as Hellenes; the Arabic-speaking parochial clergy and flock think of themselves as Arabs.

13. The principal and, indeed, the predominant institution in the Church of Jerusalem is the ancient and historic fraternity of the Holy Sepulchre.¹ While officially this Community does not profess to exclude Arabic-speaking natives of the country (see Appendix C, para. 32, and Metaxakes, *Les Exigences des Orthodoxes Arabophones de Palestine*, p. 30) its composition is in fact all but exclusively Greek. The Greek character of this religious community is enthusiastically regarded both by its members and by the Greek nation generally. It is no doubt a subject of legitimate national pride, both to the Greek members of the Fraternity and to the Greek Nation at large, that the historic guardian of the Holy Sepulchre and other Holy Places of Palestine should

Monastic Clergy, but with an Arab (or Arabic speaking) Parish Clergy and Laity. Equally incorrect is it to allude to the Holy Orthodox Church as a whole as the 'Greek Church'.

¹ The numbers of the Fraternity are as follows:—Bishops 7, Archimandrites 44, Priests 26, Deacons 11, Monks not in orders 52, Members in attendance at the Church of the Holy Sepulchre 23, Members resident in other Monasteries in Palestine and the surrounding region 82 (including 50 at Mar Saba). In addition to these there are 21 Patriarchal representatives at various centres in Palestine and 12 Patriarchal representatives in other countries, a total of 278.

be a Greek Community. There is, indeed, a certain historical appropriateness in this circumstance. Greek is the historic language of the earliest branches of the Eastern Church. It is the language of its early Patristic Theology, and the language in which its ancient liturgies have been preserved. The historic connexions of the sacred shrines with the Byzantine Empire, of whose traditions the modern Greek race considers itself the inheritor, give an added appropriateness to this guardianship of the Holy Places.

14. But the local situation will not be properly appreciated for the purpose of our inquiry unless it is realized that the life of the Brotherhood has of late suffered from a certain racial hyper-consciousness. This circumstance is, no doubt, due largely to the state of militancy in which the Fraternity has found it necessary to live. It has for centuries conducted an intense struggle with the Latin Church for the vindication of its historic claims to the Sacred Shrines. It has also in recent generations become alarmed at the encroachments of Russia, both here and elsewhere. The antagonism which has developed between the Hellenic and the Slav elements within the Orthodox Church has also displayed itself in Jerusalem, with the result that for many years the Fraternity—while largely supported by Russian contributions—lived in a state of constant apprehension of the claims and designs of Russia.¹ Finally

¹ See Papadopoulos, *History of the Church of Jerusalem*, pp. 699-712, 739-67; Meletios Metaxakes, *Tò "Αγιον Όρος*, pp. 70-2.

the feelings thus excited have been aggravated by the bitter and prolonged struggle with the local Arabic-speaking laity which arose on the declaration of the Turkish Constitution in 1908.¹ These causes, amongst others, have perhaps contributed to the fact that many members of the Fraternity have come to think of the Convent as a Hellenic garrison, and to lose sight both of its obligations to the local population and of its trusteeship for all the Orthodox Communities of the Eastern Church. One sees it frequently stated, with expressions of alarm, that the present Patriarch has striven to give a local or pan-Orthodox character to the Church of Jerusalem. It seems to be almost forgotten that the privileged position which the Fraternity, as a Greek Community, holds in the Holy Places, carries with it definite corresponding obligations both to the local Orthodox Christians and to the Orthodox Church as a whole.

15. This attitude of mind is accompanied by two conceptions on which it is impossible for us not to comment. The first of these conceptions is—that the Fraternity is not only an eminent and venerable body within the Church but that it, in fact, *is* the Church; that the Parochial Clergy and the laity are subject to the Fraternity; and that, for all practical purposes, they are a *quantité négligeable*. It may seem difficult to believe that such a conception should have manifested itself and it may be thought that we are doing an injustice to the Fraternity in imputing such

¹ For an account of this struggle see Appendix C.

ideas to any of its members; but there can be no doubt as to the fact. The position of the Fraternity in the Church is certainly one of a very special character. The Head of the Church, the Patriarch, is also the Head of the Fraternity. The governing body of the Church, the Patriarch in Synod, is also the governing body of the Fraternity. All the members of the Synod and all the Episcopal Hierarchy are appointed from the Fraternity, and all the representatives of the Patriarch in local districts are members of the Monastic Clergy. It may well be said, then, that the Convent has come to be *de facto* the governing body of the Church; but it is hardly necessary to point out that it cannot be so *de iure*. The government of the Church is in its essence episcopal, and all religious communities are communities within the Church, subject, like the Parish Clergy and the laity, to a common episcopal government. But the official view entertained in the Patriarchate appears to be, not only that the Monastery has *de facto* acquired control of the Church, but that it has done so *de iure*, and that the Monastery is, in fact, the Patriarchate.

16. Thus, in a memorial presented to the Turkish Government by a delegation sent by the Patriarchate to Constantinople in connexion with the troubles of 1908-10, there is the following introductory passage:

‘The Patriarchate of Jerusalem, by reason of its exceptional situation, in a place where the Shrines of the Christian religion have existed from the

first ages of its establishment, that is to say, for 1,600 years, has constituted its administration in a manner wholly different from the three other Orthodox Patriarchates. Having as its principal duty the guardianship, protection and maintenance of the Holy Shrines, from the very beginning, for the safer and more convenient accomplishment of this great duty it conceived it to be necessary, in order to repel every worldly interference, whether foreign or local, to organize its Patriarchal Clergy on the principles of monastic government. The Patriarchal Clergy is, in fact, *a great Monastery, governing and administering, under the rule of the Patriarch as its Superior, not only the Monastery but also the Shrines and their revenues and the whole Church of Zion and the local flock therein.*'

Later on in the same memorial there is the further passage :

‘And it is well known that the Patriarchate of Jerusalem is composed and governed as a Monastery and, as such, is ecclesiastically and civilly recognized and has so existed for centuries.’¹

17. The same idea is expressed in another way in an interesting passage in Papadopoulos' *History of the Church of Jerusalem*, pp. 466-7. The author explains that in the times of which he was writing, the Patriarch was compelled to live away from Jerusalem, wandering about the Christian world, seeking for help for the constantly imperilled Holy Sepulchre. Hence the Brotherhood of the Holy

¹ The reference is to the numerous *firmans* and other official documents, by which the Arab and Turkish rulers of Palestine have conferred privileges upon the ‘Patriarch and the Roman Monks’, or have confirmed privileges already conferred. See Metaxakes, *Les Exigences des Orthodoxes Arabophones de Palestine*, pp. 10-15.

Sepulchre undertook the rule, not only of the Shrines, but also of the flock, on the analogy of the practice which exists in the Orthodox Church to-day, by which a monastic brotherhood, under the title of an *Exarchate*, assumes pastoral duties. Thus in pursuance of its own local traditions the Patriarchs of Jerusalem with the monks around them assumed the pastoral care of the people. The monastic system of the administration of the Church was developed in such a way that the Brotherhood of the Holy Sepulchre undertook the care, not only of the spiritual but also of the material necessities of the flock, establishing Churches, preserving the Parochial Clergy and founding schools and hospitals. But for this fact, says the author, the few thousands of local Orthodox Christians would not have been preserved and there would have been no Orthodox Christians in existence in Palestine to-day.

18. Further, that the idea is entertained that the Brotherhood not only governs the Church but, for all practical purposes, *is* the Church, is equally undoubted. This view is indeed expressly maintained by an eminent member of the Holy Synod, to whose assistance we have elsewhere acknowledged our great indebtedness, in a special memorandum with which he has favoured us. There are the following passages :

‘After the Conquest . . . this Brotherhood undertook the direction of everything; it preserved all that still exists in Jerusalem; it elected as Patriarch of the Church, which had already

taken shape, one of its members . . . it preserved also the slender remnant of the Orthodox in Palestine. This Brotherhood, in a word, continued the one component element of the Church of Jerusalem and it, by itself, constitutes what is called the Patriarchal See of Jerusalem . . . From this historical review the following conclusions may be collected, first, that the Church and the See of Jerusalem does not bear the same pastoral character as the other autocephalous Churches, but a peculiar character, that of a place of pilgrimage, and secondly, historical circumstances have produced such developments that the original Brotherhood of the Holy Sepulchre remains the only representative of the Church of Jerusalem . . . The surviving remnants (of the Orthodox population) scarcely amount to 40,000 souls. Can then 40,000 Orthodox constitute an autocephalous Church? ¹ This number is not sufficient for the dignified maintenance of even a single Bishop . . . The Brotherhood then constitutes the only component element constituting the Church of Jerusalem, and without it an independent Church in this country cannot be conceived . . . The Brotherhood is nothing else, as I have shown above, than the Church of Jerusalem itself.'

The memorandum communicated by the Archimandrite Kallistos, from which the above extracts are taken, is so interesting as an exposition of a point of view, of which notice must be taken, that we have set out the greater part of it in a special Appendix.

19. The second of the conceptions which we have above referred to as requiring comment is this:

¹ The learned Archimandrite appears to have overlooked the Patriarchate of Alexandria.

that the Fraternity guards the Holy Places as an agent or mandatory of the whole Greek race, and that this race has a special interest and special rights in the Shrines over and above such interests and rights as may belong to other Orthodox peoples and communities. A full exposition of this point of view will be found in the memorandum of Archimandrite Kallistos set out in Appendix C, where indeed the right of the Greek race in the Shrines is described as that of actual ownership. From this standpoint it is maintained that it is vital to the Brotherhood to preserve its purely Hellenic character; and it appears to be thought that it is not only the national but the religious duty of the Patriarch, as Head of the Community, to assert and maintain that exclusively Hellenic character. At the time of the troubles of 1908–10 the Patriarchate, in its communications with the Turkish Government, when contesting the claim of the local population that the Patriarchate ought to have a local character, assumed the very judicious position that the Holy Places belonged not to the small community of the local Orthodox Christians, but to all the Orthodox subjects of the Ottoman Empire or, as it was put, to all 'Orthodox Romans'. Any such alternative contentions as that they belonged to all Orthodox peoples throughout the world, or that they belonged specially to all persons who shared the Hellenic national consciousness, whether inside or outside the Turkish Empire, would have been equally distasteful to the Turkish Government, and the latter

would, indeed, have roused its active resentment. But it is this very conception which has now been advanced, and propositions based upon it are the origin of the present crisis in the Patriarchate.

20. It may well be realized that the above conceptions are conceptions with which the local laity are wholly unable to sympathize. It will also be understood that in the circumstances above explained the local laity must have desires and claims which are entitled to a careful and sympathetic consideration; but the extravagance of the above points of view, in some of their manifestations, as is perhaps natural, has found its counterpart in ideas among the laity which can only be regarded as equally extravagant. It is maintained that the Monks of the Convent are a community of foreigners who have robbed the people of their inheritance, that the whole of the endowments of the Patriarchate are communal endowments, to which the local population are entitled, and that the Church of Jerusalem is, in fact, a local Church like the Church of Antioch, and is entitled to a re-constitution on the same lines as that which has taken place in the neighbouring Patriarchate. We do not propose to pass any judgement on the historical and ethical problems which arise out of these contentions. They are merely mentioned to assist a full understanding of the issues involved in our present inquiry.¹

¹ A summary of the authorities on which these ideas are based may be seen in an ingenious and scholarly pamphlet published in 1911 by Archimandrite Timotheos Themeles, now

21. It remains to consider the position of the Patriarch himself. The Patriarch is not only the Head of the local Church, but is also an Officer of State; ¹ his legal position is defined in the organic Chief Secretary of the Patriarchate. It would appear that even Greek writers and historians, including the Greek Patriarch, Dositheos, have ascribed an Arabic character to the Church of Jerusalem, extending over many centuries. The Patriarchs for many generations are alleged to have been Arabic-speaking natives of the country, though officially, at any rate, they bore Greek ecclesiastical names. It is said that the line of Greek Patriarchs only commenced with Germanos II in 1518 (see Kyriakos, *Ecclesiastical History*, vol. iii, p. 60). On the other hand, the learned Archimandrite, without examining the question of the supposed line of Arabic Patriarchs, produces a great wealth of material to show that the Patriarchate has borne a continuously Greek character, and that the Greek language and Greek ecclesiastical literature, Greek services and in fact, a general Greek atmosphere continuously prevailed in the Brotherhood from its inauguration to the present day. The existence of this Greek religious and literary atmosphere is, of course not inconsistent—nor would it to-day be inconsistent—with members of the Fraternity and Patriarchs being drawn from the inhabitants of the country. The subject is one which awaits scientific and impartial historical investigation. It is singular that Papadopoulos in his *History of the Church of Jerusalem*, though he recounts numerous incidents which are entirely inconsistent with the idea of an Arabic atmosphere in the Church of Jerusalem, does not think it worth while specifically to discuss the question of the existence of Arabic Patriarchs. It is, at any rate conceded that the Brotherhood has been Greek for the last four centuries, but even during this period it is contended that two Patriarchs, Anthimos (1788–1808) and Sophronios (1771–5) were of Arabic origin.

¹ Cf. Young, *Corps de Droit Ottoman*, vol. ii, p. 101. Extract from note of the Grand Vizier, Ali Pasha—1869: ‘Les Communautés non-musulmanes sont libres dans l’exercice de leur culte; mais les lois de l’Empire les régissent en tant qu’il

law of the Patriarchate, that is to say, the Regulations of 1875, and in the Imperial *Berat* which is issued to him on the assumption of his office, and without which he cannot legally discharge his Patriarchal functions. In Art. 1 of the Regulations it is said that the Patriarch of Jerusalem is the ruler and supervisor of all the Shrines situated within his jurisdiction in the Church (of the Resurrection) at Jerusalem, and of the Churches and Monasteries belonging, either exclusively or in common with other religions, to the Nation of the Romans, as also of the Metropolitans, Bishops, Monks and Priests subject to the Patriarchal See, as well as Director of the Schools, and Hospitals belonging to these Monasteries; and in the final paragraph of the *Berat* it is said: 'the vineyards, gardens, farms, mills, fields, pastures, houses, work-shops, trees, whether fruit-bearing or not, shrines, monasteries, flocks and all similar properties which are dedicated to the Churches shall be held and governed by the Patriarch, according to the manner in which they have been held and governed from of old, and let no one of the officials of the State or any other person disturb him therein.'¹

22. As the Patriarch is the local Head of his Community and in that capacity has an ecclesiastical

s'agit de leur existence civile. Leurs chefs sont les dignitaires Impériaux et reçoivent leur investiture du Sultan.'

¹ For the full terms of the Regulations and the *Berat* see Appendix C. The authoritative text of these documents is, of course, the Turkish and Mr. F. J. Ongley has been good enough to prepare for us a strict and literal translation for the purpose of this Report and for future reference.

jurisdiction to which effect is given by the Civil Government, and as the Government is accustomed to deal with him in all matters relating to his Community as its Head, it has always reserved the right to refuse to ratify the election, not only of the Patriarch of Jerusalem, but of all Heads of the other religious Communities in Turkey composed of Ottoman subjects. The legal Patriarch is the person whom the Government formally recognizes as Patriarch by the issue to him of the Sultan's *Berat*, and he continues to exercise his functions until he dies, or the Government ceases to recognize him. No deposition of a Patriarch can take effect until the Government recognizes the *Topoteretes*, who on such a deposition is elected, pending the appointment of a successor. Ecclesiastically speaking the Patriarch is the one real Bishop of the Church of Jerusalem. As will be subsequently explained, the other Bishops are in point of fact suffragans, or titular Bishops, consecrated to assist him in the services of the Patriarchate. None of them have dioceses in the ordinary sense. The two Metropolitans of Ptolemais (Acre) and Nazareth have been accustomed to reside in those dioceses as representatives of the Patriarch, but neither to them nor to the Archbishops of the Patriarchate are *Berats* issued, as in the case of ecclesiastical dignitaries of these ranks who are in charge of dioceses in other parts of the Turkish Empire. It is through the Patriarch as the spiritual Father of his people that the laity are in contact with the organization of the Church.

Narrative of Events leading up to the Present Dispute

23. For the due understanding of the issues of the present dispute, it is necessary to bear in mind a long series of events beginning with the Turkish Revolution in 1908. A detailed account of these events, from the outbreak of the Revolution until the return of the Patriarch from Damascus at the beginning of 1919, will be found in Appendix C. For the purposes of this Report it will be found sufficient to refer to this part of the story in summary.

24. Upon the announcement of the new Constitution which resulted from the Revolution of 1908, the Orthodox laity of Palestine, purporting to act upon an article of the Constitution, presented to the Patriarch a series of demands of a very revolutionary character. Briefly stated, the effect of these demands was that the Patriarchate should be converted into a wholly local institution, that its endowments should be regarded as local endowments, that these should be administered by a Council on which the laity was to be predominant. Admissions to the Brotherhood of the Holy Sepulchre were to be controlled by this Council. Certain incidental demands aimed at the equalization of the position of Arabs and Greeks in the Church.¹

¹ An able and informing, though in parts far from ingenuous, discussion of these demands, from the point of view of the Patriarchate, will be found in a pamphlet by Meletios Metaxakes, then Chief Secretary of the Patriarchate and afterwards Metropolitan of Athens under the government of M. Venizelos, entitled *Les Exigences des Orthodoxes Arabophones de Palestine*.

25. On 13th December, 1908, the majority of the members of the Synod and of the Brotherhood, having conceived the idea that the Patriarch was not making a sufficiently resolute resistance to these demands, assembled at night in the Monastery and determined on his deposition, which was formally voted next day. No formulation of charges and no trial took place for this purpose, but after he had quitted a meeting of the Synod, a resolution was passed declaring him deposed on the ground of 'spiritual incapacity and failure to command respect and confidence'.

26. The Patriarch disputed the right of the Synod so to depose him. For some time the Turkish Government hesitated about confirming the deposition but finally ratified the election of the *Topoteretes*. The news of the deposition of the Patriarch, however, greatly excited the Orthodox laity, and tumults and disturbances took place in Jerusalem and various parts of Palestine. The Patriarch invited the Turkish Government to send a Committee to investigate the question on the spot. This demand was acceded to and a Committee arrived at Jerusalem under the presidency of Nazim Pasha, Governor-General of Syria. This Committee, on arrival, found the local situation so serious and, in the temper of the time, felt the suppression of popular demonstrations by force to be so impracticable that they brought the strongest possible pressure to bear on the Convent to secure a compromise. The *Topoteretes* died and his successor never received official recognition. The

two most active members opposed to the Patriarch, Meletios Metaxakes, the Chief Secretary of the Patriarchate, and Chrysostomos Papadopoulos, the Head of the Education Department, were summoned to Constantinople. Fresh pressure was brought to bear upon the Synod by the Committee, and, under the influence of this pressure and of renewed violent popular demonstrations, the remaining members of the Synod passed a resolution on 23rd February/8th April, 1909, declaring their former resolution of deposition suspended and inoperative.

27. A reconciliation then took place. The Patriarch resumed his Presidency of the Synod and the consideration of the demands of the laity. Both sides sent deputations to Constantinople and finally, on the 25th May, 1910 (Old Style), the decision of the Turkish Government was communicated to the Synod. This decision was, on the whole, very favourable to the Patriarchate. It declined to give the Patriarchate a local character, declared that the Shrines belonged to all 'Orthodox Romans', (that is to say, all Orthodox subjects of the Sultan) and further refused to give effect to the proposed disturbance of the existing ecclesiastical order. It contained, however, one concession of the greatest importance: it declared that a third of the revenues of the Patriarchate, to the amount of not less than £30,000 annually, should be put at the disposal of a Mixed Council, composed of six of the members of the Monastic Clergy and six members of the local population, under the presidency of the Patriarch, and should

be administered for the purposes of schools, hospitals and other charitable institutions and services.¹

28. Various consequential disputes and difficulties prolonged this question until the year of the outbreak of the war. During the war, the situation of the Patriarchate became very serious. It lost at once over sixty per cent. of its revenues, namely those derived from Russia and the Russian pilgrims. In order to meet its expenses it resorted to most extensive loans and at the close of the war it was in a most serious financial position. Jemal Pasha, on the approach of the British forces, removed the Patriarch and his Synod to Damascus, and in their absence the affairs of the Patriarchate were in the hands of a Committee of Management. After the capture of Jerusalem communications appear to have taken place between this Committee of Management and the Greek Government, and on 16th/29th May, 1918, the Fraternity of the Holy Sepulchre at an extraordinary meeting passed a resolution, confiding its fate entirely and without reserve to the Greek Government, putting into the hands of the Government the task of its financial re-organization and all other questions relating to the Fraternity of the Holy Sepulchre. On 5th/18th August, 1918, the Greek

¹ This concession to the local laity was a most substantial one. It permanently allocated for the benefit of the local laity not only $\frac{1}{3}$ of the revenues of the local endowments, but also $\frac{1}{3}$ of the revenues of the valuable land in Russia and elsewhere, dedicated to the Holy Sepulchre by pious donors in past ages, and $\frac{1}{3}$ of the generous offerings of the pilgrims.

Consul-General in Cairo, then in Jerusalem, made an official declaration to three members of the Executive Committee, which was subsequently formally communicated to the Committee. He said that the Greek Government had determined to undertake the re-organization of the financial position through the National Bank of Greece, but he declared that it was essential for this purpose that some other person should be substituted for the Patriarch, Damianos, and that the Greek and British Governments were both agreed that it was impossible that the Patriarch should be allowed to return from Damascus and resume his administration. He recommended that the Patriarch should be declared deposed, and that the Archbishop of Sinai should be appointed *Topoteretes*.¹

29. In accordance with the recommendation of the Consul-General a lengthy memorandum was drawn up accusing the Patriarch of pro-Turkish sympathies, reckless financial administration, arbitrary government and other offences, and pressing for his immediate removal from the Patriarchal Throne. On 19th September/2nd October, the Fraternity at a general meeting, assuming that it was acting in accordance with the wishes of the British Government, passed a resolution purporting to revive the deposition of December, 1908. Protests were raised by the laity against this proceeding and, on a full examination of

¹ For the full terms of the above resolution and the communication of the Greek Consul-General, see Appendix C, paras. 42-3.

the position, General Allenby first directed that all the members of the Synod should be allowed to return from Damascus, and finally extended the same permission to the Patriarch, who returned to Jerusalem at the beginning of 1919 and officially celebrated the Orthodox Christmas services at Bethlehem.

30. Upon the return of the Synod five of its episcopal members had, on the 23rd November, signed a declaration acquiescing in the resolution of the Fraternity above mentioned, but on the return of the Patriarch a general reconciliation took place. On 22nd January/5th February, 1919, a resolution was passed by which all the members of the Holy Synod, 'for the peace of the Church, separated themselves completely from the past and, in full agreement, accepted the reconciliation which had taken place and recognized the canonicity of the situation'.¹

The Present Dispute

31. We now approach the point at which the Patriarch and the majority of the Synod became finally at variance. The dispute arose out of two questions, which were intimately connected. The first was a proposed Greek loan, for the relief of the financial difficulties of the Fraternity: the second was the proposed adoption of certain new 'Internal Regulations' drawn up in Athens.

32. The most serious question to which the Patriarchate had to address itself, on the return of the

¹ The fuller and more detailed account of these preliminary events, which is to be found in Appendix C, ceases at this point.

Patriarch from Damascus, was the financial situation. At the time of the return of the Synod from Damascus there was present in Jerusalem a representative of the National Bank of Greece, M. Coritzes, who had been allowed to come to Jerusalem in a purely private capacity and who was engaged in studying the financial position of the Patriarchate. This gentleman returned to Athens in December, 1918, and it would appear that about this time it was arranged that the Greek Government should pay to the Patriarchate, through the Greek National Bank, a monthly subsidy of £3,000. Later in the year, that is to say, in the course of September, 1919, a second representative of the Greek National Bank, M. Chondrodemos, arrived in Jerusalem with authority to negotiate a loan for the relief of the financial situation and, after a careful study of the position, he communicated to the British Government on September 15th/28th, 1919, the terms on which the Greek National Bank was prepared to advance the necessary loan, and these terms were subsequently communicated to the Patriarch.

33. The terms were of an extremely stringent character. They involved :

- (1) the hypothecation of all the property of the Fraternity, movable and immovable, both in Palestine and in any other country, except the actual Holy Places, and properties partaking of a similar character,
- (2) the assignment to the Bank by way of security of all claims of the Fraternity against the Russian and Rumanian Governments,

- (3) cession of all revenues,
- (4) the Bank to be entitled to assume the management of any of the hypothecated properties whenever it considered management by the Fraternity defective,
- (5) the liquidation of all debts under the immediate supervision of a representative of the Bank (subject to the approval of the British Government),
- (6) a strict control of the finances of the Holy Sepulchre by a representative of the National Bank in permanent attendance.

On the receipt of these terms the Patriarch communicated them not only to the Holy Synod, but also (as appears from a petition of the Orthodox notables of Jerusalem addressed to the Government on 20th September, 1919) to representatives of the laity and the parochial clergy.

34. As was to be expected from the point of view above explained (see para. 20), the general opinion of the leading members of the local Community was against any such arrangement. The following extract from the petition above mentioned, which was addressed to the Government by certain gentlemen purporting to represent them, will indicate their standpoint :

‘From the above speech (*i. e.* the announcement by the Patriarch of the terms of the proposed Greek loan) we understand the clear and distinct aim of the so-called Brotherhood of the Holy Sepulchre and their intention of making the Convent an entirely Hellenic or Greek Convent. As this is very detrimental and prejudicial to the interests of the native Orthodox, who have the

right to the Holy Places and their endowments, we have come by the present to protest most energetically against the conduct of the Convent, and to beg the local Government to stop any action about to be taken by them whereby the character of our Convent be changed. We most emphatically refuse any foreign protection or guardianship of our Holy Places and their Waqfs, and we respectfully beg that the strict *status quo* be maintained, that is to say, that we should be under the control and protection of the local Government as we were before.'

35. The attitude of the majority of the members of the Holy Synod was, however, different. They resolved to accept the terms offered, subject always to the approval of the British Government. The Patriarch, the Chief Secretary, and two other members of the Synod made certain special reservations. The point of view of the majority of the Synod may be gathered from the following extract from a memorandum subsequently presented to the Patriarch by the Episcopal members of the Synod :

'The absolute majority of the Holy Synod decided almost without any discussion and unreservedly in favour of the acceptance of the proposed conditions, because they had reason to be sure that the National Bank of Greece was not actuated by reasons of interest but by purely high moral motives. Likewise they were more than sure that these conditions aimed exclusively simply at the safeguarding of the whole landed property of our Holy Community and not at the security of the loan in question . . . that is to say, the loan was not the principal aim but the chief means by which the restoration of our Holy Brotherhood to

its proper place could be secured. The natural consequence of this was the declaration of the representative of the National Bank of Greece that the interest on the loan would be reduced to the minimum limit permitted by the Statutes of the Bank, that is to say, probably even less than 5%.'

The memorandum went on to emphasize the close ties which the Community had always had with the Greek Nation and the material and moral assistance which it had always derived from it. It described the Community as the 'Mandatory of the Nation' (*i. e.* the Greek Nation) and as drawing its very life and existence therefrom. (See para. 19 above.) The Community, as Mandatory of the Nation, should declare that its liabilities, however large they might be, were liabilities of the Nation and should ask and expect their discharge by the Nation now as in the past.

36. The effect of the Greek proposal would obviously have been to subject the Patriarchate and the whole of its financial administration to a foreign government. The Military Government, having made a careful study of the financial position, decided, after communicating with the British Government in London, that a loan of this nature could not be permitted, and on 5th March, 1920, informed the Patriarch that it was authorized to co-operate with the Patriarchate in obtaining a loan through one or more British Banks. The Patriarch was invited to note that the action which would be taken by the Administration was not intended to create any subordination of the Patriarchate to Great Britain. The object in view

was simply 'to relieve the Patriarchate of embarrassment in order that the spiritual work of the Church, both for the Holy Places and for the (largely Arabic-speaking) flock might be developed with the greatest freedom and energy'. The Patriarch was invited to appoint two representatives to negotiate the preliminaries of a loan in Egypt in co-operation with a representative of the Military Administration.

37. The attitude of the Greek Consul in Jerusalem at this period (*i. e.* while the question of the loan was under the consideration of the British Government) may be gathered from a memorandum, composed by him and communicated to Lord Allenby by the Greek Consul-General in Egypt on 20th November, 1919. It attributed the crisis menacing the Patriarchate to the irregular, extravagant, and arbitrary administration of the Patriarch; it accused him of squandering the revenues of the Patriarchate for personal ends; it urged as an indispensable condition of any economic reorganization the necessity of putting an end 'au régime illégal d'administration et de gestion appliqué par le Patriarche' and it contained the following passage which, in view of subsequent developments many months later, is very significant:

'Toutes les Églises Grecques Orthodoxes ayant pleine connaissance de cette situation critique s'attendent avec impatience anxieuse à la disparition immédiate des motifs susmentionnés; dans le cas contraire elles sont, paraît-il, décidées de déclarer déchu pour la troisième fois le Patriarche, considéré comme le seul auteur de cette désorganisation.'

38. On the decision of the British Government with reference to the loan being brought before the Synod, the offer was 'gratefully and unanimously accepted' but the majority of the Synod (which was identical in composition with the party now opposed to the Patriarch) made their acceptance subject to four conditions which will be discussed presently. The Metropolitan of Ptolemais and the Chief Secretary were appointed as delegates for the negotiation of the loan. It is not necessary, at this point, to discuss the history of this proposed loan in detail; the negotiations proved abortive as the Banks approached were only prepared to advance part of the money desired, and that on terms and securities which could not be granted. The project of a loan through a British Bank was, therefore, abandoned.

39. On the 16th September, 1920, the Patriarch was officially informed that :

(1) the special moratorium would not be prolonged indefinitely ;

(2) His Beatitude was free to take whatever measures he thought best for the liquidation of the debt. The Government of Palestine made it a condition that these measures should not involve 'the establishment of a foreign political control of whatever nature over the internal affairs of the Orthodox Church in Palestine'.

40. Closely connected with the question of this proposed loan was the further question of new regulations, which led to the final breach between the Patriarch and the majority of the Synod. The

four conditions which the majority of the Synod attached to their acceptance of the principle of a British loan were as follows :

‘(1). The enactment and putting into execution of a new internal constitution for the Patriarchate, having as its object the consolidation of good administration and the restoration of internal peace and order in the Fraternity.’

‘(2). The strict adherence to the principle of the non-alienation of the immovable property of the Convent, both in general and, more especially, in the Holy Places.’

‘(3). The application of a sound system of financial management always under continuous, regular, and not merely formal, control and inspection, with a view to the improvement, to the fullest possible extent, of the development of the rural and urban property of the Convent, more especially of the property which is at present yielding no revenues.’

‘(4). The creation of a new income for the Patriarchate on a firm and sound basis sufficient for the services of the loan which is about to be concluded, and for enabling the Fraternity to accomplish its high duties to the Holy Places, the Nation, the flock and itself in their largest conception.’

These conditions were embodied in a memorandum addressed to the Patriarch on 18th March, 1920. The memorandum incidentally makes allusion to the theory above discussed in para. 19 that the Brotherhood, as Custodian of the Holy Places, is the ‘Mandatory’ of the Greek Nation.

41. It is the first of these conditions that is of most immediate importance. By that condition the

Bishops demanded a reorganization of the internal constitution of the Patriarchate. This demand appears from the first to have been closely associated with the question of a loan. For the purpose of this proposed reorganization a draft set of new 'Internal Regulations' was drawn up at Athens by a Committee consisting of Meletios Metaxakes, then Metropolitan of Athens and Archimandrite Chrysostomos Papadopoulos (the well-known author of the *History of the Church of Jerusalem*, and at one time Director of the Theological School of the Holy Cross), and two members of the Greek Foreign Office. We have no precise information as to the manner in which these rules originated. The Bishops assure us that they themselves insisted on the passing of such rules as an indispensable condition of any loan. On the other hand, we were assured by a member of the Synod who supports the Patriarch that the Greek Consul announced that, unless the draft rules were adopted, no loan would be granted by the Greek Government. The Chief Secretary informs us that these rules were formally communicated to the Patriarch by the then Greek Consul, Dr. Tzorbatoglou. These rules were never formally laid before the Synod but everybody appears to have been aware of their contents. It is agreed that they contained some valuable material, but they contained certain provisions to which the Patriarch took serious exception. The principal articles to which exception was so taken are as follows :

- (a) *Art. 75*, which declared that in the event of

any offence of the Patriarch, on a written accusation signed by five members of the Synod and five members of the Brotherhood holding offices, there should be constituted in Jerusalem a special Supreme Court consisting of one member of the Episcopal Hierarchy of each of the Churches of Constantinople, Alexandria, Antioch, Greece, and Cyprus and of all the members of the Episcopal Hierarchy of the Church of Jerusalem. The Court was to be summoned by the Oecumenical Patriarch and his representative was to preside unless the Head of one of the other Churches was present.

(b) *Art. 76*, which declared that if the whole Synod or if the majority of the Synod took any action or adopted any decision of a nature materially to impair the holy trust of the Church and of the Nation (*i.e.* the Greek Nation) in the Holy places, there should be assembled in Jerusalem, on a written accusation of not less than ten office-holding members of the Brotherhood, on the initiative of the Oecumenical Patriarch, a special Ecclesiastical Supreme Court, consisting of two representatives of each of the Churches of Constantinople, Alexandria, Antioch, Greece, and Cyprus. The presidency of this Court was to be regulated on the same principle as the Court for the trial of the Patriarch, unless it appeared that the Patriarch of Jerusalem had no responsibility for the action complained of, in which case he himself was to preside at the trial of his Synod.

42. The extraordinary significance of the above two articles will be at once apparent. They subject both the Patriarch and his Synod to the control (in the one case, partial, in the other, complete) of a special group of the Orthodox Churches. This group is mainly Hellenic in character. It is true that it

includes the Patriarchate of Antioch, which is no longer Hellenic, but it would have been impossible to include three of the Patriarchates in this group and to exclude the fourth. It will be observed that it is precisely to this group of Churches that the appeal of the Bishops was subsequently addressed. The idea that any of the other autocephalous Churches was interested in the Holy Places is impliedly excluded and the exclusive claim of the Greek Nation to the Holy Places is expressly asserted.¹

43. But quite apart from any such question the importance of the Articles from the point of view of the Patriarch was that they destroyed the autocephalous and independent character of the Church of Jerusalem. Two further Articles may be noted in this connexion. They are as follows :

(a) *Art. 176.* 'The maintenance of the provisions of the present Regulations depends upon the loyal disposition of the whole of the Brotherhood of the Holy Sepulchre, but also upon the united interest of the *Hellenic Race of whose rights in the Holy Shrines the Brotherhood of the Holy Sepulchre has been appointed the guardian.*'

(b) *Art. 177,* by which it is provided that on the

¹ It may be interesting to note that in the *Katastatikon* of the Church of Cyprus, adopted in 1914, in Art. 14, this same group of Churches appears, for the purpose of the constitution of a Court of Appeal against any decision of the Synod of the Church of Cyprus imposing a sentence of *kathairesis* upon a Bishop. At the date of the adoption of this institution by the Church of Cyprus Meletios Metaxakes was Bishop of Kition (Larnaca), and it is doubtless to the influence of this prelate that the proposal is to be traced in both cases.

adoption of these regulations they shall be communicated to the Churches of Constantinople, Alexandria, Antioch, Greece and Cyprus, *the local British Government and the Government of the Hellenic Nation.*

It was thus provided that the Patriarch should formally notify the adoption of the Regulations not only to the local Government (a proceeding which would have been in accordance with the *status quo*) but also to a foreign Government, that of the Kingdom of Greece. This was a distinct disturbance of the *status quo*, and moreover would have involved a recognition of the dependency of the Patriarchate on this foreign Government.

44. On 27th February, 10th March, 1920, the Patriarch announced the Government's decision that a loan must be sought through British Banks. The Synod adjourned for the consideration of this proposal. On 5th/18th March the Patriarch announced that instructions had been received through the Greek Consul that no objection was to be made to the British proposal with regard to a loan. It was on this occasion that the Bishops presented to the Patriarch the considered memorandum above referred to. The Patriarch took strong objection to this proceeding, saying it was open to any member of the Synod to submit his own opinion in writing, but not to members of the Synod to adopt this course in common. He made these further observations :

‘With regard to the contents of the memorandum, I make this general observation. I have

never opposed internal regulations or financial control. . . . Consequently, even now, it is open to us, in conjunction with the arrangements of the loan, to take into consideration other matters including the Regulations, either at once putting into operation the Regulations sent from Athens or putting them into operation after a previous discussion in the Holy Synod with regard to them.'

45. Although the delegation for the negotiation of the loan was appointed at this meeting, its departure for Egypt was not authorized until 8th/21st May. Other meetings of the Synod had been held on 7th/20th March, 9th/22nd March, 19th March/1st April, 4th/17th May. But from this point, *i.e.* from 8th/21st May, no further meeting of the Synod was convoked till 14th/27th July, when the final breach occurred, a period of over two months. The explanation given to us by the Chief Secretary is that it would have been of no use to call a meeting while the Deputation was away in Egypt, and that after their return, as the negotiations had broken down, it would have been of no use to call an immediate meeting. The Delegation returned from Egypt about the beginning of July (N.S.). On the 20th June/3rd July, 1920, the Bishops addressed a formal written protest to the Patriarch against the suspension of the regular meetings of the Synod, which they declared to be essential for many matters urgently calling for decision, including the enactment and application of internal regulations. They recited that they had repeatedly, both by word of mouth and in writing, declared that the adoption of new

regulations was an essential condition in any loan. They now declared that any further postponement of the convocation of the Synod was not only very harmful but also a violation of the constitutional rights of the Brotherhood. Regular meetings of the Synod were indispensable, inasmuch as any proceeding was not valid without its approval. They disputed the right of the Patriarch to convoke the Synod only when he thought it expedient so to do. They therefore begged the Patriarch not to prolong this irregular state of affairs and expressed the hope that the Patriarch, in the interests both of himself and of the Holy Community, would put an end to the existing deplorable and harmful irregularity of the present situation, and would renounce his arbitrary and autocratic system of administration.

46. The Patriarch informs us that this letter was sent to him by messenger and delivered in his absence; that he resented such a method of communication and sent a messenger to the Metropolitan of Ptolemais, asking him to call personally and discuss the matter. This message was repeated but only resulted in similar formal communications. A meeting of the Synod was formally convoked on the 14th/27th July. At this meeting the Bishops handed in a formal declaration severing all relations with the Patriarch, pronouncing all his future proceedings invalid, and declaring that they denounced him to all the Holy Greek Orthodox Churches. We append the letter, as it was communicated to the Government, in a French translation :

Copie exacte de la lettre adressée le 14/27 Juillet au Patriarche Damianos par les Métropolitites et les Archevêques membres permanents du St. Synode.

BÉATITUDE,

Ayant épuisé toutes nos prières verbales et écrites ainsi que nos exhortations sincères sans parvenir à décider Votre Béatitude de s'abstenir d'une administration arbitraire et absolutiste et suivre un système conforme à l'esprit des canons sacrés de l'Église et aux intérêts réels de notre Ste Confrérie, ayant aussi malheureusement constaté que Votre Béatitude ne s'est pas montrée seulement inflexible et intransigible à toutes les démarches que nous avons faites, poussés par le désir sacré et les droits incontestables que nous donne notre situation dans l'Église et dans le St. Synode, et que par contre elle s'efforce, à tout prix, d'aliéner notre Ste Confrérie de ses traditions sacrées et séculaires et de rompre les liens indissolubles qui la lient avec notre pieuse nation, altérant ainsi son caractère et sa substance, nous nous trouvons dans la très triste et douloureuse situation de porter officiellement à votre connaissance, en vertu de notre qualité ci-haut mentionnée, que toute démarche et tout acte touchant les questions qui concernent notre Ste Confrérie, faits ou à faire, nous les déclarons anticanoniques, nuls et nonavenus.

Et comme malheureusement toute la période de votre administration patriarcale s'est écoulée dans une lutte continue entre Votre Béatitude et notre

Confrérie à cause de son système arbitraire et absolutiste dans son administration financière ainsi que dans la gérance des affaires intérieures et dans une guerre systématique contre notre Ste Confrérie, guerre visant le renversement de nos traditions et principes sacrés et l'annihilation et dissolution complètes de notre Confrérie, nous vous déclarons de la façon la plus catégorique que nous vous dénonçons et nous vous traduisons devant la justice de toutes les Saintes Églises Grecques Orthodoxes.

(Signés)

Le Métropolitte de Ptolemais Keladion.

Le Métropolitte de Nazareth Glykerios.

L'Archevêque de Lydda Nicodème.

L'Archevêque du Mont Thabor Sophronios.

L'Archevêque de Gaza Sophronios.

L'Archevêque de Kyriacoupolis Basile.

L'Archevêque de Philadelphie Evdoros.

47. It will be observed that this letter charges the Patriarch primarily and in particular with attempting 'to alienate the Fraternity from its sacred and immemorial traditions and to sever the indissoluble ties which unite it with our pious nation'. Secondly, having recited previous protests on the subject, it charges him with arbitrary and despotic administration throughout his Patriarchate. That the first of these charges is a reference to the Patriarch's opposition to the new regulations cannot be doubted. These regulations sought to emphasize, consolidate, and extend the connexion of the Fraternity with the

Hellenic Race. Similarly, it seems to us clear that (though previous complaints of the same character were recited) the matter with which the charge of despotic administration was immediately concerned was the refusal of the Patriarch—in defiance of the views of the majority of his Synod—to submit these regulations for Synodical discussion and decision. If there could be any doubt that it was the Patriarch's policy with reference to these regulations which forms the *gravamen* of the Synod's charges against him, it would be removed by a perusal of the memorandum which Archimandrite Kallistos was good enough to submit to us and which is set out in Appendix E.¹ On the same date they proffered a series of specific charges against the Patriarch.

48. As we have above explained, the Bishops did not feel able to favour us with a copy of the charges against the Patriarch which they addressed to the Churches of Constantinople, Alexandria, Antioch, Greece, and Cyprus, but what purports to be a copy of these charges was published in the '*Ekklesiastikos Keryx*' of Athens. As this paper has also published a separate memorial purporting to come from the

¹ It will be observed that this letter says nothing about the deposition of 1908 and does not make any suggestion that this deposition is still canonically in force. It will be observed too that the Bishops alone signed this document and not the Archimandrites who support them, and that they purport to address the Patriarch in their capacity as *permanent members of the Synod*. The suggestion is that the Bishops really constitute the Synod. For the significance of this suggestion see para. 57 *infra*.

leading Hellenic laymen of Jerusalem, as well as a reply to the Bishops' appeal from the seven members of the Synod, who support the Patriarch, we have felt justified in treating this account of the charges against the Patriarch as authentic. It will be found set out in detail in Appendix D, and may be summarized as follows :

49. *Summary of the Charges against the Patriarch
by the Episcopal Members of the Synod*

1. A continuous policy of sowing dissensions among the Brotherhood.

2. Violation of established principles and neglect of the Internal Regulations of 1902.

3. Contempt of the decisions of the Synod and autocratic administration.

4. Assumption of a right to over-ride the decisions of the majority.

5. Intellectual obscurantism signalized in particular by the closing of the Theological School of the Holy Cross.

6. Laxness in the enforcement of moral discipline.

7. Sale of property of the Community and irresponsible and unscrupulous use of the proceeds.

8. Reckless and improper financial administration and the contracting of extravagant loans without the knowledge of the Synod.

9. Want of vigilance in opposing the pretensions of other Christians not of the Orthodox faith, who share with the Brotherhood the occupation of the Holy Places.

10. Giving his Patriarchal approval to religious foundations established in Palestine by monks of *foreign* Churches.

11. Failure to make provision for the spiritual advancement and development of the Arabic-speaking laity and the provoking of ill-feeling on their part against the Brotherhood.

12. Oppressive control of the Brotherhood during the war by the aid of the Young Turks, and the contraction at the same time of an extravagant debt.

13. Failure to make provision for the administration of the Church of the Brotherhood during his absence in Damascus.

14. An impassioned attempt to estrange the Brotherhood from its holy traditions and to sever the bonds which unite it with the pious Greek Nation.

15. Persistent efforts to give a local or pan-Orthodox character to the Brotherhood and thus to change its immemorial Hellenic character.

50. It is material at this point to draw attention to the nature of these charges. They, all of them, without exception, deal with matters which are either administrative or political. They do not charge the Patriarch with any heretical beliefs or practices. They do not charge him with any moral offence disqualifying him for the exercise of his office. Two charges in particular deserve special notice. The first is charge 10, that he accorded his Patriarchal approval to the religious foundations of monks

of foreign Churches. The 'foreign' Churches referred to are presumed to be Orthodox Churches, and the reference is understood to be primarily to Russian establishments. The second is that which imputes to him an attempt to give a local or pan-Orthodox character to the Fraternity and to change its immemorial Hellenic character. It is difficult to see how any of these charges, and in particular the two last mentioned, can be considered as having a religious character, or as involving anything in the nature of a canonical offence.

51. It may be thought that perhaps this appeal is made to the Churches not with a view to the exercise of a jurisdiction, but with a view to fraternal advice to the Patriarch of Jerusalem by certain other Churches who may be supposed to have a special interest in the Patriarchate. This suggestion is not tenable. It is contradicted in the first place by the terms of the notice to the Patriarch which says: 'We denounce and charge you *devant la justice de toutes les Saintes Églises grecques orthodoxes.*' In the second place the Bishops in an interview with the High Commissioner on 6th August, 1920, informed him that they had written to all the Greek Churches denouncing the Patriarch and inviting their intervention to depose him; and in the third place, at unofficial interviews with ourselves, the Bishops have expressed their opinion that the Churches appealed to have authority to impose a sentence of *kathairesis* upon the Patriarch and their anticipation that those Churches will, in fact, do so.

The Jurisdiction of the Churches

52. We have then to ask ourselves this question : these being the charges against the Patriarch, does the Orthodox Church provide authority having jurisdiction to try them? In particular have the Churches appealed to that jurisdiction. This question is of a character so fundamental to our inquiry and involves such a prolonged examination of extensive historical material that we have thought it best to detach it and discuss it as a special thesis. A full examination of this question will be found in Part II of this Report. In this part of our Report it will be sufficient for us to explain our conclusions in summary.

Briefly stated our conclusions are as follows : The constitution of the Orthodox Eastern Church provides no authority empowered to adjudicate upon such questions, as those above enumerated, arising in the autocephalous Churches composing it. We have considered in detail for this purpose the possible claims of—(a) the Oecumenical Patriarch, (b) the Four Patriarchs, (c) the special group of Churches appealed to.

53. (a) *The Oecumenical Patriarch.* The only authority in the Orthodox Eastern Church which ever has intervened in the affairs of the individual Churches has been the Oecumenical Patriarchate. Its interventions have been numerous and important. They have usually taken two shapes : (1) the filling of vacancies, (2) the deposition or *kathairesis* of the

Heads of these Churches or minor dignitaries. But these interventions have not been based on the theory that the Oecumenical Patriarch has any authority to control these other Churches. The only privilege he claimed is a privilege by virtue of his Primacy and of long usage to extend a 'helping hand' and to succour other Churches when in distress. His interventions have proceeded either on the invitation of, or the assumed invitation of, these Churches. They have derived all their force from the acquiescence and acceptance of those other Churches, except in so far as they have proceeded from the orders of the Turkish Government, or have been enforced by a special exercise of the authority of that Government. Every one of these independent Churches, though it has, from time to time, received great benefit from the fraternal assistance thus tendered to it by the Church of Constantinople, has found it necessary in modern times to assert in the most emphatic and unmistakable terms its own absolute independence, and to repudiate the right of the Oecumenical Patriarch to interfere in its internal affairs.

Further it may be noted that not even the Oecumenical Patriarch has ever claimed to take any action in any of these Churches with regard to matters purely of internal administration, or to try or depose the Head of any autocephalous Church on charges relating to matters of this character.

In the fraternal interventions above referred to the Oecumenical Patriarch has always acted in

association with his Synod, and from time to time he has invited the Heads of other autocephalous Churches, who were visiting or residing in Constantinople, to take part in the meetings of his Synod in connexion with the matters in question, but there is no case in which these autocephalous Churches, as Churches, have acted in combination with the Church of Constantinople. On occasions when the Heads of these Churches have so assisted the Oecumenical Patriarch, they have assisted him as individuals, by reason of their personal presence in his See. They have not acted in pursuance of the Synodical authorization of their own Churches. The action taken has always been taken by the Oecumenical Patriarchate by virtue of its Primacy among the Orthodox Eastern Churches.

54. (b) *The Four Patriarchs.* Do then the Four Patriarchs provide a tribunal with the authority desired? The Four Patriarchs, acting in association, are undoubtedly the most venerable and authoritative institution in the Orthodox Eastern Church, but never at any time during the history of the Church have the Four Patriarchs been held to constitute a supreme authority for the determination of the disputes arising in the autocephalous Churches, and on no occasion have three of the Four Patriarchs purported to sit in judgement on the fourth.

55. (c) *The Special Group of Churches appealed to.* It does not appear to us that there is any justification either ecclesiastical, canonical or legal for the selection of this special group of Churches for the present

appeal. This group may be described in two ways, that is to say, either as (1) the three remaining Patriarchates with the addition of two Hellenic Orthodox Churches, namely, those of the Kingdom of Greece and Cyprus, or (2) the Hellenic Churches with the addition of the Patriarchate of Antioch. In either case the combination appears to be without a logical basis. There is no precedent in the history of the Church for any such appeal. Appeals to other Churches are, of course, not unknown. Thus, at the time of the Patriarchal election for the See of Antioch in 1908, the Bishops of that See (other than the three Greek Bishops) addressed an appeal to all the Orthodox Churches against the interference of the Oecumenical Patriarch in the affairs of the Church of Antioch. So also during the Jerusalem Patriarchal crisis in 1908 the Patriarch Damianos threatened to appeal to all the Orthodox Churches against any intervention by the Patriarchs of Constantinople and Alexandria. But these appeals were in the nature of moral protests. They did not invite the Churches appealed to to assume any jurisdiction. There is no historical precedent for any appeal to a group of Churches to assume a jurisdiction with regard to the internal affairs of an autocephalous Church, and in the exercise of that jurisdiction to try, and if necessary, to depose its Ecclesiastical Head.

56. There is one authority and one authority only which might, in conceivable circumstances, have power to try the head of an autocephalous Church, and that is an 'Oecumenical Council' of all the

Orthodox Churches. But such a jurisdiction could only exist within certain definite limits. If the Head of an autocephalous Church propounded a heresy or in his ecclesiastical administration departed from fundamental laws and canons of the Church, or introduced innovations in the immemorial apostolic constitution of the Church, or attempted to destroy and dissolve the spiritual unity of his Church with the other Churches, or assailed the local rights and customs of the other Churches, the autocephalous nature of his Church would afford no protection to him. (See on all these heads Milasch's *Ecclesiastical Law*, Greek translation, pp. 423-4.) In such a case an Oecumenical Synod, if such a Synod could be assembled, would no doubt have jurisdiction to try the offender. But not even an Oecumenical Synod would have jurisdiction to try the Head of an autocephalous Church on questions relating purely to its internal administration or to its national or political policy.

The Theory of a Jurisdiction by Invitation

57. But it remains to examine the contention raised by the Right Reverend Bishops that even though the Churches appealed to may have no right to intervene of their own motion, they may nevertheless do so when invited by the Church, and that the Bishops in the present instance represent the Church of Jerusalem, and are entitled to give such an invitation in the name of the Church, as being the 'whole Hierarchy' of the Church.

58. It is no doubt the case that a Church may lawfully appeal to other Churches to do for it what it is entitled to do for itself. It is also undoubtedly the fact that in ordinary circumstances the whole episcopal body of a Church is entitled to speak for that Church. But the circumstances of the Church of Jerusalem are not ordinary, and we have to ask ourselves the question what is the ecclesiastical and constitutional status of the Right Reverend Bishops who were responsible for this appeal.

59. The status of the Right Reverend Bishops is a special one. None of them are Bishops in the ordinary sense, except in a limited degree the two Metropolitans of Ptolemais and Nazareth. These two are, in fact, responsible for definite Dioceses. But even these two Metropolitans act only as the representatives of the Patriarch and can only ordain Priests and Deacons by his express permission. (See Internal Regulation of 1902, art. 53.) A Bishop, by the very nature of his office, should be engaged in pastoral duties. As his name implies he is an 'overseer' engaged in the oversight of his flock and their clergy. On relinquishing these pastoral duties he retains his episcopal rank without a See, but the fact that a Bishop holds the title of Bishop of a particular See ordinarily implies that he is discharging pastoral duties within that See.

60. But the Bishops of the Church of Jerusalem are titular Bishops only. What then is the status of a titular Bishop? As we understand the position, the status of the titular Bishops of the Church

of Jerusalem corresponds very largely with that of *Chorepiscopi*. The following is Milasch's account of this order of Bishops :

‘ For the purpose of canonical administration in very extensive episcopal districts and, in particular, when the regular Bishop is advanced in years and cannot for this reason supervise and provide for all matters arising in his Episcopate, which belongs to him as its chief, even in the very earliest times of the Church, special Bishops were ordained, who, acting as assistants to the Diocesan Bishops, discharged on their behalf various services belonging to the sphere of the higher administration.’

61. Milasch further explains that though this class of Bishop no longer exists as a special order,

‘ Nevertheless there was preserved in the Church the ancient practice and custom of appointing assistant Bishops where necessity arose. Such Bishops, as representatives of the Diocesan Bishops, by their directions, discharged every service and dealt with every subject which the competent Bishop of the Diocese could not himself attend to. To these Bishops was customarily assigned the title of some Bishopric once illustrious, but for various definite reasons now dissolved, the sphere of which must nevertheless be subject to Orthodox Ecclesiastical authority.’ (Milasch, *Ecclesiastical Law*, Greek translation, pp. 546--7).

62. There are examples of appointments of titular Bishops in the ecclesiastical records we have had occasion to consult for the purpose of our inquiries. See for example the case of Hierotheos who, for the purpose of his promotion to the Patriarchate of Alexandria, was appointed titular Bishop of Libya in

1847. His act of appointment commences as follows :

‘It was customary in the Church from of old canonically to ordain men of worth, distinguished by blameless life, as Bishops, in the name of a Diocese once illustrious, for the edification and organization of the Christian people. Wherefore, need now also having arisen for the ordination of a worthy person under the nominal designation of the once illustrious, most Holy Metropolis of Libya, belonging to the most Holy Patriarchal See of Alexandria, for the sake of the spiritual visitation of the pious and Orthodox Christians who are in this See, we, the resident Bishops, &c.’

63. The Bishops of the See of Jerusalem are thus appointed as assistants of the Patriarch. What then is the nature of the assistance which they render to him? This is clearly defined. They are the Patriarch’s assistants for the purpose of religious ceremonies. This has been stated to us by the Patriarch in a memorandum submitted to us. It is confirmed by Archimandrite Kallistos who in another memorandum (See Appendix E) observes: ‘Select members of the Brotherhood are ordained as Bishops for the ceremonial requirements which the historical and sacred nature of the Holy Places involves.’¹

64. The status of these Bishops was discussed at the time of the troubles arising out of the demands of the laity in 1908, and the following is an extract from an official memorandum communicated to the

¹ Cf. Metaxakes, *Les Exigences*, &c.: ‘Les évêques titulaires de ces diocèses n’existent que pour les besoins liturgiques et administratifs des sanctuaires.’

Turkish Government by the Patriarchal Delegation in Constantinople :

‘The Patriarchate of Jerusalem always has a given number of Bishops by reason of its manifold religious requirements, but no Bishop in the actual discharge of episcopal functions as is the custom of the Patriarchate of Constantinople. For this reason to no Bishop of the Patriarchate of Jerusalem has an Imperial *Berat* ever been issued. The whole direction of the slender Orthodox flock of Palestine has belonged from of old, according to the Imperial *Berats*, to the Patriarch for the time being and his Synod.’

Acting on this assurance the Turkish Government gave the following reply to the local demands under this head :

‘The Patriarchate has declared that the Metropolitans¹ subject to the Throne of Jerusalem are not equivalent to the Metropolitans of other Patriarchates, and that the status of these Metropolitans, inasmuch as they are not provided with *Berats* and do not receive stipends from the inhabitants, is, so to speak, nominal.’²

65. If further proof is needed on this point it may be found in the very draft ‘Internal Regulations’,

¹ This is no doubt a mistake for Bishops.

² We may add that the constitution of the Churches of Antioch and Cyprus both provide for titular Bishops. In the Church of Antioch titular Bishops attend the meetings of the Synod and may speak but not vote. In the Church of Cyprus they may be summoned for the purpose of making up a quorum where the Episcopate is reduced by vacancies or illness. Titular Bishops also exist in the Church of Constantinople. (See Young. vol. ii, p. 32, art. 11 ; but art. 9 on p. 26 would seem to suggest that they are not eligible for membership of the Synod.)

recently drawn up in Athens, which were the immediate cause of the present breach. The existing regulations, arts. 47-54, though they draw a distinction between Bishops charged with the oversight of the flock and 'Bishops remaining in the Sacred Monastery', do not specially emphasize the distinction. The new Regulations are, however, much more explicit. Art. 77 is as follows :

'For the pastoral care of the Ecclesiastical Dioceses of the Patriarchal See of Jerusalem and for the performance of the episcopal liturgical ceremonies in the Holy Shrines and generally of the episcopal administrative services of the Holy Community, there are appointed Bishops, *two for the pastoral care of the laity and eight for the liturgical services of the Shrines.*'

66. It is clear then that these Right Reverend Bishops, being appointed as the assistants of the Patriarch, two for pastoral purposes and the rest for liturgical services under an honorary designation only, do not occupy the same position as an ordinary Episcopal Hierarchy, and have not the same claim to speak for the Church as a whole. Nor are they, in theory or in fact, the governing body of the Church of Jerusalem. The real situation is that the members of the Holy Synod, whether Bishops or Archimandrites, are alike monks, being resident members of the Fraternity of the Holy Sepulchre. As members of the Holy Synod they have the same synodical status. The Synod is divided, seven members supporting the Patriarch and nine opposing him. We are unable to see that in these circumstances

the seven Episcopal members of this party of nine, in spite of their venerable office, are entitled to speak either for the governing body of the Church or for the Church as a whole. We are unable to see, therefore, that such an invitation proceeding only from a section of the Church can give to the Churches appealed to a jurisdiction which they do not inherently possess.¹

The Jurisdiction of the Synod itself

67. There being no authority external to the Church of Jerusalem which is competent to adjudicate upon the dispute between the Patriarch and the majority of the Synod, we think it right further to consider whether the Synod is itself the competent authority for this purpose. It has been repeatedly asserted in communications to Government that the deposition of 1908 was canonically regular and in view of this contention the Government might find itself confronted with a repetition of that proceeding. It is important, therefore, that the position should be defined. With regard to the deposition of 1908, very little need be said. It was not finally recognized by the Turkish Government and it may be questioned whether it was formally completed as there is no fully executed Synodical act in the

¹ With regard to the other elements of the Church, the Patriarch claims that he is supported by a majority of the Brotherhood. The Bishops make a similar claim. With regard to the parochial clergy and the laity there seems no question that their sympathies are with the Patriarch.

official codex. By the formal representations which the Church of Jerusalem made to Constantinople (see Appendix, paras. 24–8), and by its resolution of 1919 (see para. 30 above), the Synod must be taken to have annulled whatever force the deposition may originally be supposed to have. Even if the Synod had power to depose, the canonical conditions were not observed. No charge was made; no trial was held; the case proceeded in the absence of the Patriarch without the canonical warnings required by the 74th Canon of the Apostolic Constitutions. The doctrine put forward in an article in the *Ekklesiastikos Pharos* (see Appendix C, para. 20) that the deposition of a Patriarch, not accompanied by *kathairesis*, is a mere administrative act not requiring a formal charge or trial and consequently not within the Canon referred to, is not supported by any authority. In any case no British Government would, after a lapse of ten years, contemplate the recognition of a deposition so carried out.

68. The general question still remains whether the Synod of Jerusalem, if regular proceedings are taken, is canonically competent to depose the Patriarch. For this purpose an historical examination of the canonical character of the Patriarchal Synod is necessary.

The Ancient Canonical 'Patriarchal Synod'

69. The convocation of Synods was a feature of the government of the Church from the earliest times. Sakellaropoulos (p. 219) quotes a passage

from Eusebius's *Life of Constantine* to the effect that 'large problems could not be resolved otherwise than by means of Synods', and further passages from Tertullian (p. 220), which state that Synods were first constituted in Greece. The Synod in the early Church had three forms. There was *first* the 'Oecumenical Synod' (or as it is known in the West, the 'General Council'), in which the whole Church was represented; *secondly*, the 'Patriarchal Synod', where the Patriarch presided over all the Metropolitans of his Patriarchate; and, *thirdly*, the 'Metropolitan Synod', where the Metropolitan presided over all the Bishops of his province.

70. The authority for the constitution of the 'Patriarchal Synod' is to be found in the second canon of the Second Oecumenical Synod, which, after referring to the sixth canon of the First Oecumenical Synod (that of Nicaea), which had formally recognized the then four existing Patriarchates, continues:

·The aforesaid Canon with regard to Dioceses being observed, it is manifest that the affairs of each Province should be governed by the Synod of the Province in accordance with the things ordered at Nicaea.'

The words *Diocese* and *Province* are here used as equivalents for the areas subject to the respective Patriarchs.

71. As indicated above the Patriarchal Synod consisted of all the Metropolitans of the Patriarchate presided over by the Patriarch. (See Sakellaropoulos,

p. 224, and Metaxakes, p. 450.) By express enactments of the Byzantine Empire it was declared that: 'Once or twice a year, in June or September, there should be a Synod of the Metropolitans under the presidency of the Patriarch'. (See Sakellaropoulos, p. 224, and Milasch, p. 450.) Sakellaropoulos further says: 'The authority which the Patriarch has over the whole territorial sphere of his Patriarchate he cannot exercise alone and according to his own will, but only subject to the opinion and decision of his Synod. The Patriarch is President of the Synod; he has the right to convoke it, he directs its operations and dissolves it, but without a decision of the Synod he is not justified in taking any action. So that the authority of the Patriarch over the whole Patriarchal sphere is nothing else than the same authority which the Synod has and exercises and which, in the name and on the decision of the Synod, the Patriarch puts into execution.' No authority is cited for this proposition. It appears to be referred to as an accepted principle of ecclesiastical law. It also appears that the Patriarchal Synod could annul any formal act of a nature to require synodical confirmation which was taken without its consent. (See Sakellaropoulos, p. 191, where an instance is cited of such a proceeding from the records of the Patriarchate of Constantinople.)

72. There appears to be no doubt that if a Patriarch commits a canonical offence he is justiciable before his own Synod. (See Milasch, p. 459.) The problem was specifically put before the Four

Patriarchs by the Church of Russia in 1673, when the deposition of the Patriarch Nikon by his own Synod was in contemplation. The twenty-first question submitted to the Four Patriarchs was whether a Metropolitan or a Patriarch was responsible to the jurisdiction of his own Bishops in a case in which all his Bishops had been consecrated by him so that he might be considered as their father and they his children. The answer given by the Four Patriarchs was in the affirmative. They replied that from the point of view of ordination and rank the Patriarch is the father of his Bishops, but that from the point of view of the episcopal office they were all brothers and fellow-Bishops, so that there was no room for the observation that the Bishops who were ordained by him could not judge and pass legal sentence upon him.

Development of the continuous Governing Synod

73. As explained above, the ancient Patriarchal Synod was only called upon to meet once or twice a year. On such occasions the Synod was no doubt consulted by the Patriarch on all matters of importance which had arisen in the interval since the previous meeting. But in the course of time the Patriarchal Synod, more especially in the Church of Constantinople, assumed a different character, that of a residential and continuous consultative and governing body. The practice arose, even in the early centuries of the Church, of the Patriarch of Constantinople sitting in Synod with the Metro-

politans who were for the time being residing in the capital City (see Part II of this Report, para. 18). Milasch says (p. 450), that when the Patriarchal Synod in the course of time became a permanent and continuous body it assembled twice a week except during the summer months. It is no doubt with reference to a Synod which has attained this stage of development and, more particularly, with reference to the Church of Constantinople that the above observation of Sakellaropoulos as to the dependence of the Patriarch upon his Synod must be understood.

74. It is not easy to see how the Bishops attached to such a Synod reconciled their position with their canonical duty to reside in their dioceses. One of the expedients of the Turkish Government for dealing with ecclesiastical difficulties in the capital was to order the Bishops to return to their Dioceses. See for example the case of the election of Daniel, Patriarch of Antioch, in 1766. Only one Metropolitan and five ex-Metropolitans signed the act of appointment. Twelve other Metropolitans subsequently signed a document that they had been ordered by Royal Decree to return to their Dioceses. They were not able to take part in the meetings of the Synod but they authorized the Oecumenical Patriarch to appoint any one as to whose fitness he should receive divine enlightenment. (See *Delikane*, vol. ii, p. 214.)

75. The system of the governing Synod was no doubt fully established when Peter the Great in 1721

abolished the Patriarchate of Moscow and submitted a continuously sitting Synod as the governing body of the Russian Church. This Russian Synod with a representative of the Government always present at its meetings became the model for the constitutions of the subsequently established autocephalous Churches of Hellas, Rumania, and Serbia.

Codification of the Constitutional Law of the Church

76. After the Crimean War there was a very important development. The Turkish Government decided that the Constitutional Law of the Church should be codified. In 1856 it issued the famous Khatt-i-Humayun, which was at the time regarded as a sort of great charter for the Christian and other non-Mussulman religious communities. It appeared throughout inspired by the most enlightened principles of Western liberalism. Art. 3 of this decree was as follows :

‘Every Christian or other non-Mussulman community shall be required, within a prescribed time and with the assistance of a Commission formed, *ad hoc*, within the community, to proceed with my high approbation and under the supervision of my Sublime Porte to the examination of its immunities and privileges actually in force, and to discuss and submit to my Sublime Porte the reforms demanded by the progress and enlightenment of the times. The powers conceded to the Patriarchs and to the Bishops of Christian rites by the Sultan Mohammed II and his successors shall be put in harmony with the

new status which my generous and benevolent intentions guarantee to these communities. The principle of the nomination of Patriarchs for life, after the revision of the Regulations with regard to their election now in force, shall be strictly applied, in conformity with the tenor of their firmans of investiture.'

77. In accordance with this decree a 'National Assembly' was held in Constantinople in April, 1857, composed of seven Metropolitans and twenty-one lay representatives. The Patriarchs of Alexandria, Antioch, and Jerusalem, and the Archbishop of Cyprus were summoned subsequently to attend this Council. (See Delikane, vol. ii, p. 138, and Metaxakes, p. 21.) As the result of these deliberations a regular constitution for the Oecumenical Patriarchate was drawn up and passed into law by a series of Imperial enactments (see Young's *Corps de Droit Ottoman*, vol. ii, pp. 12-34). The ecclesiastical members of the Assembly opposed the recognition of the rights of the laity, which is a striking feature of these enactments, but the Porte overruled these objections and carried them into law.

78. This legislation regulated the relations between the Patriarch and his Synod and the election and the deposition of the Patriarch, and also set up a Mixed Council consisting of four Archbishops and eight laymen, which was charged with the care of schools, hospitals, and similar establishments, as well as all charitable endowments belonging to the 'Nation'.

79. No trouble was taken to draw up similar con-

stitutions for the other Patriarchates or for the Church of Cyprus. So little did the Porte realize or respect the autocephalous character of these Churches that it directed that their representatives should be summoned to the general National Assembly; and Cyprus was even scheduled as an electoral district for the purpose of the election of the Oecumenical Patriarch.

80. It is interesting to note the provisions enacted for the election and deposition of an Oecumenical Patriarch. As to election, an Electoral Assembly is constituted, composed of all members of the Holy Synod and the Metropolitan of Heraclea and of a very comprehensive lay element, consisting not only of the lay members of the Mixed Council but also of several notables and representatives of the learned and commercial classes and twenty-eight delegates from electoral districts. The lay element thus strongly preponderates. This Assembly draws up a list of candidates which is submitted to the Porte for the elimination of the name of any person who, for political reasons, is not a *persona grata*. The Electoral Assembly then elects three persons from this revised list, and the ecclesiastical members of the Assembly, in the presence of all the lay members and after an invocation of the Holy Spirit, choose one of these three as Patriarch. The person elected then waits upon the Sultan and receives from him his *Berat* (see Young, ii, p. 29).

81. With regard to the deposition of the Oecumenical Patriarch, the law is as follows:

‘If the Patriarch neglects his spiritual duties and if he obstinately continues in his line of conduct after two notifications are made to him by the Holy Synod, a third notification shall be addressed to him by the said Synod, acting in cooperation with the Mixed Council. If he refuses to conform the two bodies shall then demand his removal from office from the Sublime Porte. If he neglects his civil duties it will be the Mixed Council which will take up the matter and thereafter the procedure shall be as in the case aforesaid. Two-thirds of each body must be in agreement to justify the removal of a Patriarch from office.’

82. Similar regulations were in due course drawn up for other religious communities. See for example the constitution of the Gregorian Armenian Community (Young, *ibid.*, pp. 29-92). Here also provision is made for the dismissal of the Patriarch. Similarly in the regulations for the Jewish Community special provision is made for the deposition of the Grand Rabbi (see Young, *ibid.*, p. 150, Art. 12). It may also be noted that the form of *Berat* issued to the Oecumenical Patriarch subsequent to the Khatt-i-Humayun now makes express provision for the deposition of the Oecumenical Patriarch. The terms of this provision are as follows :

‘The aforesaid Patriarch shall not be deposed within the limits of his life-time, so long as there shall not have occurred any proceeding on his part contrary to the religious rules of the people whose Patriarch he is and to the established regulations of

any act of treason against high Government.' (See Sakellaropoulos, p. 192.)¹

83. No such constitution was at the time drawn up for the Patriarchate of Jerusalem. If such a constitution had been drawn up it seems highly probable that the Porte would have insisted on some recognition of the laity, such as was required in the case of the Oecumenical Patriarchate.²

84. In 1875, however, such a Constitution was enacted in the following circumstances: The Patriarch Cyril (1856-72) was the first Patriarch, who for many centuries took up his permanent residence in Jerusalem. Papadopoulos (p. 707) observes: 'From this point there arises the very serious question of the relations of the Brotherhood with the Patriarch.' It appears that this Patriarch

¹ There is no such provision in the *Berat* of the Patriarch of Jerusalem.

² In the Patriarchate of Antioch no such regulations were drawn up until the year 1900 and these were first applied in the *Communications de la Société Impériale Russe de Palestine*, 1906, and may be found in *Échos d'Orient* for that year, pp. 178-236. Art. 9 provides very fully for the deposition of a Patriarch. If the Patriarch contravenes his spiritual duties and does not accept the respectful observations twice made to him by the Patriarchal Synod, the Synod calls together the permanent Mixed Council and presents respectful observations a third time. If the Patriarch still continues obstinate it calls in all the Metropolitans to join in further remonstrances. The Patriarch is then notified that his case will be under consideration, and if he takes no action a decision is given and notified to the Patriarch and to the Porte. The same procedure takes place if the Patriarch fails in his duty in matters of public administration or other non-religious matters. A majority of two-thirds is necessary for the deposition of a Patriarch.

was a person of very commanding character and that his relations with the Fraternity were, on more than one occasion, very strained. In 1872 he came definitely into conflict with the majority of the Fraternity with regard to the Bulgarian question. He declined to participate in the declaration of schism and heresy, pronounced by the 'Local Synod' which assembled in Constantinople against the Bulgarian Church. A Synod was convoked in Jerusalem and, after various warnings, called upon the Patriarch either to conform to the resolution of the Constantinople Synod or to resign his See. As the Patriarch took neither course, they passed a resolution purporting to depose him. (See Papadopoulos, pp. 762-3.) 'We are reduced to the grievous and unwelcome necessity of dissolving our oath of subjection and obedience towards him and of cutting off henceforth every relation and communion with him, neither celebrating or co-operating with him, nor accepting him as our lawful leader and canonical shepherd and leader.'

85. The Patriarch denied the competency of his Synod to depose him and continued to act as Patriarch. Popular demonstrations and disturbances took place, as in the case of deposition of the present Patriarch in 1908, and the members of the Brotherhood were besieged in the Monastery. But on this occasion the Turkish Government intervened, conducted the Patriarch to Jaffa and shipped him to Constantinople. He continued to dispute the validity of his deposition and hoped, with the support of Russia, to regain his position. The

Russian Church continued to commemorate him in its prayers. In 1875 the death of the ex-Patriarch put an end to this question. It may be mentioned incidentally that in the previous year, 1874, the aggrieved Arabic-speaking laity, by a petition to the Oecumenical Patriarch, had invited his arbitration with a view to the satisfaction of their demands.

86. It was in these circumstances that the task of framing a constitution for the Patriarchate of Jerusalem was taken in hand. The Patriarch Procopios had resigned owing to troubles with his Synod. With a view to a new election regulations were hurriedly drafted and their approval is said to have been obtained from Constantinople by telegram (see Papadopoulos, p. 767). We have been informed that the haste thus exhibited was due to apprehensions of the intervention of Russia.

87. These Regulations (chap. ii, art. 11) provide for the election of the Patriarch. The Electoral Assembly is composed in the first place of the Metropolitans and Bishops subject to the Patriarchal See, together with representatives of the married Parochial Clergy from each Diocese as representatives of the inhabitants (Art. 5).¹ At the first meeting this Assembly draws up a list of candidates. This

¹ Owing to the haste with which these Regulations were drafted it was not made clear that these lay members were entitled to take part in the preliminary selection of the candidates. This defect had to be corrected by a subsequent telegram which is treated as a supplement to the sixth Article. (See *Official Documents*, p. 51. See also answer to fourth demand of local laity, *ibid.*, p. 61, and Appendix C, para. 33.)

list is submitted to the Turkish Government for the elimination of undesirable names (Art. 8). The second meeting is then held (Art. 9), consisting of the Synod, all the remaining Archimandrites resident in Jerusalem, the *Protosynkelloi*, Parochial Clergy elected for the various districts and two of the Parochial Clergy elected by the Christians of Jerusalem. This Assembly chooses three candidates and thereupon the Synod elects as Patriarch one of these.¹

Absence of any Express Provision for the Deposition of the Patriarch of Jerusalem

88. No provision is made whatever for the deposition of a Patriarch. It is suggested in an Article in the *Ekklesiastikos Pharos* (referred to in Part II of this Report) that this omission was an oversight and that the Turkish authorities assumed that the Synod as the electing authority would also be the deposing authority. It seems to us quite impossible to accept this supposition. In the circumstances of the time, as above recounted, this omission must have been

¹ It will thus be observed that the laity participates through its representatives the Parochial Clergy in both meetings leading up to the selection of the three final candidates. The extent of the influence exercised by the laity has been greatly diminished by subsequent developments. It will be observed that all the Archimandrites participate in this election of these three candidates. We are informed that at that time the Archimandrites numbered only about seven or eight. They now number forty-four. The votes of the representatives of the laity consequently have but little weight.

deliberate. It is impossible, in view of the troubles attendant on the deposition of the Patriarch Cyril and the continued ferment of the local population, that the question of the procedure to be adopted for the deposition of a Patriarch should not have presented itself forcibly to the minds of those engaged upon the draft Regulations. The conclusion appears to be that the question was put aside as too difficult and too controversial to touch.

89. In 1902 the Synod adopted a set of 'Internal Regulations' entitled 'Regulations of the Sacred Community of the Holy Sepulchre'. These purport in various places to be made in explanation of the Imperial Regulations of 1875. Art. 24 refers to the deposition of the Patriarch, and is in the following terms:

'The Patriarch once appointed continues in the Patriarchal office for life . . . and no circumstances or cause is considered as a reasonable and just motive for the deposition of the Patriarch, except those indicated by ecclesiastical law, *among which is understood to be the obstinate and systematic disregard of his duties, as prescribed by these Regulations.*'

In so far as it suggests that a Patriarch may be deposed for the disregard of the Regulations in question, the Article is *ultra vires*, being inconsistent with Art. 3 of the Khatt-i-Humayun (see par. 73 above) and the Regulations of 1875, which, as we have seen, have studiously omitted all reference to the deposition of a Patriarch. The Article was, however, never communicated to the Turkish

Government and has never been accepted by that Government as having the force of law. Moreover the Article says nothing as to who is the deposing authority, or as to the procedure to be adopted in such a case.

90. The question of the procedure for the deposition of a Patriarch also arose in connexion with the troubles of 1908 (see Appendix C, para. 33). The local laity then asked the Turkish Government to rule that the Patriarch should be 'deposable only for a just cause and that the opinion and approval of representatives of the laity and of the local priesthood should be required both for the election and the deposition of a Patriarch'. The Porte declined to take up this difficult question, observing :

' On account of the peculiar importance of the Patriarchal See, the alteration of the state of affairs, that is to say, the determination of the unity of the body on which shall be conferred the right of deposing the Patriarch or of continuing him in office, appears to be entirely inexpedient.'

Has the Synod an Inherent Power of Deposition?

91. As there is no express enactment relating to the deposition of the Patriarch of Jerusalem, let us consider whether such a provision may be considered to exist by implication, either from the nature of things or from the law of the Church.

92. We observe that it is frequently insisted by the Bishops and those who support them that, inasmuch as the Synod elects the Patriarch, it must

have unrestricted power to depose him. But this is by no means a self-evident proposition, nor is it one which has received universal ecclesiastical recognition. This very same proposition was put forward by the Monks of Sinai to the Oecumenical Patriarch when they purported to depose their Superior, the Archbishop of Sinai, in 1869. The Oecumenical Patriarch and his Synod entirely rejected the proposition.

And in the second place it was synodically observed that, even if these accusations are assumed to be true, the right put forward by the Brotherhood of the Fathers (of Sinai) to depose, by themselves and without appeal, their own Archbishop is not supported in any sacred canon whatever, nor has it any precedent in ecclesiastical history. Nor is it recognised by any civil law that plaintiffs can constitute themselves both judges and executors of their decisions. . . . Even though this Holy Monastery, as regards its internal administration, is independent and uncontrolled (for which reason the Brotherhood elects its own Archbishop), it by no means follows from this that it has acquired the unappealable right to depose him, inasmuch as from the ecclesiastical point of view he has been invested by a higher spiritual authority with the dignity of Archbishop, and from the civil point of view his election has been acknowledged and ratified by the supreme Government.' (*Canonical Right of the Patriarchal Throne of Jerusalem over the Archbishopric of Sinai*, p. 208.)

93. But quite apart from these considerations there is a flaw in the argument. The Synod is not the only electing body. It makes the final selection but

the laity, through their representatives the clergy, participate in the earlier stages of the election. It may be questioned, therefore, whether, at least in all matters in which the laity may be supposed to have an interest, the deposing authority ought not to include its representatives. It will have been observed that this principle is recognized in the Patriarchates of Constantinople and Antioch.¹

94. It appears, therefore, that the Constitution of the Church of Jerusalem, as settled by law, makes no provision for the deposition of the Patriarch, and that the Synod has no implied right of deposition from the terms of that Constitution, or from the circumstances of the case. It remains to consider whether according to ecclesiastical law the Synod is a body which may be regarded as having the canonical right to depose its Patriarchal Head.

*The Law of the Church as to the Deposition
of a Patriarch*

95. Before expressing an opinion on this point it will be convenient first to consider a parallel question, namely, what is the law of the Church as to the deposition of a Patriarch? It is surprising how largely the records of the depositions of Patriarchs

¹ It is not recognized in the Church of Cyprus. (See *Katastatikon*, Art. 46.) The Synod, which is composed of episcopal members only, tries charges against any of its members. For the dismissal of a Bishop (including an Archbishop) a unanimous verdict is required and an appeal lies to the special Court referred to above. See footnote to para. 38.

and other ecclesiastical dignitaries bulk in the history of the Orthodox Eastern Church. It is a question with which the Western Church seems to have had little occasion to concern itself. But these depositions have always been conspicuous and continuous episodes in the history of the Eastern Church. The Canons of the seven Occumenical Councils themselves contain numerous provisions relating to the deposition and *kathairesis* of Bishops. The records of the Churches of Alexandria, Antioch, and Cyprus, which are referred to in Part II of this Report, are full of examples of the deposition of the Heads of these Churches. With regard to the Patriarchate of Constantinople, out of three hundred and twenty-eight vacancies between A.D. 36 and A.D. 1834 no less than one hundred and forty were caused by deposition. The famous Patriarch Cyril Lucar, was deposed six times, and other Patriarchs, such as Dionysios IV, had five tenures of office. During the seventy-five years from 1625 to 1700 there were fifty Patriarchs, an average of eighteen months each.

96. It might be thought that this wealth of material would have established the law as to the deposition of Patriarchs upon a clear basis, but this is not the case. Most of these depositions were acts of despotic governments, firstly of the Byzantine and secondly of the Turkish Government. Many of them, however, were synodical acts. It is singular, then, that there is practically nothing definite to be found in the text-books on ecclesiastical law with regard to the principles governing the deposition of Patriarchs.

The comment of Sakellaropoulos is as follows :

‘In the sources of ecclesiastical law there are not to be found any special cases in which a Patriarch is liable to deposition, and very rightly, because inasmuch as the Patriarch ought to be the “living image of Christ and through his words and deeds manifesting and portraying the truth in himself” (see the “Epanagoge” of the Emperor Basil, cited in Part II of this report, para. 24) it was thought superfluous that there should be any consideration of anything to the contrary of this, nor was it possible from former precedents that it should be supposed that the person elected as of this character should disappoint the expectations of those electing him ; particularly as the Patriarch in that capacity is not justified in carrying out any proceeding without the concurrence of his Synod, because, in the contrary case, the Synod is entitled to annul it, and, indeed, the proceeding is *ipso facto* null. There remains then nothing but simply neglect of his duties, either as Bishop or as Patriarch.’

97. It is clear, therefore, that so far as the deposition (*parsis*) of a Patriarch is concerned there is no settled ecclesiastical law. With regard to the *kathairesis* of a Patriarch this can take place only for a canonical offence, and the Patriarch is in exactly the same position as an ordinary Bishop. For this purpose he must be tried, according to the canons, by not less than twelve Bishops, but it would appear from the fifteenth canon of the Council of Antioch that it is sufficient if a Bishop is unanimously condemned by all his comprovincial Bishops (see on this point Hackett, *History of the Orthodox Church of Cyprus*, p. 54, and Delikane, vol. ii, pp. 585–6)

even though they are less in number than twelve.¹ It is presumed that the same rule would apply to the case of a Patriarch condemned by the unanimous vote of his Metropolitans. It has been explained above that a Patriarch is amenable to the jurisdiction of the Metropolitans constituting his own canonical Patriarchal Synod.

*Resumption of the Question whether the Synod has
an Inherent Right of Deposition*

98. We are now prepared to discuss the question indicated above, whether apart from any Imperial regulations the Synod of the Church of Jerusalem has the canonical right to depose its Patriarchal Head on the charges enumerated above in para. 45. It appears to us that the answer to this question must clearly be in the negative.

99. The Synod of the Church of Jerusalem is not a canonical Synod. It is not an assemblage of all the Metropolitans in charge of the various Dioceses of the Patriarchal area, but consists in the first place of Suffragan Bishops, appointed, two of them to assist the Patriarch in the pastoral care of two of the ancient Dioceses of his Patriarchate, and the remainder to assist him for the purpose of the liturgical ceremonies of the Holy Shrines, and in

¹ It is doubtless in reliance on this principle that in the *Katastatikon* of the Church of Cyprus (Art. 14) it is provided that a Bishop of the Church of Cyprus may be tried by the Episcopal Synod, which consists of four members only, including the Archbishop.

the second place, of nine monasterial officers of the grade of Archimandrite. It is difficult to see how the principles of the canon law with reference to the canonical Patriarchal Synod can be considered as applicable to a Synod of this special character. This Synod is a growth of local custom, confirmed by the special legislation of 1875; and in the circumstances its powers must be sought for in that legislation.

100. Nor do we think that there is any local custom sufficiently established which might be regarded as supplementing that legislation, and therefore entitled to the recognition of the Government. There is one case only (so far as we are aware) in which such a Synod has carried out an act of deposition. That is the case of the deposition of the Archbishop of Sinai in 1869. The Synod convoked by the Patriarch Cyril for that case consisted of his titular Metropolitans and Archbishops, together with various Archimandrites of the Brotherhood. The Synod which deposed the Patriarch Cyril does not appear to have been a Synod of this character. That Patriarch was deposed by a Synod consisting only of the Archbishops of Gaza, Lydda, Neapolis, the Jordan, Mt. Tabor and Tiberias. (See Papadopoulos, p. 762.) There is, therefore, no established local practice in the matter.

101. But even if the Synod of the Church were a canonical Synod, or even if there was a local custom relating to the deposition of its Patriarch, which might seem to be entitled to recognition as though

it were a canonical right, we are unable to see how it can possibly be contended that such a right could be exercised with regard to the charges now under consideration. These charges are really administrative criticisms. They are not charges of canonical offences. No attempt has been made to frame them as charges of that character. Both in the *Katastatikon* of the Church of Cyprus and in the new draft Internal Regulations propounded for the Church of Jerusalem by the Athenian Committee it is declared that all judicial decisions shall be reasoned decisions justified by reference to the Sacred Canons or to the Articles of the Law or Regulations on which they are based. (See Cyprus *Katastatikon*, Art. 12 ; Draft Internal Regulations, Art 59.) The present charges, however, make no reference to the breach in any particular canon, and it could only be by the exercise of some ingenuity that any charge, or any part of any charge, could be connected with any canon of any of the Oecumenical Synods.

102. It appears, therefore, that neither within nor without the Church of Jerusalem is there any authority which is empowered by the law of the Church to adjudicate upon the dispute now existing between the Patriarch and the majority of his Synod, or to depose him in pursuance of such an adjudication.

103. We think it right to add that, in our opinion, the omission to which attention is thus directed is a question which should be definitely faced. The Turkish Government had hitherto avoided dealing with it, but if it continues to be neglected it will be

a fruitful source of trouble for the local administration. The administrative atmosphere of the Orthodox Eastern Church, in the countries in this part of the world, is of a very democratic character. Patriarchal crises are a standing feature of the life of the Church. Ever since the return of the Patriarch Cyril to Jerusalem there have been constant troubles between the Patriarch and his Synod. The Patriarchs Procopios and Nikodemos were forced by their Synods to resign, the former in 1875 and the latter in 1890. We are informed that two other Patriarchs in the same period, Hierotheos and Gerasimos, would have probably succumbed to a similar fate had not death overtaken them. References will be found to the long Patriarchal crisis in the See of Alexandria in Part II of this Report, para 49. The prolonged crisis in the Church of Cyprus which terminated in 1909 indicates the obstinate nature of these questions when they arise.

104. The recent history of the Church of Constantinople has been full of such troubles. Here the question of Patriarchal depositions is regulated by an organic law, but even this does not prevent Patriarchal crises. To take two recent examples: in 1901 twelve Metropolitans of the Synod and six laymen in the Mixed Council demanded the resignation of the Patriarch Constantine V. A prolonged crisis took place and the Turkish Government actively intervened. All the Metropolitans of the Synod, except four, boycotted the Patriarch and refused to celebrate with him. The Synod refused

to sit under him and he was forced to resign. (See Fortescue, *Orthodox Eastern Church*, p. 344.) Similarly in 1905 nine Metropolitans, not being satisfied with the conduct by the Patriarch, Joachim III, of a controversy then proceeding with the Turkish Government, purported to depose him, and telegraphed to several of the Orthodox Churches that the Patriarchal See was vacant. A prolonged crisis took place, which was terminated by the Government refusing to recognize the attempted deposition. Official admonitions were addressed to both sides, and finally, as is usual in such cases, after the decisive action of the Government (usually described as a *lysis*) there took place the customary compromise (*symbibasmos*).

105. While, therefore, a statutory regulation of the question of the deposition of the Patriarch of Jerusalem will not necessarily free the local Government from future trouble in the matter, it would, at least, provide a standard with reference to which future crises could be considered. It seems to us, therefore, most desirable that when the revision of the Imperial Regulations of 1875 is taken in hand, a task which appears to be inevitable in the near future, the question of Patriarchal depositions should be dealt with.

*The Restoration of Order in the Affairs of the
Patriarchate*

106. In view of the opinion which we have expressed above it is necessary that we should

address ourselves to the further problem propounded in our terms of reference, namely, what action should be taken by the Government of Palestine with a view to the immediate re-establishment of order in the affairs of the Patriarchate. For this reason we must examine the reason for the breach between the Patriarch and the majority of his Synod.

107. The main grievance of the Right Reverend Bishops against the Patriarch appears to be a constitutional one. They have repeatedly complained that the Patriarch is arbitrary and autocratic in his system of administration ; that he does not respect the decision of the majority, that he claims the right to act without consulting the Synod ; that though the Synod has attempted to regulate the matter by passing the Internal Regulations of 1902, and though he himself signed these regulations, he in practice ignores them ; they assert that they have repeatedly remonstrated with the Patriarch and they have more than once returned to co-operation with him in the hope that he would amend his policy ; and that after prolonged experience they find it impossible to work with him. We are, unfortunately, not in a position to give a reasoned finding on these complaints inasmuch as the Right Reverend Bishops, though they freely expressed these views to us in personal conversations, did not feel justified in giving us particulars which would have enabled us to examine the question in detail.

108. On the other side the Chief Secretary of the Patriarchate, the Very Rev. Archimandrite Timo-

theos, insists that, until the recent trouble about the Greek Loan and the rules drafted in Athens, the Patriarch has always worked in continuous harmony with his Synod :

‘With regard to the sentence in the final letter of the Bishops in which they protest against the arbitrary and despotic administration of the Patriarch, this observation is based simply upon the action of the Patriarch with reference to the loan and the Regulations. Up to this point the meetings of the Synod had always been harmonious. We have had over nine hundred meetings of the Synod, the Minutes of which are at your disposal. It will not be possible to find any case in which the Patriarch has acted arbitrarily and contrary to the advice of the Synod. The only case I know of is the present one, and, in view of the importance of the matters in question, I think the Patriarch is justified. The Patriarch was aware that if the views of the Bishops were accepted the Patriarch would be brought into conflict with the British Government. I am not aware of any other occasion on which the Patriarch has disregarded the advice of the majority. I invite the Bishops to point to any instance in which the Patriarch has ignored a majority vote of the Synod.’

109. These observations of the Chief Secretary, unless they are disproved, are entitled to carry very great weight. It is impossible, on the other hand, not to be struck with the persistency of these complaints against the Patriarch. They were one of the grounds of his attempted deposition in 1908. (See appendix C, para. 11.) They were the chief burden of the

memorandum drawn up on the recommendation of the Greek Consul-General in 1908; and they are insisted upon specifically and with emphasis in the official protest addressed to the Patriarch by the Bishops on 28th June, 1920 (see para. 43 above). In addition to this, the Patriarch, in addressing the Government, has put forward the theory that the Synod is, in fact, merely an Advisory Council (see his letter to the Governor of Jerusalem of September, 1920, where he says: 'In addition, according to the express provisions of the 3rd Article of the Imperial Regulations, the function of the members of the Synod is rather an advisory one,') and he appears to have expressed the same opinion to the Bishops themselves. Further, in a recent number of *Nea Sion* (vol. 15, p. 285) there was published an article on the 'Administrative System of the Church of Jerusalem', written by a member of the Brotherhood who supports the Patriarch, the thesis of which was that the Regulations of 1875 gave a monarchical authority to the Patriarch and that the functions of the Synod are advisory only. With regard to the Patriarch's alleged non-observance of the Internal Regulations of 1902, we formed a strong impression, at a personal interview with the Patriarch, that he resented these Regulations, that he considered them as temporary and provisional only, and that he did not regard them as binding upon him.¹

¹ The Patriarch's point with regard to these Regulations appears to be this: Article 76 declares that no amendment or review of the Regulations shall be allowed till after the lapse of a

110. There thus appear to be two complaints against the Patriarch, one general, the other specific. The first complaint is that he has an autocratic habit of administration ; the second complaint relates to the particular matter which caused the final breach. With regard to the first of these complaints, we do not feel that we are under any obligation to express an opinion, nor have we the material which would enable us to do so with effect. We would only observe that in this connexion it must be borne in mind that the Patriarch is not only the constitutional head of a Church, but also the ruler of a monastery. For the latter capacity he must require a certain measure of personal authority. It is with the second and specific question that we are primarily concerned. For this purpose it is necessary to get a clear idea as to what was actually at issue between the two parties. We shall best do this by submitting to a more detailed examination the matter which caused the final breach. That matter was the proposed enactment of certain new 'Internal Regulations'.

111. These Regulations, as we have explained above in para. 36, contained various provisions of great importance which fundamentally affected the independence of the Patriarchate, by subjecting both the Patriarch and his Synod to the jurisdiction of an external authority, namely, an arbitrarily selected period of five years. This is thought to imply that after five years a review of the Regulations should take place. This was not done owing to internal troubles.

group of the Orthodox Churches. They further, by requiring the Patriarch to notify the enactment of these Regulations to the Greek Government, impliedly subjected the Patriarchate to a foreign Government. But these were not the only innovations of importance. These Regulations, which purported to be Internal Regulations of the Fraternity, made several important changes in the Imperial legislation of 1875.

112. The following are the more important of these changes :

(a) The Synod, instead of consisting, as the Imperial Regulations provide, of six Bishops and nine Archimandrites, with power to the Patriarch to increase or diminish the number of either, was to consist of five Bishops and seven Archimandrites. There were to be ten Bishops in all, and five of these were to sit for two years at a time. Two Archimandrites were to be continuous members of the Synod and the other five Archimandrites were to be chosen every two years in rotation ; two out of the elder Archimandrites and three out of the younger (Art. 36).

(b) In the election of a Patriarch all the Archimandrites were to take part in both meetings of the Ecclesiastical Assembly, whereas according to the Regulations of 1875 they do not take part in the first meeting (Art. 28). (But on this see footnote to para. 87 above.)

(c) The submission of the list of candidates to the Government required by Art. 8 of the Regulations

of 1875¹ is dispensed with and it is declared that the election of the final three candidates shall take place within three days of the drawing up of the list (Art. 30).

113. The following further observations may be made with regard to these rules. From the importance attached to them by the Greek Government and the manner in which they were insisted on by the Bishops it might be supposed that they were intended to effect a general re-organization of the Patriarchate and, in particular, to put its financial affairs on a sound basis. This does not appear to be the case.

114. There is, indeed, one aspect of the life of the Fraternity with which the new rules seem to be designed to make some attempt to deal. It will be remembered that in their sixth charge against the Patriarch the Bishops declared that: 'He deliberately encouraged the slackness of life of the Brotherhood . . . never punishing those who had slipped.' The Regulations of 1902 already contained a provision for the establishment of a *ensor morum* or, as he is called, a 'spiritual supervisor' (Art. 18). The new Regulations adopt this Article practically as it stands with verbal modifications. But the important question is necessarily, what is the machinery for the enforcement of this moral discipline?

115. The old Regulations had a general Article

¹ ' Cette liste sera soumise par la poste ou par dépêche à la S. Porte, laquelle donnera son autorisation pour élire une des personnes agréée par elle.' (Young, ii, p. 37.)

declaring that punishments were imposed 'by the governing authority', the authority intended not being more specifically indicated. The new Regulations, on the other hand, contain an extensive chapter headed 'Disciplinary and Judicial Authority'. This new chapter is indeed a most prominent feature of the new rules. It limits the personal powers of the Patriarch to minor disciplinary punishment and sets up two Courts: (1) a Minor Court, (2) the Synod, and establishes definite procedure for the trial of all offences. It also contains provisions creating the special and peculiar tribunal for the trial of the Patriarch or of his Synod above referred to.

116. Apart from these special last-mentioned provisions the chapter seems likely to be a salutary one. There is another salutary provision which, if it were enforced, would be of the greatest importance, namely, Art. 19, which intensifies and extends the provisions of the corresponding Article under the old rules and declares that all offerings, whether made personally or sent from a distance, given to the Patriarch, Bishops, Abbots, or individual Brothers, should be paid into the common treasury. But apart from these matters and apart from a useful chapter on education the rules do not effect any general re-organization of the Patriarchate. Nothing is said as to any financial re-organization. The old financial provisions, namely, Arts. 106-29, are reduced to four only, namely Arts. 130, 131, 133, and 134; and it is declared that the questions of financial administration, financial audit, and adminis-

tration of properties should be dealt with by special regulations. The old chapter in regard to the all-important question of loans, Arts. 123-9, is omitted altogether. Whatever good effect the new chapter, setting up regular Courts, might have upon 'slackness of life of the Brotherhood' it is not apparent that there is anything in these regulations to improve the financial organization of the Patriarchate or to inspire financial confidence outside it.

117. There is one feature of the rules, however, which has very direct bearing upon the subject we are discussing. They seem throughout studiously designed to limit and depreciate the personal power of the Patriarch. We will enumerate some of the points in which this intention is apparent :

(a) Art. 22 of the old Regulations of 1902, the first Article of the chapter dealing with 'the Patriarch', has a long and ample enumeration of his personal powers. The next Article (23) contains the following delicately expressed qualification :

'In the execution of all these and similar sacred and lofty duties, His Beatitude the Patriarch always has the concordant opinion and vote of his Holy and Sacred Synod, which, with him, constitutes the supreme authority.'

The new rules eliminate both the enumeration of the powers of the Patriarch and this delicately expressed qualification. They content themselves with enumerating the powers *of the Synod only* (Art. 46), and they intensify these by declaring that it is for the Synod to fill all vacant appointments *without exception*.

(b) Art. 3 of the Imperial Regulations of 1875 declared that the replacement of members of the Synod should be 'in the judgment of the Patriarch'. Art. 25 of the Regulations of 1902 declared that while four of the Archimandrite members of the Synod should be holders of certain offices, the remaining five should be appointed by the Patriarch. So far there was no necessary inconsistency between the Rules and the Imperial Regulations. But Art. 27 of the Rules of 1902 proceeds: 'To the spiritual opinion of His Beatitude the Patriarch belongs the appointment of these members of the Holy Synod in accordance with the directions of the Imperial Regulations.' But again it adds a delicate qualification: 'But the manner of this appointment shall be as follows.' It then proceeds to limit every appointment by the Patriarch to three names selected in advance by the Synod. In the new Regulations all this goes altogether. The Archimandrites sit in the Synod in rotation and the Patriarch has no voice direct or indirect in their nomination.

(c) By Art. 49 of the old Rules the Patriarch retained the right of the ratification of any election of a Bishop by the Synod. In the new Rules this right of ratification disappears.

(d) Art. 29 of the old Rules made any 'unseemly attack' by a Bishop upon the Patriarch a ground for his expulsion from the Synod. In the new Rules this is eliminated.

(e) As noted above the new Rules confined the personal disciplinary powers of a Patriarch to certain

minor punishments. We understand that the Patriarch claims the customary right of relegating any insubordinate member of the Brotherhood to a disciplinary monastery, in particular, to the Monastery of Mar Saba. The new Rules reserve this right to the Courts established by the Chapter above referred to.

(f) Art. 37 of the old Rules—an article of some importance—which declared that all subjects relating to the Holy Community were discussed and examined by the Patriarch and the Synod in common, proceeded: ‘Consequently every proceeding of the Synod taking place without the knowledge and approval of the Patriarch is void.’ The corresponding provision of the new Rules, Art. 47, omits these words. The old Article continues: ‘Also every individual proceeding of the Patriarch *in matters within the competency of the Synod* is likewise void.’ The new Art. 47 omits the words ‘*in matters within the competency of the Synod*’.

118. The Rules thus submitted to the Patriarch and pressed upon him, not only by the majority of his Synod but by the Greek Consul and by the direct insistence of the Greek Government, were rules which subverted the independency of the Patriarchate, modified some of the essential provisions of the Imperial Regulations, and studiously limited the personal powers of the Patriarch. It would appear to be in connexion with these Rules that the Patriarch is charged with not respecting the views of the majority of the Synod, and to have

set up his contention that the Synod was in the nature of an Advisory Council. He does not appear to have put forward any reasoned rejection of these Rules, nor, though at the meeting of 5th/18th March he had intimated that the Rules could be considered in detail by the Synod, did any formal consideration of the Rules in Synod take place. He would appear to have put them aside with a certain peremptoriness, and his suspension of meetings of the Synod from May 8th/21st till July 14th/27th may be treated as equivalent to a refusal to discuss them.

119. With regard to the general constitutional question which has been discussed in connexion with the present deadlock, we do not think that there can be any doubt. In matters which are declared to be within its competency the Synod is not a mere advisory council but it has a decisive vote. This is indicated by two Articles in the Imperial Regulations: the first is Art. 2, which deals with a special matter, namely, 'Petitions presented by individuals concerning religious and spiritual subjects or concerning the spiritual duties of the spiritual authorities'; the Article declares that 'the Synod sitting under the presidency of the Patriarch examining and deciding either unanimously *or by a majority* disposes of the matter'. The other Article is Art. 3. This Article, after enumerating the subjects within the competency of the Synod, declares (according to Mr. Ongley's translation): 'The resolutions and decisions of the Synod will be carried out by the Patriarch.' In matters therefore

declared to be within the Synod's competence the Patriarch is bound to execute its decisions.¹

120. It has been suggested to us by a witness who appeared before us (the author of the article in *Nea Sion*, referred to in para. 109 above) that the Patriarch and the Synod each have a mutual veto of each other's proceedings. In support of this view he points to the phrase quoted above from Art. 37 of the Internal Regulations of 1902: 'Every proceeding of the Synod taking place without the knowledge and *approval* of the Patriarch is void.' We do not think the contention is justified. In any case this Article (which purports to be an 'internal regulation') could not affect the interpretation of the Imperial Regulations of 1875. Moreover, we think that what the sentence quoted really means is that the Synod cannot *sit* for consideration of any

¹ These matters, according to Mr. Ongley's translation, are as follows:

(a) Administrative matters concerning the spiritual objects of Shrines, Churches and Monasteries.

(b) The nature of the offices and spiritual duties of the Clergy and servants appointed and attached to these institutions.

(c) Procedure such as hiring, leasing, alienation, inheritance, purchase and sale of charitable objects.

(d) The profitable development of the revenues of these properties.

(e) The benefit of the poor of the community.

(f) Other spiritual matters.

The last phrase 'Other spiritual matters' in accordance with the rule of interpretation known as *eiusdem generis*, must be confined to matters of the same general character as those above enumerated.

matter without the knowledge and approval of the Patriarch. It is the *proceeding* which must have the Patriarch's approval, not the *decision* of the Synod. In the Organic Law of the Oecumenical Patriarchate this point is much more specifically dealt with (see Young, vol. ii, p. 26, Art. 8):

‘Aucun procédé du Synode effectué sans la connaissance ou la présence du Patriarche, ainsi qu’aucun procédé clandestin du Patriarche, ne sont valides. Le Patriarche est tenu d’accepter et d’exécuter tout procédé de la majorité du Synode entrepris en pleine réunion des membres synodiques.’

We think that both Art. 3 of the Jerusalem Patriarchate Regulations and Art. 37 of the Internal Regulations of 1902 meant precisely what is more exactly stated in the Article in the Constantinople enactment above quoted.¹

121. The majority of the Synod, therefore, must

¹ If an analogy is sought from the ecclesiastical law relating to the Canonical Synods the result is the same. See Sakellariopoulos, p. 233: ‘At this point there arises the question—if the Patriarch is ranged with the minority, what must be done as regards the decision, which used to be published by the Patriarch according to a prescribed form, *i.e.*, “Our humble self, having also the accordant vote of the band of most holy Bishops assembled with us?”’

According to the fifteenth Novel of Manuel Komnenos the vote of the Patriarch, as President, prevails, on whichever side it may be cast. But Balsamon, interpreting the sixth Canon of the First Oecumenical Synod of Nicaea, which reads—‘Let the vote of the majority prevail’, says that ‘the provisions of this Novel have no application to the votes of churches or to ecclesiastical questions’.

be taken to be right in their general contention that in matters within the competency of the Synod the Patriarch must respect the vote of the majority. But on the other hand the Patriarch was also right in ruling out of discussion the Rules put forward by the Athens Committee, though we are by no means clear that he based his decision upon the right grounds. The action of the Patriarch seems to have been an act of instinctive authority rather than a reasoned ruling on a point of order.

122. The real ground on which his action is to be justified is this : It was not competent to the Synod by so-called 'Internal Regulations' to modify or to supplement the terms of the Imperial enactment of 1875 or to limit the personal powers of the Patriarch as accorded to him by that enactment and by the Imperial *Berat* of investiture. We have already pointed out that these new Regulations purport to vary the terms of the Imperial enactment of 1875 in most important particulars. But, what is more, they deal with matters which are only within the scope of such an enactment and are not within the scope of 'Internal Regulations'. The Imperial legislative authority, as we have seen, deliberately omitted any provision for the deposition of a Patriarch both in the Regulations of 1875 and in the *Berat* issued to the Patriarch subsequently to those Regulations. Further, in 1908 the Turkish Government deliberately refused to supply the omission. It is not competent to the Synod to affect to do this by 'internal regulations'. Again, it is not competent

to the Synod by 'internal regulations' to submit the proceedings of the governing body of the Church of Jerusalem to the supervision of an external ecclesiastical authority. Such a thing could only be done by direct legislation. Finally any limitations of the personal power of the Patriarch must be read in the light of the terms of the Imperial Regulations and the Imperial *Berat*. Any such limitations, in so far as they are inconsistent with the terms of those Regulations or the *Berat*, though they may be morally binding on any Patriarch who accepts them, are *ultra vires*.

123. Indeed the whole subject of the competency of the Patriarch in Synod to make 'internal regulations' has been allowed to become involved in obscurity, and it is important that it should be placed upon a clear basis. In our opinion the true situation is this: In the first place, the Patriarch in Synod, as the governing body of the Church of Jerusalem, is entitled to make bye-laws, regulating all matters connected with procedure, such as the quorum for meetings, the agenda, the notice of meetings, the right to bring up subjects for consideration, the method of voting, &c. Further, the Patriarch in Synod is entitled by such regulations to work out the details of the various rights and responsibilities entrusted to the Patriarch in Synod by law. In the second place the Patriarch in Synod has the power of making rules in another capacity, that of the governing body of the Fraternity of the Holy Sepulchre, of which all the members of the Synod

are also members. As the governing body of this corporation the Patriarch in Synod is entitled to make rules, regulating the duty, discipline and internal life of its members. Any enactment overpassing these limits is necessarily inoperative. Any enactment within these limits is binding both on the Synod and on the Patriarch himself.

124. It is much to be desired that in any further 'internal regulations' the two capacities in which the Patriarch in Synod acts should be kept distinct. This was not done either in 1902 or in 1920. We think it would be well that in any revision of the Imperial Regulations of 1875, the power of the Patriarch in Synod to make internal regulations should be defined, and further that the Patriarch in Synod should be required to notify these internal regulations to Government—not for the purpose of submitting such regulations for the approval of the Government, but to enable the Government to draw attention to any provisions, as to which it may be advised that the proper limits have been overstepped.

125. One of the causes for the dissensions which have arisen between the Patriarch and the majority of his Synod appears to us to be that these limitations were not properly understood. It may well be that the Patriarch, in saying that the Synod was merely an advisory council, intended to speak with reference to matters which were dealt with by the Imperial Regulations and his *Berat*. Indeed, if the terms of his communication to Government are

carefully studied it will be seen that this is primarily what he had in his mind. He says :

‘In addition, according to the express provisions of the 3rd Article of the Imperial Regulations, the function of the members of the Synod is rather an advisory one and cannot affect in the least matters which have been regulated by law, firmans and official documents, such as are the matters in question.’

In so far as he suggests that the 3rd Article of the Imperial Regulations only gave the Synod an advisory capacity, His Beatitude is mistaken, but in so far as he says the Synod cannot by regulations affect matters which have been regulated by law and firmans, he is undoubtedly right. We formed a very strong impression, however, that though the majority of the members of the Synod may have been attracted by some of the proposals put forward from Athens, it was not so much the Patriarch's disapproval of those proposals which put them at variance with him, but the manner in which he expressed it. The suspension of meetings of the Synod for over two months was a very extreme proceeding which was almost bound to have an explosive effect. It is possible, too, that in the personal discussions which may have taken place in regard to these proposals, owing to the friction and strain which the circumstances of the time engendered, expressions may have escaped the Patriarch which wounded the susceptibilities of some of the members of the Synod, and that he expressed

his idea of his own authority in a manner which seemed to them derogatory of their own. If such was the case it is probable that any such indiscretions of expression were not confined to one of the contending parties only, and allowance must be made for the mental atmosphere created by a long period of anxiety, tribulation and uncertainty, and by the after-events related above.

126. We think there is good ground for saying that the harmony of the Synod might well never have been disturbed but for the insistent pressure which came from an external source, the suggestions of which the members of the Synod on patriotic grounds felt bound to treat with special respect. It is much to be regretted that these circumstances have led to the prolonged alienation and dead-lock, which has occasioned the summoning of the present Commission, and it is to be hoped that both parties to this controversy will see the need of an early and complete reconciliation, in the same manner as they recognized the need for it in 1909 and 1919.

127. We anticipate, therefore, that now that the constitutional position has been clearly defined and the obvious defects in their own proceedings have been explained to the Right Reverend Bishops and those who support them, and now that it has been pointed out to the Patriarch that the trouble which arose between him and the majority of his Synod was, to some extent, due to mistakes in defining his own position, matters will be adjusted and the sittings of the Synod will be resumed.

128. In case these anticipations should, unfortunately, not be justified, we must address ourselves to the further problem—what should be done by Government to restore order in the affairs of the Patriarchate. The necessity of some action on the part of the Government in such a contingency is clear. The Government cannot allow the affairs of so important an institution established by law to remain in chaos. As past experience has shown, in 1875 and 1908, such a position may affect public order. The Patriarch is an Officer of State and the judicial decisions of his Courts receive effect from the Government. Moreover, there is in existence a special moratorium which restrains the legal rights of creditors. That moratorium cannot be continued indefinitely. It is necessary that some financial action should be taken by the Patriarchate to liquidate its debts. That action cannot be taken because it is impossible to convoke a valid meeting of the Synod.

129. It is this point which is the kernel of the difficulty. The withdrawal of the Episcopal members from the exercise of their synodical functions would not, in our opinion, of itself necessarily affect the validity of the Synod's decisions. It is quite true that a canonical Synod without Bishops would be a contradiction in terms, but, as we have clearly demonstrated above, the Synod of the Church of Jerusalem is not a canonical Synod. It is a creation of legislation and that legislation makes no distinction between those members of the Synod who hold

the titular rank of Bishop and those members who are Archimandrites. Even the new Regulations which the Bishops advocate contemplate a Synod in which the episcopal members are in a minority. In our opinion, therefore, the Synod might, if necessary, continue to function with only Archimandrites in attendance.

130. The real difficulty, however, is that in present circumstances it is impossible to constitute a quorum. The quorum of the Synod is regulated by Art. 38 of the Regulations of 1902. That Article is entirely *intra vires* as the number of a quorum may quite legitimately be fixed by a by-law. The Article declares that to constitute a quorum there is required the presence of two-thirds of the members plus one. This would involve the presence of eleven members exclusive of the Patriarch. Those who support the Patriarch only number seven. What then is to be done to put the Synod into working order?

131. One expedient has been suggested by the Patriarch, that is, that the two Metropolitans, who, by the terms of their appointment and by Art. 54 of the Internal Regulations of 1902, are bound to remain in their Dioceses and not to leave those Dioceses unless summoned by the Patriarch to discuss subjects of importance, should be directed to return to their Dioceses. The Patriarch would then, by his casting vote, obtain the majority of the Synod. We will discuss elsewhere the serious question of the prolonged absence of these two Metropolitans

from their Dioceses, but even if such a course as is suggested were practicable it is obvious that it would not be an effective solution inasmuch as it would not procure a quorum.

132. The question then arises—is it possible to produce a quorum by the addition of members to the Synod? Under Art. 3 of the Regulations of 1875 it is competent to the Patriarch to increase the numbers of his Synod ‘provided that the integrity of the Synod is not impaired’. The meaning of the last phrase is not very clear. Probably it means simply that the Patriarch may not dismiss his whole Synod and constitute an entirely new one. The Patriarch has fettered his freedom to increase the Synod by assenting to Art. 27 of the Regulations of 1902, which, as above explained, obliges him to limit his appointments of Archimandrites to a choice of one of three names propounded by the Synod. This Article, inasmuch as it affects to limit the powers of the Patriarch given him by the Imperial enactment, is *ultra vires*. The Patriarch, however, is morally bound by it. If the episcopal members of the Synod and their supporters, now that the situation has been fully examined and elucidated by Government, declined to co-operate with the Patriarch, it might well be held that he was absolved from this obligation and entitled to exercise his full legal powers. Unfortunately we doubt whether this action would provide a satisfactory solution. In order to produce a quorum the Patriarch would be bound to appoint no less than eleven additional Archimandrites. This

would raise the number of the Synod to twenty-seven. Such a number would be universally regarded as extravagant, and we do not feel justified in recommending that such a course should be suggested to the Patriarch.

133. In these circumstances, it appears to us that the only course open to the Government is to declare by an act of legislation that, pending a reconciliation between the contending parties, those members of the Synod who recognize the authority of the Patriarch shall, for all purposes, be deemed to constitute the Synod. This proposal, if carried out, will enable the meetings of the Synod to be resumed and the necessary steps be taken to deal with the financial situation, and to restore order in the financial affairs of the Patriarchate.

134. In connexion with the question of the restoration of order there is one matter already mentioned to which we think it necessary to refer in more detail. In the present unfortunate situation the discipline of the Fraternity has been seriously impaired. Both before and after the final breach with the Patriarch members of the Fraternity have left Palestine without Patriarchal authority, a breach not only of the Patriarch's rights as the Superior of the Order, but also of the express provisions of the Internal Regulations of 1902 (see Art. 14), which those who have so acted themselves accuse the Patriarch of violating. But the most serious example of the existing break-down of ecclesiastical discipline is the continued absence from their

Dioceses of the Metropolitans of Ptolemais and Nazareth.

135. This absence is contrary at once to the sacred canons of the Church,¹ to the Internal Regulations of 1902, to the ecclesiastical practice of the Church of Jerusalem and to the solemn sworn undertakings made by these Metropolitans on their assumption of their offices :

‘I hereby confess that I accept the under-mentioned conditions, which I promise to follow undeviatingly, keeping and fulfilling them :

(1) I am bound, after my ordination, to proceed without any delay to the Diocese to which I am appointed and to remain there through all my life, governing the Christian flock. . . .

(2) I can never for any reason whatever leave my Diocese and come to Jerusalem without a regular invitation or a written permission from His Beatitude the Patriarch or his representatives. Otherwise I shall be liable to sustain

¹ The question of the lawfulness of such absence was one of the specific questions put to the Four Patriarchs by the Church of Russia in connexion with the case of the Patriarch Nikon in 1673, and the answer of the Four Patriarchs very fully sets out the canonical law on the subject (see Delikane, vol. iii, pp. 111-13). It appears from one of the authorities there cited and treated as canonical, namely, the sixteenth Canon of the so-called ‘First and Second Synod’ of 861, that a Bishop who is absent from his Diocese for more than six months without the necessary canonical sanction is liable to lose both his Episcopate and his priestly rank. Absence of this character has more than once been a ground for the deposition of the occupants of Patriarchal Sees (see in particular the cases referred to in paras. 44, 45 of Part II of this Report). For the ecclesiastical practice of the Church of Jerusalem, see Metaxakes, *Les Exigences des Orthodoxes Arabophones de Palestine*, pp. 32-3.

the penalties inflicted by the ecclesiastical laws and regulations.

(3) If after the proper Patriarchal permission . . . I come temporarily to Jerusalem for a proper reason, I cannot remain there more than the fixed delay, and in case I delay my departure or I refuse to return to my Diocese, setting forth some illegal or irregular reasons with the object of remaining in Jerusalem, it is for my Chief, His Beatitude the Patriarch of Jerusalem, to decide what he deems proper.'

136. We find it difficult to understand the prolonged absence—extending now over a year—of these Right Reverend Metropolitans from their Dioceses. Such a proceeding appears to be a flagrant and open violation of ecclesiastical order. The prolonged crisis from which the Patriarchate is suffering; the fact that the Metropolitans seem to have assumed the leadership of the party of the Bishops; and the further fact that in present circumstances it is difficult to provide funds for the separate upkeep of these two Dioceses, to some extent explain, but do not justify, this long absence.

137. We confess that it is with some reluctance that we come to the conclusion, that according to the Constitution of the Church of Jerusalem, the Metropolitans of Ptolemais and Nazareth are not entitled continuously to attend the meetings of the Holy Synod, but only such meetings as they may be summoned to attend by the Patriarch for the consideration of questions of special importance. Though these Metropolitans are not Diocesan Bishops

in the full sense, inasmuch as they are only Patriarchal Delegates, they nevertheless appear to be the nearest approach to full Diocesan Bishops surviving in the Church of Jerusalem. The ancient canonical Patriarchal Synod consisted of the Metropolitans of the Patriarchate. The Patriarch had thus before him a council composed of the spiritual fathers of his whole flock, in daily touch with the life of both the clergy and the laity of their Dioceses. The Patriarch in Synod could thus speak with the voice of the whole Church in its fullest sense. It is much to be hoped that in any revision of the Imperial Regulations of 1875 express provision will be made for the attendance of these two Metropolitans at meetings of the Synod, at least periodically. Such attendance would, in some slight measure, give to the Synod the character which it at present theoretically possesses, that of a Synod of the Church, instead of the character which it actually bears, that of the Council of a Monastery.

138. Under the present constitution, however, these Metropolitans are not entitled to be in Jerusalem without Patriarchal permission, and as long as they so remain order cannot be said to be restored in the affairs of the Patriarchate. We think, however, that arrangements should be made and explicit assurances should be given that they will be summoned for consultation in respect of all matters submitted to the Synod when under their Financial Control (see p. 201), which we recommend in a subsequent section of this report. The ecclesi-

astical rules, however, are so clear and the circumstances of the case so patent, that we cannot but believe that if the attention of the Right Reverend Metropolitans is formally drawn to them, they will spontaneously take steps to regularize the present situation, more especially if they are assisted by the assurances, which we have recommended above.

P A R T II

CONSIDERATION OF THE QUESTION
WHETHER THE ORTHODOX EASTERN
CHURCH PROVIDES A COMPETENT
AUTHORITY FOR THE ADJUDICATION
OF DISPUTES IN PARTICULAR CHURCHES

P A R T II

CONSIDERATION OF THE QUESTION WHETHER THE ORTHODOX EASTERN CHURCH PROVIDES A COMPETENT AUTHORITY FOR THE ADJUDICATION OF DISPUTES IN PARTICULAR CHURCHES

1. THE problem propounded for consideration in this section of the Report is whether there exists in the Orthodox Eastern Church a competent tribunal for determining disputes arising from time to time in the autocephalous Churches composing it. The Bishops of the Church of Jerusalem in the present dispute claim that there exists such a tribunal and that they have appealed to it.

2. It is unfortunate that this question does not appear to be specifically discussed in any text-book on Ecclesiastical Law or History that is available in Jerusalem. Nor have we discovered in any of the text-books available to us any reference to any considered discussion of the subject elsewhere. The Bishops, at the request of the High Commissioner, submitted to him a brief memorandum enumerating various instances in which they claimed that the jurisdiction which they contended for had been exercised. Since we embarked upon our deliberations we have been favoured with a full and learned

memorandum communicated, as representing the views of the party opposed to the Patriarch, by a member of the Holy Synod, the Very Rev. Archimandrite Kallistos, which has been of the greatest assistance to us. These memoranda and the authorities there referred to have been the principal basis for our investigations.

3. The problem is in its nature historical and involves an examination of the numerous cases in the history of the Orthodox Eastern Church in which a supervising, over-ruling or appellate authority appears to have been exercised. We have been much assisted in its consideration by a valuable work, the Archimandrite Kallinikos Delikane's *Official Ecclesiastical Documents on the relations of the Oecumenical Patriarch with the Churches of Alexandria, Antioch, Jerusalem and Cyprus*—Constantinople, 1904. In these volumes we have the official records of the cases in which a special jurisdiction has been exercised, or sought to be exercised, during the last three hundred years, expressed in the actual words of those who have purported to exercise it. They are thus the best possible material for ascertaining the nature of this jurisdiction and the principles on which it was asserted.

4. We learned from a personal interview with the Bishops that the Churches to which the appeal had been made were a particular group of Churches, viz. those of Constantinople, Alexandria, Antioch, Cyprus, and the Kingdom of Greece. But it would appear from their subsequent memorandum and the

memorandum of Archimandrite Kallistos that this appeal is primarily to the Church of Constantinople, and that the other Churches were only introduced as Churches which might appropriately be associated with the Church of Constantinople for the purpose. The question propounded in the original episcopal memorandum is as follows :

‘Is the Greek Patriarch of Jerusalem justifiable by the Oecumenical Patriarch of Constantinople acting either alone or in concert with the other Orthodox Greek Churches?’

The memorandum communicated by the Archimandrite Kallistos is entitled :

‘The Patriarchal Oecumenical Throne of Constantinople and its rights and privileges over the other autocephalous Orthodox Churches in the East.’

In neither of these documents is any reference made to any case in which a special jurisdiction has been asserted or exercised by the special group of Churches to which the appeal has actually been made, but we have been favoured with a further memorandum by the same learned Archimandrite, which deals incidentally with this aspect of the question, and which is set out almost *in extenso* in Appendix E.

5. We propose, therefore, in the first instance, to proceed on the supposition that the authority sought for is to be found in the Oecumenical Patriarch. It will be convenient for the purposes of this inquiry to deal with it under the head of three periods. The

first may be described as the Canonical Period, *i. e.* from the fourth to the ninth centuries; the second as the Byzantine Period, *i. e.* from the ninth century to the fall of Constantinople in 1453; the third as the Turkish Period, *i. e.* the period subsequent to the fall of Constantinople.

6. We realize that with regard to the first two of these periods our investigation must necessarily be very imperfect. The subject has not hitherto been fully investigated, and it could only be fully investigated by an examination of the actual records of all the relevant historical precedents, in so far as these records have been preserved. We are, unfortunately, not in a position to undertake this task. There is an interesting introduction to the work of Archimandrite Delikane, in which certain of these precedents are briefly referred to. These same particular incidents have—together with others—also been brought to our notice by Archimandrite Kallistos. No doubt a fuller historical inquiry would disclose other precedents which deserve examination. We must, however, perforce confine our examination—for the purpose of these two periods—to the cases actually thus brought before us. There is, however, this compensation that for the last three centuries the material for our consideration is abundant and authoritative. If there exists in the Church an ecclesiastical usage having the force of law, the history of its development and gradual consolidation would, no doubt, have to be sought for in the earlier periods, but it would be in the final

period that its real nature would be most fully manifested, and it would be by an investigation of the records of this period that it could be most accurately defined. We will proceed to examine the subject under the headings indicated.

A. *The Oecumenical Patriarch*

7. The claim on behalf of the Oecumenical Patriarch is made by Archimandrite Kallistos in the following terms :

‘This Patriarchal Throne not only concerned itself with its own ecclesiastical affairs in its own extensive sphere, and undertook the solution of divers ecclesiastical questions, affecting the whole Orthodox Church, but also, in accordance with the ancient privileges which had been conferred upon it, volunteered to hold out a helping hand to the other Patriarchal Thrones, and to co-operate with them fraternally in their necessities, extending to them also its solicitous forethought—*intervening sometimes spontaneously and under a sense of duty, at other times because it was appealed to by those interested*, to afford its decisive help for the regulation and solution of the questions and differences under dispute among the Holy Churches, *deposing and appointing the spiritual chiefs of the particular Churches and restoring ecclesiastical affairs to their canonical course.*’

In a later passage he carries the proposition a step farther, as follows :

‘The authority of the Patriarch of Constantinople must be recognized as a special presidential authority over the whole of the East—in this sense, that he was exalted above the other Patriarchs not only by virtue of the situation of his

See and the honour attached to it, *but also in the actual manifestation of his authority, which had an obligatory force for the other Patriarchs.*'

We will proceed to examine the historical justification for this proposition.

(1) *The Canonical Period, A. D. 335–879*

8. This Period commences with the Council of Nicaea A. D. 325 and closes with the Council held in the Church of the Holy Wisdom at Constantinople in A. D. 879. Strictly speaking the Orthodox Church accepts the authority of only the seven 'Oecumenical Synods' (more familiarly known in the West as 'General Councils'), but the two Synods held in the years 861 and 879 are treated as having almost equal authority.¹

9. This period is in the nature of things the most decisive in the history of the Church. It may be explained that when in Greek ecclesiastical writers it is said that any proceeding is 'canonical' or 'uncanonical', the meaning is that it is in accordance or out of harmony, as the case may be, with one or more of the canons of these Councils, or with the principles to be deduced therefrom.

¹ Sakellaropoulous, *Ecclesiastical Law*, p. 37. The so-called 'Apostolic Constitutions' are often also referred to as canonical. The 'Trullan' Synod in the seventh century regarded them as containing spurious matter and only accepted the last eighty-five. (*Ibid.*, p. 34.) Certain other 'local Synods', in particular those of Antioch and Carthage, are also treated as having very high authority.

10. It may be further explained that the comments of certain ecclesiastical writers upon these canons are also recognized as having a certain authoritative force. The principal writers of this character are Balsamon, Aristenos, and Zonaras, all of whom flourished in the course of the twelfth century, and Blastares, whose date is variously assigned to the eleventh and fourteenth centuries.¹

11. The reference in the Ecclesiastical Canons to the pre-eminent position of Constantinople are well known but are not numerous. By the 3rd Canon of the Second Oecumenical Synod (known as the 'Council of Constantinople') it was declared that—

‘the Bishop of Constantinople shall have a presidency of honour after the Bishop of Rome, because of its being New Rome’.

12. By the 28th Canon of the Fourth Oecumenical Synod (the 'Council of Chalcedon') this ruling of the Council of Constantinople was re-enacted. It was added:

‘For the Fathers reasonably allowed primacy to the See of the elder Rome because it was the Imperial City and for the same reason the hundred and fifty godly Bishops (*i. e.* the Fathers of the Second

¹ All the canons of these and other Councils, together with the interpretations of the above authoritative Commentators, are collected in the famous Compilations of Ralli and Potli, published in 1825–59. They are also to be found in a well-known and comprehensive handbook entitled the *Pedalion* (published in 1800), the notes of which are regarded as having a certain authority.

Oecumenical Synod) assigned equal honour to the most holy See of New Rome, judging soundly that the city honoured with the presence of the Imperial Majesty and the Senate should enjoy the same honour and prerogatives as the elder Imperial City of Rome and be made pre-eminent in the same manner in ecclesiastical conditions, taking the next place.'

13. In the sixteenth century the Patriarch of Constantinople assumed the designation of Oecumenical Patriarch. The title was first accorded to John the Cappadocian in the year A. D. 518 and first officially assumed by the Patriarch John 'the Faster' in A. D. 857. Later in history the Church of Constantinople by universal acknowledgement was accorded the honourable title of 'The Great Church'. There is, however, nothing in these circumstances which indicates anything more than a 'Presidency of honour'.

14. They do not themselves imply any jurisdiction over the other Churches, nor is there any canon which in our opinion asserts such a jurisdiction. Archimandrite Kallistos, however, in the memorandum above referred to, relies upon two canons of the Fourth Oecumenical Synod, Nos. 9 and 17. The words relied on in the 9th Canon, which are very similar to the terms of the 17th, are as follows :

'And if any clergyman have a matter against his own or another Bishop let it be adjudged before the Synod of the Province. And if any Bishop or Clergyman have a dispute with a Metropolitan

of the same Province let him have recourse either to the *Exarch* of the *Dioecesis* or to the throne of the Royal City, Constantinople, and let the matter be adjudged there.'

15. It should be explained that the word *Dioecesis* refers to an administrative division of the Roman Empire comprising several provinces. Certain Archbishops presiding in these divisions at one time bore the title of *Exarch*. (See Milasch, *Ecclesiastical Law*, Greek translation, p. 341.) It is said that the Bishops of Rome, Alexandria, and Antioch were known as *Exarchs* before they assumed the title of *Patriarch*. (See Fortescue, *Orthodox Eastern Church*, p. 8.) Other *Exarchates* were Ephesus, Caesaria in Cappadocia, Heraclea, and Thessalonica. (For a clear account of these Ecclesiastical areas see Fortescue, p. 22.)

16. It is maintained that the meaning of the canon is that a Bishop having a dispute with his Metropolitan might, at his option, have it adjudged either before the *Patriarch* to whom he was subject or before the *Oecumenical Patriarch* as supreme head of the Church. We do not think that this is the legitimate interpretation of the canon. If this were the meaning it would imply that the Pope of Rome were himself subject to the *Patriarch* of Constantinople, and that a Bishop under the jurisdiction of the Pope of Rome would have the option of referring a dispute to the *Patriarch* of Constantinople. Archimandrite Kallistos appreciates this point and, whilst he contends that the canon made the Oecu-

menical Patriarch a 'Supreme Court', considers that Court to have jurisdiction in the East alone and says that the canon gave to the Oecumenical Patriarch the same rights in the East as the Synod of Sardica gave to the Bishop of Rome in the West. No such distinction is to be found in the words of the canon.

17. The interpretation of the canon must be that assigned to it by Zonaras, quoted by Achimandrite Kallistos. The comment of Zonaras is as follows :

'But when a Bishop has a case against his Metropolitan then the Patriarch of Constantinople is allowed to be the Court, but it is not over all Metropolitans everywhere that the Patriarch of Constantinople sits as the judge but only over those subject to himself for, of course, the Metropolitans of Syria or of Palestine or of Egypt could not, against their will, be brought to be judged before him, but the Bishops of Syria are subject to the Throne of Antioch, and those of Palestine to that of Jerusalem, and those of Egypt are judged before the Patriarch of Alexandria, by whom also they are ordained and to whom they are subject.'

It is true that some of the other Commentators give to the canon the interpretation contended for by Archimandrite Kallistos, but it seems to us that the interpretation of Zonaras is the only possible interpretation, and the same view is taken in the Commentary on the *Pedalion* (p. 161).

18. It appears then that there is no express provision to be found among the canons of the Oecumenical Councils, which justifies the attribution to the Oecumenical Patriarch of anything more than a presidency of honour. It remains to be considered,

however, whether in this period apart from legislative enactment a practice had grown up which had acquired the effect of an ecclesiastical law. Various circumstances are cited by the learned Archimandrite as showing the growth of the power and influence of the Oecumenical Patriarch. It is pointed out, amongst other things, that there grew up around him a certain 'residential Synod' and that the practice arose of other Bishops, when they visited the capital, referring matters for the consideration of this Synod of the Oecumenical Patriarch. A reference to this practice is made in the introductory sermon of the Patriarch Anatolios before the Fourth Oecumenical Synod :

' A custom has prevailed from aforetime for the Holy Bishops residing in the renowned Metropolis, when occasion called, to meet together concerning ecclesiastical matters that presented themselves, and to express each matter in due form, and that those who so desired should call for their decisions.'

This passage certainly indicates the growth of a residential Synod at Constantinople, but there is nothing to show that those who appealed to it for its decision included any of the three other Patriarchs, or any Bishop within their jurisdiction.

19. The learned Archimandrite says of the Oecumenical Patriarch at this period that :

' He not only ordained Patriarchs for the other Patriarchial Thrones but sometimes even judged them.'

but the instances cited of this practice are few and indecisive. Thus it is said that :

(a) In A.D. 519 the Patriarch Epiphanius went to Antioch and consecrated the Patriarch Paul,

(b) in A.D. 572 the Patriarch John Scholasticos consecrated John IV, Patriarch of Alexandria, and

(c) in A.D. 586 Gregory, Patriarch of Antioch, was judged in Constantinople before the Synod there.

20. We will consider first the cases of the Ordinations, viz. Paul (519), John (572). To these may be added the earlier cases of Maximus (450), Keladion (495), both Patriarchs of Antioch.

(a) *Maximus* (450). It appears that this consecration caused the greatest controversy. The Pope of Rome, Leo I, though he afterwards accepted it, strongly protested against it.¹

(b) *Keladion* (495). It appears from Le Quien (ii., 728) that this ordination occurred through Imperial intervention. It was noted (though excused), by Pope Simplicius, as an irregularity.

(c) *Paul* (519). With regard to this ordination, it appears from Le Quien (ii., 752), that it took place

¹ See Le Quien, *Oriens Christianus*, ii., 723. Dioscorus apud Imperatorem Theodosium egit ut ex urbe regia Episcopus Antiochiensis daretur: quod nempe orientales suspectos haberet . . . quae tamen ordinatio, ut pote praeter canones, nullo cleri populique Antiocheni decreto facta, iure vitiosa habita est, subinde vero synodi Chalcedonensis assensu confirmata, sed etiam Leonis Papae, qui eius integram sanamque fidem comperit. Ceterum eiusdem sanctissimi Pontificis multae litterae extant de hac Maximi ordinatione.

at a time of confusion and only after long discussions. Paul was selected in Constantinople on the recommendation of the Emperor, but the Papal Legate insisted on his being ordained at Antioch.

(d) *John IV of Alexandria* (572). With regard to this consecration Archimandrite Kallistos says :

‘Similarly when the Patriarch of Antioch, Anastasios, objected to this ordination and criticized in his letters both the consecrator and the consecration, Anastasios was deprived of his Throne and in his place was ordained Gregory.’

This is not a fortunate example. The account of the matter given in Neale, *History of the Holy Eastern Church*,—Alexandria, ii., 44, is as follows :

‘Apollinaris was succeeded by John who, contrary to the canons, was ordained at Constantinople . . . Anastasios of Antioch, one of the holiest prelates of the age, did not fail in his reply to the Synodal letter of John to reproach him with this violation of order ; and this, as well as his defence of the truth in other cases, provoked the profligate Justin to depose the Patriarch of Antioch.’ (See also Le Quien, ii., 437–8.)

21. With regard to the circumstances that Gregory, Patriarch of Antioch in 586, was ‘tried at Constantinople before a numerous Synod under the presidency of the Patriarch of Constantinople, John ‘the Faster’, the facts, as given in Le Quien (ii., 736), are as follows :—The Patriarch was charged with immorality and incest, and tried and condemned before a civil judge, Asterios, Count of the East, but appealed to

the Emperor and to a Synod which was held at Constantinople. The Synod was summoned by John 'the Faster' in letters in which he described himself as Oecumenical Patriarch. It was attended by the Patriarchs of Alexandria and Jerusalem, *and leading notables*, and Gregory was finally acquitted. This incident could hardly be cited as proof of any special jurisdiction in the Oecumenical Patriarch.

22. There is also the earlier case of the Bishopric of Bostra in 594, on which reliance is placed by the Episcopal Memorandum. A local Synod, sitting in Constantinople, under the Patriarch of Constantinople, Nektarios, at which the Patriarchs of Alexandria and Antioch were also present, adjudicated upon the claims of two contesting Bishops to the See, which was then under the jurisdiction of the Patriarch of Antioch. It is pointed out, however, on the other side, that this adjudication took place in the presence and with the consent of the Patriarch of Antioch, and at the request of both candidates. (See Ralli and Potli, iii., 625) In the circumstances the case appears to have no very decisive weight.

23. With reference to this period, therefore, the precedents cited are too few in number and too dubious in character to justify the proposition that at this time the Church of Constantinople, by ecclesiastical practice, had acquired the right to intervene for the purpose of adjudicating upon disputes arising in other Patriarchal Churches.

(2) The Byzantine Period

24. The evidence for this period is extremely meagre, but it must be conceded that there are certain definite instances in which special powers were at any rate claimed by the Oecumenical Patriarch. The Emperor Basil the Macedonian, as part of the comprehensive consolidation of the Roman Law which took place in the reigns of himself and his sons, at the close of the ninth century, published a legal manual called the *Epanagoge* to serve as an introduction to the study of the re-codified law. (See Finlay, *History of the Byzantine Empire*, Book II, chap. i, section 1.) In a passage in this work the most exalted position is attributed to the Oecumenical Patriarch. He is described as 'the living image of Christ' and as 'through his words and deeds manifesting and portraying the truth in himself'.

25. The passage proceeds as follows :

'The See of Constantinople, as the illustrious seat of sovereignty, was declared pre-eminent by the resolutions of the Synods. In pursuance of these resolutions the divine laws direct that disputes arising under the other Sees shall also be referred to its consideration and judgment. In respect of all Metropolitan and Episcopal Dioceses, and of all Monasteries and Churches therein, the provision and care and further functions of judgment, condemnation and acquittal belong to their own appropriate Patriarchs. But to the Presidential See of Constantinople there belongs the right even within the boundaries of the other Sees, in

places where there has not already been a consecration of Churches, to appoint *Stavropegia* and moreover to watch over and arrange disputes occurring in the other Sees and to bring them to a conclusion.'

26. These are certainly very extensive claims, but unfortunately during this period we have not been referred to any definite example of their exercise. The only case cited to us of any intervention in the affairs of any of the other autocephalous Churches occurred in Cyprus in the course of the twelfth century, during the reign of Manuel Comnenus (A. D. 1143–A. D. 1180). (See Hackett, *History of the Orthodox Church in Cyprus*, p. 54.)

'John, Bishop of Amathus, having been deprived of his See by his name-sake the Archbishop of Constantia, appealed to the *Emperor Manuel Comnenos* for redress. By Manuel's directions the matter was referred to Lukas Chrysoverges, Patriarch of Constantinople, and the Oecumenical Synod. As a result of their investigations *in which the Senate also participated*, the sentence was pronounced invalid on the ground that it had been irregularly procured.'

The irregularity consisted in the fact that the Bishop had been condemned by a Court of only eleven Bishops, whereas the eleventh canon of the First Council of Carthage in A. D. 348 requires that all charges against Bishops shall be investigated by a Court of twelve Bishops. With regard to this case it may be noted that the appeal was made not to the Oecumenical Patriarch but to the Emperor,

and that the tribunal which heard the appeal was not a purely ecclesiastical tribunal.

27. There are also two places in which claims of a specific character on behalf of the Patriarch of Constantinople are incidentally made. In 1355, two hundred years after the Cyprus case, the Oecumenical Patriarch, Kallistos I, in a letter rebuking what was considered a usurpation by the Archbishop of Tirnovno, who (in a modified sense) had been accorded the title of 'Patriarch', used the following words:

‘And apart from this, if the See of Constantinople reviews, regulates and confirms and gives validity to the judgments of the other Patriarchs of Alexandria, Antioch and Jerusalem as the divine canons direct and as examples in practice testify, much more surely is the Church of the Bulgarians subject to the sovereignty of this See, from which your honourable appellation of Patriarch is in fact derived.’ (See Delikane, vol. ii, p. 6.)

28. The other example of a claim of special powers by the Oecumenical Patriarch is one cited by Archimandrite Kallistos, unfortunately without a reference. It is said to occur in a letter of the Oecumenical Patriarch Neilos (1378-88) to the Metropolitan of Thessalonica, where, speaking of the rights of his Patriarchate, he quotes the passage cited above from the *Epanagoge* to the effect that the See of Constantinople has acquired the right

‘to watch over and arrange disputes occurring in other Sees and to bring them to a conclusion by its judgments’.

This same passage is also embodied in the *Syntagma* of *Blastares*.

29. It is manifest that this material is far too slender to form any foundation for the proposition that in the Byzantine Period there was any established practice, having the force of law, by virtue of which the Patriarch of Constantinople exercised any jurisdiction in the affairs of the other autocephalous Churches. That claims of this nature were officially made by the Oecumenical Patriarch at long intervals during this period appears to be established, but on the other hand it must be borne in mind that these pretensions depended for their enforcement upon the power of the Byzantine Emperors, and that during the whole of this period the Patriarchs of Alexandria, Antioch, and Jerusalem were under Arab domination. The only autocephalous Church under the sway of the Byzantine Emperors was the Church of Cyprus. Only one instance has been cited to us during this period of any intervention in that Church, and this appears to be an instance of an imperial rather than of an ecclesiastical character.

30. It is not to be assumed that the passages and incidents above discussed are exhaustive. As regards this period it may well be that there are other episodes that require examination. We are not in a position to investigate fully the authorities for this period. All that can be said is that upon the material presented to us it is not possible to say that any definite rule has been made out.

(3) The Turkish Period

31. In this period we have very much fuller material. Within a century of its commencement all the four Patriarchs were under one common sway and the Patriarch of Constantinople is acknowledged to have obtained an ecclesiastical influence which was perhaps even greater than that which he enjoyed in the days of the early Greek Empire. We have, moreover, a valuable collection of historical documents which state in precise terms the principles upon which various acts of intervention took place. These acts of intervention were extremely numerous. The fact that Turkish Sultans recognized the Oecumenical Patriarch as *Ethnarch* or Head of the Nation throughout the Empire, and that communications between the Government and the other Patriarchs took place through him, gave very great force to any intervention which the Oecumenical Patriarch saw fit to make. But the question for consideration is whether, ecclesiastically considered, they were acts of authority or, as Archimandrite Kallistos puts it, 'whether they had an obligatory force upon the other Chief Hierarchs'.

32. We propose to submit this period to a very full examination and to deal separately with the history of the Churches of Alexandria, Antioch, Jerusalem and Cyprus. Before doing so, however, it would be well that we should refer to an incident of very great historical interest. In the year 1673, at the time of the troubles between the Czar Alexis

and the Patriarch Nikon, which ended in the deposition of the latter, the Church of Russia, on the suggestion of Paisios, Bishop of Gaza, then resident in Moscow, addressed a series of questions to the four Patriarchs, asking their advice on a number of matters arising out of the ecclesiastical crisis in Russia. One of these questions (No. 8) related to the position of the Church of Constantinople and was in the following terms :

‘ Whether every judgment of the other Churches is appealable to the See of Constantinople and whether every ecclesiastical case receives its conclusion from that See ? ’

The answer to this question is as follows :

‘ This privilege belonged to the Pope of Rome before he was cut off from the Catholic Church. . . . Since he was so cut off, all cases in the Churches were referred to the Throne of Constantinople and received their decisions from it, as enjoying, according to the canons, equal precedence with old Rome. For the fourth canon of the Synod of Sardica says ‘ if any Bishop is *excommunicated*¹ by the judgments of his neighbouring Bishops and subsequently alleges that he has ground of appeal, no other Bishop shall be substituted for him in his See unless the Bishop of Rome, having taken cognisance of the subject, has expressed his decision upon it ’.

The answer proceeds to explain that this privilege of the Pope had been transferred to the Oecumenical See and quotes the following passage from Balsamon :

¹ The reference is to a sentence of *kathairesis*. There is no precise equivalent of this phrase in English.

‘The things here declared with reference to the Pope are not the special privileges of him alone but belong also to the See of Constantinople. Since the Bishop of Rome was cut off from the Catholic Church such cases are referred only to the Oecumenical See. And if the other Patriarchs concurred, in a case which happened to be one of special importance, the decision expressed upon it would be unalterable.’

33. The subject was further pursued by the 21st and 22nd questions. The 21st asked whether a Metropolitan or a *Patriarch* was subject to the jurisdiction of his own Bishops and liable to be tried by them. The 22nd asked what would happen if such a Metropolitan or Patriarch evaded these judgements and had recourse to an appeal. The answer was :

‘A decree of the Oecumenical See, and the Patriarchs associated therewith, formally pronounced against him, according to what was decided to be lawful and canonical, as was said above (the Oecumenical Throne deriving this privilege from the canons), must prevail against him, and no other pretext would remain open to him in such circumstances.’

34. In order to understand these answers it is necessary to bear in mind the real object of the questions. What the Russian Bishops are contemplating (in accordance with the desires of the Czar) is the deposition of their own Patriarch. They are anxious to be advised as to any possible right of appeal for such a decision. The question is first put as though the case were that of an ordinary Bishop—but afterwards more specifically as that of a Patriarch.

The four Patriarchs explain that, according to their opinion, the Oecumenical Patriarch possesses in such cases a canonical appellate jurisdiction.

35. The case in contemplation, therefore, was that of a Patriarch appealing against his own Synod to the other Patriarchs—but the principle they lay down is broad enough to cover the case of a simple Bishop. Their decision implies, though it does not specifically state, that if a Bishop was condemned by his own Patriarch and Patriarchal Synod, he would be entitled to appeal to the Oecumenical Patriarch. They thus impliedly declare the Oecumenical Patriarch to be a supreme Court of Appeal for the judgements of the other Patriarchates.

36. Let us now proceed to consider the argument on which this supposed principle is based. It is based upon an analogy drawn from the fourth canon of the Synod of Sardica. Now what was the Synod of Sardica, and what authority is to be attached to its canons? The Synod of Sardica was not an Oecumenical but a 'local Synod'. It was held within the territorial sphere of the Pope. The only appellate jurisdiction, therefore, which it gave him was a jurisdiction with respect to the Bishops subject to him. The canons of the Synod of Sardica were subsequently confirmed by the 'Trullan' Synod of 692 (see Fortescue, *Orthodox Eastern Church*, p. 68), but the particular canon must be considered as confirmed only in the sense above indicated, *i. e.* as laying down that every Bishop within the papal jurisdiction, who was condemned

by his com-provincial Bishops was entitled to appeal to the Pope. It is said, on the authority of Balsamon, that the privilege of this appellate jurisdiction was extended to the Oecumenical Patriarch by analogy. But what is the effect of that analogy? It is that the Oecumenical Patriarch has an appellate jurisdiction with respect to Bishops *within his own Patriarchate*. There is nothing in the passage from Balsamon which is inconsistent with this interpretation.

37. There is therefore no adequate justification for the proposition, which is implied in the answer of the four Patriarchs that the Oecumenical Patriarch has an appellate jurisdiction in respect of sentences of *kathairesis* passed in other Patriarchates. There is no certain example of the exercise of such a jurisdiction in the Church.¹ It was not in fact exercised on the occasion itself, for, instead of trying the case of Nikon on appeal, the Patriarchs ultimately sent two of their number to sit on the Synod, which condemned him. There is no record of it ever having been exercised since. This supposed appellate jurisdiction, in so far as it may be thought to have any bearing on the problem under immediate consideration, may be treated as non-existent.²

¹ The nearest approach to such a case was the Cyprus case referred to in para. 26 above. But that case, on examination, wears the aspect of an appeal for redress to the Emperor—for which there were several precedents in past history—and not of an appeal to a superior ecclesiastical Court.

² As indicating the relationship of the Oecumenical Patriarch

38. We will now proceed to examine the history of the question under discussion in the various autocephalous Churches during the last three centuries. It will be found that in all these Churches there was very great activity on the parts of the Patriarchs of Constantinople, that they intervened repeatedly in the affairs of these Churches, and that their intervention was accepted. It is quite true, as the learned Archimandrite puts it, that 'sometimes their intervention was spontaneous and sometimes it was invited by those interested', but it will be found that in all cases a stage was reached when the other Churches neither desired nor invited any further intervention and expressly repudiated the authority of the Oecumenical Patriarch to act without their consent within their own borders.

(a) *Alexandria*

39. In Alexandria, at least from the beginning of the seventeenth century until towards the close of the nineteenth, with one exception—an exception

to the Church of Russia it may be interesting to note that when in 1721 Peter the Great established the Holy Synod as the governing body of the Church of Russia, he communicated this decision to the Oecumenical Patriarch as the 'first Bishop of the Orthodox Catholic and Eastern Church' and asked him to communicate it to the other three Patriarchs. He added that he had directed the new Synod in all ecclesiastical cases to refer to and correspond with the Oecumenical Patriarch and requested him to maintain with the Synod the relations of correspondence and reference which had formerly been maintained with the Patriarchs of Russia (see Delikane, vol. iii, p. 233).

of some importance—the Patriarchs of Alexandria were elected in Constantinople and were consecrated and instituted under the direction of the Oecumenical Patriarch. What is more, on two occasions the Oecumenical Patriarch intervened to impose deposition (*parsis*) upon Patriarchs of Alexandria. In another case he intervened to impose the more serious penalty of *kathairesis*,¹ whilst a subsequent Oecumenical Patriarch again intervened and set aside the sentence of his predecessor. We will proceed to consider the reason why these acts of intervention took place and the principles upon which they were justified.

40. The reason for this continuous exercise of authority in the Patriarchate of Alexandria appears to have been that this Patriarchate was without a Synod. Its once numerous Metropolitans had ceased to exist. Thus, the famous Patriarch, Cyril Lucar, in a letter written in 1612, says :

‘The Patriarch of Alexandria has only *chor-episcopi* for the space of 200 years ; but it would be tedious to recount why he has not Bishops and Archbishops.’ (See Neale, *Holy Eastern Church of Alexandria*, vol. ii, p. 376.)

A Synodical vote was necessary for the election of a Patriarch and for this purpose recourse had to be had to Constantinople. It would appear, however, that it was nevertheless customary for the

¹ *Parsis* or ‘deposition’ merely involves the loss of an ecclesiastical dignity. *Kathairesis*, on the other hand, permanently destroys the clerical character of the person affected by it.

Orthodox notables to assemble with the clergy and to elect a Patriarch, and subsequently to seek his canonical appointment at Constantinople. Thus Cyril Lucar says in the same letter :

‘The election of the Patriarchs, excepting him of Constantinople, rests with the leading men of the nation, who assemble with the clergy and after the customary prayers choose him they judge fittest. When they are elected they deposit a certain sum with the Turkish officials of the province to obtain possession. . . . The Patriarch of Alexandria pays nothing to the Turks nor does he ever join with them in any Church matters nor choose them as advisors or allies. . . . When the Patriarchs are elected they are consecrated by at least three Metropolitans or Archbishops.’

The absence of this Synod is in more than one case expressly cited as a ground of intervention. Thus on the election of Artemios in 1845 the Oecumenical Patriarch says :

‘This See not having Bishops and Synod cannot proceed to the act of voting and electing a successor’,

and refers incidentally to a canon forbidding the appointment of Bishops

‘except by means of a Synod and by decision of Bishops’. (See Delikane, ii, p. 85.)

The same principle was recited by Artemios when he resigned two years later. He explained that his election had taken place at Constantinople

‘by reason of the lack of a canonical Synod and Bishops at that place (Alexandria) owing to *the circumstances of the time.* (*Ibid.*, p. 91.)

41. In other cases this reason for intervention, though it always existed, is not expressly stated. Thus the election of Gerasimos in 1621 is simply explained as having taken place at the express request of Cyril Lucar, who had himself been appointed Oecumenical Patriarch. In 1737, on the election of Cosmos, it is explained in his act of appointment that the

‘Fathers . . . canonically decreed that the Church should not be left without a Pastor.’

The local Clergy in their distress

‘being in need of a helping hand, have sent a united written petition to the Great Church of Christ as to the common Mother of all and the most Catholic authority and Head.’

The Patriarch acts

‘partly because of this petition and partly because of the canonical privileges which the Oecumenical See has acquired by Synodical and Imperial Decrees that it should render assistance sympathetically and philanthropically and in all affection to those who seek a helping hand among the Holy Churches in every place.’

The Patriarch of Jerusalem was present at this election, as well as the resident Metropolitans of the Constantinople Patriarchate. (See Delikane, ii, pp. 33-6.)

42. Similar grounds more briefly expressed were

pleaded for the election of the Patriarch Matthaïos in 1746 (*ibid.*, p. 39). In 1766 the election of Kyprianos, on the resignation of Matthaïos, is explained as having taken place at the express request of Matthaïos. All four Patriarchs appear to have been present at this election (*ibid.*, p. 41). The election of Gerasimos in 1783, on the death of Kyprianos, was made at the earnest request of the departed Patriarch. The act of election recites as a special attribute of the Oecumenical See :

‘that it loves not that the things of its own house alone should be well ordered in heedlessness of the other most Holy and Apostolic Sees, but loves that they should be well ordered in all nobleness and with all possible excellence and has been accustomed to be zealous for their needs as well as its own’ (*ibid.*, p. 42).

Parthenios was elected in 1708

‘on the warm prayers of the pious Christians of Alexandria both here and there’ (*ibid.*).

The privilege of the Oecumenical See to render help to those in distress is again recited. The act of election of Theophilus in 1805 is in the same terms (*ibid.*, p. 46).

43. In 1825, on the deposition of Theophilus, the Patriarch Hierotheos was elected. The act of election again cites the privilege of the Oecumenical See to render help to those in distress and it was accompanied by a long and eloquent circular explaining the circumstances to the Christians of Alexandria,

and commending their new Patriarch to them (*ibid.*, pp. 50-3).

44. It would be convenient that at this point we should refer to the depositions of the Patriarchs of Alexandria, which the Oecumenical Patriarch carried out in this period. The first was the deposition of Paisios (*ibid.*, p. 7). The ground of the deposition was that Paisios had deserted his See, but the excuse for it was strong pressure on the part of the Turkish Government and the desire of the Oecumenical Patriarch to preserve his own safety and to vindicate himself from any supposed complicity in the misconduct of Paisios (*ibid.*, p. 7).

45. The second deposition was that of Theophilus, in 1827. This again was on the ground of desertion of duties. Theophilus had been absent for seven years. He was living in the island of Patmos and had ignored the frequent warnings that had been addressed to him. No special justification is advanced for the intervention except the grave evils resulting from the prolonged absence of a Bishop from his See, but it may be assumed that the justification for this deposition was the same as that which had been previously pleaded for acts of appointment.

46. We now come to an incident which throws very great light on the real nature of these interventions. In 1845 the Patriarch Hierotheos died. Three of the leading notables of Alexandria addressed a letter to the Oecumenical Patriarch, announcing that before his death the late Patriarch had appointed as his successor one Hierotheos, an Archimandrite,

whom these notables, no doubt on behalf of the local Church, now themselves commended as an appropriate successor to the late Patriarch, and whose appointment they applied for. The Oecumenical Patriarch, instead of acceding to their request, reciting as usual his privilege of helping those in distress, appointed Artemios, the Metropolitan of Kustendil. At the same time he addressed a 'patriarchal and synodical letter' to the notables, explaining that canonical law forbids a Bishop to nominate his successor.¹ He further pointed out that Hierotheos, being a simple Archimandrite, was not qualified for appointment as Patriarch and that, moreover, he was entirely unknown in the Church and it would be contrary to ecclesiastical usage to ordain such a person even as a Bishop without the fullest preliminary examination. He announced, therefore, that the Church of Constantinople had elected Artemios and warmly commended his qualities to his future flock (see Delikane, vol. ii, p. 83-90).

47. This appointment, however, was by no means favourably received. The Church of Alexandria protested to the other autocephalous Churches against this uncanonical intervention in the affairs of the See of Alexandria. The new Patriarch, Artemios,

¹ This principle is insisted on in other places. The twenty-third canon of the Synod of Antioch is always cited as the authority for it. It is singular, nevertheless, that the practice was customary in the Patriarchate of Jerusalem for a long period up to the year 1843. The nomination of a predecessor is in other places recited as ground for a Patriarchal appointment by the Oecumenical Patriarch. See *infra*, paras. 68, 70, 85.

found his position impossible, and within two years, 'preferring the peace of the Churches to the maintenance of himself upon the throne,' resigned his Patriarchal dignity. The Patriarch of Constantinople procured his reappointment to his original See. It was, at the same time, arranged that Hierotheos should be appointed titular Bishop of Lybia, so as to qualify him for election as Patriarch of Alexandria.¹ Finally all the three other Patriarchs arranged to send delegates to Cairo for the purpose of the canonical election and ordination of the new Metropolitan of Lybia as Patriarch of Alexandria. The act of appointment in this instance claims the privilege of taking thought for such emergencies for 'the most Holy and Patriarchal and Apostolic Sees', declaring that upon these sacred Four 'as upon a four-square base is founded the assembled unity of the one Holy and Catholic Church of Christ.'

48. The local Church had thus successfully asserted itself, and this circumstance had a profound influence on all subsequent elections. In these elections of the Patriarchs at Alexandria stress is always laid on the fact that the name of the person elected was propounded by the local clergy and laity.

¹ The preamble to the appointment is as follows: 'It has been an established custom in the Church from of old that men of worth, notable for their blameless life, should be canonically ordained Bishops in the name of some diocese once illustrious, for the edification and ordering of the Christian people.' Hierotheos was accordingly ordained Bishop 'under the nominal designation of the once illustrious, most Holy Metropolis of Lybia'.

(See 'Election of Kallinikos in 1858', Delikane, vol. ii, p. 13). In 1861 Kallinikos resigned, but he resigned in the first instance to the Orthodox Community of Alexandria and Cairo and invited them to elect his successor. The Community thereupon addressed letters to the three other Patriarchs, and Kallinikos, expressing his agreement with these letters, communicated his formal resignation to the Oecumenical Patriarch, inviting him to elect as his successor the person whom, 'after considering the question with us,' he should adjudge appropriate (*ibid.*, p. 143). His successor, Iakobos, was elected with the concurrence of all three Patriarchs. It is recited in a letter addressed by the Oecumenical Patriarch to the Community at Alexandria (*ibid.*, p. 145) that the Communities of Cairo and of Alexandria, being divided between two candidates, had submitted the matter to the Oecumenical Patriarch and the other two Patriarchs, and that they had decided to elect neither of the two candidates but to choose a third, the new Patriarch Iakobos. Justification of this action was again the 'duty of caring for and succouring the other Thrones in their necessities'.

49. The last act of appointment accessible to us is that of Sophronios in 1870 (*ibid.*, p. 151). This occurred at the end of a long crisis, the story of which will be found in the *Ecclesiastical History* of Diomedes Kyriakos, vol. iii, pp. 54-5. The Patriarch of the time, Nikanor, was old and feeble. The Church of Alexandria was divided between two parties. One sought to impose upon the aged

Patriarch, as *Topoteretes*, a monk, called Eugenios, who was highly distasteful to him. The other party was in favour of the direction of the affairs of the Church being committed to an Archimandrite named Neilos. Nikanor finally resigned in favour of Neilos, who, having been first created Bishop of Pentapolis, was elected Patriarch by a local election in 1869. The strife, however, continued. The Oecumenical Patriarch, exercising his authority over Neilos as a monk of Mt. Athos and thus a person belonging to the sphere of Constantinople, ordered him to quit the See of Alexandria. Neilos refused and was supported by the Patriarchs of Antioch and Jerusalem. The Oecumenical Patriarch thereupon passed sentence of *kathairesis* upon him. This sentence was repudiated by the other two Patriarchs. In 1870 the local situation was so serious that the Egyptian Government intervened and referred the matter to the Porte. The Porte directed the Oecumenical Patriarch to elect a Patriarch for Alexandria. Sophronios was thus elected and Neilos was compelled to retire. It is singular that the act of appointment of Sophronios says nothing about Neilos or the action of the Egyptian and Turkish Governments, but simply states that the Christian population, after much tribulation, had chosen one Neophytos, the Metropolitan of Derkoi, as their Patriarch, and had applied to the Great Church for his appointment or, if he withdrew, for the appointment of some other appropriate person, and that the Great Church, not being able to ignore these earnest

supplications of the Holy Clergy and people, on the refusal of Neophytos had elected Sophronios. Thus, whatever were the forces which compelled the Oecumenical Patriarch to act, in the official record of his action he rendered homage to the principle of the right of local election.

50. The present situation in Alexandria is understood to be as follows: The present Patriarch of Alexandria, Photios, has created a Synod which consists of the Metropolitans of Pelusium, Axum, Ptolemais, Nubia, Memphis, and Tripolis. He himself was elected in accordance with a circular drawn up by the *locum tenens* of the Throne of Alexandria and issued on the 24th November, 1899. (See *Mémoire sur les Communautés Catholiques et Grecques Orthodoxes en Égypte*, by H. Samidei Bey, p. 63.) The regulations in this circular are said to have been drawn up in accordance with the unanimous desire of the clergy and people and with the previous custom observed in other elections. They provide in the fullest possible manner for a popular election, and are no doubt based upon the custom referred to by Cyril Lucar in the passage recited above. The Church of Alexandria is thus now provided with a constitutional procedure for the election of a Patriarch, and with an Episcopal Synod which can accord to the person elected the necessary synodical ratification. It is, therefore, no longer in need of the good offices of the Church of Constantinople. These good offices have been shown by the above discussion to have been rendered in all cases, not on the

ground of any authoritative right of intervention, but on the ground of its ancient privilege of assisting Churches in distress. Where the Church of Constantinople, in the exercise of that privilege, sought to override the local choice its action was repudiated and resisted.

51. It may be interesting to note the position assumed by the Church of Alexandria in the famous controversy relating to Mt. Sinai, which was terminated in 1867. The Patriarch of Alexandria, Nikanor, then addressed the Turkish Foreign Minister as follows :

‘The fact that in times of necessity one Patriarchate fraternally invites another to give to it a ‘helping hand’ in no way impairs or derogates from the rights and privileges of the autocephalous Churches and consequently the Patriarch of Constantinople cannot arbitrarily intervene in cases affecting the other Patriarchs, merely because certain of such cases happened at other times to have been taken into consideration at Constantinople, nor, on the other hand, can the other Patriarchs intervene in cases affecting the Patriarchate of Constantinople on the plea that they have often been invited and have sat and adjudicated upon cases affecting this same Patriarchate.’ (See *Canonical Right of the Patriarchal Throne of Jerusalem over the Archbishopric of Sinai*, p. 360.)

52. It is clear, therefore, that the history of the Church of Alexandria in the last three centuries does not justify the proposition that there resides in the Oecumenical Patriarch a right of intervention having obligatory force upon the heads of the other autocephalous Churches.

(b) *Antioch*

53. The history of the See of Antioch for the past three centuries has been of a very troubled character, and the Oecumenical See has always taken an active interest in its fortunes. Different persons have at various dates claimed to hold the Patriarchal office at the same time, and the Church of Antioch, in the midst of the confusion so caused, has had to face a very active propaganda on the part of the Roman Catholic Church. The Oecumenical Patriarch, with his Synod, has appointed numerous Patriarchs of Antioch, and has also from time to time imposed sentences of *kathairesis* on persons exercising or purporting to exercise, that dignity. The grounds on which this has been done are always very fully expressed. We will proceed to discuss the various cases of these interventions.

54. The first case to be considered is that of the *kathairesis* of a Patriarch bearing the name of Cyril in the year 1672. (See Delikane, vol. ii, pp. 155-64.) In that year the Metropolitans of the Patriarchate of Antioch addressed a petition to Dionysios IV, the Oecumenical Patriarch. The original of this document, which is of the greatest historical interest, appears to have been in Arabic with an accompanying Greek version. It explains that on the death of the Patriarch Makarios the Metropolitans chose one of their number as *Topoteretes* until they could send a messenger to the Oecumenical Patriarch, asking him to choose a God-fearing man and to make him their

Patriarch. While they were making preparations accordingly the Pasha of Damascus came, bringing with him a boy fifteen years old, the grandson of the late Patriarch. He addressed them as follows :

‘Romans, your Patriarch is dead. Make another Patriarch.’

The Christians answered :

‘Effendi, we cannot make another Patriarch unless we ask the Patriarch of ‘the City’ (Constantinople) and the others, and we have just sent to bring hither the Metropolitan of Hama to take charge of our Church until the answer comes to us from the Patriarchs.’

The Pasha answered :

‘I recommend you to make the grandson of the deceased your Patriarch.’

They replied :

‘Effendi, he is a boy of fifteen years, and it is not in accordance with our law that he should become Patriarch.’

The Pasha, nevertheless, in spite of their protests, insisted on this boy being made Patriarch, and by force and, as it was alleged, under the influence of bribes, procured his ordination and consecration. They prayed in earnest language for the help of the Oecumenical Patriarch, saying that they had no power to help them in those mountains against the tyranny of their rulers. The Oecumenical Patriarch of Constantinople, in concurrence with the Patriarch of Jerusalem, who is referred to as being acquainted

with the local circumstances, took action on this petition. They recited that Cyril had by

‘force and tyranny seized the Patriarchal See, not by election of the Clergy, nor by a vote of Bishops, nor on the prayer of the people as the divine ordinances and rules of the Church require.’

They referred to him as being fifteen years old, as wearing no beard, as a boy who ought to be at school, and an immature stripling, and pronounced upon him a sentence of *kathairesis*—a sentence couched in the most violent and vituperative terms. Another Patriarch, Neophytos, was elected in his place, the only ground alleged for the intervention being the necessity of the circumstances.

55. There is another version of this incident, however, which puts it in a different light. Neale’s *Patriarchate of Antioch* contains an interesting appendix in the form of a ‘Biographical Account of the Patriarchs of Antioch’, by Constantios, who was Patriarch of Constantinople from 1830 to 1834. In this account it is said that on the death of Makarios

‘the Damascenes, from their love and attachment to the blessed man, remembering the good works he had done for the See, with one voice elected the grandson of the ever-memorable man, who was in his twentieth year, but certain agitators, not considering that Grace, seeking out the worthy, supplies their deficiencies, would not receive him, although, young as he was, he possessed the eloquence and intelligence of an old man; they wrote, therefore, to the Great Church accusing Cyril as being under the canonical age and incom-

petent, and proposed Neophytos, Bishop of Epiphaneia, as qualified and worthy.' (See Neale, *Patriarchate of Antioch*, p. 183.)¹

56. Neophytos was sent, but could obtain no recognition, and finally, by arrangement with Cyril, took refuge in the Bishopric of Laodicea. After the death of Neophytos the Oecumenical Patriarch ordained and appointed Athanasios IV as his successor. Athanasios did not obtain any recognition. Cyril continued to reign and Athanasios took from him the Diocese of Aleppo. Finally Cyril died after a Patriarchate of 38 years.

57. The appointment of the Oecumenical Patriarch had thus obtained no substantial local recognition, but the strife between the rival Patriarchs had given great encouragement to Roman propaganda. On the death of Cyril the Oecumenical Patriarch, purporting to act at the request of the local Church, reappointed Athanasios, who lived for a period of four years as Patriarch. The claims made by the Oecumenical Patriarch in connexion with this appointment are extremely extensive. Indeed they constitute the most advanced formulation of his pretensions that is extant in modern times. They are in the following terms:

‘On this account, we also being under the imperative obligation to provide for the good order

¹ Le Quien (vol. ii, p. 774) says that Procopios records that Cyril was ‘a very holy and apostolic man, learned in the Greek and Arabic languages, a diligent student of the sacred books, and a fervent preacher of the word of God’.

and the spiritual salvation of the whole of the Christian population without ceasing, and to secure and to take forethought for the Holy Churches everywhere and their dioceses, so that they may be well and beneficially conducted and regulated, to the end of their good order and establishment, and that all things may be governed with due order, and in particular that all ecclesiastical matters may operate and take effect according to their proper order and establishment, &c.' (See *Delikane*, vol. ii, p. 176.)

58. The next nomination to this Patriarchate by the Oecumenical Patriarch was that of Ioakeim,¹ on the death of Athanasios. The act of appointment recites the troubles of the Church and the fact that news of this state of affairs had reached the Sultan, and also news of the lapse of great numbers to Roman Catholicism. The Oecumenical Patriarch had accordingly been

‘ordered by an order, fearful and strong and imperative, by a decree in writing on Royal paper, in express words, directing and commanding us to find and choose from our own region a worthy and fitting person to undertake the Patriarchal presidency of the Throne of Antioch’ (*ibid.*, p. 189.).

This order of the Sultan directed that the candidate should be orthodox in belief and should not be infected with the Latin heresy, and forbade acceptance of any local candidate, however earnestly he might be desired, on the ground that all persons

¹ Ioakeim does not appear in the lists of Patriarchs of Constantinople (Le Quien). Is it possible that he is identical with Silvester next mentioned?

coming from the locality of Antioch were subject to the suspicion of heterodoxy. The Synod of Constantinople

‘accordingly determined philanthropically to come to the help of the aforesaid most Holy See of Antioch, thus terribly buffeted and tossed about, and to stretch the hand of salvation to our brother Christians there spiritually perishing’.

The document reiterates that the Synod was acting in obedience to the ‘fearful and powerful Royal Command’.

59. The reign of the next Patriarch, Silvester (1728–66), was so disturbed that the interventions of the Oecumenical Patriarch were specially frequent. About the year 1740 he intervened to appoint a Bishop of the See of Aleppo, justifying his action on the ground, firstly, that

‘the Patriarchal Oecumenical See has acquired from Oecumenical Synods and Imperial decrees . . . the privilege of not only having the oversight and care of the Churches subject to it, but also of according to all the neighbouring Churches everywhere and to all regions the appropriate administration, as being entrusted with general authority, and particularly when there is a question of dogmas and pious observances’;

secondly, on the ground of the ‘fearful and inevitable command of the Royal power’; thirdly, on the ground that the Patriarch Silvester had invited the intervention (*ibid.*, p. 189).

60. In 1750 a similar appointment was made of one Sophronios, Metropolitan of Ptolemais. A letter

was written to the Christians of Aleppo commending their new Bishop to them as 'almost your compatriot and one who knows your customs and your condition and your Arabic dialect', and as a man of varied accomplishments, including a knowledge of both Greek and Arabic literature. The appointment was made on the recommendation of Silvester, Patriarch of Antioch, and in his presence (*ibid.*, p. 195).

61. In 1757 the Oecumenical Patriarch actually annexed Aleppo and appointed its Metropolitan with the concurrence of Silvester, Patriarch of Antioch, who confessed his incapacity to govern it. The act of appointment recites as the ground for this action 'the imperative obligation' of the Oecumenical Patriarch

'to help care and provide for Christian organizations everywhere as the common Mother of the Holy Churches in every place and of the Holy Patriarchal Sees therein according to the immemorial precious privilege conferred upon it of intervening everywhere, and of setting up that which has fallen and requires re-establishment.'

62. The most remarkable examples of exercise of authority by the Oecumenical Patriarch at this period were three depositions of persons claiming the Patriarchal or Episcopal office, each of which was accompanied by a sentence of *kathairesis*.

63. In 1718 the Oecumenical Patriarch purported to pass this sentence against Euthymios, Metropolitan of Tyre and Sidon. This was done with the concurrence of the Patriarch of Jerusalem, Dositheos,

but nothing is said about any invitation from the Patriarch of Antioch (Delikane, ii, 641). As the Patriarch at this time was Cyril, who ruled for thirty-eight years after his own abortive deposition in 1672, it may be questioned whether this *kathairesis* ever had any practical effect.

64. The other two sentences were passed against two persons known as Serapheim and Cyril, both of them 'Latinizers'. Serapheim, who also adopted the name of Cyril, was the nephew of the Metropolitan of Tyre and Sidon above referred to, who himself received *kathairesis* in 1718, and is said to have gone through a pseudo-consecration. The Oecumenical Patriarch, acting in conjunction with Silvester, Patriarch of Antioch, procured his banishment by the Porte and subsequently passed sentence of *kathairesis* upon him. (See Delikane, ii, 642-7.) Cyril, though he is spoken of as the 'successor' of Serapheim, apparently did not receive *kathairesis* until 1758. An extraordinary story of his farcical and blasphemous consecration is recorded by the Patriarch Constantine.¹

¹ 'This man, being affected with Roman doctrine, calling to his aid the violence and threats of a powerful Chief of Mount Lebanon, was named Bishop in a certain cave by Neophytos, Metropolitan of Beirut, and an Armeno-Catholic Bishop brought from Lebanon, cursing and excommunicating him—instead of prayers. After this comedy the accused man aiming also at the Patriarchal dignity, this too was accomplished in a still more ridiculous and horrible manner. A certain Capuchin friar, a Roman missionary in Syria, breathed on him thrice, saying 'By the grace and power given me by the Archbishop of Rome

65. Both these documents are couched in the most vehement and abusive terms, and contain eloquent and fiercely expressed imprecations. They are of great historical interest but too long for quotation. The first *kathairesis* took place on the invitation of Silvester. No justification is pleaded for the second.

66. We will now consider the subsequent appointments to the throne of Antioch. All these appointments, from the death of Silvester to the election of Hierotheos in 1854, took place in Constantinople, namely, of Philemon 1766, Daniel 1767, Anthimos 1791, Serapheim 1813, Methodios 1823, Hierotheos 1854.

67. The appointment of Philemon in 1766 is said to have taken place on the invitation of the local Christians, who declared that whomsoever the Oecumenical Patriarch and the other Patriarchs and Bishops in Constantinople would select as most fitting they themselves would accept. (See Delikane, *I have this day appointed thee Patriarch of Antioch*." (See Neale, *Patriarchate of Antioch*, p. 187.)

Le Quien, who was a contemporary of these events, gives, as might be expected, a more charitable account of both Serapheim and Cyril (ii, 776). Of Serapheim he says that he heard that he was much harassed by his rivals, but that by the influence of 'our most Christian King' (Louis XIV) at the Turkish Court he had succeeded in retaining his Patriarchate. Of Cyril he says that he was elected and consecrated at Damascus, a member of the Roman Communion and confirmed by the Holy and Apostolic See, but was compelled to yield to the intrigues of the schismatics and to return to the Lebanon, where he presided as Bishop over a small flock. Silvester, he says, retained his Patriarchate by the aid of the leaders of the English Protestants and by the authority of the Sultan.

vol. ii, p. 207.) The account of Constantios given in Neale, p. 187, is slightly different. It is as follows :

‘As the Bishops of the Throne of Antioch could not agree concerning the election of a new Patriarch from among themselves, they wrote to the Great Church, which took upon itself the government of the Metropolitan See of Aleppo, so separating it from the Patriarchate of Antioch, which was not able to rule it owing to the inroads of the Papists ; and advanced to the Patriarchate its Metropolitan whom thirteen years ago they had consecrated and sent.’

68. The justification pleaded for the appointment of Daniel in 1767 is firstly, a petition of the local Christians, who feared a usurpation like that of Serapheim, and secondly, a nomination by Philemon in his lifetime. (See Delikane, vol. ii, p. 112.) The account of Constantios as given in Neale, p. 188, is again somewhat different.

‘After his death the Bishops subject to the Throne of Antioch again could not agree concerning the election of a Patriarch, as some wished for the Bishop of Beirut and others for Tyre and Sidon and others for Tripoli. They wrote, therefore, to the Great Church, which, in order to put a stop to these divisions and scandals, consecrated the *Protosynkellos* of the Great Church and translated him to the Throne of Antioch.’

69. The act of appointment of Daniel contains a passage of some interest. It is as follows :

‘Therefore, according to the ancient order of this Apostolic and Oecumenical See, after the

death of any of the other Patriarchs, it receives and takes upon itself the charge of *Ephoros* and *Epistates* of his successorship ; moreover as general overseer and *Ephoros* of all the Holy Churches of Christ, as Head of the whole body, bound to care for all its members and to watch over the common interest of all—exercising this right, the See of Constantinople, &c.

There can be no doubt that at this period the Oecumenical Patriarch is right in saying that for some time past on a vacancy occurring in any of the other Patriarchates, whether at Alexandria, Antioch, or Jerusalem, the Great Church has taken upon itself the question of filling the vacancy, but in all cases this was done not on the ground of any authoritative right of intervention, but on the ground of an obligation to succour the other Patriarchal Sees in their necessities.

70. The ground given for the appointment of Anthimos in 1791 was ‘eagerness to help the necessities and needs of all the other Holy Patriarchal and Apostolic Thrones’. (See Delikane, vol. ii, p. 215.) The Patriarch of Jerusalem concurred with the appointment, which was made on the nomination and recommendation of Daniel upon his retirement. The appointment of Serapheim in 1813, according to Constantios (Neale, p. 189), was made on a reference of the Bishops of the See and the Orthodox there to the Great Church. The act of appointment recites ‘the warm prayers and supplications of the local Orthodox Community’ and pleads that the Oecumenical Throne had inherited the privilege and task

of giving assistance to those in need (Delikane, ii, p. 236).

71. The appointment of Methodios in 1823 is simply said to have been made upon the petition of the local clergy and Christian laity. Constantios (Neale, p. 189) records that he himself, then Archbishop of Sinai, was invited by a general requisition of the Bishops of the See and of the local Christians but declined the office.

72. It will be seen that in all the above cases the Great Church acts not spontaneously but at the request of the local Church. There is a long letter of the Oecumenical Patriarch written in 1850 on the subject of the election of a successor to Anthimos, which is of the greatest interest and value. It explains in the fullest manner and in the most admirable tone and temper the spirit which had prompted the Great Church in its various interventions in the affairs of the Church of Antioch. A petition had been received from the Clergy and notables of Damascus asking for the appointment of Gregorios, ex-Patriarch of Constantinople. This invitation was declined by Gregorios on the ground of ill-health, and while the Oecumenical Patriarch was looking for a substitute he received another letter from the Bishops of the See of Antioch, putting forward the name of Hierotheos, Metropolitan of Beirut. He noted with sorrow the dissensions in the local Church and the contradictory views expressed with regard to the principle of the election of a successor to Anthimos. The Damascus petition

had acknowledged that it was on account of local disagreements that their Fathers had waived their canonical right and requested that the election of a Patriarch should take place in Constantinople in 1765, when Philemon was elected. The Bishops, on the other hand, in their petition, alleged that a treaty had taken place between the Great Church and the Bishops of the Throne of Antioch, according to which the election was to be made by the Synod of the Church of Antioch, and the ratification of the decision and the filling of the vacancy was to be made by the Great Church.

73. The Patriarch repudiated the idea of any treaty and recited the circumstances attending the election of Philemon and Daniel as recorded in their acts of appointment. No such treaty was referred to in any of the acts of appointment nor was any such treaty in fact made. The Church always filled the vacancy with the person approved in Constantinople by the common vote, and afterwards the result had justified the wisdom of the choice. He then continues :

‘And this we say, not indeed (far be the thought !) in derogation of the canonical principles and rights which this most Holy Throne has acquired and against which the Great Church has never contemplated any intervention or attack, whether at the time of a vacancy in the Throne or at any other time. On the contrary, to the utmost has it always supported its privileges and has accorded its cordial protection from time to time in many troubled circumstances, having in

view the preservation of the Orthodox people there from all the assaults of their enemies.'

He then cites the efforts and sacrifices made by the Great Church to help the Dioceses of Aleppo and Amida. He declares that local dissensions impede the efforts of the Great Church in seeking a fitting successor, and urges both parties to seek to attain unity in the important question of filling the vacancy in the Throne of Antioch and then to address to him a common petition, declaring that this unity had been attained.

74. Hierotheos was finally elected Patriarch, and it is recited that the Clergy, Bishops, and Notables of Antioch had referred to the Church of Constantinople by signed and sealed petitions the election and substitution of a lawful successor to the vacant Throne. (See Delikane, vol. ii, p. 316.)

75. In order to complete the records of the benevolent interventions of the Church of Constantinople in the affairs of the Church of Antioch, it is necessary to refer to the cases of the Dioceses of Aleppo and Amida. As already mentioned, in 1757 Aleppo, with the consent of the Patriarch of Antioch, was annexed to the Oecumenical Patriarchate. In 1766 it was restored, but not completely, for it was arranged that 'on account of the necessities of the time and for prudential considerations' the name of the Patriarch of Constantinople was to be commemorated in the prayers in the place that would otherwise be assigned to the Patriarch of Antioch. (See Delikane, vol. ii, p. 210.) In 1792 Aleppo was

fully restored to the Patriarchate of Antioch (Delikane, vol. ii, p. 217).¹ The study of this document will show that the Oecumenical Patriarch earnestly repudiated the idea that he ever assumed any authority in the Patriarchate of Antioch. He asserts that his intervention was in the nature of fraternal assistance only. The following passages are of interest :

‘To care for and, when possible, assist the needs of the other most Holy, Patriarchal Sees, our most Holy, Patriarchal, Apostolic and Oecumenical See has ever held quite befitting to itself; but as for taking away their rights and profiting unjustly, this it not only refuses to do but even to hear of. For the first act is just and worthy of it, whereas the second is on the contrary unworthy and unbecoming the Patriarchal dignity.’ . . .
 ‘Hence it is manifest, how in this case, also, our most Holy, Patriarchal, Apostolic and Oecumenical See kept itself blameless, assisting in brotherly wise the Patriarchal See of Antioch in its difficulty and need concerning the said Metropolis of Aleppo, but never at all regarding it as its own property.’²

76. The intervention in the See of Amida in 1846 was of a similar benevolent character. This See had apparently lapsed to Roman Catholicism, but on its return to Orthodoxy the Oecumenical Synod, at the request of the Patriarch of Antioch, Methodios,

¹ The act of restoration is also set out in the appendix to Neale's *Patriarchate of Antioch*, p. 196.

² It may further be mentioned with regard to this Diocese that in 1812 a petition was sent by the inhabitants to the Oecumenical Patriarch to resume his protection, and to this he apparently consented. (See Delikane, vol. ii, p. 232.)

nominated as its Metropolitan, Makarios, who had apparently shared in the lapse of the local Church. The Oecumenical Patriarch satisfied himself of the sincerity of his conversion and presented the new Metropolitan with various necessities, complete episcopal robes and the expenses of his journey, and promised him a yearly contribution. (See Delikane, vol. ii, p. 281.) A similar benevolent interest was shown in the conversion of Athanasios, the Latin Bishop of Tripoli (*ibid.*, p. 293).

77. It is clear from the above precedents and quotations that the interventions of the Oecumenical Patriarch in the affairs of the Church of Antioch were always fraternal and not authoritative, and, although wide claims were advanced in certain instances, the authority which the Oecumenical Patriarch really claimed was an authority to render benevolent assistance which the Church of Antioch was under no obligation to accept. There can be no question that the Church of Antioch greatly benefited from these benevolent interventions, but in more recent times it has found it necessary formally to assert its independence.¹

¹ Neale's *Patriarchate of Antioch* contains an Appendix from a Russian source giving an account of the state of the Patriarchate of Antioch in 1850 (see pages 213-29). It is clear from this appendix that the independence of the Antioch Patriarchate was insisted upon at that date, but in view of recent developments and of the source from which the appendix comes, the following paragraph is of interest: 'From the beginning of the last century till now, the Patriarchs and some of the Bishops have been, and are, native Greeks. They have

78. In 1867, in connexion with the case of the deposition of the Archbishop of Sinai, the Patriarch of Antioch addressed to Fuad Pasha, Foreign Minister of the Porte, a letter in similar terms to that of the Patriarch of Alexandria quoted above. He added: 'Each autocephalous Church has a defined sphere and within this sphere it exercises freely and independently its spiritual rights, and every intervention of any other Church is inadmissible according to the laws of our religion.'

79. Finally in 1898 the Church of Antioch successfully asserted its right to hold an election altogether independently of the Oecumenical Patriarch. The Synod drew up its own list of candidates and procured from the Porte the dismissal of the *Topoteretes* who opposed this action. The Synod elected its own Patriarch, who finally obtained a *Berat* direct from the Porte. The Oecumenical Patriarch disputed the validity of this election on the ground of canonical irregularities and never recognized the election. The Greek-speaking Metropolitans thereupon left their Dioceses. For many years the Patriarchate of

rendered the Syrian Church services of no small importance. They gave her peace by putting an end to hierarchical divisions; they gave her independence by breaking up her dangerous relations with Rome; they have established order in the monasteries and defended them from being plundered by the Sheikhs and their relatives; they stopped the defection of the Arab Bishops to the Uniats and long kept the Uniats in fear by the voice of the whole Church of the Greek Nation and by their persevering instances with the Turkish Government.'

Antioch was out of communion with the other Patriarchates but is now restored to full communion. All its Bishops are Arabic-speaking natives of Syria. (See Young, *Corps de Droit Ottoman*, ii, p. 40.)

(c) *Jerusalem*

80. The question of the exercise of authority by the Oecumenical Patriarchate in the Church of Jerusalem is necessarily greatly affected by the fact that for many centuries the permanent residence of the Patriarchs of Jerusalem was in Constantinople. They are said to have ceased to reside in Jerusalem at the time of the Latin Domination (see Papadopolous, *History of the Church of Jerusalem*, p. 393). The work of Delikane contains records of the elections of the Patriarchs of Jerusalem from 1661 onwards. During this period the Patriarchs, though they did not permanently reside in Jerusalem, frequently visited it, and also spent much time in travelling and soliciting contributions for the Holy Places in Russia and the Danubian Principalities, but their permanent residence was in Constantinople, where they attended the meetings of the Synod of the Oecumenical Patriarch when occasion required. As was natural they frequently invited the assistance and advice of the Oecumenical Patriarch with regard to matters in their own sphere.

81. The election of the Patriarchs of Jerusalem took place in Constantinople down to the year 1844. The procedure at the election of the Patriarch Nektarios in 1661 was as follows: A Synod was

assembled, at which were present the Oecumenical Patriarch and the Princes of the Danubian Principalities, as well as the Metropolitans of the Oecumenical See, together with the representatives of the monastic clergy, office bearers of the See of Jerusalem, and representatives of the Turkish Government. After long discussion and weighing of the claims of all the suggested candidates, Nektarios was elected. (See Delikane, vol. ii, pp. 362-3.)

82. Afterwards a letter was sent to the Church of Jerusalem, announcing the election and the sending of a representative of the Oecumenical Patriarch to Jerusalem. Finally we have the record of a Synod held in Jerusalem. This recites the election in Constantinople and the arrival of the representative of the Oecumenical Patriarch, who is described as a 'Patriarchal Legate'. The Synod consisted of Bishops, Archimandrites, Abbots, *Protosynkelloi*, Priests, and Monks. It assembled with the 'Patriarchal Legate' and voted its concurrence with the election of Nektarios. (See Delikane, vol. ii, p. 465.)

83. In 1707 the election of the Patriarch Chrysanthos in succession to the Patriarch Dositheos took place in a form more in accordance with procedure observed in regard to Alexandria and Antioch. The justification for the election is the immemorial privilege of the Oecumenical See of assisting the other Sees in their necessity, and the urgent and repeated requests of the late Patriarch Dositheos that steps should be taken to fill the

vacancy caused by his death at an early date thereafter. A long and eloquent letter was addressed by the Oecumenical Patriarch to the Church of Jerusalem, recording the election (see *Delikane*, vol. ii, pp. 467-74) and justifying it on the ground of the habit of the Oecumenical See, particularly during recent years, to extend brotherly help to the other Patriarchal Churches.

84. Similar elections are recorded in the cases of Sophronios, 1770; Parthenios, 1739; Abramios, 1775; Ephraim, 1776; Prokopios, 1787; Anthimos, 1788; Polykarpos 1808; and Athanasios, 1826. In almost all these cases the Oecumenical Patriarch pleads in justification of his action his privilege of assisting the other Patriarchal Sees in their necessities. See for example on the occasion of the appointment of Abramios in 1775: 'It is pre-eminently the work of the most Holy, Patriarchal, Apostolic and Oecumenical Throne, when the needs of the other Patriarchal Thrones are brought before it, holding out the hand of help, to be eager to supply them' (see *Delikane*, p. 497). Similar phrases are used in the appointment of Prokopios in 1787.

85. In many cases the retiring Patriarch nominated his successor, in other cases a Patriarch, seeing the end of his life approaching, nominated a successor to succeed him after his death. For example, in 1730 Chrysanthos nominated Meletios as his successor, and in a long and formal document begged the Oecumenical Patriarch, his Synod, the 'Grand Dragoman' of the Turkish Empire, the Princes of

the Danubian Principalities, the Clergy of the Great Church of Christ, the noble heads of the Government of the renowned Queen of Cities, the notables and all the pious assemblage of the Orthodox population to give effect to his wishes. (See Delikane, vol. ii, pp. 490-3.) In 1766 Parthenios simply declares that he resigns the Apostolic and Patriarchal Throne of Jerusalem to Ephraim, Metropolitan of Bethlehem, and begs the Oecumenical Patriarch to address the usual letter to the Porte with a view to the issue of the *Berat*, and an act of appointment was made out accordingly.¹ (See Delikane, vol. ii, p. 495.)

86. In addition to thus providing for the filling of vacancies the Oecumenical Patriarch took a most active and benevolent interest in all matters relating to the Holy Sepulchre. He did his utmost to support the efforts of the Patriarchs of Jerusalem to collect contributions from the various regions of the Orthodox Church. On one occasion he addressed a severe letter of rebuke to the brotherhood, criticizing their failure to do their duty to the pilgrims visiting the Holy Shrines (see Delikane, vol. ii, p. 527), and sometimes in concert with the Patriarch of Jerusalem and sometimes without him he dealt with affairs relating to the monasteries of Sinai.

¹ It is difficult to understand how the Oecumenical Patriarchate came to sanction this method of filling vacancies in view of its insistence in the case of Alexandria on the uncanonical nature of such a proceeding. (See para. 46, *supra*.)

87. That these proceedings were not held to entitle the Oecumenical Patriarch to intervene in the affairs of the Church of Jerusalem and to give judgement on questions therein arising is demonstrated by two incidents of a more recent date. The first was the election of the Patriarch Cyril in 1845, and the second the deposition of the Archbishop of Sinai by the same Patriarch in 1867. Thus, in the case of Jerusalem, as in all other cases, a time came when the Church found it necessary to assert its independence.

88. With regard to the election of the Patriarch Cyril, it is unfortunate that no authentic record is available. Various accounts are given of this incident. According to Papadopoulos (*History of the Church of Jerusalem*, p. 706) the final result was due to the intrigues of the Russian Mission. The substance of the incident, however, was this, that the election of Cyril took place not in Constantinople but in Jerusalem, and not by the Oecumenical Patriarch and those associated with him in former elections, but by the brotherhood of the Holy Sepulchre in Jerusalem. The person already designated for the office on the death of Athanasios in 1844 was Hierotheos, Archbishop of Mount Tabor, who was known as 'the successor', but he finally renounced his claims. The account of the matter given in the Appendix to Neale's *Patriarchate of Antioch* by the editor, who professes to speak from his own knowledge, is as follows: 'On the death of Athanasios, Patriarch of Jerusalem, in 1844, the

Great Church of Constantinople . . . sought to impose conditions and restrictions on the new Patriarch of Jerusalem for the aggrandizement of the Church of Constantinople. Hierotheos resisted the usurpation and maintained the liberties of the See of Jerusalem. . . . He was not allowed to assume the Patriarchal Throne of Jerusalem, to which Cyril, then Bishop of Lydda, was elected.' Fortescue, in the *Orthodox Eastern Church*, p. 84, refers to the incident as follows: 'The last attempt to judge of an election was made by Germanos IV of Constantinople in the case of Jerusalem in 1843. The Bishops of Jerusalem indignantly denied his right to interfere, and as Russia was on their side Germanos had to give up after a quarrel which lasted two years.' Whatever may be the true account of the incident, it is clear that its result was that from that date the election of the Patriarchs of Jerusalem took place in Jerusalem independently of the Oecumenical Patriarch.¹ Some years after his election the Patriarch Cyril took up his residence in Jerusalem, and from that date the Patriarchs of Jerusalem have continuously resided in the Holy City.

89. The second incident above referred to was the

¹ Papadopoulos on p. 706 has this interesting observation: 'The (Russian) Embassy succeeded in getting the election of the new Patriarch carried through, not in Constantinople but in Jerusalem, and not by the Oecumenical Patriarch and the eminent persons of the Hellenic Race and the Episcopal Hierarchy, by all of whom the Patriarch of Jerusalem used to be elected as representative of the race in the Shrines, but by the Brotherhood of the Holy Sepulchre.'

Sinai question of 1867. The Monastery of Sinai is an independent autocephalous monastery, having the privilege of electing its own head, who, on his election, receives the rank of Archbishop. He is consecrated by the Patriarch of Jerusalem, and it was claimed by the Patriarch Cyril—a claim disputed by the Oecumenical Patriarch—that the Patriarchs of Jerusalem had jurisdiction to deal with all disputes arising between the Archbishop of Sinai and his monks.

90. Such a dispute arose in the year 1867, when the monks of Sinai purported to depose their Archbishop and reported the matter to the Oecumenical Patriarch. The Oecumenical Patriarch disputed their right to do so and called upon them to bring their Archbishop before him for trial. They denied the jurisdiction of the Oecumenical Patriarch, who thereupon, on the 15th of April, 1867, wrote to the Patriarch of Jerusalem, requesting him by virtue of his rights in the matter under dispute to take the necessary measures to bring about pacification and harmony. The Patriarch Cyril accordingly had the Archbishop arraigned before his own Synod. As the Archbishop declined to appear he was tried in his absence. Formal charges were lodged and proofs adduced. He was found guilty and deposed and his successor was elected. The Oecumenical Patriarch had not anticipated that the Patriarch of Jerusalem would go to these lengths, and, after the deposition but before the news of it had reached Constantinople, the Patriarch of Jerusalem received

from him a letter intimating that the arbitration of the difference which had arisen between the monks of Sinai and their Archbishop should take place 'in common with the Great Church of Christ'.

91. This letter provoked a vehement reply from the Patriarch Cyril, who protested that the Archbishop of Sinai, whatever independent rights his monastery might enjoy, was subject to himself.

'If every ecclesiastical case affecting a privileged monastery requires the convocation of an Oecumenical Synod (for when once it is accepted that there is to be a common proceeding, what is to prevent the other autocephalous Churches from participating?) or if every proceeding of a Patriarchal See relating to its interior administration is subject to the observation of another Patriarchal See, it is with astonishment that now for the first time I hear such a synodical declaration.'

He further adds in the course of a vigorous letter

'In short, external participation in ecclesiastical affairs of a Patriarchal See or of an autocephalous Church is only lawful when it takes place with their concurrence, otherwise any intermingling in their ecclesiastical affairs is an invasion of their rights, neither permissible under the apostolical and synodical canons, nor justified by the practice of the Churches.'

He concluded by repudiating any right of intervention as being contrary to the independence of the rights of the See of Jerusalem.

'If we acted otherwise, we should be accounted... as approving and accepting uncanonical invasions of our rights and side by side with the competent

and lawful supreme ecclesiastical tribunal, that is to say, the Oecumenical Councils, as recognizing another unknown supreme tribunal in the Orthodox Church.'

92. The dispute, as was inevitable in the Turkish Empire, was brought before the Turkish Government. The Patriarchs of Alexandria and Antioch emphatically seconded the representations of the Patriarch Cyril in passages which have been quoted above, and the Oecumenical Patriarch, while maintaining that the case should have been subject to arbitration before the Four Patriarchs acting in common, and while protesting against the isolated action of the Patriarch of Jerusalem, gave way before the united opposition of the other three Patriarchs. (See *Canonical Right of the Patriarchate of Jerusalem over the Archbishop of Sinai*, pp. 203-376.)

(d) *Cyprus*

93. We do not propose to submit the history of the Church of Cyprus for the last three centuries to the same detailed examination as that of the other autocephalous Churches above dealt with, and this for two reasons—partly because the principles upon which interventions of the Oecumenical Patriarch in the affairs of other Churches and the limitation to which his right of intervention were subjected have been fully elucidated in the above discussion, and partly because the recent history of the Church of Cyprus has put its relations to the Oecumenical

Patriarchate on such a well-defined footing that any detailed discussion of the previous history of those relations would be superfluous.

94. The interventions of the Oecumenical Patriarchate in the affairs of Cyprus have been numerous and important. On the expulsion of the Venetians in 1571 the Oecumenical Patriarch assisted to put the Orthodox Church on its old footing by the consecration of Archbishop Timotheos. (See Delikane, vol. ii, p. 546). In 1600, on the earnest application of the Bishops, Abbots, Archimandrites, and Clergy of the Church of Cyprus, which was prompted by the fraternal advice of Meletios Pegas, the then famous Patriarch of Alexandria, the Great Church pronounced a sentence of *kathairesis* (Delikane, vol. ii, pp. 546-50) upon Athanasios, Archbishop of Cyprus. In the following year it ratified the election of a successor, Benjamin (Delikane, vol. ii, pp. 550-2). In 1618 it ratified a sentence of *kathairesis* passed by the Church of Cyprus against a monk named Cyril (Delikane, vol. ii, pp. 555-7). In 1651 the Oecumenical Patriarch appears to have issued a regulation¹ defining the canonical relations of the Bishops of Cyprus with their Archbishop in the administration of the ecclesiastical affairs of the island and in the order of their services (*ibid.*, p. 557). In 1692 Dionysios IV, the Oecumenical Patriarch, acquitted the Archbishop of Cyprus, Nikephoros, who had been accused of having rela-

¹ This regulation is only referred to in a foot-note by Delikane. Possibly it was made on the application of the local Church.

tions with an excommunicated Patriarch (*ibid.*, p. 559). Nikephoros had submitted to his jurisdiction and appealed for mercy. In the early years of the eighteenth century the Oecumenical Patriarch, Gabriel III, on the application of the Metropolitans of Cyprus, passed a sentence of *kathairesis* upon their Archbishop, Germanos; and on the directions of the Turkish Government appointed Athanasios, ex-Patriarch of Antioch, as his successor (*ibid.*, pp. 566-70). In 1730 sentence of *kathairesis* was, on the application of the Metropolitan of Kition, passed upon Barnabus Vicus, a person of heretical tendencies, who had attempted to get possession of that See (*ibid.*, pp. 574-6). About the same time the Oecumenical Patriarch passed another sentence of *kathairesis* upon two Bishops of Cyprus for attempting to usurp two superior Sees of the island during the absence of their rightful occupants (*ibid.*, pp. 576-80). In 1745 three members of the Oecumenical Patriarch's Synod, under compulsion of the Turkish Government, appointed one Neophytos as Archbishop, and in 1746 the Oecumenical Patriarch sentenced this same person to *kathairesis*.

95. This is certainly an impressive list of interventions. Some in particular appear to have a very direct relevance—*i. e.* the cases of Athanasios in 1660, and Germanos at the beginning of the eighteenth century, when we find the Metropolitans of an autocephalous Church appealing to the Oecumenical Patriarch to judge and punish the head of their own Church. But there are certain circum-

stances which must be borne in mind with regard to the Church of Cyprus. It had come through a period of great tribulation under Latin domination and had required the aid of the Great Church to re-establish itself. It was only a local Church—the Church of a single Sanjak in the Turkish Empire. If troubles arose between the Church and its ecclesiastical head its autocephalous privileges were only of significance in so far as it could induce the Turkish Government to give effect to them, and it could only approach the Turkish Government through the Oecumenical Patriarch. It is not to be supposed that the Turkish Government concerned itself with the question of the autocephalous rights of the Church of Cyprus. In the circumstances it was only natural that, when such troubles arose, instead of acting—or attempting to act—independently, it should appeal to the Oecumenical Patriarch, and that in other cases the Oecumenical Patriarch, seeing the Church of Cyprus in distress, should tender his good offices or his influence and authority for the purpose of relieving it.

96. Whatever force these various interventions may have had has now been superseded by the effects of recent events in the history of the Church of Cyprus. In 1908 the Patriarch of Alexandria and representatives of the Oecumenical Patriarch and of the Patriarch of Jerusalem visited Cyprus on the invitation of the two parties, between which the Church of Cyprus was divided in the prolonged controversy then proceeding with regard to the

election of an Archbishop, in the hope of being able to bring about a peaceable solution of the question by friendly arbitration. A representative of the Patriarch of Antioch would, no doubt, have been invited but for the fact that at that date friendly relations between the Patriarchate of Antioch and the other Patriarchates had not been restored.

97. The arbitration was not successful, but before the arbitrators had definitely renounced their task the Oecumenical Patriarch, without any invitation, himself assumed the right of intervention and affected to appoint in Synod the Metropolitan of Kyrenia, one of the rival candidates, as Archbishop of Cyprus. At the same time his representative, who had visited the island as arbitrator, the Archbishop of Anchialos, issued a letter setting out in detail the previous acts of intervention above enumerated, as well as other acts of similar character, and claiming for the Oecumenical Patriarch an absolute right of intervention in the affairs of the Church of Cyprus.

98. This claim on the part of the Oecumenical Patriarch was repudiated by the majority of the Christian population of the island, and by the British Government, acting at the instance of their representatives. A special enactment was passed by the Legislature of Cyprus in the extraordinary circumstances of the case, regulating the procedure for the election of an Archbishop (Law VIII of 1908). The Metropolitan of Kition was elected

Archbishop of Cyprus in pursuance of that law. His election was ultimately recognized by the whole Church of Cyprus and by the Patriarchates, the Metropolitan of Kyrenia giving up his claims under the nomination of the Oecumenical Patriarch but retaining by courtesy the title of 'Beatitude'.

99. This completes our examination of the history of the interventions of the Church of Constantinople in the affairs of the other autocephalous Churches. There can be no doubt that by these various interventions the Church of Constantinople rendered signal services to the various Churches whom she thus succoured in times of difficulty and danger, and that both by her eminent position in the Orthodox Church and by her numerous acts of benevolent assistance she has entitled herself both to the reverence and gratitude of the other Churches, but it is plain that her interventions have been acts of fraternal solicitude and not acts of an over-riding authority. They have derived their validity not from any such authority but from the previous invitation or the subsequent acquiescence of the Church in which they took place, except in the cases in which they proceeded upon direct orders of the Turkish Government. Such cases, of course, cannot be regarded as valid ecclesiastical precedents.

B. *The Four Patriarchs*

100. If the Oecumenical Patriarch is not a competent tribunal for the trial of disputes arising in the other autocephalous Churches, it must further

be considered whether there is any authority which, according to the ecclesiastical law of the Orthodox Church, is vested with the necessary power. In particular the question must necessarily arise whether the Four Patriarchs of Constantinople, Alexandria, Antioch and Jerusalem, acting in association, constitute a Supreme Court for the adjudication of questions arising in the Orthodox Church.

101. The Four Patriarchs acting in association are undoubtedly the most venerable and authoritative institution in the Orthodox Church. Cyril Lucar (Neale, *History of the Holy Eastern Church*, Alexandria, vol. ii, p. 373) gives this account of their supremacy :

‘The Greek Church is distributed into many nations, the Iberians, Colchians, Arabs, Chaldeans, Ethiopians, Egyptians, Muscovites, Russians, Bulgarians, Servians or Slavians, Albanians, Caramanians, Wallachians, Moldavians and Greeks . . . All these nations preserve the faith of Christ, obeying the Greek Church and their own rules . . . These nations have four lawful Patriarchs amongst whom the Patriarch of Constantinople holds the first place, the Patriarch of Alexandria the second, the Patriarch of Antioch the third and the Patriarch of Jerusalem the last.’

102. The most famous occasions on which the collegiate power of the four Patriarchs has been exercised have been in connexion with the Church of Russia. In 1642 a Synod over which the four Patriarchs presided approved a ‘confession of the Orthodox faith of the Catholic and Apostolic Church

of Christ submitted by the Church of Russia'. (Delikane, vol. iii, pp. 31-7.) In 1593 the four Patriarchs approved of the erection of the Church of Russia into a separate Patriarchate. (Bapheides, *Ecclesiastical History*, vol. iii, p. 193, and Delikane, vol. iii, pp. 10-20.) In 1673 the four Patriarchates collectively gave to the Church of Russia categorical answers to twenty-five questions submitted to them in connexion with the affairs of the Church of Russia at the time of the troubles between Czar Alexis and the Patriarch Neikon. (See Delikane, vol. iii, pp. 93-118.) The four Patriarchs were invited by the Czar to take part in the Synod which finally condemned Neikon, but only two, namely, the Patriarchs Paisios of Alexandria and Makarios of Antioch, went on behalf of the four.

103. The four Patriarchs have frequently acted together on occasions when such joint action was thought necessary for the good of the Church, for example, as mentioned elsewhere, on the occasion of the troubles in the Church of Alexandria. In 1847 the three Patriarchs of Constantinople, Antioch and Jerusalem by their representatives took part in the election and consecration of Hierotheos as Patriarch of Alexandria and, in the memorandum recording his election, a reference is made to the four Patriarchs—'upon these Holy Four, as upon a foursquare base foundation is assembled and founded the unity of the one Holy and Catholic Church of Christ'. (Delikane, vol. ii, p. 109.)

104. On the enactment of the Khatt-i-Humayun

the other three Patriarchs were invited by the Oecumenical Patriarch to assemble in Constantinople to take part in the National Assembly. All four Patriarchs acted together in the interests of the Church at the time in connexion with the confiscation of the monasterial lands in Rumania in 1863. An interesting occasion when the four Patriarchs acted together is recorded in Papadopoulos, *History of the Church of Jerusalem*, p. 260. On that occasion all the four Patriarchs, Ieremias of Constantinople, Ioakeim of Alexandria, Michael of Antioch and Dorotheos of Jerusalem were in Jerusalem together. During the absence of Ieremias from Constantinople one Ioannikios had usurped the Oecumenical Throne, and the four Patriarchs held a Synod together and condemned him. The last occasion of collegiate action by the Patriarchs was in 1909 in connexion with the Church of Cyprus. (See paras. 96-98 above.) On this occasion only three of the Patriarchs were represented owing to the breach with the Church of Antioch, and they acted not authoritatively but by way of friendly arbitration and on the invitation of all parties in the Church of Cyprus.

105. It appears clear that never at any time during the history of the Church have the four Patriarchs been held to constitute a supreme authority for the determination of disputes arising in the autocephalous Churches. All that can be said is that the august and venerable nature of their offices gives a profound weight to their fraternal advice, particularly when

it is tendered as the result of common consideration. In no case throughout the whole of History have three of the Patriarchs assumed authority to judge and depose another Patriarch on the application of a section of the Church of that Patriarch. Indeed, it may be said that while various Patriarchs have from time to time attended Synods of the Oecumenical Patriarchs at which judicial action was taken, on no occasion have the four Patriarchs, or any three of the four, purported to act judicially in a collegiate capacity.

C. The Special Group of the Churches to which the Appeal is made.

106. The appeal in the present case is not made either to the Church of Constantinople or to the four Patriarchs. It is made to a special group of Churches in combination, consisting of the Patriarchates of Constantinople, Alexandria and Antioch and the autocephalous Churches of Cyprus and the Kingdom of Greece. These Churches are invited to try and, if necessary, to depose and excommunicate one of the four Patriarchs of the Orthodox Church. There is no historical precedent whatever to justify such an appeal or such a proceeding. No such authority is known in the Orthodox Church. There is, indeed, no intermediate authority between the autocephalous Churches and an Oecumenical Synod composed of representatives of all of them. As was said by the Patriarch Cyril in the case of the

Monastery of Sinai in 1867, when once common action is in contemplation every autocephalous Church is entitled to participate in that action. It is not competent to those who appeal for such concerted action to select a particular group of Churches for the purpose.

107. The Archimandrite Kallistos submitted a special memorandum in which reference is made to this aspect of the question. (See Appendix E.) He argues that the Hellenic Race has a special interest in the Church of Jerusalem. This claim is based on the acts of the Roman Emperors Constantine, Justinian and Heraclius and their successors in the Byzantine Empire, which he takes as typical of the 'spontaneous great and lively interest which the Hellenic State, the Hellenic Church and the whole Hellenic Nations has shown in the little Church of Jerusalem'.

'And indeed', proceeds the learned Archimandrite, 'this could not be otherwise. For the home, the centre and the origin of this Church are Bethlehem, Golgotha and the Church of the Saviour. If the whole of Christendom is interested in the Holy Places, much more so is the nation which sought out these historical memorials, discovered them, adorned them, delivered them over for the worship of the whole of Christendom, erected magnificent Churches upon them and, by countless sacrifices of blood and treasure, preserved them until to-day. Who then can deny the right of the Orthodox Hellenic Churches to be interested and to intervene in questions affecting a Church which they themselves have created, a Church

which is established upon these very Holy Shrines and is the inalienable possession of the Hellenic Race?’

We are bound to treat this eloquent reasoning with respect, but we are not able to see that it has even a shadow of ecclesiastical, canonical or logical justification. It is hardly necessary that we should argue the historical questions involved. Even if it were accepted that the Churches referred to as Greek had by reasons of historical considerations a special interest in the Church of Jerusalem, and even if one of these Churches, the Church of Antioch, which is composed of a native Syrian Arabic-speaking laity and episcopate, could be regarded as a Greek Church, this would not entitle them to set up in the Orthodox Church, to the exclusion of all its other component Churches, a hitherto unknown tribunal for the adjudication of charges against one of its four historic heads.

108. That the Churches of Constantinople, Alexandria, Antioch, Cyprus and Greece take, and are entitled to take, a warm and lively interest in the historic Patriarchate of Jerusalem no one would contest. To this interest historic traditions and associations and the ties of language, of race and of geographical proximity all in various degrees contribute. These considerations would, no doubt, give special weight to any fraternal advice which these Churches might see fit to tender to the Church of Jerusalem, but they would not entitle this group of Churches, even if they desired to usurp such a

position (of which there is no indication) to assume the authority of a judicial tribunal over the internal affairs of the Church of Jerusalem, in derogation of its autocephalous rights and to the exclusion of the Churches of the other Orthodox peoples, who all of them in different measures in the course of their history have themselves shown a warm and lively interest in the fortunes of the Church of Jerusalem, and without whose continued interest and support that Church would be stripped of a great part of its significance as an historic centre of Christendom.

PART III

FINANCIAL

P A R T I I I

FINANCIAL

1. We now approach what is one of the most important parts of the task allotted to us--the consideration of the steps which should be taken to liquidate the debts of the Patriarchate.

2. For the realization of the present financial situation of the Patriarchate we would in the first instance invite attention to that valuable report prepared by Mr. J. B. Barron which appears in Appendix 'F' of our own report. A careful study of this document, with the Tables attached to it, will give a clear idea of the present position of affairs.

3. It will be seen that at the close of the financial year 1905-1906, when an accomplished Greek financier, M. Skiadas, undertook a reorganization of its financial affairs, the debt of the Patriarchate stood at £E165,901. At the commencement of the war, (notwithstanding the sale of valuable estates in Bukovina in aid of the liquidation of the debt) it had risen to £E221,792. At the close of 1920 it stood at about £E556,000.

4. The effect of the war, however, has not been merely to swell the debt of the Patriarchate. It has had other results which are not less disastrous.

The Patriarchate in recent years has been largely dependent on contributions from Russia. These contributions consisted partly of the rental of properties—(principally in Moscow and Bessarabia), partly of voluntary gifts sent from Russia, and partly of the liberal offerings of the crowds of Russian pilgrims,¹ who used to flock to Palestine, but who are now seen here no longer. Mr. Barron calculates that for the year 1913-14 no less than 64 per cent. of the whole income of the Patriarchate was derived from Russian sources. The most valuable item was the revenues of the Bessarabian lands, amounting to some £E26,500. These lands are now in the hands of Rumania, and though no income has so far been received from them since the war, it is hoped that this source of revenue may ultimately be restored. (See Appendix 'G'.) The other Russian contributions have wholly ceased.

5. The prospects of the annual budget, therefore, are deplorable. Mr. Barron calculates that, even on the most economical scale, and on the basis of its present restricted activities only, the minimum annual expenditure for which the Patriarchate must provide is about £E61,800. Its possible revenues, under the present management, are £E22,000.

¹The extent to which the Patriarchate looked to the offerings of the pilgrims (principally Russian) may be gathered from the following passage in a Memorandum published by the Patriarchate in 1911, and printed in *Official Documents*, pp. 80-95: 'Let us not then forget the pilgrims, because on them depends our present, our past and our future.' (On p. 88.)

There is thus an anticipated annual deficit of £E39,800. If the revenues of the Bessarabian lands can be recovered and retained this deficit can be reduced to £E13,400, but even this is sufficiently serious. The above figures make no provision for the service of the debt and the payment of interest.

6. The position is therefore that the Patriarchate can neither pay its debts nor provide for the payment of the interest thereon, nor meet its annual expenses. So far as its debts are concerned, it is at present protected by a special moratorium, the basis of which is a Government order addressed to the law courts. This moratorium is equivalent to a declaration of insolvency. In the nature of things it cannot be prolonged indefinitely.

7. The question therefore arises—What is to be done? Hitherto the only expedient suggested or considered has been a loan. It is hardly necessary to say that such an idea is wholly impracticable. The only useful result of such a loan, if it could be floated, would be a reduction of interest. Apart from this it merely means the substitution of one set of creditors for another. It may be explained that those who contemplated this idea seem also to have contemplated that a further sum should be borrowed sufficient to cover the interest on the loan and the annual deficit for the next few years, in the hope of new sources of income materializing in the interval. Of this all that needs to be said is that it is of a piece with the financial policy which has produced the present situation. The only possible basis for such

a loan would be the rigorous terms proposed by the Greek National Bank (see paragraph 33 of Part I of this Report). Even on these terms the loan would not really be a banker's proposition, but could only be made for philanthropic or political purposes. The present Government has vetoed the proposed Greek loan, on the ground that it would mean the subjection of the Patriarchate to the control of a foreign Government, and as no loan is likely to be offered from any other source the subject need not be further discussed.

8. Another proposal in connexion with the loan was that, when the position was thus temporarily secured, an effort should be made to pay off the loan by a general subscription. The subscription in view appears to have been not pan-Orthodox, but pan-Hellenic. Attention was called to the fact that the debt caused by the rebuilding of the Church of the Resurrection in 1810 was paid off by a general subscription. It is not necessary to discuss whether that subscription was in fact pan-Hellenic, or to what extent it was voluntary. It is obvious that such a subscription, whether pan-Hellenic, or pan-Orthodox, while it might give valuable assistance to the Patriarchate, is not a practical means of dealing with a debt of the present magnitude, or a situation of the present urgency. The most sanguine anticipations are expressed as to the possibilities of such an appeal, but these anticipations take no account of the difficulties produced by the present world-situation.

9. There is therefore no remedy left but a realization of assets. Fortunately the assets available are considerable. The greatest repugnance is felt against the idea of parting with the lands of the Church both by the Monastic Clergy, and by the local parochial clergy and laity. The law of the Church and (so far as they have been constituted waqfs) the law of the State is opposed to the alienation of such lands. But the law of the Church allows of an exception in the case of urgent necessity, and the law of the State is adaptable by legislation. We have not discussed the desirability of sacrificing some of the historic and beautiful treasures of the Holy Sepulchre, as such a proceeding would be regarded as sacrilegious.

10. The landed properties of the Patriarchate are extremely numerous and belong to various categories. At the time of the military government a return was made showing 631 individual properties, of various sizes and classes, in Palestine alone. The properties scheduled were, however, of so miscellaneous a character that the return conveys no useful idea to the mind. The various properties may be classified as follows:

(a) Properties within the walls of Jerusalem.

These comprise a number of valuable shops and hotels, many of them built by the late Archimandrite Euthymios, Guardian of the Holy Sepulchre, as well as some seventy houses, allotted as residences for members of the local Orthodox community.

- (b) Certain shops and other buildings immediately outside the walls.
- (c) A considerable quantity of valuable suburban property, at present undeveloped.
- (d) Certain property at Jaffa and other principal centres.
- (e) Various detached agricultural properties—the chief of which is the well-known Chiftlik of Breij.
- (f) Various lands attached *ab antiquo* to certain local monasteries.
- (g) Lands in various places abroad—Bessarabia, Athens, Cyprus, Crete, Constantinople, Smyrna, and other places. Very valuable properties in Constantinople and Bukovina have been sold in recent years.

11. The registration of the local properties would appear to be of a confused and incomplete character. A certain proportion of them in comparatively recent years has been converted into *waqfs*. One of our assessors, Mr. Siksek, spent several days in investigating the records of these *waqfs* and his researches disclosed a state of affairs far from satisfactory. As to the other lands, some are registered in the name of the Patriarch, others in the names of past Patriarchs, and others in the names of other members of the Fraternity.

12. The most valuable of these lands and the most material for our present purpose are the undeveloped suburban lands in the neighbourhood

of Jerusalem. These have a comparatively recent origin. We are informed by the Chief Secretary that the policy of purchasing suburban lands was inaugurated after the Rumanian confiscations of 1863. Land was in those days very cheap, and great quantities of it were bought for the Fraternity both by individual monks out of the offerings made to them by pilgrims, and by the Fraternity out of the fortunes inherited from monks similarly enriched. Indeed it has only happened in the last two generations that the Fraternity has had extensive properties in Palestine except those within the walls and those attached *ab antiquo* to monasteries. This account of the matter is confirmed by the following extract from the memorandum of the Patriarch above referred to :

‘Sixty years ago what property had the Brotherhood of the Holy Sepulchre acquired in Palestine? Apart from the central shrines and some other monasteries and properties bringing in very small revenues it had acquired nothing. To-day, however, if we honestly look around us we shall see that in these sixty years this property of the Fraternity has notably multiplied itself.’

13. This property is of the very greatest value and there is an urgent demand for it in view of the necessity for the development of Jerusalem. There can clearly be no sound objection to selling some of this property in the present emergency. On the other hand, it would be a great misfortune to have to sacrifice the whole of so valuable an asset. Sound

principles clearly demand that some of it should be developed and made into a permanent source of revenue for the Patriarchate. Unfortunately there is no capital to develop it. In the question of what is to be done with these lands even if they are not sold is one of the problems which the Patriarchate has to face.

14. It is believed that the sale of a portion of these lands would provide sufficient funds to pay off all the debts which may be regarded as immediately exigible. Indeed the Patriarchate appears to have received already offers in general terms of very large sums for specific portions of these lands. But there is no offer in writing, and even if a sale were ultimately arranged the money probably would not be realized for some years. So large a quantity of lands could not be put on the market at once without a very great depreciation in price. Although, therefore, it is to this asset that the Patriarchate must mainly look for the liquidation of its debts it cannot hope to make it available immediately.

15. Even though the debt were thus paid off this would not be sufficient. It is essential that the annual budget should be put on a sound basis. It is indeed necessary that the whole business system of the Patriarchate should be revised. The Bishops were perfectly right in insisting that any loan negotiated with Athens or elsewhere should be accompanied by a general reorganization of the financial affairs of the Patriarchate. But they were mistaken in supposing that such a reorganization

was to be found in the new rules submitted from Athens. It is not from lack of rules that the Patriarchate suffers. It contains more than one set of most admirable rules. The methods of keeping the books and of preparing the annual estimates inaugurated by M. Skiadas and the financial regulations which he at the time drew up are admirable and seem to leave nothing to be desired. What the Patriarchate suffers from is the non-observance of sound principles.

16. It is thus faced at the present moment with a difficult and complicated problem requiring financial capacity of no mean order. It is universally realized that such capacity is not at present to be found in the Patriarchate. Indeed, it may be said with confidence that if the Patriarchate is left to itself in the present crisis it is impossible that it should successfully re-establish itself. It is sufficient to point to the extraordinary character of the financial policy which was pursued after the reorganization affected by M. Skiadas, when every year the Synod deliberately budgeted for a deficit and carried the amount of the deficit to the loan account, with the result that the actual deficit of the year 1913-14 amounted to £E17,406. Another example of the financial standard of the Patriarchate is the manner in which loans were contracted during the war. (See on this point Mr. Barron's report, Appendix 'F', paragraphs 13-15.)¹ Yet another example may be

¹The policy of tiding over the war by loans was deliberately sanctioned by the Patriarch in the Synod, so that the Synod

found in the financial transactions of the Patriarch and Synod during their absence in Damascus.

17. This incident is so extraordinary that it requires a fuller reference. The Patriarchal party consisted of some twenty-four persons with their attendants. For the purpose of maintenance during their year in Damascus they contracted a loan of £E44,700. It appears that this sum was paid them in Turkish paper, so that the actual amount received was equivalent to some £E8,900. Even this seems a liberal allowance, and it remains to be seen in what currency the documents of acknowledgment were expressed. These loans were never at the time entered in any book and the majority of them do not appear in the accounts. It is said by those who support the Patriarch that all financial matters at this time were directed by the Metropolitans of Ptolemais and Nazareth (in conjunction

must share any responsibility which the Patriarch bears in this matter. We have been referred to the following resolutions—that of October 8, 1915: ‘Thus after these explanations with regard to our financial position whereas it was proved that all our financial life is managed and supported by very heavy loans, which it is very difficult to find, it was approved to continue following the method of securing loans against promissory notes, in order to cover expenses, until, with the help of God, we are relieved from these hardships,’ and that of October 19, 1917: ‘The Holy Synod approves that the maintenance expenses of our Convent should be met in the future, as heretofore, by loans at a moderate interest.’ Not even on the most generous interpretation can it be said that the final condition of the latter resolution was observed or that it truly describes the loans contracted up to that date.

with the Patriarch), and that they successively had control of the counterfoils which contained the annual record of the loans and that the latter Metropolitan had declared that the book of counterfoils was lost. The Right Reverend Metropolitans have explained to us that all they know about the matter is that they obliged the Patriarch by signing their names as witnesses to a few notes of hand, of which they knew nothing, that they imagined that all their loans contracted during this period were duly entered in the books, that on their departure from Damascus the Patriarch handed the book of counterfoils to the Metropolitan of Nazareth, and that this was put in a valise which was unfortunately lost on the journey. The full amount of the liabilities is not yet precisely known. We have not thought it worth while fully to investigate this transaction. We merely mention it as an example of the business methods of those responsible for the affairs of the Patriarchate.

18. We think it will be evident that the Patriarchate urgently needs the help of the Government and we think that it is the duty of the Government, which at this time finds itself responsible for the Patriarchate, to come to its assistance. In so doing it will not merely be succouring an historic institution and discharging a responsibility to eastern Christendom ; it has also to think of the Orthodox people of the country, who depend on the Patriarchate not only for spiritual ministrations and pastoral care, but also for the charitable relief for which in the East people are accustomed to look to their religious

Community. There is little doubt that if the Greek National Bank, with the aid of the Greek Government, had been allowed to undertake the control of the affairs of the Patriarchate it would ultimately have brought it out of its present difficulties. So highly would the people of Greece and the Greeks throughout the world have appreciated such a recognition of their exclusive claims that they would probably have liberally responded to any appeal endorsed by the Greek Government on its behalf. It was not possible for the Government of Palestine to sanction such a method of dealing with the question. We feel, therefore, that the Government is under an obligation to render to the Patriarchate a service of the same nature as that which would have been rendered to it by the Greek Government and the Greek people. That obligation was already, to some extent, recognized by the Military Government. In the letter of the Military Chief Administrator of May 16, 1920, to the Patriarch, with reference to the proposed loan from British banks in Egypt, it was observed 'both the payment of the existing debts and the service of the loan . . . including both interest and sinking fund . . . will be under the direction of this Administration with the co-operation, to be hereafter defined, of the Patriarchate and Community'. That letter was written in pursuance of a report by Major Waggett, then Chief Political Officer, in which he pointed out that the work of administering the loan must be one of years, and suggested that it should be entrusted to

the Public Custodian with the aid of a representative board. We feel, therefore, that the Government has already pledged itself to render the Patriarchate substantial assistance in this crisis in its affairs.

19. We do not feel, in view of the circumstances above explained, that the Government would be justified in prolonging the moratorium, unless provision was made for effective financial management. We would recommend that as a condition of the prolongation of the moratorium the Government should offer to the Patriarch in Synod to assist the Patriarch, if so desired, by the appointment of an official commission of liquidation and control. We think, however, that if this offer were accepted it would be necessary to entrust the commission with very full responsibilities and that it would not be right to ask it to exercise these responsibilities unless it were armed with the extensive powers which we shall presently specify.

20. Such a commission would concern itself partly with the liquidation of the debt and partly with the re-establishment of a sound budget. With regard to the latter task we feel satisfied that if the expenditure of the Patriarchate were submitted to an impartial expert examination it would be found possible to suggest economies in various directions. The control would of course only be a temporary one. During the control it would be necessary that the commission should be in a position to enforce those economies. On the termination of the control

it would be for the Patriarchate to decide whether those economies should be continued. Moreover, we have no doubt that important improvements in administration could be effected and that these would result in an increase of annual income. It will readily be realized that ecclesiastics leading a monastic life find it difficult, in the administration of property, to observe rigorous business principles, and in particular to resist the personal importunities with which they are constantly beset. We are assured that if the rentals of the shops and other buildings in Jerusalem were revised by an independent commission it would be found that the annual proceeds would be substantially increased. We also believe that the system by which local monasteries with properties attached to them, and such a valuable institution as the Patriarchal printing-press, are leased out to members of the Fraternity for a small annual rent, should be revised, and that if this were done the result would be advantageous. Further we think that the system under which the revenues of the foreign properties, *e. g.* those in Smyrna, are collected should be examined and inspected. With these economies and improvements we have good hope that a balance could be established, at any rate if the revenues of the Bessarabian lands are recovered.

21. It will be realized that our intention is that the two functions of liquidation and control should go on side by side until it is found possible to balance the budget. It will be necessary to render assistance

not only for the purpose of liquidating the debts but also, in a smaller measure, for the purpose of meeting annual expenditure. It is essential, therefore, that the commission should have power to control that expenditure. It must, therefore, be in a position also to control both (a) establishment charges, and (b) administration.

22. For the purpose of the control of establishment charges it would be necessary to discuss the annual budget with the conventual commission responsible for its preparation and to determine what sums could be allotted for the various services. The apportionment of the sums so allotted might be left to the conventual authorities, but the amounts issued for these services should be issued by the commission. Their distribution would be left to the various departments, who would account for that distribution to the commission.

23. With regard to administration the commission would require power to fix rents, to change methods of management, and to inspect Patriarchal properties both inside and outside Palestine.

24. Another power would be required, which is of pressing importance. As the revenues of the Patriarchate are not sufficient to meet its expenditure, and as it might not be possible or advisable to sell assets immediately for this purpose, the commission should have power to borrow from a bank the necessary funds on the security of a first charge on any properties ultimately sold. In this way the commission would have no difficulty in raising funds at

a reasonable rate. It goes without saying that no other authority should have any power of borrowing on the security of the assets of the Patriarchate.

25. With regard to the personnel of the commission, it should consist in our opinion of two members of the Government and one unofficial member. The Government members should consist of an officer of financial knowledge and experience as chairman and an officer of executive experience. Both should hold a rank in the public service corresponding to the important responsibilities they will have to discharge. The unofficial member should be a gentleman of practical financial experience and of high standing in his community. It would of course be appropriate that all the members should be of the Christian though not necessarily of the Orthodox faith. We have carefully considered whether the Patriarchate should be directly represented on the commission, but we have come to the conclusion that the Patriarchate should be relieved of all financial responsibility during the period of the control, and that the whole of that responsibility should lie upon persons appointed by Government. We think, however, that the Patriarch should be invited to nominate a representative who would act as a sort of *liaison* officer and who would serve as a medium of connexion between the members of the commission and the Patriarch and his Synod. He would keep the commissioners *au courant* with the views of the Patriarch and the Synod and would furnish the commission with any information they might

require. With regard to the staff of the commission the principal officer should be known as the controller. He should act throughout under the direction of the commission and should if possible be an experienced member of the subordinate public service. It would be an essential qualification that he should have practical experience of accounts and if possible the management of property. On his efficient energy and intelligence the success of the commission would depend. With regard to the number and character of subordinate officers, this would be a matter for the determination of the commissioners. But we think that the Patriarchate should be invited to lend to the commissioners one or more of the members of the Fraternity who discharge clerical duties in the office of the Patriarchate. The salary of the controller and the subordinate officers would, of course, be payable by the commissioners out of funds provided from the moneys under their control. We think that the unofficial member of the commission should receive an appropriate honorarium from the same source. It would be a matter for the consideration of the Government whether the official members should not also receive from the same source some addition to the salary which they will be drawing from the public treasury in respect of their ordinary duties.

26. We now come to the important question of sales of property. The constituted authority for the authorization of such sales is the Patriarch in Synod, but we think that difficulties might arise if every

individual sale proposed by the commissioners required the authorization of the Patriarch in Synod. Such a procedure might at any moment paralyse the policy of the commission. We feel, however, that there are certain sales in which the Patriarch in Synod ought specially to be consulted, and after very careful consideration we make the following recommendation: The Patriarch in Synod should be invited to extend to the commission a general authority to dispose of any immovable property of the Patriarch which the commissioners might deem it expedient to sell for the purpose of the liquidation. But the sale of any property simply for the purpose of meeting current expenses should require a special authorization of the Patriarch in Synod, as also the sale of any property which would involve the closing of any *μετόχιον* or other local establishment of the Patriarchate, and also perhaps any lands attached *ab antiquo* to any local monastery and any property developed by buildings within the walls of Jerusalem. We anticipate that sales would be mainly confined to the properties discussed above in paragraph 11 and to agricultural properties.

27. It is not to be supposed, however, that all the suburban land near Jerusalem is to be sold. We should regard such a proceeding as most unfortunate. Valuable property, such as the Nikephorieh, should if possible be reserved for future development with a view to bringing in a regular income to the Patriarchate. The question of the development of this and similar properties would be one of the most

important questions which the commissioners would have to consider. Mr. Ashbee has brought before us an interesting suggestion on this subject. Hitherto the only means which a land-owner, without capital, has possessed for developing such property has been to lease it for a long term, say ninety-nine years, with the right of acquiring any buildings on the property at the end of the lease, receiving a ground rent in the interval. An alternative method of development is now suggested. It is that the building syndicate and the land-owner should develop the land on terms of partnership, the land-owner thus acquiring a permanent share of both the land and the buildings. As he is thus, while retaining a permanent interest in the land, relinquishing his exclusive right to the reversion, the share he would thus obtain would bring him in an income appreciably greater than the ground rent which he would receive under a long lease. Mr. Ashbee anticipates that a proposal of this nature is likely to be made to the Patriarchate and to any commission of control. We think that any such proposal should receive the careful consideration of the commission in conjunction with the Patriarch in Synod.

28. With regard to the payment of debts, we think that the commissioners should have unrestricted power to choose the time, the proportions, and the order in which the debts should be liquidated. On financial grounds they would presumably first clear off any debts bearing a usurious rate of interest. Whether among the other debts there may be others

having a moral right of preference would be a matter for their subsequent consideration.

29. We think that no action should be brought against the commissioners except with the consent of the High Commissioner. They themselves, however, should have power to state a case for the determination of the competent court on matters which require a judicial decision. We also think that any person aggrieved by any act or omission of the commissioners should have power to apply to the courts for an order upon the commissioners to state a case where the commissioners have refused to do so.

30. During the period of control we anticipate that the Patriarch in Synod will endeavour to secure fresh sources of income to the Patriarchate, by inviting a general contribution from Orthodox Christendom and by organizing some regular system of contribution from the various Orthodox Churches of the East. The soliciting of these contributions and the maintenance of collecting-boxes in churches were ancient customs of the Brotherhood, and the travelling of members of the Brotherhood through all Orthodox countries for this purpose was one of the means which brought the claims of the Holy Sepulchre before Orthodox Christianity as a whole. We are glad to hear that the revival of this ancient custom is in contemplation.

31. There is one important duty of the commission, which we think it right to mention. It was ordered by the Turkish Government, in connexion with the

troubles of 1908, that, with a view to assist the Patriarch with his charge of his statutory duties to his flock, a Mixed Council should be appointed and that to this Council should be allotted one-third of the annual revenues of the Patriarchate to be expended for local purposes. This decision of the Turkish Government was formally accepted by the Patriarchate and is part of the *status quo* (see appendix C). It will be the duty of the commission to see that one-third of the sums set aside for the expenditure of the Patriarchate is allotted for this purpose and that the Mixed Council is revived. The minimum limit of £30,000 fixed by the Turkish Government as the sum to be allotted to this Mixed Council is of course not at present a practical limit. The question of a minimum limit may perhaps be revived later, if the Patriarchal revenues in due course increase.

32. During the continuance of the control the accounts of the commissioners should be submitted to a Government audit. It would no doubt be for the advantage of the Patriarch if such an audit should be continued after the conclusion of the commission. This would depend in the first place on whether the request for such an audit was made by the constituted ecclesiastical authority, and, in the second place, whether the Government was prepared to grant such a privilege to a religious body. There are precedents for such a course elsewhere and the question may perhaps come up for future consideration.

33. An important duty of the commissioners will be to see to the formation of a systematic register of the endowments of the Patriarchate upon a uniform system. No doubt there will be a general amendment of the law of trusts which will facilitate a more satisfactory system of the registration and judicial control of charitable endowment than exists at present. In connexion with any such registration it may be thought desirable to undertake an inquiry as to whether among the *waqfs* of the Patriarchate there are any which ought more properly to be registered as communal *waqfs*. This is a suggestion which has been more than once made by the present Chief Secretary of the Holy Synod. We do not anticipate any very substantial result from such an inquiry, but we think that it would be well to set at rest the popular rumours and complaints upon the subject.

34. We believe that such a commission as we have recommended could in a few years, in favourable circumstances, restore the financial situation of the Patriarchate, and that the commission would be able to hand back the financial affairs of the Patriarchate to the regularly constituted authorities in a condition to enable it effectively to discharge its great responsibilities. This service could of course only be rendered with the consent and on the request of that authority. If the Patriarch in Synod do not see fit to invite the assistance of the Government on these terms, the only course for the Government, in our opinion, would be to terminate

the moratorium after a prescribed limit and to leave the Patriarch in Synod to find their own way of solving the difficulties of the Church.

35. We would, in conclusion, draw the attention of the Government to the extreme urgency of this financial question, and would recommend that a decision on the matter should be given at the very earliest possible moment. Great distress exists in many quarters owing to the suspension of payments by the Patriarchate, both among its employees and among the Orthodox Christians of the country who, at its request, have advanced moneys to it in its time of need. The Orthodox Christians of Madeba and Kerak beyond the Jordan have drawn our attention to the fact that they have lent many thousands of pounds to the Patriarchate and are at present unable to draw either principal or interest. They are not the only persons in this position, and we feel sure that their prayer for an early decision will receive the sympathetic consideration of the Government.

PART IV

SUMMARY AND CONCLUDING
OBSERVATIONS



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A. *Summary*

1. In view of the length which our report has necessarily assumed, it will be convenient that we should state our conclusions in a summary form.

2. The dispute between the Patriarch and the majority of his Synod originates in the presentation of certain proposed new 'Internal Regulations' prepared by a committee in Athens. These regulations were first put forward in connexion with a proposed loan by the Greek National Bank, and their adoption was to be one of the conditions of that loan. This Greek loan was vetoed by the local Government as involving the subjection of the Patriarchate to a foreign Government. The rules were thereupon pressed upon the Patriarch by the Bishops and those supporting them in connexion with the proposed loan through British banks, which also came to nothing.

3. These proposed new regulations had certain controversial features. In the first place, though described as internal regulations, they made important changes in what may be called the Organic

Law of the Patriarchate, namely, the Imperial Regulations of 1875. And in the second place they, in effect, supplemented those regulations, (a) by making provision for a matter which those regulations had deliberately omitted, namely, the deposition of the Patriarch, and (b) by subjecting both the Patriarch and the Synod to an external authority, *i.e.* a special court composed, as regards the Patriarch in part, and as regards the Synod entirely, of representatives of a special group of the other Orthodox Churches, namely, the Churches of Constantinople, Alexandria, Antioch, Cyprus, and the kingdom of Greece. Further, by requiring that the adoption of these regulations should be notified not only to the local Government but also to the Government of the kingdom of Greece, they impliedly subjected the Patriarchate to a foreign Government.

4. The Patriarch was strongly opposed to these new regulations as impairing the independence and autocephalous character of the Patriarchate. The majority of the Synod was in favour of the new regulations, partly because they sympathized with the political ideas which inspired them, and partly on the ground that any attempt to put the financial affairs of the Patriarchate on a sound basis should be accompanied by a thorough internal reorganization. They erroneously supposed that these regulations would effect such a reorganization. It appears that, in connexion with these proposed regulations, the Patriarch put forward the contention

that the powers of the Synod were advisory only and that he was not bound to adopt the view of the majority. The regulations were never formally brought before the Synod. A condition of friction arose and the Patriarch suspended the meetings of the Synod from 8th May, 1920 (O.S.), to 27th July, 1920. At the meeting of 27th July the Bishops, who had lodged formal protests in the interval, presented a declaration breaking off all further relations with the Patriarch, and accusing him of arbitrary and despotic administration throughout his Patriarchate and of seeking to sever the indissoluble bonds which united the Patriarchate with the Greek nation. The declaration further stated that the Bishops denounced the Patriarch to all the Greek Orthodox Churches.

5. The Churches to which the Bishops addressed their appeal were the same special group of Churches as that above referred to, namely, that of Constantinople, Alexandria, Antioch, Cyprus, and the kingdom of Greece. Fifteen charges were formulated. They were all in substance of an administrative or political nature. The principal points in the charges were, that the Patriarch was arbitrary and despotic in his administration, that he refused to respect the decisions of the majority of his Synod, that he discouraged intellectual development, did not restrain slackness of life, squandered the resources of the Patriarchate, had accumulated an enormous debt, did not give a strenuous defence to the rights of the Orthodox Church in the Holy Shrines; tolerated the

establishment of institutions of other Orthodox Churches in Palestine, did not make proper pastoral provision for the flock, oppressed the Brotherhood, did not provide for proper administration during his absence in Damascus, sought to estrange the Fraternity from the Greek nation and strove to give it a local or pan-Orthodox character. The Bishops appear to have invited the Churches thus selected to try the Patriarch on these charges, and, if necessary, to depose him.

6. The first question submitted to us in our terms of reference was whether the constitution of the Holy Eastern Orthodox Church provided an authority which was empowered to adjudicate on the dispute between the Patriarch and the majority of his Synod. We have carefully investigated this question, and we have come definitely to the conclusion that the constitution of the Church provides no such authority. The only authority which has ever intervened in the internal affairs of the other Orthodox Churches has been the Oecumenical Patriarchate. But the interventions of the Oecumenical Patriarch have not been authoritative interventions ; they have been based upon an immemorial privilege, belonging to him by virtue of his primacy, to succour other Churches in distress, and have all been based upon either the express or the implied invitation of those Churches. All the Churches to whom he has thus tendered his good offices have found it necessary, in modern times, to assert in unqualified terms their absolute independence of his

authority. With regard to the selection of this special group of Churches there is neither ecclesiastical, historical, nor logical justification for such a proceeding. This group of Churches has no jurisdiction to entertain the appeal.

7. It is contended by the Bishops, however, that though the Churches appealed to have not an authoritative right, they may acquire a jurisdiction by virtue of the invitation of the Church of Jerusalem, and that the Bishops, as constituting the whole Episcopal Hierarchy of the Church, are entitled to speak in its name. We have carefully examined this contention. In ordinary circumstances it is undoubtedly the case that for certain purposes the whole of the Episcopal Hierarchy of a Church is entitled to speak in the name of the Church. But the Right Reverend Bishops of the Church of Jerusalem are in a special position. They are not Bishops in the active and responsible charge of dioceses. They are titular Bishops consecrated to assist the Patriarch, two of them in his pastoral duties, and the remainder in his ceremonial duties. They do not, in fact, constitute the governing body of the Church. The governing body of the Church is the Patriarch in Synod, and the Synod consists of seven Bishops and nine Archimandrites who, as members of the Synod, are on an equal footing with the Bishops. Of this body seven support the Patriarch and nine are opposed to him. The appeal to these other Churches was thus made by a party in the Church only. We are of opinion, therefore, that in these circumstances the claim of

the Right Reverend Bishops to speak for the Church as a whole must be rejected and that the Churches appealed to cannot acquire jurisdiction by such an invitation.

8. In view of this conclusion we have thought it necessary to inquire whether the Synod itself has authority to try and depose the Patriarch. The answer to this inquiry is in the negative. The Synod of the Church of Jerusalem is not the ancient canonical Synod composed of all the Metropolitans of a Patriarchate. It is a Synod of a special character, and in its present form is the creation of legislation. That legislation has deliberately omitted any provision for the deposition of the Patriarch. The Synod has no inherent right to depose, for in the election of a Patriarch the Synod, though it makes the final selection, is not the only electoral element, the laity being represented through certain elected members of the parochial clergy. The Synod, therefore, has neither legislative, nor canonical, nor inherent power to depose a Patriarch. We think, however, that, as in other Churches, this is a matter which should be regulated by legislation.

9. Having thus come to the conclusion that there is no ecclesiastical authority empowered to adjudicate upon the dispute, we have addressed ourselves to the next question, namely, what steps the Government should itself take for the immediate restoration of order in the affairs of the Patriarchate. For this purpose it is necessary that we should express an opinion on the merits of the dispute.

10. With regard to the general constitutional question which has been raised and discussed, we do not think there can be any doubt. In matters within its competence, as declared by the Imperial Regulations of 1875, the Synod is not a merely advisory body. The Patriarch is bound to carry out the decisions of the Synod in these matters. In spite of certain expressions used in the discussions connected with the proposed new regulations, we do not think that the Patriarch has formally challenged the correctness of this contention. So far as the Bishops advanced this contention they are right. Whether throughout the course of his long Patriarchate the Patriarch has in fact governed in accordance with this principle we are not in a position, and we are under no obligation, to express an opinion.

11. But with regard to the question which immediately occasioned the dispute, namely, the proposed new internal regulations, in ruling these regulations out of discussion the Patriarch was undoubtedly right. It is not competent for the Patriarch in Synod, by so-called internal regulations, to modify or in matters of principle to supplement the Organic Law of the Patriarchate, *i.e.* the Imperial Regulations of 1875. The proposed internal regulations modified and supplemented that Organic Law in most material particulars, and the action of the Patriarch in refusing to submit the question of these regulations to the vote of a majority was thus justified.

12. We are by no means clear, however, that this position was fully realized on either side. It does not appear that the Patriarch justified his action on the ground above explained, or that the members of the Synod had an opportunity of addressing their minds to this aspect of the question. In view of the serious financial situation of the Church, we trust that, as on previous occasions, namely, 1909 and 1919, both parties will see the necessity for an immediate reconciliation, and we hope that the principles thus explained will form a satisfactory basis for such a reconciliation.

13. Should these anticipations not be justified, what action must the Government take? Government action is necessary partly on general reasons of state, the Patriarch being the head of his community and in a certain sense an officer of Government, and partly on the ground of the special moratorium with regard to the debts of the Patriarchate. That moratorium cannot be indefinitely prolonged. It cannot fairly be dissolved until the Patriarchate is put in a position to deal with the financial situation caused by the war. It cannot deal with that situation because the Synod, which with the Patriarch constitutes the governing body of the Church, cannot function.

14. The seat of the difficulty is that so long as the Bishops and their supporters abstain from attendance at the meetings of the Synod a quorum cannot be constituted. By article thirty-eight of the internal regulations of 1902, to constitute a quorum,

the attendance of two-thirds of the members plus one is necessary, or, in other words, an attendance of twelve. Those who support the Patriarch only number seven. We have considered whether the difficulty could be got over by the use of the Patriarch's power to increase the number of the Synod, but on examination this expedient proves not to be practicable.

15. In the circumstances we think that, unless a reconciliation takes place, the only effective means of restoring order in the affairs of the Patriarchate is a legislative enactment declaring that pending such a reconciliation those members of the Synod who for the time being recognize the authority of the Patriarch shall for all purposes be deemed to constitute the Synod.

16. There remains the final question. What steps should be taken to liquidate the debts of the Patriarchate? These debts are very considerable. They now amount to about £E556,000. But this is not the only serious feature in the financial situation. As a result of the war the Patriarchate has lost 64 per cent. of the income which it enjoyed in the year before the war, viz. the revenues derived from Russia. The minimum annual expenditure, on a most restricted basis, for which it must provide is about £E61,800. Its possible revenues under present management are about £E22,000. There is thus an anticipated annual deficit of £E39,800. If the revenues of the Bessarabian lands can be recovered the deficit can be reduced to £E13,400.

These figures make no provision for the interest on the debt.

17. The Patriarchate can thus neither pay its debts nor the interest thereon, nor meet its current expenses. It is temporarily insolvent and the special moratorium is equivalent to a declaration of insolvency.

18. To seek to remedy this state of affairs by obtaining a loan or by inviting a general subscription is obviously futile. No other course is left but the realization of some of the very considerable assets of the Patriarchate. Such a proceeding, however, must take a considerable time and must be accompanied by a general revision of the financial policy and methods of the Patriarchate. The Patriarchate is thus faced with a financial problem of great magnitude and it is universally admitted that it does not possess the financial capacity necessary to cope with it.

19. In our opinion the Government ought to render to the Patriarchate the same assistance, for the purpose of the reorganization of its financial resources, as would have been rendered to it by the Greek National Bank in connexion with the loan which on grounds of public policy it was found necessary to veto. We, therefore, recommend that, for the purpose of assisting the Patriarchate to deal with its present embarrassments, there should be established a commission of liquidation and control.

20. The task of this commission would be to liquidate the debt of the Patriarchate, to introduce econo-

mies into its annual budget, to increase its revenues by the introduction of improved methods of administration, and to secure that, when the debt is liquidated and full powers of financial administration are restored to the Patriarchate, its affairs should be upon a sound footing.

21. In order that the work of such a commission may be effective it would be necessary that it should be armed with the very fullest powers. We have explained in detail the powers which we think such a commission should possess, and we have made recommendations as to its personnel and its staff. We think that the establishment of such a commission and its acceptance by the Patriarch in Synod should be made a condition of the prolongation of the present special moratorium.

B. Concluding Observations

1. This concludes the task set before the commission, but we think it right to make the following further general observations for the assistance of the Government.

2. The Government will, in the near future, inevitably be faced with the question of the revision of the Imperial Regulations of 1875. In that connexion it will further have to consider the long-continued controversy between the Patriarchate and the lay community. Something was done by the order of the Turkish Government of 1910 towards the settlement of that controversy, but subsequent

events greatly lessened the utility of what was then effected. There are still serious outstanding points of difference, and we are glad to observe that all parties in the Patriarchate—both those who support the Patriarch on the one side, and the Bishops and their supporters on the other—freely recognize that it is most desirable in the interests of the Church that a full, final, and amicable settlement should be reached. It is in the hope of assisting such a settlement that we make the following observations :

3. The first question which the Government will have to consider in revising the regulations is the relationship of the Government itself to the Patriarchate. Hitherto the Patriarch has acted under the authorization of an Imperial Ottoman *Berat* or Commission issued to him by the Sultan of Turkey. The person recognized by the Government through this *Berat* is the legal Patriarch. We think very strongly that this system should be continued. If it were not continued the legality of the position of the Patriarch in any ecclesiastical crisis might become dependent upon prolonged litigation in the civil courts. It is conceivable that in the interests of the tranquillity of the country and of the rights of the Orthodox community, the Government might think it necessary to object to the nomination of a particular person as Patriarch. The power should, in our opinion at any rate, be held in reserve, though it is now no doubt only in extreme circumstances that it will be exercised.

4. The next important question which may be

considered is the rule regulating the nationality of the members of the Fraternity of the Holy Sepulchre. According to the regulations of 1875 the Patriarch and the father of the Patriarch must be Ottoman subjects (Article 12). The Bishops must also be Ottoman subjects (Article 15). By Article 2 of the Internal Regulations of 1902 it is declared that all members of the Fraternity are regarded as Ottoman subjects. We understand that the practice has been that any member who on his admission was not an Ottoman subject should take steps to acquire Ottoman nationality. By the decision of the Turkish Government of 17th May, 1910, it was declared that only born Ottoman subjects should be admitted to the monastery.

5. We do not think that any restriction should now be imposed by law on the admission of members of the Fraternity, but there is a consideration on the other side which must be noticed, and that is the position of the Orthodox inhabitants of the country. As things stand at present, though they are theoretically not excluded from the Fraternity, they are not admitted in practice. As the prevalent practice in the Orthodox Church is that a Bishop should be chosen from the monastic clergy, and as the Patriarch and the Bishops of the Church of Jerusalem are in practice chosen from the members of the Fraternity, the result is that the ordinary members of the Orthodox community find themselves permanently debarred from filling any high and honourable post in the Church to which they belong. We believe

that there are in the Fraternity, among its most respected members, those who, while anxious to preserve the traditional character of the Fraternity, recognize that in this respect the local community is labouring under a grievance.

6. The recent history of the question is as follows : The Patriarch Hierotheos, in a circular of the year 1875 (see *Official Documents*, p. 51), declared : 'It is well known to you that according to the canons of our church no distinction exists between its children and in particular our monastery has never refused and never impedes those natives of the country who desire to be ranked among the Brotherhood. So also in future there shall be no impediment to the reception of those among them who observe the canons and the old ordinances in force in our monastery, and each one according to his capacity and according as he shows himself worthy will be promoted to all the hierarchical degrees up to the Holy Synod itself.' It cannot be said that this pledge has ever been carried out. Meletios Metaxakes, in his pamphlet *Les Exigences*, &c., repudiates the suggestion that natives of the country are excluded from the convent. He mentions that there are a certain number to be found in the Monastery of Mar Saba, and that there is one native archimandrite who is honoured with the title of Superior, of a sanctuary (see page 30).

7. In the discussions which took place on the demands of the laity in 1908, the Patriarchal deputation at Constantinople again declared that the

doors of the monastery were not closed to natives of the country duly qualified, regard being had to the proportion which the number of the Orthodox population of Palestine bears to the Orthodox population of the Turkish Empire. (See *Official Documents*, p. 48.)

8. In the official reply to these demands note was taken of this declaration and it was decided that for the present it was sufficient that the Patriarchate should be made responsible for its just fulfilment.

9. It would go a long way to appease the grievance of the local population if, on the revision of the regulations of 1875, the Fraternity would consent to the legislative confirmation of these repeated declarations, nor do we think that there will be any danger to the traditional character of the Fraternity involved in such a proceeding if the principle of proportion is laid down in the amended regulations.

10. It is a deplorable fact that, though there were Trans-jordanian dioceses in ancient times, the whole of the Christian population beyond the Jordan are at present without direct pastoral oversight. They have no local Bishop, and have to depend upon the ministrations of Superiors of the monasteries as representatives of the Patriarch. It would certainly tend to establish the Church in the affections of the people if it were possible for natives of the country with spiritual aptitudes to look forward to obtaining such a position of responsibility.

11. At present, no doubt, few are qualified for such a prospect. The whole educational system of

the Patriarchate is paralysed. There is no high school, no school for the clergy, no theological school. But if these activities are ever resumed we trust that one of their declared objects will be to enable the pledge given by Patriarch Hierotheos in 1875 to be duly fulfilled.

12. There is a final point which we think must receive consideration in the revision of the regulations of 1875. The Turkish Government directed that a third of the revenues of the Patriarchate should be appropriated for local purposes and administered by a mixed council of clergy and laity under the presidency of the Patriarch. This order is part of the *status quo*, and we think that the laity are entitled to claim that it should in due course be embodied in legislation.

13. We observe that members of the laity at the time pressed for a lay majority on this council and are still pressing for it. The demand is based upon the analogy of the Mixed Council in the Oecumenical Patriarchate. The analogy is no doubt not exact and the proposal is a departure from the *status quo*, but it may well be a question for the authorities of the Patriarchate whether it would not be to its advantage to give to members of the laity on this council a definite responsibility in its affairs. It is only by assigning them such a responsibility that the Patriarchate can obtain the full benefit of the practical business qualities which they possess, and which cannot be said to be a conspicuous feature in the present ecclesiastical administration of the Patri-

archate. They can only fully exercise such responsibility if they have a majority upon the council. If such a concession would help to bring about peace in the Church, it is one which the ecclesiastical authorities of the Patriarchate might well favourably consider.

14. At present energies are wasted and estrangements are fostered by futile historical controversies. It can serve no useful purpose to dispute whether the convent has always been Greek or whether it was once predominantly Arabic, or whether the endowments at present possessed by the convent as guardian of the Holy Sepulchre ought to be considered as dedicated to the convent or to the Church at large.

15. These disputes are generally carried on with very imperfect knowledge and can lead to no definite result. It is much to be hoped that, side by side with the reorganization of the financial affairs of the Patriarchate by the commission which we recommend, there may come about a general co-operation of all elements in the Church for its common welfare. If this were brought about the members of the local community might well be asked themselves to make some contribution to the necessities of the Church. It cannot be satisfactory to them that their Church should look for support only to the endowments of pious donors of past ages and to contributions from other Orthodox peoples.

16. We cannot close without referring to one feature of the past life of the Patriarchate which has

come before our notice. The inquirer into the affairs of the Church of Jerusalem learns, at first with incredulity and finally with concern, that it has been the practice for prominent members of the Brotherhood of the Holy Sepulchre during the past two generations to amass considerable fortunes out of the personal offerings of pilgrims; that these fortunes, if not spent or disposed of in the lifetime of those who acquired them, have devolved at their deaths on the Fraternity; that members of the Fraternity have been permitted to invite subscriptions from correspondents among the pious public in other Orthodox countries, notably in Russia, and that the Brothers thus collecting money have been under no proper obligation to account for it. This state of affairs is now a thing of the past, as there are no pilgrims and no means of obtaining contributions from Russia. But we earnestly hope that steps will be taken to prevent its revival if pilgrimages are ever resumed. We note with satisfaction that the draft new internal regulations, above referred to, contain a provision designed to bring about a reform in this respect. But we question whether that provision was sufficiently specific and detailed. We feel confident that this is a matter which will receive the attention of all those who have the good of the Fraternity and of the Church at heart.

17. In conclusion, we may be permitted to express the hope that under the new auspices of the present administration the Church of Jerusalem, which has such great spiritual and historical associations, will

be relieved of its present grave difficulties and will re-establish its spiritual and pastoral work in a manner more worthy of its historic past, and, in particular, that means will be found to re-open the theological school of the Monastery of the Holy Cross, which in recent years was one of the most valuable institutions of the Patriarchate of Jerusalem.

A P P E N D I C E S

- A. Imperial Ottoman *Berat* appointing the Patriarch Damianos.
- B. Imperial Regulations of 1875.
- C. Narrative of Events from the Turkish Revolution to the return of the Patriarch from Damascus, in January 1919.
- D. Charges by the Bishops against the Patriarch.
- E. Memorandum communicated by the Very Rev. Archimandrite Kallistos: Character and Composition of the Patriarchate of Jerusalem.
- F. Memorandum by Mr. J. B. Barron, Financial Assessor, on the Financial Affairs of the Orthodox Patriarchate.
- G. Memorandum on the Lands of the Fraternity of the Holy Sepulchre in Bessarabia.

APPENDIX A

IMPERIAL OTTOMAN *BERAT* APPOINTING DAMIANOS AS PATRIARCH OF JERUSALEM

IMPERIAL CYPHER

Sultan 'Abdu'l Hamid el Ghazi, son of 'Abdu'l Mejid

Necessity having arisen for the appointment of a person to fill the vacant post of 'Roman' Patriarch of Jerusalem and of the Holy Sepulchre, and of the places subject thereto, the holder of this my *Berat*, Damianos Effendi, Bishop of Philadelphia, being a wise and capable man endowed with the capacity of directing religious matters, having been elected Patriarch in accordance with the Law, the record of this proceeding was submitted and the election was approved by my high Ministerial Council, and the matter having been referred to my Imperial self I have issued, in pursuance of the authorization sought for, my sacred Imperial Iradé thereupon, and on behalf of my Imperial Divan I have given to the said Patriarch this my high *Berat*, and I order as follows:

The said Damianos Effendi is Patriarch in accordance with the ancient custom over the 'Roman' sect dwelling in Jerusalem, and in the Holy Sepulchre and in the regions subject thereto and over their religious affairs.

The Metropolitans, Bishops, Monks, and Nuns who are in the District subject to his Patriarchate, Jerusalem, Mount Sinai, Gaza, Ramleh, Jebel Ajlun, Acre, Safed, and the Districts subject thereto, and the Monks who dwell in the Monasteries of the Georgians, the Abyssinians, the Syrians, and the Copts and all the remainder of the 'Roman' Sects, great and small, shall acknowledge

the said Damianos as their Patriarch. In the same way as those who were Patriarchs before him held he shall also hold and administer.

Let no opposition be made to his righteous decisions in matters referred to him concerning his Patriarchate.

Let no unauthorized persons take from his hand the ancient Churches and Monasteries of my Empire and enter them.

Let there not be any disturbance or constraint in the Monasteries and Churches held and administered under his protection by persons without my order saying they will inspect them.

Let there not be any interference by other persons when he submits for dismissal and appointment and punishment, in accordance with the Law, Bishops, Priests and Deacons who are deserving of dismissal or appointment in places within his Patriarchate.

Let there not be interference by the Treasury, Orphans' Trusts, and their officials, and by other persons, when he or his representatives take over the estates belonging to him, according to custom, of deceased monks.

Let there not be done, or caused to be done, betrothals by certain village priests, of persons whose betrothal is not permitted and contrary to law, without his permission and knowledge.

Let none other than he and his representatives interfere and intervene if in places in his Patriarchate a woman leaves her husband or if a person is going to be married or divorced.

Let there be heard in a lawful manner by the testimony of 'Roman' witnesses the bequeathals which are accepted of whatever is bequeathed to the Churches, Poor, and Patriarch, made by deceased Priests in accordance with their law.

Let there be heard in a lawful way the testimony of 'Roman' witnesses when he takes over the moneys and other things which the 'Romans' of my Empire, whether

Monks or Priests or other clergy, shall have dedicated, offered, or bequeathed for the sake of the Holy City.

Let there not be an appointment made from another country, but let an appointment be made through his instrumentality when it is necessary to appoint another in the place of a Metropolitan or Bishop in his Patriarchate who has died or been dismissed.

Let actions concerning the Sheri Law be heard in my Sublime Porte and respect be paid when he submits matters concerning the laws in the Holy City from his clergy.

Let there not be opposition by officials and others in the places where he sends men to collect alms by asking them what have they come for and why they remain so long.

Let there not be interference by officials when he travels in places which are dangerous; the best way to go and be saved from bandits is to disguise himself and to carry arms contrary to ancient custom.

Do not cause him to be troubled by persons forcibly wishing to serve him without his permission.

Let none trouble him when he carries in his hand the staff special to himself.

Let not the Qadis and Naibs inflict fines and penalties when in places subject to his Patriarchate marriages are solemnized, divorces are granted, and compromises of disputes between Christians are effected, and in accordance with their law oaths are administered in their churches and the punishment of excommunication is inflicted.

Let no one interfere when he or his representatives review the accounts of the monks who, being his representatives in the churches and monasteries, embezzle the Patriarchal revenues.

Let restraint be made through his instrumentality of monks who have no church or monastery and who wander about from place to place and cause disturbances.

Let him not be troubled by demands for Octroi and

other dues by keepers, guards, and others at the landing-places and gates when bringing provisions for his own consumption, the produce of vineyards, and wax, oil, honey, and other goods given by Christians as charity.

Let no official or any other person interfere with his holding and administering, in the same way as they have been *ab antiquo* held and administered, the vineyards, gardens, Chiftliks, mills, fields, meadows, houses, shops, fructiferous and non-fructiferous trees, and holy water appertaining to his Churches as well as the Monasteries and the goods and flocks made *waqf* to the other Churches like them.

Written on the 16 Rebi' ul Evvel, 1315.

APPENDIX B

IMPERIAL REGULATIONS OF 1875

LAW OF THE 'ROMAN' PATRIARCHATE OF JERUSALEM¹

CHAPTER I

Concerning the Duties of the Patriarch and of the Holy Synod in Attendance

1. The 'Roman' Patriarch of Jerusalem is the President and Superintendent of the Churches and Monasteries, and of the Metropolitans, Bishops, Monks, and Priests subject to his Patriarchal throne, as well as of all the shrines belonging to the 'Roman' community within the circle of his Patriarchal office in the Holy Sepulchre, both independently and in partnership with other communities, and being the Director of the Schools and Hospitals attached to the said Monasteries his duties are, as far as possible with the knowledge of the Monks in attendance who are present, to devote his attention to the carrying out at the appointed times of the ancient religious customs which are in force *ab antiquo* in the Holy Sepulchre and other shrines, to see to the poor of the community in accordance with the limits of the revenue of the Churches and Monasteries, as well as the good administration of the Hospital and the existing schools.

2. In the event of any application from the public concerning matters of their religion and spiritual advice, or from the Spiritual Chiefs concerning their religious duties,

¹ This translation from the Turkish text was kindly prepared for us by Mr. Ongley, who at our request has adhered as strictly as possible to the letter of the original.

the Patriarch will assemble the Synod under his presidency and it will elucidate and arrange the matter either by agreement or by a majority of votes.

3. The Holy Synod is composed of six Bishops and nine Archimandrites, and, in such a manner that the permanent body of its members shall not be altered, the changing, withdrawal, and addition, according to necessity, is referred to the spiritual advice of the Patriarch. The Synod shall meet always under the presidency of the Patriarch, it will discuss the administrative matters concerning the spiritual objects of shrines, churches, and monasteries; the nature of the offices and spiritual duties of the Monks and servants appointed and attached to these; the procedure, such as the hiring, leasing, alienation, inheritance, purchase, and sale of charitable objects, and likewise, as the question arising out of these will be settled in the Nizam and Sheri Courts in accordance with their special laws, the increased development of the revenues of these; the benefit of the poor of the community; and other spiritual matters. The resolutions and decisions of the Synod will be carried out by the Patriarch. In the event of a valid excuse, such as the illness or absence of the Patriarch, the Metropolitan, or Bishop, or Archimandrite appointed by him will sit in his place.

CHAPTER II

Concerning the Election of the Patriarch

4. In the event of a vacancy occurring in the Patriarchal throne of Jerusalem the Synod will assemble and elect a person combining the desired qualifications from among the Metropolitans and Bishops in Jerusalem to be *locum tenens*, or submit to the Mutessarif a *Mazbata* notifying the vacancy and the *locum tenens*. The matter will then be submitted at once, either by letter or by telegram, as may be necessary, to the high office of the Grand Vizierate by the Mutessarif, and action will be taken in

accordance with the telegram and *Emirnamé* which will be sent in reply ordering the confirmation in his office of the *locum tenens* and the election of a Patriarch in accordance with the law.

5. After the provisions of the last preceding Article have been carried out, letters will be written by the *locum tenens* to the Metropolitans and Bishops who are resident and subject to the Patriarchal throne informing them that the Metropolitans and Bishops should be in Jerusalem within twenty-one days at the latest for the election of a Patriarch, and he should specially notify the people that a married Priest from each Metropolis and Bishopric should come within the specified time in order to be present on behalf of the people at the Council of Election.

6. At the expiration of the said period, when the invited are collected in a monastery in Jerusalem, he will assemble the said Spiritual Council comprising all the Metropolitans and Bishops, and each one will write on a separate paper the names of the persons whom they know to be worthy of the Patriarchate from among the ranks of the Metropolitans, Bishops, and Archimandrites subject to this Patriarchal throne, whether they are in Jerusalem or outside, and sign and give it to the *locum tenens*.

7. Without considering who has more or less votes among these persons all will be considered as equally eligible for election and the names will be entered in a register in the presence of the Council, and the end will be signed by the *locum tenens* and the members of the Council.

8. The person to be Patriarch being according to the Church its spiritual head, the register of those who are eligible for election to be made as stated in the preceding Article will be sent to the Mutessarif, who will immediately communicate to the Sublime Porte, by letter or by telegram, the names of those who are entered in the register, and in case any of them are excised by the Government they will be withdrawn by the Sublime Porte and the order

received in reply for the election to be carried out from among the others will be notified to the *locum tenens* and the Synod by the Mutessarif.

9. When the order of the Sublime Porte has been communicated by the Mutessarif as has been explained in the preceding Article, a general council will be assembled, consisting of the Synod, the Archimandrites, and the *Protosynkelloi* of the Jerusalem monastery, and the native Priests who have been invited and come from outside, together with two native Priests, similar to those elected by the Christian inhabitants of Jerusalem itself, and it will proceed with the carrying out of the customary election in accordance with the order, so that three persons of those nominated for election will, by a majority of votes gained by secret voting by the Monks and invited Priests, that is to say by the whole Council present, be appointed candidates. When these three candidates have been appointed the monastic members of the Council will proceed to the Church of the Holy Sepulchre, together with the paper bearing their names, and in the presence of the other members of the Church the religious rules of the Church will be carried out, and one of the three nominated candidates will be elected by a majority of votes to be Patriarch by secret votes on the part of the clerical body of the Synod in accordance with the official rules customary to be carried out *ab antiquo*. In the event of an equality of votes, the matter will be settled by the advice of the *locum tenens*.

10. Those of the Metropolitans and Bishops who are invited to be present at the elective council who come and are unable to be present will be subject to the general vote, and each one of those who are present at the elective council, whether he be a monk or a priest, will be entitled to give only one vote.

11. As soon as the election has been carried out as aforementioned, a report will be prepared according to ancient custom and presented to the office of the Grand Vizierate

through the Mutessarif, and when the high *Berat* ordering the acceptance and appointment of the person elected arrives, the local Patriarchate will notify and carry it out.

CHAPTER III

Concerning the Qualifications required to be possessed by the Person elected to be Patriarch

12. The person to be elected to be Patriarch is required to be more than forty years of age; to be of the body of monks having the rank of Bishop or Archimandrite, to have served for ten successive years with ability and without any default in a metropolis; and he and his father at least to be subjects of His Imperial Majesty.

13. The manners and character of the person to be Patriarch must be free from evil reputation; besides its being necessary that it should be proved and known from his antecedents that he has as far as possible literary and scientific knowledge; a perfect acquaintance of the laws and procedure of the Church; and that he is subject to the doctrines of his sect and the works of his religion, it is necessary for the religious works of the Church that he being the Patriarch of the Holy Sepulchre and its dependents and Bishop of Jerusalem itself, should be the religious father of all the churches and monasteries of which he is President, and able to protect at all times and in all circumstances the Orthodox and their religion.

14. As the person who is Patriarch, besides his pre-arranged religious duties, is the officer destined to carry out all the matters described in the exalted *Berat* which contains the privileges granted by the Caliph Omar El Faroukn, may the blessing of God be upon him, confirmed by Fatih Sultan Mohammed, proclaimed and carried out by various of the past great Sultans, and repeated by the exalted Padishah, the person elected Patriarch, besides combining the qualifications mentioned in the preceding Article, must be worthy of entire trust by His Imperial

Majesty, who will grant confirmation of the election, as well as have a knowledge of the Laws and Statutes of the exalted Government and be worthy of the trust and respect of the community.

CHAPTER IV

Concerning the Qualifications required by Monks entitled to be Bishops. and the Mode of their Election

15. It is required that the person who is elected and appointed to be Bishop should be :

1. A subject of the Imperial Government in origin and that there should be no stain on him either from a Government or from a community point of view.
2. Educated in the Patriarchate or Monastery of Jerusalem, and should he not be of the rank of Archimandrite or *Protosynkellos* he must at any rate be a zealous monk.
3. Of mature age in accordance with the provisions of the laws of the Church and in his full senses, with a perfect knowledge of the work of the Church and a possessor of the desired experience in the good administration of a Bishopric.
4. Acquainted with the Arabic language and if possible the Turkish language besides the Greek language.

16. As the election and appointment of a new Bishop to the vacant throne of a Bishop will be carried out by vote and appointment of the religious Council of the Synod with the permission sent by the Patriarch, the said Council will prepare a Register of the Monks who combine in their person the desired qualifications for a Bishop from among those who are possessors of equal proficiency, those who have given the most faithful services to the Church will be chosen, and out of these three persons will be appointed as candidates for the vacant Bishopric, and

subsequently they will go to the church and carry out the rule in force and again by secret vote one from among the said three candidates will be finally elected and appointed and in any case of an equality of votes a majority of votes will be obtained by the vote of the Patriarch.

17. When a Bishop dies, after a letter signed by the notables, monks and leaders of the people of the town in which the deceased had his residence has been received, the formalities of the election will be commenced.

Dated 5 Sefer, 1292.

1 March, 1291 (1875).

APPENDIX C

NARRATIVE OF EVENTS

ANTERIOR TO THE PRESENT CRISIS FROM THE TURKISH
REVOLUTION TO THE RETURN OF THE PATRIARCH
FROM DAMASCUS IN JANUARY 1919

THE TURKISH REVOLUTION AND THE 'ARABOPHONE' QUESTION

1. On the 11th of July 1908,¹ in pursuance of the recent revolution in Turkey, a constitution was proclaimed for the whole Empire. It contained a provision which was the source of all the subsequent troubles of the Patriarchate. That provision is contained in Article 111, and its terms are as follows :

'In each *Qaza* there shall be a council of each community. To this council is assigned the supervision—

- A. of the administration of the revenues of immovables and capital sums subject to *waqfs* according to the directions of the founders and agreeably to the customs observed from of old ;
- B. the use of properties appointed for philanthropic objects agreeably to the conditions prescribed in the testaments relating thereto ;

¹ The authority for the greater part of this narrative up to and after the Patriarchal crisis is the publication issued by the press of the Holy Sepulchre, *Official Documents touching the Rites of the Patriarchate of Jerusalem*, 1908-1913, by the Archimandrite Timotheos Themeles, Chief Secretary of the Holy Sepulchre, subsequently referred to as *Official Documents*. The reference to dates in this document is according to the 'Old Style' and the same principle has been observed in the above narrative.

C. the administration of the property of orphans in harmony with the special regulations on this subject.

Each of these councils is composed of members elected by its own community, in accordance with special regulations which will be drawn up. These councils will be subject to the local authorities and the general councils of the *vilayets*.'

2. Purporting to act in accordance with the above article, six priests and fifteen lay notables of Jerusalem, on the 15th September 1908, announced to the Patriarch the election of a council of forty, for the purpose of carrying out the provisions of the article. It is of course apparent that this procedure was based upon a misconception of the article, which declares that the election of the councils was to take place in accordance with regulations to be drawn up in future. This circumstance was pointed out to the deputation by the Patriarch, but on the 19th of September the deputation, nevertheless, reappeared. The Patriarch explained to the deputation the constitutional and legal position of the monastery as he understood it. But as the deputation appeared not fully to realize the position, he proposed the appointment of a mixed committee to discuss it.

3. This committee held a series of meetings. At the second meeting it was realized that the article was not yet in force, but the subject of its future application was discussed. It was contended by the Patriarch that the article would have no application to the property of the monastery, and he at the same time reminded the deputation of the expenses incurred by the Patriarchate for the benefit of the local population in the way of schools, hospitals, the upkeep of churches, the salary of priests, doles of bread, the military tax, rental allowances, &c. At the third meeting, on October 1st, the lay members of the committee put forward eighteen demands of an extensive character and laid stress, among other things,

on a circular of the Patriarch Hierotheos of the year 1875.¹

4. At the next meeting, October 9th, the Patriarch rejected these demands, but as the committee urged that their object was the moral and material development of the people and requested the support of the Patriarch for this object, it was arranged that a mixed committee should consider this question. The constitution of a committee composed of six members chosen from the notables of Jerusalem was accordingly approved by the Synod. It was to meet once a week under the presidency of the Dragoman and to consider the subject of rental allowances, the military tax, the distribution of bread, and the charitable relief of the poor and sick.

5. This committee was never in fact constituted, but on the 19th of October a demand in the nature of an ultimatum was presented to the Patriarch, asking for the formation of a Mixed Council to be chosen annually, consisting of six members of the clergy and six members of the laity. This demand was rejected. It was based upon the existence of such a council in the Patriarchate of Constantinople. The analogy was disputed by the Patriarch, and on the rejection of the demand serious friction immediately occurred. A demonstration was threatened at the festival of S. James on the 23rd October, but measures were taken by the local Government to prevent this. A telegram was sent by the Patriarch to his local representative at Constantinople seeking for the intervention of the Central Government. From this point things rapidly developed. The local Arabic-speaking clergy announced to the Patriarch that they were prevented by the people from further celebrating mass in the Church of S. James. The Patriarch's persuasions were in vain, and the church, which connects the convent with the Church of the Holy Sepulchre, was accordingly closed. On the 11th November a demon-

¹ This circular is set out in *Official Documents*, pp. 50-3.

stration waited upon the Governor, who urged the people to keep the peace while he communicated with the central authorities. The demonstration, nevertheless, paraded the streets and it was decided to send a deputation to Constantinople.

6. On November 15th a meeting of Synod rejected the demands of the local laity and decided in future to limit the amount of the rental allowance made to the members of the Orthodox Community in Jerusalem to £3,000.¹ The Synod proposed, however, the addition of two lay members to the schools committee and the appointment of lay committees for certain minor matters.

7. On the 19th November the Governor of Jerusalem received a telegram from the Grand Vizier directing a local investigation. In spite of this order the unrest continued and the trouble spread to both Jaffa and Bethlehem.

8. In the meantime the Patriarch, both officially and personally, addressed long representations to the Grand Vizier, Kiamil Pasha, explaining the point of view of the convent. These communications pleaded the ancient privileges accorded to the convent by the Khalif Omar, Mohammed the Conqueror, and Selim I. They drew attention to the terms of the *Berats* and of the Regulations of 1875, and contended that Article 111 of the Constitution had no application to the temporalities of

¹ The Brotherhood spends a large sum every year in paying rents of members of the Orthodox Community. In some cases free housing is allowed; in other cases, for which housing accommodation is not available in property belonging to the Patriarchate, houses are rented and assigned. The origin of this custom is said to be that in many cases people, in order to protect their houses from confiscation by the Turkish Government, transferred them to the convent on the understanding that they should be held in trust for themselves and their families. An alternative explanation is that the custom was adopted as a means of meeting the propaganda of Romanist organizations which accorded similar bounty to their adherents. Probably both these causes contributed to bring about the practice.

the convent, that its endowments were not waqfs of any particular local area, but were matters in which the whole Orthodox population of the Empire (who are described, as is usual in such communications, as the 'Royal race of the Romans') and the whole of Christendom were alike interested. The Patriarch also emphasized the large amounts already contributed from the treasury of the coavent for local purposes, but urged that these benefactions did not justify the creation of a condominium for the administration of the revenues of the convent. Urgent representations were also sent to the Oecumenical Patriarch explaining the position of the convent in the crisis that had developed. Communications of a similar nature were also sent to the Patriarch of Alexandria.

THE PATRIARCHAL CRISIS

9. At this point the development of events was interrupted by the attempted deposition of the Patriarch.¹ It would appear that the members of the Patriarchal Synod were not satisfied with the manner in which the Patriarch was handling the crisis. He was suspected of sympathy with the demands of the local laity. It was reported that a local priest who sought counsel with the Patriarch as to the legitimacy of the demands of the laity, after a long conversation with him, left under the impression that the Patriarch thought that the laity were right. It was alleged, too, that he entertained ideas even more subversive of the established order. 'He was indeed a cosmopolitan. He was often heard seriously to say that members ought to be received into the convent from all nationalities—Russians, Arabs, Rumanians, Bulgarians.'²

¹ The authority used for this part of the narrative is an article purporting to be written by a member of the Brotherhood and published in the *Ekklesiastikos Pharos*, a review issued by the Patriarchate of Alexandria. This article is extremely partisan and vituperative in character. It is only made use of subject to all possible reserves.

² *Pharos* article, p. 167. It must not be assumed that the views here

He was alleged to be out of harmony with the policy of the Synod: to have postponed the execution of their decisions or to have evaded them altogether, and even to have questioned its authority to deal with the subject. It was considered that he ought to have taken a stronger line from the commencement and to have crushed the agitation by a resolute resistance. The personal conferences which he held with leading members of the laity were the object of suspicion, and his supposed disposition to have the matter settled by a compromise instead of by a clear decision in favour of the convent was considered highly dangerous.

10. Under the influence of these apprehensions the leading members of the community came to the resolution to depose the Patriarch. On the night of December 13th, a certain archimandrite went round to all the cells of the monks, roused them, and urged upon them that the Patriarch was a danger to the convent. It was unanimously decided, in what is described as an official meeting of the Synod,¹ that the Patriarch should be called upon to resign, and that if he refused he should be deposed. A written declaration was delivered to him signed by the members of the Synod, earnestly urging him to resign his office, but this he declined to do. Two members of the Fraternity (one of them being the Chief Secretary, Meletios Metaxakes) were sent the same night to announce to the Turkish Governor the imminence of the deposition.

11. The Governor attended at the Patriarchate next morning at the very time when the Synod was officially sitting to consider the situation, under the presidency of the Patriarch. In the official minute, entered in the minute book but never signed, it is recorded that the Patriarch, while admitting that he was suffering from

imputed to the Patriarch were in fact entertained by him. His friends and supporters maintain that he has always been a vigilant and judicious upholder of the privileges of the convent.

¹ *Pharos* article, p. 171.

fatigue, declared that he would not take the responsibility of resigning his office at such a crisis. He is said to have added: 'The Synod is, nevertheless, able and entitled to proceed to my deposition on the ground of incapacity.'¹ He is then said to have left the chair without dissolving the sitting. The minute then recites that the Patriarch had 'systematically treated with contempt the established principles of the Holy Community, its internal regulations, its organic laws, and its canonical decisions'; it pronounced him incapable of supporting the burden of his office, and declared 'the Patriarch Damianos deposed from the Patriarchal throne on the ground of incapacity to discharge his spiritual functions, and of failure to command respect and confidence'.

12. A formal letter of deposition was then drawn up by Meletios Metaxakes, the Chief Secretary, and delivered to the Patriarch by Archimandrite Keladion.² On the following day the deposition is stated to have been approved by a general meeting of the Brotherhood, and the next day the Archbishop of Tiberias was elected as *Topoteretes* or *locum tenens*.

13. The Patriarch, however, declined to accept his dismissal, disputing the canonical right of the Synod to depose him. A telegraphic correspondence was immediately opened with the Oecumenical Patriarch and the Patriarch of Alexandria,³ who was at the time in Constantinople. The Oecumenical Patriarch is said to have telegraphed at once, asserting that 'the deposition of the Patriarch of Jerusalem is an absolute right of the

¹ The Patriarch repudiates the words thus imputed to him.

² The *Pharos* article states that the minutes of the meeting at which the deposition took place were duly signed by the members of the Synod. But no such signature appeared annexed to the minutes in the official Minute Book.

³ The Patriarch of Antioch was at the time not in communion with the other Patriarchs, owing to the breach caused by the 'Arabophone' question in that Patriarchate.

Synod of the Church of Jerusalem'. Urgent remonstrances were addressed to the Patriarch by both his fellow Patriarchs—the telegram of the Patriarch of Alexandria being specially vehement.

14. The Patriarch having continued to maintain an unbroken position, it was then proposed to proceed to the extreme measure of *kathairesis*. As explained elsewhere *parisis* or deposition merely involves the privation of an ecclesiastical dignity; *kathairesis* altogether and permanently extinguishes the clerical character of the person affected. On the 20th December the Oecumenical Patriarch Joakeim telegraphed—'If the ex-Patriarch of Jerusalem, Damianos, does not within two days submit his resignation, the Holy Synod of Jerusalem is entitled and ought to proceed to his *kathairesis*.' The Synod accordingly determined to give the Patriarch the necessary canonical warnings before proceeding to this step. The Patriarch remained unmoved, and in reply to the Oecumenical Patriarch inquired what offence he had committed and insisted on a trial.

15. The question of *kathairesis* was postponed, owing to the necessity of regularizing the situation for the purpose of the Christmas services at Bethlehem. The *Topoteretes* could not legally conduct these services until he was recognized by the Turkish Government. The Turkish Government felt embarrassed by the circumstance that in the Regulations of 1875 (which constituted what may be called the organic law of the Patriarchate) no provision is made for the deposition of a Patriarch. To tide over the situation an order was made which was in the nature of a compromise. It was directed that the services should be conducted not by the *Topoteretes* but by the other Bishops, but these Bishops were to be under no obligation to commemorate the name of the Patriarch in their prayers.

16. On January 21, 1909, the Turkish Government decided to recognize the *Topoteretes*. This implied a

recognition of the deposition of Damianos. The *teskeré* communicated to the *Topoteretes* by the Governor is said to have been in the following terms :

‘To the Archbishop of Tiberias, Meletios Effendi, *Topoteretes* of the “Roman” Patriarchate in Jerusalem :

As necessity has arisen for Damianos Effendi to abandon his office of Patriarch, your election as Patriarchal *Topoteretes* by the Holy Synod has been recognized by the Government, according to the directions contained in a Vizierial telegram.

This *teskeré* has been written for the purpose of putting into operation the necessary steps.’

17. The behaviour of the crowd at the Bethlehem Christmas procession was said to have been very threatening, and manifestations of public feeling in favour of the Patriarch took place at Jaffa and Ramleh. On January 3rd, on the news of the recognition of the deposition becoming known, crowds gathered in the streets, and occupied the Patriarchate. The occupation continued by an organized system of relays, until the close of the crisis. Simultaneously there was a general uprising in the country, and monasteries and churches were occupied.

18. The Patriarch declined to accept the recognition of the deposition and appealed to the Turkish Government at Constantinople to send a committee to investigate the question on the spot. The Government consented and after some delay dispatched a committee of three members, under the presidency of Nazim Pasha, the Governor of Syria. The Committee arrived in Jerusalem on January 26th and was much impressed by the demonstrations of the populace both at Jaffa and at Jerusalem. The Patriarch on leaving the Patriarchate to visit the Committee was escorted by cheering crowds, waving flags. The Committee in vain tried to bring about a compromise. They felt that to enforce the decision of the Synod would mean bloodshed and they accordingly brought the strongest pressure to bear upon the Synod.

19. At this time a change of ministry occurred in Constantinople and Hilmi Pasha, the new Grand Vizier, conceived the idea of summoning to Constantinople both the Patriarch Damianos and the two Archimandrites who were considered chiefly responsible for the movement against him, viz. Meletios Metaxakes, the Chief Secretary, and Chrysostomos Papadopoulos, the Chief of the Educational Department, well known as the author of a very able History of the Church of Jerusalem. The two Archimandrites obeyed the summons, and were the object of violently hostile demonstrations from the crowd both at Jerusalem and Jaffa, as well as on the journey thither, and embarked under police escort. The Patriarch did not comply with the order to proceed to Constantinople on the ground of ill health. Nazim Pasha sought to relieve the situation by directing the Metropolitans of Nazareth and Ptolemais to return to their dioceses, but his orders were disobeyed. About this time the situation was complicated by the death of the *Topoteretes*. The Synod immediately elected a new *Topoteretes*, but he was never recognized by the Government.

20. The behaviour of the crowds is said to have become more and more violent and to have been accompanied by murders and murderous assaults. The Patriarchs of Constantinople and Alexandria brought further pressure to bear upon Damianos. He replied by the following uncompromising telegram: 'We know of no canon or regulation allowing archimandrites, or titular bishops, whom we ourselves appointed to the Synod, to judge and condemn a bishop or Patriarch. No canon allows the dismissal even of a simple reader except for canonical offences. Against any fresh unjust intervention on your part in the affairs of the church, we shall protest to all the Orthodox churches, no other course being open to us.' The position of the Synod was that, whereas *kathairesis* required a canonical accusation and a regular trial, dismissal of a Patriarch was a mere administrative act

which the Synod could undertake by virtue of its inherent powers. The Patriarch maintained, on the contrary, that there was no canonical authority whatever for this proposition.

21. It is said that at this time the military officers told their commander that if ordered to fire on the crowds, their troops would refuse to obey the order. Renewed pressure was brought to bear upon the Synod, who addressed the most earnest appeals for advice to the two Patriarchs. The Patriarchs replied urging the Synod to stand firm; compromise with a Patriarch already threatened with *kathairesis* was impossible. His name had already been removed from the sacred *Diptychs* (commemorative prayers) of three Patriarchal churches. Its restoration was impossible without a fresh act of election. The retreat of the church would have a fatal effect, as it would be a repudiation of the 'absolute right of Churches to elect and depose their rulers'. Like many other similar ecclesiastical impossibilities these difficulties were afterwards found to yield to circumstances.

22. On February 16th it is said that Nazim Pasha announced that he would not be responsible for the safety of any one unless the Synod and the Brotherhood on that day recognized Damianos. The Synod thereupon capitulated, and passed the following resolution :

'To-day, Monday, the 16th February, 1909, at 3 o'clock in the afternoon, the Holy Synod held a special meeting in the Epitropieon of the Central Convent under the presidency of His Lordship the Right Reverend the *Locum Tenens* Metropolitan of Nazareth, Theophanes.

The Synod having considered the extraordinarily critical circumstances and the disturbance of public order amounting to positive anarchy on account of the rebellious attitude of the mobs throughout nearly the whole of Palestine ;

The evident danger threatening not only the individual security of the Brothers, but even the very ownership of the Holy Places, and the landed property of the

Holy Brotherhood, and what is more important of all, the precious and immemorial rights in the Sanctuaries of our Pious Nation, in Palestine ;

The implacable and intense struggle in which the strong and the weak, the eminent and the obscure, the near and the far-away are united as enemies against our Holy Fraternity ;

The Synod yielding to the successive exhortations of the August Imperial Government, in order to assist it in its work of restraint and pacification in this part of the Empire, an Empire otherwise now involved in difficulties: yielding also to the respected instructions and counsels of a higher venerated authority and of other Christian representatives and to the inevitable necessity to which, in the face of the general ruin threatening it, our Community has come ;

For all these reasons,

Though the Synod considers its decision with regard to H. B. the Patriarch Damianos, unanimously adopted on the 13th December last, as entirely canonical, nevertheless, on account of all the above-mentioned circumstances, for the sake of our national rights in the Holy Sanctuaries, acting on exceptional and unique prudential considerations, it declares that in view of the extremity of the present danger the force of the above-mentioned decision shall remain suspended and unexecuted.

Wherefore the present act was drawn up and inserted in this Holy Codex for a perpetual demonstration and assurance.

23. The above minute, though it was signed by all the members of the Synod remaining in Jerusalem, and though it is subsequently referred to by the Patriarch as a 'Synodical' act, was never entered in the official minute-book. It is preserved in a separate book in the office of the Patriarchate. All the minutes of the various meetings of the Synod held during the crisis from December 13th to February 16th (except the last) are entered in the minute book, but remain unsigned and the regular minutes are resumed continuously without any reference to the enforced reconciliation. Upon this reconciliation taking

place the following telegrams were dispatched to the Oecumenical Patriarch :

- A. *By the Topoteretes.* With difficulty collecting ourselves from the tribulation assailing us, we announce that the heroism of the Brotherhood, its honourable self-respect, its unflinching decision, maintained up to the very end in indescribable affliction, have bowed before overpowering dangers of the mob, terrorism, unheard of threats and pressure from the authorities. In complete abandonment we have been subdued. Our conscience has been forced by unscrupulous and terrible measures.
- B. *By the Brotherhood.* Completely shattered in soul like Jeremiah sitting upon the ruins we weep for the foully assassinated Mother of the Churches. The Synod has been betrayed ; a deep grave has been opened for the Brotherhood ; grievous wailings resound.
- C. *By the Patriarch.* By the grace of the Holy Sepulchre there has arrived brotherly love between us and the Holy Synod and the Brotherhood to the glory of God and the establishment of the Church of Zion.

RECOGNITION OF THE SETTLEMENT

24. It will be observed that in the above minute there appears the word 'suspended' (*ἀνεσταλμένος*). Emphasis has subsequently been placed upon this word as showing that the deposition was not definitely cancelled. In reply to this argument the Patriarch, in a published memorandum, has drawn attention to the action taken by the Synod subsequently to the reconciliation and in particular to the correspondence between the Synod and the Oecumenical Patriarch.

25. In adopting the above resolution the Synod had acted contrary to the advice of the Oecumenical Patriarch, who had declared that he could not recognize a Patriarch

once deposed until there had been a fresh act of election and that a compromise with a Patriarch already threatened with *kathairesis* was impossible. In now resuming the consideration of the very threatening 'Arabophone' question the Synod found itself greatly embarrassed by the fact that neither the Oecumenical Patriarch nor its own representatives at Constantinople (where the struggle had ultimately to be fought out) recognized the Patriarch. On the 19th February a memorial was addressed to the Constantinople Synod signed by the local representatives of the Jerusalem Patriarchate (Arsenius, Archbishop of Neapolis and Glykerios, Metropolitan of Sebasteia) and also by the Chief Secretary, Meletios Metaxakes and the Scholarches, Chrysostomos Papadopoulos, denouncing the settlement as enforced by violence, and urging the Church of Constantinople to take measures to protect the rights of the Church of Zion. The Jerusalem Synod thereupon addressed a series of urgent telegrams to the Oecumenical Patriarch, unanimously signed by the Patriarch and the whole Synod, urging the recognition of the Patriarch. These telegrams are four in number of the 7th, 13th, 16th, and 21st of March. The first assured the Oecumenical Patriarch that a settlement had been come to and that mutual co-operation was now proceeding, and begged for a removal of the obstacles which impeded its defence of the rights of the Church. That of the 13th pressed this request and said the question admitted of no delay. That of the 16th begged the Oecumenical Patriarch 'to urge our Brothers to recognize accomplished facts'. That of the 21st was an earnest and urgent telegram pleading that the Brotherhood in its present struggle needed the common support of all.

26. These letters were followed on May 5th by a reasoned Synodical letter again unanimously signed, urging that the recognition of the proceeding of February 16th was imperative, and on June 8th by a petition purporting to come from the whole Brotherhood, assuring

the Oecumenical Patriarch and his Synod that the Brotherhood was reconciled with its Father and Patriarch and was hastening in love and harmony to continue the work of its fathers. It announced the restoration of peace and love and complained that the Oecumenical Patriarch had not recognized accomplished facts and restored the bond of peace and unity. It emphasized the freedom of its signatures and begged that the past might be buried in oblivion and that accomplished facts might be recognized.

27. On July 14th the deputation at Constantinople gave way and the four members of the Brotherhood above mentioned signed a declaration announcing that 'realizing the supreme necessity of the re-establishment of profound peace in the Holy Brotherhood for the purpose of the complete preservation of its rights they declared peace and reconciliation with his Beatitude, recognizing him as Father and Patriarch'.

28. Finally, on the 25th July, 1909 the Oecumenical Patriarch sent the following telegram to the Patriarch Damianos:

'With the help of God the most Holy Church of Constantinople to-day directed in Synod the inscription in the sacred *Diptychs* of the name of your Beatitude as canonically occupying your sacred seat.'

RESUMPTION OF THE 'ARABOPHONE' QUESTION

29. It is now necessary to resume the story of the 'Arabophone' question.

30. On the resumption of his office on February 16, 1909, the Patriarch took up the control of this question. On February 23rd the Synod reversed its previous decision to reduce the rental allowance of the Orthodox Community. On March 17th a vain appeal was made to the Jerusalem clergy to reopen the Church of S. James to allow of the celebration of the Easter services. The appeal was refused

and no Easter services were held. On April 6th the local committee pressed for an answer to its demands and the Synod resolved to remit the matter to Constantinople. A deputation was accordingly sent to Constantinople and arrived there on the 13th July. The recognition of the Patriarch Damianos by the Constantinople Synod did not take place till twelve days later. Prolonged negotiations now took place in Constantinople, where representatives of the local laity were already pressing their case, and on the 12th October both committees returned to Jerusalem.

31. In November it transpired that the answer of the Turkish Government was likely to be favourable to the convent. Fresh disturbances broke out and several monasteries were occupied by mobs. The substance of the decision was announced in December, 1909, but it was not until the 17th May, 1910 that the full text was published.

DECISION OF THE TURKISH GOVERNMENT

32. The principal demands of the laity were six in number. There were five supplementary demands of less importance. These demands and the answers accorded to them may be summarized as follows:

1. *The constitution of communal councils in accordance with article III of the Constitution.*

This was promised in due course. The acceptance, however, was merely nominal as, according to the present registers, there are practically no communal *waqfs* to administer.

2. *A mixed council for the Patriarchate on the model of that of Constantinople, to be composed one-third of monks and two-thirds of laymen and to supervise (a) schools, (b) churches, (c) waqfs, and to be the competent authority for all other matters.*

The answer pointed out that this demand was

inconsistent with the Patriarch's powers under the *Berat* and declared that the monasteries and shrines had not a local character but belonged to all Orthodox Ottomans. The existing regulations were in accordance with the peculiar and exceptional character of the Patriarchate, which was organized in the form of a monastery and was moreover well adapted to supply the needs of the local Orthodox population. This demand was therefore declared not justified. While, however, the Government refused this demand it granted a concession of the highest possible permanent importance. It declared that, as complaints had been made with regard to schools, hospitals, and poor relief and as under article 1 of the Regulations of 1875, it was the duty of the Patriarchs to attend to these matters, to ensure the fulfilment of this duty there should be established a Mixed Council under the presidency of the Patriarch consisting of six monks and six elected notables, three of each class retiring at the end of each year. The duties of the council were to comprise (a) the consideration of all ecclesiastical cases, (b) the administration of all charitable bequests, (c) the supervision of schools and the direction of teaching, (d) the improvement of schools and hospitals and (e) the administration of poor relief. A sum equivalent to one-third of the revenues of the Patriarchate and not less than £30,000 per annum was to be put at the disposal of this committee. Further, trustees were to be elected by the local inhabitants and under the presidency of the heads of the local monasteries were to be charged with the management of the churches, schools and other local establishments appropriated to the local inhabitants and their financial administration.

3. *The admission of natives to the monasteries and their promotion to all ecclesiastical ranks. No monks to be admitted to the Brotherhood without the approval of the Mixed Council.*

The answer recited that the Patriarchate denied that the Brotherhood ever had refused admission to natives of the country qualified for admission to the order. For the present it appeared to be sufficient that the Patriarchate should be made responsible for the just fulfilment of this promise and assurance. The demand that the Mixed Council should control admissions to the Brotherhood was rejected.

4. A. *An increased share to the local inhabitants in the election of patriarchs.*
 B. *The restriction of the sphere of the Synod to spiritual matters.*
 C. *The admission of the parish clergy to the Synod.*

These demands were rejected.

5. A. *Bishops to be required to live in their dioceses.*
 B. *Bishops, archimandrites, priests and deacons to be elected by the local inhabitants.*

The answer explained that the Patriarchate declared that the metropolitans of the See of Jerusalem were not like those of other Patriarchates, but that their dignity was nominal only. Nevertheless, the Patriarch was to be recommended to see that those who had dioceses should remain therein, and fulfil their spiritual duties. The demand for the election of bishops and other clerical officers was rejected.

6. A. *Monks to be prohibited from engaging in secular occupations.*
 B. *Equality of all Ottoman subjects in all other matters, no one race being preferred above another.*

The answer to these demands was that in so far

as they were admissible they would be secured by the measures above explained.

33. The supplementary demands were as follows :

A. *Complete abolition of monastic privileges. Only native-born Ottoman subjects to be admitted as monks.*

The first of these demands was refused, the second accepted.

B. *Unification of revenues and the publication of a yearly balance sheet.*

This demand was not accepted, but recommendations would be made to the Patriarch to take steps to secure good financial administration.

C. *The Patriarch to be deposable only for a just cause, and the opinion and approval of representatives of the laity and of the local priesthood to be required both for the election and deposition of the Patriarch.*

The reply to this demand was as follows :

‘The method of election of the “Roman” Patriarchs of Jerusalem is defined in the special Regulations and these contain a provision requiring that the local priests shall share in the election. Nothing is said, however, about the manner of the deposition of the Patriarch and on no body is there exclusively conferred jurisdiction to depose the Patriarch. On account of the peculiar importance of the Patriarchal See the alteration of this state of affairs, that is to say, the determination of the community and the body upon which shall be conferred the right of deposing the Patriarch or of continuing him in office, appears to be entirely inexpedient. Wherefore, in accordance with the views above explained, it was considered superfluous to take this demand into consideration and it was decided that the said regulation should remain in its present terms.’

D. *Establishment of an Arab choir to sing during the Greek services in the Church of the Resurrection and the other churches.*

This demand was refused as it was considered that reasonable local requirements were adequately met.

E. *Registration of waqfs in the name of the community.*

To this a colourless reply was given. The matter depended upon the proposed amendment of the law for the recognition of '*personnes morales*'. When this was done *waqfs* could be entered in the name of those entitled to them, *i.e.* *waqfs* of the churches and shrines in their names and *waqfs* of the communities in the names of the communities.

34. It will thus be seen that the reply of the Government was on the whole very favourable to the Brotherhood. The revolutionary demands, which would have destroyed the Hellenic character of the Brotherhood, secularized its revenues and subordinated the Patriarchate to the laity, were all rejected. A provisional refusal was given to the demand that the Government should require the admission of natives of the country to the Brotherhood. One concession of the greatest importance was made: the establishment of a Mixed Council for certain purposes and the assignment of one-third of the revenues of the Patriarchate to the council.

35. On the 29th May, 1910, at a meeting at the Governorate, Meletios, Archbishop of the Jordan, read a formal declaration of the acceptance of these terms on behalf of the Patriarchate. Steps were subsequently taken to draw up a constitution for the Mixed Council. One of the provisions of this constitution assigned to the lay members of the council salaries of £200 per annum. Provision was made for a rotation of districts so that all parts of the Patriarchate should be represented on the

council in successive years, and the first elections took place on the 9th of December, 1910.

SUBSEQUENT CONTROVERSIES

36. Everything now appeared to be happily settled. The Patriarch addressed a *takrir* to the Government asking that the churches and other establishments which had been occupied should be restored to the Patriarchate, and that the services in the Church of S. James should be resumed and that the passage through that church between the central monastery and the Church of the Holy Sepulchre should be reopened. He delivered a long opening address at the first meeting of the Mixed Council. An affecting scene took place and harmony and peace appeared to be restored. Fresh troubles, however, arose at the commencement of the following year, 1911. New points of dispute presented themselves and the Patriarch on the 3rd March presented to the Synod a long memorandum on the whole subject, which was published in both Greek and Arabic. The Church of S. James was not reopened and the controversy continued. Finally the new points of dispute were referred to Constantinople and the decisions of the points raised were in almost every important particular favourable to the Patriarchate.

37. The most important of the decisions thus given were as follows :

- A. In the event of the Council being equally divided the Patriarch as president of the Council was to have a casting vote. (The laity had demanded and the Governor of Jerusalem had recommended that in such cases the matter should be referred to the Government.)
- B. A calculation of the one-third of the annual revenues, to which the Mixed Council was

entitled, was to be calculated upon the basis of the annual budget presented to the Synod.

- C. The Mixed Council was not to be entitled to appoint the teachers in schools under its care.
- D. The amount payable as a rental allowance to the Orthodox inhabitants of Jerusalem was to be included in the £30,000 above referred to, and not to be in addition thereto.
- E. The direction as of the election of trustees for churches, schools, &c., was not to apply to schools, churches, &c., in Jerusalem. With regard to the last point it may be noted, on the other hand, that the Patriarchate had contended that the direction only applied to establishments exclusively reserved for the local inhabitants and that as there were no such establishments the direction could have no application until the inhabitants themselves founded such establishments. This contention appears to be impliedly disallowed.

38. Even after this decision differences still continued, and it was not until the end of 1913 that all differences were finally disposed of by a visit of Ajmi Bey, Minister of Justice. The Church of S. James was still closed and as usual in these matters an order of Government was necessary to resolve the deadlock. On the application of the Patriarch the Minister directed the church to be reopened and approved of the appointment by the Patriarch of a church committee for the church. Services were accordingly reopened, and on the first day of the year 1914 the Patriarch celebrated in the Church of S. James, and the period of controversy which had lasted for five years was terminated.

39. In connexion with this final settlement it may be convenient to refer to the testimonials given to the Patriarch at a meeting of the Synod, on the

21st August, 1917, on the celebration of the twentieth anniversary of the commencement of his Patriarchate. (See *Nea Zion*, 1920 issue for May, June and July, pp. 4-9.) Glowing tributes were paid to the Patriarch by the members of the Synod, including Glykerios, Metropolitan of Nazareth and Keladion, Metropolitan of Ptolemais. The Patriarch was described as a skilful helmsman who had successfully steered the ship through terrible storms. The tribute paid to him by Glykerios, Metropolitan of Nazareth, was particularly emphatic.

‘The life of no mortal man passes without some share of tribulations, but the greatest tribulations and trials usually pursue rulers and leaders. But that is reckoned the most bitter of all trials, when the innocent and the just is slandered and traduced at the very time, when, wholly devoted to his high duty, he is defending with all his powers, both by word of mouth and by official letters to the civil and ecclesiastical authorities, the national and ecclesiastical rights of which he was appointed the guardian and custodian.’

He further stated that the victim of this injustice and these slanders had become the anchor of their salvation and had preserved the Brotherhood from a pitiable shipwreck. The Archimandrite Kallistos, emphasized the invaluable services which the Patriarch had rendered in obtaining a Government decision confirming its fundamental character, and prayed for the continuance of his Patriarchate for many years. Another reverend archimandrite laid stress on the same Government decision, ‘under which the shrines were to be recognized not as having a local character but as belonging to the whole “Roman” race’. A warm personal tribute was also paid to the Patriarch by Sophronios, Archbishop of Gaza, for his personal kindness and consideration. In a letter addressed to the Government the reverend bishops have explained that these tributes were extorted from them by fear of banishment during the war, owing to the intimate relations of the Patriarch with Jemal Pasha and

the Young Turk party. A careful perusal of the various speeches on the occasion referred to produces the impression, however, that the reverend bishops hardly do themselves justice in this explanation, and that at this time the Synod was well satisfied as to the valuable services of the Patriarch.

THE ATTEMPTED REVIVAL OF THE DEPOSITION IN 1918

40. In November, 1917, when the approach of the British army was imminent, the Turkish Government removed the Patriarch and the whole of his Synod to Damascus. This was done in spite of an earnest Synodical protest addressed to the Governor of Jerusalem on the 5th November. In the absence of the Synod the Patriarchate was administered by a committee of management.

41. During the war the debts of the Patriarchate were enormously increased. The bad policy, adopted several years before the war, of passing budgets which anticipated large annual deficits and providing for these deficits by loans, was continued and intensified. It appears that all these successive loans were approved by Synodical resolutions. The Synod, therefore, must share the responsibility for the state of affairs thereby produced.

42. On the 3rd of May, 1918 (O.S.), (no doubt as a result of previous communications with the Greek Government) the Brotherhood, at a general meeting, passed the following resolution :

‘To-day, Friday, the 3rd May, 1918, the Brotherhood of the Holy Sepulchre, being assembled at an extraordinary meeting at the Greek Patriarchate, and having under consideration the serious situation, and in particular the indescribably bad economic situation in which the Brotherhood of the Holy Sepulchre is placed, and which threatens it with ruin unless precautions are taken in time, and that speedily,—the

Brotherhood, reflecting on all this and taking account of the present dangers, makes the following decisions :

1. It confides its fate entirely and unreservedly to the Royal Hellenic Government, preserved by God, in the hope of seeing revived the happy and glorious epoch. when a Christian Government and of the same blood took charge of the Holy Sepulchre and protected it.
2. It accepts from the honourable Royal Hellenic Government the economic reformation and the good and sound arrangement of all questions affecting the confraternity of the Holy Sepulchre.
3. It requests his Lordship the Right Reverend the Archbishop of Sinai, Porphyrios, now residing in Jerusalem, to transmit in due course the present resolution to the respected Royal Hellenic Government and to co-operate with them with all his power in the interests of the Holy Sepulchre.'

This resolution was drawn up, read and signed at the Patriarchate at Jerusalem.

43. In pursuance of this resolution the Greek Consul-General at Cairo, on the 23rd July, 1918, paid a visit to the Patriarchate and discussed the situation with three members of the committee of management. The following is an extract from the minutes of that date.

'His Excellency, having full knowledge of the serious questions which disquieted our Holy Brotherhood, communicated to us that the Royal Hellenic Government, after the passing of the resolution, of which all were aware, had definitely decided to undertake the amelioration of our unhappy situation, and as a preliminary to regularize what was the most serious thing of all, the financial question. This regulation, added His Excellency, had been assigned to the National Bank of Greece, whose representative would shortly arrive in the Holy City; but, he continued, in order that all these things may have a successful course and that the measures about to be taken for reform and amelioration

may attain their object, it is necessary that a new governing authority of a firm and permanent character should be substituted for the present governing authority of the Brotherhood. The Patriarch Damianos, according to the opinion of the British and Greek Governments, could in no circumstances return here and resume the administration of the church. For the regularization of this question the Greek Government, with the concurrence of the British Government, thinks that it is necessary that the Patriarch Damianos should be declared deposed from his Patriarchal dignity and that the Most Reverend the Archbishop of Sinai, Porphyrios, should be adopted as *Topoteretes*. Hereupon, His Excellency also recommended to us that we should, as quickly as possible, forward to the Military Governor of Jerusalem, with whom, he said, full understanding exists on all these matters, a memorandum setting out the record of the Patriarch Damianos, explaining the necessity of his immediate deposition and of the invitation hither, as *Topoteretes* of the Patriarchal throne, of the Right Reverend the Archbishop of Sinai. His Excellency added that all these operations must be carried through in absolute secrecy and not disclosed to any one until the arrival of the Archbishop of Sinai.

Accordingly we declared to His Excellency that, conforming ourselves to his recommendations, we would speedily carry out the measure he had indicated, and immediately, on the same afternoon, the composition of the memorandum was commenced.

44. It is not known from what source the Greek Consul-General derived the impression that there was any understanding between the British and the Greek Governments in the matter. There is no trace of any such understanding in the papers to which we have had access, and subsequent events demonstrate that no such understanding existed. It is clear, however, that in their subsequent action the Brotherhood were under the erroneous impression that the steps which they were taking were in accordance with the views of the British Government.

45. On the same day, July 23, 1918, a lengthy memorandum, with a covering letter signed by the committee of management, was transmitted to Colonel Storrs, Military Governor of Jerusalem. The memorandum referred to the deposition of 1908 and laid great stress on the alleged Turkish sympathies of the Patriarch. It charged him with arbitrary and cruel administration and with being responsible for the serious economical situation of the Patriarchate. It emphasized the necessity of reviving (with the aid and assistance of the British Government) the operation of the resolution of dismissal of 1908, and intimated that after this was accomplished it would be necessary, pending the election of a new Patriarch, to appoint a *locum tenens*. It recommended the Archbishop of Sinai for the office and requested that an invitation should be sent to him. No immediate reply was given to the suggestion of the revival of the resolution of the deposition, but the Commander-in-Chief intimated that there was no objection to an invitation being sent to the Archbishop of Sinai to act as *locum tenens*.

46. About the same time the Greek Consul-General of Cairo addressed to General Allenby a letter on the financial situation of the Patriarchate and requested permission for a representative of the Greek National Bank to proceed to Jerusalem. The letter contains severe strictures upon the Patriarch.

47. On September 19th (N. S.) the Brotherhood, at a general meeting, no doubt supposing that it was acting in accordance with the wishes of the British Government, adopted a resolution purporting to revive and declare in force the Synodical decision of December 13, 1908, and at the same time nominated the Archbishop of Sinai as *Topoteretes*.

48. The announcement of this second deposition of the Patriarch caused much concern and perturbation among the laity. The Archbishop of Sinai, in order to make his position clear, begged the Military Governor to explain

to the local clergy that he had been appointed *Topoteretes*. He was anxious that this phrase should be used in the original Greek, instead of the phrase *locum tenens* which had hitherto been used. Colonel Storrs, however, realizing on inquiry that the word *Topoteretes* implies that the Patriarchal throne is vacant, declined to adopt the suggestion and took means to make it clear that the status of the Patriarch had been in no way altered and that the British authorities had given neither decision nor official consideration to this aspect of the question.

49. The *Topoteretes* now suggested that certain members of the Synod might be allowed to return to Jerusalem; certain other members he desired to be excluded. The excluded persons comprised the Metropolitan of Nazareth, the Archbishop of Philadelphia, and Archimandrite Timotheos, the Chief Secretary. General Allenby, however, after a consideration of the question, directed that the whole Synod should be allowed to return, the question of the return of the Patriarch being for the present reserved. On November 18th the members of the Synod returned accordingly, and on November 23rd five bishops, *i. e.* the Metropolitan of Ptolemais, the Archbishops of Mount Tabor, Kyriacoupolis, Lydda, and Gaza signed a declaration acquiescing in the revival of the resolution of the deposition of 1908. The declaration was transmitted to the Government by the *locum tenens*, who explained that the Metropolitan of Nazareth, though he had verbally expressed his concurrence with the other signatories, had declined to sign.

50. General Allenby, on further consideration of the whole subject, ordered that the Patriarch should be allowed to return. The Patriarch accordingly returned on January 5, 1919, and celebrated the Christmas services at Bethlehem. On January 9, 1919 (O. S.), the Patriarch presided at a meeting of the Synod at which the following resolution was adopted:

‘All the members of the Holy Synod, for the peace

of the Church and interest of our convent, separate ourselves completely and once for all from the past. In full agreement and with ties of love we admit the reconciliation which has taken place by the help of God, and we recognize the canonicity of the situation in accordance with the ecclesiastical canons and the regulations of our convent.'

51. The speech of Glykerios, Archbishop of Nazareth, at this meeting is of some interest. The following is an extract therefrom. Referring to two documents which had been produced, setting out the previous history of the question, he said: 'These two documents have been presented at the right time. They should be entered in the minutes of the Synod for the sake of truth and history and in order to prove that neither the Synod nor the Fraternity nor any other body is entitled to depose the Patriarch when it seems to them proper to do so, without any canonical reason. The acts dealing with the deposition should be abrogated and repealed in order that such a precedent should not be on record in our Church.'

APPENDIX D

CHARGES BY THE BISHOPS OF THE SYNOD AGAINST THE PATRIARCH

(Published in the *Ekklesiastikos Keryx*.)

1. That from the first day of his Patriarchate, putting into application the fatal principle 'Divide and reign', he banished the peace and quiet of the Brotherhood, finding it always a congenial task to sow tares and dissensions among the Brothers, informing against them, slandering them, and stirring up one against another.
2. That he treated with contempt and set at naught the ancient established principles of our Holy Brotherhood and the internal regulations of the Holy Community, and trampled upon and reduced to complete futility the rules elaborated in the year 1902, which with his own hand he signed and ratified.
3. That he treated with contempt the Holy Synod, and, indeed, reduced it to an utter nullity, never executing any of its decisions which happened to be opposed to his own opinion or prejudices, deposing and appointing on every occasion according to his absolute will, and autocratically and altogether monarchically administering the affairs of the Holy Community.
4. That to the repeated canonical complaints of the Hierarchy that the decisions of the Holy Synod according to the second article of the Imperial

Regulations on the Patriarchate of Jerusalem must be taken by a majority vote, he continually answered and insisted in the most despotic manner that 'wherever the Patriarch is found, there also is the majority of the Holy Synod'.

5. That he systematically pursued an obscurantist policy, considering as disadvantageous to himself all intellectual development among the Brotherhood, not only most flagitiously closing the Theological School of the Holy Cross, but also banishing and driving to a distance from Palestine the most eminent shining lights of the Brotherhood and its most accomplished and distinguished members, as well as dozens of young Brothers, pupils of the Theological School of the Holy Cross, driving them away, and pursuing them elsewhere, so that the Brotherhood, corrupted in every possible way and intellectually blinded, might assume a harmless composition, which should nourish nothing but instruments subservient to his personal policy.
6. That he deliberately encouraged the slackness of life of the Brotherhood with the object of more easily ruling and tyrannizing over it, never punishing those who had slipped and himself often affording an example of the transgressions of those who stand in slippery places.
7. That either arbitrarily or by forcing the conscience and the opinion of the members of the Synod, and contrary to the prescriptions of ecclesiastical law, he alienated the greater part of the property of the Holy Community, in some cases selling lands and aimlessly and without control squandering the money realized, and in other cases presenting them to persons well disposed to himself and willingly subservient to his aims.
8. That without any proper control he administered and squandered large pecuniary sums belonging to the

Holy Community in the pursuit of his personal interests and with the object of maintaining himself upon the throne, dissipating the revenues of the Holy Community and proceeding for the realization of his purposes to the contracting of loans, not infrequently without the least knowledge on the part of the Holy Synod, and at the heaviest rates of interest, and that by these means he swelled the debts of our Holy Brotherhood to the exorbitant amount of 10,000,000 francs (gold).

9. That by reason of his carelessness and personal prejudices, and because he wished to conciliate the persons of heterodox faith who share the Holy Shrines with us, the various questions relating to the shrines, which from time to time arose, did not receive at his hands the careful attention which they required, nor did he think fit to give to our rights that strenuous defence which was their due, to the great and irreparable damage of our Brotherhood, their responsible guardians.
10. That without the Holy Synod and the Brotherhood having the least knowledge of it, he accorded his Patriarchal approval and permission to monks of foreign churches for the purchase of historical spots in Palestine and even in the neighbourhood of the Holy City: for the erection of churches and monasteries, to the incalculable damage and loss of the Church of Zion and our Holy Brotherhood.
11. That he never at any time made truly pastoral and paternal provision for the spiritual advancement and development of the Orthodox Arabic-speaking laity in Palestine nor did he found for its benefit, according to the example of other and heterodox communities, any philanthropic establishment; but his only care was to corrupt them in countless ways and to kindle their enmity and antagonism against the Holy Brotherhood and to make them

indisposed and unqualified for every progressive activity.

12. That throughout the continuance of the world war, relying upon the exclusive policy and the unqualified support of the Young Turks, he surpassed himself, threatening oppressions and persecutions against our Holy Brotherhood, and often going to the extent of starving it, while all the time he was ceaselessly contracting loan after loan at inconceivably heavy rates of interest.
13. That when he was compelled with the spiritual heads of other communities to leave the Holy City, when the day of deliverance was nigh, he took no thought for the fate of the Church and the Brotherhood, inasmuch as he did not leave one of the bishops as his representative, in order that, as was customary, he might preside at the sacred rites and festivals in the Holy Shrines, and took no other thought for the administration of the affairs of the Brotherhood, whereas it was his highest duty and was in his power, as the chiefs of the other communities did, to leave one or two of the bishops or of the other brothers and to appoint them as his representatives as a precaution against confusion, disturbances, and complete disintegration.
14. That even to-day and in the public view he carries on an utterly frenzied struggle to estrange our Holy Community from its immemorial and holy traditions and to sever the close and indissoluble bonds which, from its foundation, it has always had with our Pious Nation, without which it cannot exist for a day, much less vindicate its immemorial rights in the Holy Land.
15. That he undermines this the very existence and fundamental character of the Brotherhood over which he tyrannizes, leaving no stone unturned in his attempt to give a local or pan-Orthodox

character to the Sacred Community of the Holy Sepulchre, and thus to change that unqualifiedly Hellenic character which it has had from time immemorial, to the great injury and incalculable damage of the imprescriptible historic rights of our Pious Nation.

APPENDIX E

*Memorandum communicated by the Very Rev. Archimandrite
Kallistos, Member of the Holy Synod*

CHARACTER AND COMPOSITION OF THE PATRIARCHATE OF JERUSALEM

As is well known, the four great cities of Christendom at its prime and dispersion, in antiquity and the middle ages, were Rome, Constantinople, Alexandria, and Antioch. These cities, both from the political and the geographical point of view, were in fact, by the very nature of things fore-ordained to have this character. Rome was the spiritual, religious, and political centre of the whole of western Europe. From this city Christianity spread to each of those western countries, and the ecclesiastical jurisdiction of this city extended over wide areas and many millions of people. Constantinople or New Rome was the political and religious centre of eastern Europe and of a considerable part of Asia. It was the capital of the Byzantine Empire, and from this city Christianity spread to the peoples of eastern and central Europe and the ecclesiastical jurisdiction of this city extended over countries of wide area and many millions of people. Alexandria was a great political and ecclesiastical centre, a focus of literature and of the spiritual and ecclesiastical movement of no mean order. And the ecclesiastical jurisdiction of this city extended not only over the whole of Egypt, but also over all the neighbouring countries. We can say the same also as regards Antioch, a most ancient church, a great and illustrious metropolis of Hellenic literature and of Christendom. And the ecclesi-

astical jurisdiction of this city extended over the whole of Syria, Mesopotamia, and Persia as far as the Indies. From the political, the geographical, and the spiritual points of view, as well as from the point of view of population, these four cities were destined by their very nature to be declared the great centres of Christendom, and in fact they were so declared.

Hence is explained the phenomenon that the bishops of these four cities assumed an eminent place among their brother bishops. From bishops they came to be called archbishops and presidents of the autocephalous churches which were formed round these cities. The Oecumenical Synods, finding themselves in the presence of facts produced by the nature of things and their development, ratified this state of affairs. The circumstances, then, which gave conspicuousness to these great metropolitan cities of Christendom, afterwards the heads of autocephalous churches, are their geographical position, their population, their spiritual character, their political character, and above all the ecclesiastical life and movement which developed within them. How comes it, however, that Jerusalem was also declared an autocephalous church and that its bishop took a place among the other four presiding churches? Jerusalem had none of the elements indispensable for its declaration as the metropolis of an autocephalous church. Neither its political character (Jerusalem was never the capital of a Christian state, not even the centre of a great administrative area), nor its geographical position (Palestine was a small country), nor its population (from ancient times the Christian population of this country was the smallest of all in numbers and even at the prime of Christendom (A.D. 300-600) the Church of Jerusalem numbered only four metropolitanical sees, Caesarea and Skythopolis, this side Jordan, and Petra and Bostra beyond the Jordan), nor its spiritual character (Jerusalem as a Jewish city could not become a centre of the ancient

Hellenic spirit of operative and vital Christianity), nor was it a centre of ecclesiastical life from the point of view of the development and teaching of the dogmas of the Christian Church. There was only one element, an element foreign to the administrative system of the church. This element was, that the Founder of Christianity appeared in this country. In this country He was born, taught, and was crucified, and in this country are Bethlehem, Golgotha, and the Sepulchre from which He rose again. This element and this alone sufficed for Jerusalem to be declared an autocephalous church and for its bishop to take the fifth place among the four other presiding churches. Neither political considerations in them, nor geographical nor pastoral, contributed to the elevation of this church, but simply and solely the fact that it was a place of pilgrimage. This church, then, from the very commencement of its appearance and rise to eminence, bears simply and solely the character of a place of pilgrimage. In other words, if the historical memorials, or, as we call them, the shrines, were not in existence the Church of Jerusalem would not be autocephalous.

If in the first centuries of the Christian era, centuries of its prime in these countries, the above-mentioned essential elements for the constitution of an independent church were absent, much more was this so after the Arabic conquest, when everything was reduced to ruin and the Christian population almost disappeared. However, in the Church of Jerusalem something happened which saved the situation. From the very first ages of Christendom, around Golgotha and the Sepulchre of the Saviour, there was formed a monastic order which had and has for its object the guardianship, the care, and the preservation of the sacred memorials of Christianity, and which had and has its roots in the nation to which it belongs. That order is nothing else than the Brotherhood of the Holy Sepulchre, which exists to-day. And while

before the Arabic conquest this Brotherhood sufficed for the good preservation and care of the Holy Places, after the conquest, when everything was reduced to ruin, not only the Metropolitan and the Episcopal sees and the flock also, this Brotherhood undertook the direction of everything; it preserved all that still exists in Jerusalem: it elected as Patriarch of the church, which had already been formed there, one of its members, and maintained him in its midst; it saved also the few Orthodox Christians still surviving in Palestine. The Brotherhood, in a word, remained the only constituent element of the church of Jerusalem, and it alone constitutes what is called the Patriarchal See of Jerusalem. The state of affairs so developed was recognized and respected until to-day by all the powers which have ruled in Palestine.

From this historical review may be gathered the two following propositions: first, that the Church or the See of Jerusalem does not bear the same character (*i.e.* the pastoral character) as the other autocephalous Orthodox churches, but a special character, that of a place of pilgrimage. And secondly, that historical circumstances led to such developments that the original Brotherhood of the Holy Sepulchre remained the only representative of the Church of Jerusalem.

So much for the past. To-day what is the position? The system so developed continues even to-day, no other influence having appeared able to alter it. Of the three elements which could be pointed out as composing the church of Jerusalem—that is to say, the shrines, the brotherhood, and the flock—it is easy to conclude which is the most substantial, without which there could not exist a church in Jerusalem. If in ancient times (300–600), when this church was in its prime, at the time when it was declared an autocephalous church, one thing alone was considered, the fact that it was a place of pilgrimage, much more is this so to-day when, the Orthodox population being reduced to ruin, its surviving remains scarcely

amount to forty thousand souls. Can, then, forty thousand Orthodox people constitute an autocephalous church? This number does not suffice for the dignified maintenance of even a single bishop. There remains, then, nothing but the element of its being a place of pilgrimage. But the shrines by themselves are mere historical memorials presupposing a founder, a preserver, and an owner. Who is their owner? The owner is the personality which first interested itself in them, sought them out, built them up, adorned them, raised up magnificent churches over them, and by countless sacrifices of blood and treasure preserved them—in a word, the Hellenic race, whose agent (and consequently their owner) is the Brotherhood of the Holy Sepulchre. This Brotherhood, then, constitutes the only component element which goes to make up the Church of Jerusalem, and without it an independent church in this country could not be conceived. And in truth this Brotherhood preserves the shrines and their dependencies; it administers the landed and other property belonging to them; it elects and declares as its Patriarch and Superior one of its members whom also, naturally, it continues to support; select members from its ranks are ordained as bishops to meet the ceremonial requirements which the historical and sacred character of the Holy Places makes imperative, and these bishops, with other select members of the Brotherhood, constitute the Supreme Council of the Brotherhood, or, as we otherwise term it, the Holy Synod of the Church of Jerusalem. This Brotherhood concerns itself with the education of the local Orthodox population, maintains their churches and their parish clergy, maintains hospitals and dispensaries for their necessities, and goes so far as even to pay the rents of the Orthodox inhabitants of Jerusalem. In other words, the Brotherhood is everything. The power and authority, then, of the Patriarch of Jerusalem, does it not proceed from the historic character of the sacred memorials and their possessor, the Brotherhood of the Holy Sepulchre.

We have above explained what are the elements which constitute the Church of Jerusalem. We must now, in a few words, celebrate the interest of the whole Hellenic race, its state and its church, in this Church of Jerusalem. If we commence from the first Christian king, Constantine the Great, who sent his aged mother to find the Holy Sepulchre and the other sacred memorials; Justinian, who founded magnificent churches at all the chief places of Palestine; Heraclius, who personally carried the precious Cross; the Empress Eudocia and other Byzantine monarchs who helped it in such diverse ways, sending embassies and treasure, we can form a full conception of the spontaneous care and lively interest which the Hellenic state and the Hellenic church and the whole Hellenic nation showed in this little Church of Jerusalem. If the whole of Christendom is interested in the Holy Places, much more so the nation which sought out these historic memorials, found them, adorned them, gave them over for the worship of the whole of Christendom, raised up magnificent churches upon them, and by countless sacrifices of blood and treasure preserved them till to-day. Who then can deny to the Orthodox Hellenic churches the right to be interested and to intervene in questions relating to the church which they themselves created, the church pillared upon these Holy Shrines, the unalienable possession of the Hellenic race? The interest of the Hellenic race and of its churches is twofold: an interest in the holy shrines which are its sacred and unalienable possession and property and an interest in its guardian and occupant, the Brotherhood of the Holy Sepulchre, which is derived from it and is its mandatory in the Holy Places. . . . How can the Hellenic race and its churches remain indifferent and unconcerned with regard to questions affecting this, the very existence of the Brotherhood, an Order which is flesh of its flesh and bone of its bone? Seeing that this Order is as ancient as Christianity, that it has such a great and glorious history, that it fulfils

such a lofty mission, that through the midst of the centuries, tried and troubled, it has crystallized into an Order, self-composed and self-governed, that to this Order is due everything Orthodox remaining in Palestine, who will dispute the right of the Hellenic race and its churches to interest themselves and to intervene, when it is a question of the life and death of this Order? . . . Without the Brotherhood, the occupant and caretaker of the Holy Places, with its historic significance and lofty mission; without the Brotherhood, comprising as it does all the ecclesiastical life, great and small, manifesting itself in Palestine, we could not imagine a Patriarchal See and in vain would we seek for other elements to justify the existence of an autocephalous Church of Jerusalem.

The above considerations may be summarized as follows :

- (1) The Patriarchal See of Jerusalem does not bear the same character as the other Sees, but a special character, that of a place of pilgrimage. The shrines being an object of honour and reverence to all the Orthodox world, no one can annul the right of interest and intervention on the part of the other Orthodox churches, and particularly of the primatial church which is the head of the Orthodox world.
- (2) Of these shrines and historic memorials the owner and occupier is the Hellenic race in its totality, having as its agent and representative therein the Brotherhood of the Holy Sepulchre, that most ancient order, self-composed and self-directing, taking its origin from the whole race. A member of this Brotherhood and its Superior is the Patriarch of Jerusalem, elected, maintained, and, by logical consequence, deposed by the Brotherhood or by its Supreme Council, the Holy Synod . . .
- (3) The sacred memorials of Christendom being an

object of special care and special interest to the Orthodox Hellenic race, its agent the Brotherhood having a Panhellenic Orthodox character, no one can dispute the right of the other Orthodox Hellenic churches to intervene in questions affecting its very life.

- (4) The idea of the shrines being identical with the idea of the Brotherhood, for the historical reasons above set out, and these two ideas being fused into one common idea which finds its expression in the Patriarchal See of Jerusalem, and this common idea being reflected, *jure fundatoris*, in Hellenic Orthodoxy, no one can dispute its right to interest itself and to interfere in the questions of this See. The very nature of things, the component elements of the church (shrines and brotherhood) demand the care and intervention of the other churches.
- (5) And as a final ground for intervention there is the historic past and the enumeration of the cases in which the other churches and the primatial Church of Constantinople intervened in the affairs of the Church of Jerusalem.

APPENDIX F

Memorandum by Mr. J. B. Barron, Financial Assessor

THE FINANCIAL AFFAIRS OF THE ORTHODOX PATRIARCHATE OF JERUSALEM

1. In 1904 Monsieur E. D. Skiadas arrived in Jerusalem to investigate the financial affairs of the Orthodox Patriarchate of Jerusalem. He remained at the Convent for about two years and carried out an exhaustive investigation, making certain proposals to the Holy Synod for the reduction of the debt.

Financial Position in 1906-1907

2. The attached statement 'A' gives a summary of the Loan Account for the financial year 1906-1907. The figures have been compiled from a report drawn up by M. Skiadas, and it will be observed that the debts of the Patriarchate at the close of the financial year 1905-1906 amounted to £E150,631, excluding the sum of £E15,330 owing to the Credit Lyonnais Bank, Jerusalem. (*Vide* para. 6.) This deficit consisted of bills, drafts, and promissory notes, and may be divided into two portions :

	£E
(a) Loans contracted from members of the Brotherhood	47,682
(b) Loans contracted from Laymen	102,949
<i>Total</i>	<u>£E150,631</u>

The annual interest on the above sum amounted to £E9,250.

3. By the close of the next financial year the sum of £E.22,503 had been added to the Loan Account.

Sale of Bukovina Lands

4. To reduce the amount of the debt, M. Skiadas proposed that the Bukovina Lands should be sold to pay off the most pressing debts contracted to laymen.

In addition, it was proposed to reduce the interest payable on loans and promissory notes contracted to members of the Brotherhood from 6 per cent. and 8 per cent. to $3\frac{1}{2}$ per cent. and $4\frac{1}{2}$ per cent.

It was subsequently proposed that a loan should be contracted at an advantageous rate of interest to create a funded debt for the purpose of paying off the remainder of the 'Lay Loans'.

In 1906 the Bukovina Estate was sold for the sum of £E45,858, which was devoted to the partial settlement of the most pressing creditors.

Zervoudaki Loan

5. At the same time negotiations were opened by the Patriarchate with Monsieur Zervoudaki, of Alexandria, for a loan of £E38,550. He agreed to lend this sum at a nominal interest of 2 per cent., but before the conditions of the loan had been fully carried out the lender was declared a bankrupt. The sum of £E19,275 was, however, paid to the Patriarchate. It does not appear that this sum was entirely used for the repayment of loans, or for the creation of a consolidated debt, but to meet current expenditure and the payment of interest. No security was demanded by M. Zervoudaki, and it has been advanced that the loan was more in the nature of a donation than of a loan.

Credit Lyonnais Current Account

6. From Statement 'A' it will be observed that the Patriarchate was indebted at the close of the financial year 1905-1906 to the Credit Lyonnais Bank in Jerusalem

for the sum of £E15,330, and that by the close of the next year an additional sum of £E1,632 had been added to the debit of this account. The revenues from Russia were formerly credited by the Imperial Russian Government to the Patriarch's account at the Bank, the Convent being allowed to draw sums in advance on the security of the anticipated revenue. The Russian revenues from about this period showed a tendency to decline, so that in 1915 the debit against the Patriarchate at the Credit Lyonnais Bank, Jerusalem, amounted to £E22,525 and on December 31st, 1919, it was approximately £E29,500.

7. At the close of the financial year 1906-1907 the liabilities of the Patriarchate amounted to £E123,561, and from that date there has been an annual deficit met by the issue of promissory notes, drafts, and bills.

8. The organization introduced by M. Skiadas involved the introduction of a system of accountancy, the preparation of estimates, and an annual audit. An Accounts Section was formed, at whose head is a Finance Committee charged with the preparation of estimates. The service of the debt and the power of contracting loans is placed in the hands of a special Committee who are responsible only to the Patriarch and the Holy Synod. At the close of the financial year a statement of accounts is submitted to the Synod. From the examination of these statements it does not appear that they can be accepted as trustworthy evidence of the financial position of the Patriarchate at any given period. The statements attached to this Memorandum have been compiled after careful examination of the accounts and may be regarded as approximately correct.

In addition there is a body known as the Audit Committee, who are responsible for the annual audit.

9. The annual estimates are drawn up by the Finance Committee, who place them before the Patriarch and the Synod for their scrutiny and approval. These safeguards do not, however, prevent the estimates as drafted from

showing an annual deficit, which, year by year, is to be met by an issue of promissory notes and the contraction of fresh loans, many of which are negotiated at excessive rates of interest. No effort was made to reduce the expenditure within the limits of the receipts.

Financial Position for the year 1913-1914

10. A summary of the Loan Account for the year 1912-1913 is as follows :

<i>Debtor</i>		£E	£E
1. Brought forward from 1911-1912.		£E	£E
(a) Drafts and Bills	166,583		
(b) Current a/c Credit Lyonnais Bank	26,505		
	-----		193,088
2. Drafts and Bills			20,519
			£E213,607
<i>Creditor</i>			
1. Repayment of Bills	4,433		
2. Credit Lyonnais	4,788		
	-----		9,221
Balance			204,386
			£E213,607

At the commencement of the financial year 1913-1914 the liabilities of the Patriarchate amounted to £E204,386. During the year 1913-1914 there was a deficit of £E17,406, which was met in the usual manner by the issue of promissory notes, drafts, and loans. (*Vide* Statement 'B'.)

The total liabilities at the end of the financial year 1914 were, therefore, £E221,792, which at an average rate of interest of 6 per cent. was a charge of £E13,307 per annum against current revenues, excluding any provision for a sinking fund.

Revenues from Russia

11. Excluding loans, &c., the revenue in 1913-1914 yielded the sum of £E62,472, of which £E48,900 accrued

from the rents of real estate. The revenue emanating from Russia is approximately:

<i>Real Estate</i>	£E	£E
in Moscow	3,855	
in Bessarabia	26,445	
	<hr/>	30,300
Donations		5,800
4% on Bank Deposits		3,964
<i>Total</i>		<hr/> <hr/> £E40,064

It will thus be seen that the revenues from Russia were in 1913–1914 approximately 64 per cent. of the total income.

The sum of £E3,964 represents interest at 4 per cent. on a capital sum of £E99,000 deposited in Russian Banks, being the sale price of a portion of the Russian estates.

Position from the Outbreak of War

12. At the commencement of the war the liabilities of the Patriarchate were approximately £E221,792, and on the declaration of war by Turkey upon the Allied Powers the revenues from Russia ceased. It was found necessary to close down much of the philanthropic and charitable work of the Church, which, with the requisitioning of immovable property by the Ottoman military authorities for use as hospitals, camps, and depôts, enabled the current expenditure to be reduced by 50 per cent. On the other hand, even with this great reduction the receipts of the Patriarchate were unable to provide sufficient funds to maintain the bare wants and needs of the establishments remaining open.

Rates of Interest

13. To meet the current expenses loans were contracted on bills issued at various rates of interest. The first year's interest was usually added to the capital of the loan and included in the documentary undertaking of payment.

As an example of the methods employed the following extracts from the Loan Account Ledger are given :

(a) No. 2780, dated 17-1-1917, payable in one year.	£T	£T
Amount of Loan	800	
Interest	200	
	—	1,000

Rate of Interest 25 %.

(b) No. 2866, dated 10-3-1917, payable in one year.		
Amount of Loan	210	
Interest	84	
	—	294

Rate of Interest 40 %.

(c) No. 2976, dated 6-6-1917, payable in one year in <i>gold</i> .		
Amount of Loan	150	
Interest	60	
	—	210

Rate of Interest, 40 %.

(d) I-C-, payable in one year.

	Loan.	Amount Repayable.	Rate of Interest.
	£T	£T	%
19-1-1917	120	200	66 $\frac{2}{3}$
21-2-1917	240	400	66 $\frac{2}{3}$
7-3-1917	60	100	66 $\frac{2}{3}$

It was the common practice during the war for promissory notes to be issued for the first year at a ruinous rate of interest ; and for subsequent years, if the debt was not renewed on similar terms, the highest legal rate of interest, *i.e.* 9 per cent., was charged.

14. Among other sums received at this period is one of £T25,000 paid by the Ottoman Government.

Of this sum £T16,660 was paid into the Convent funds in Jerusalem in 1916-1917, and the remainder, £T8,340, to the Patriarch and members of the Fraternity whilst exiled in Damascus. The latter amount does not appear in the accounts.

Depreciation in Ottoman Currency

15. The Ottoman Government issued notes in November, 1915, and from that date until the occupation of Jerusalem the value of Turkish paper currency showed a steady decline.

The par value of the Turkish pound note is £E0.8775 m/ms.

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The following table shows the depreciation during the years 1915-1916 and 1917. Jerusalem was occupied in December, 1917, and it has not, therefore, been considered necessary to extend the list beyond that date.

Year	Average P. T. Egyptian	Highest Quotation P. T. Egyptian	Lowest Quotation P. T. Egyptian
1915 (November and December)	83.40	85.60	81.20
1916	49.89	78.95	31.57
1917	21.15	28.50	14.00

The loans and debts contracted in paper currency for the years 1915, 1916, and 1917 are as follows:

	Converted at par value. £E	Converted at average rate. £E
1915		
(a) Drawn out in Francs, but paid in Turkish Notes	65	56
1916		
(a) Drawn out in Francs, but paid in Turkish Notes	11,332	6,444
(b) Drawn out and paid in Turkish Notes	6,876	3,906
(c)	14,619	8,312
1917		
(a) Drawn out in Francs, but paid in Turkish Notes	29,987	7,228
(b) Drawn out and paid in Turkish Notes	39,614	9,548
(c) Drawn out in Egyptian pounds and paid in Turkish Notes	496	105
	<u>£E102,989</u>	<u>£E35,599</u>

The difference between par value and true value at current rates of exchange is £E67,390.

The method of conversion adopted by the Convent under pressure of their creditors is as follows:

A Turkish pound in paper currency was reckoned as PT125 *Shurk* and converted at PT109 *Shurk* to 20 Francs

gold. The bills and promissory notes were then drawn out in napoleons (20 Francs as a unit).

It follows, therefore, that when the average rate in 1916 was PT49.89 Egyptian the loss sustained by the Convent PT37.86 Egyptian per pound Turkish. In 1917 the loss was PT56.60 Egyptian per pound Turkish.

Statement of Liabilities as at Dec. 31st, 1919

16. Statement 'C' gives the liabilities of the Patriarchate as at December 31st, 1919. From this statement it will be observed that the total debts amount to £E501,296. The amount payable on account of loans, drafts, bills, and promissory notes, excluding arrears of salaries, &c., may be summarized as follows:

	£E
Promissory Notes	304,121
Short Term Drafts and Bills	50,707
Current Accounts payable on demand	1,484
Sundry Accounts	1,602
	<u>£E357,914</u>

In addition to the above the following should be added:

	£E
Credit Lyonnais Bank	29,454
Greek Government	25,137
	<u>£E54,591</u>

As already stated in para. 15 the judgement of the Palestine Court of Appeal to allow debts contracted during the war in Turkish currency to be repaid at the rate of exchange current when the debt was contracted will substantially relieve the Patriarchate. It is considered that the sum of £E357,914, which is outstanding under loans, may be reduced approximately to £E291,000, plus £E54,591 owing to the Credit Lyonnais and the Greek Government.

17. A further reduction may be permissible if the provisions of the law dealing with interest, &c., have

been contravened. It is obvious that the legal rate of interest has been exceeded in the majority of loans contracted during the war, and it is questionable whether the excessive interest demanded could be upheld if a test case were brought before the courts.

Regarding the remaining liabilities, Items Nos. 12 and 13 call for remark. The total debt contracted in Constantinople under this heading is £E14,482, which, if converted at the current rates of exchange, would amount to approximately £E3,620.

*Financial Position for the Year ending December
31st, 1920*

18. The Cash Statement for the year ending December 31st, 1920, is given in detail in Statement 'D'. A study of this document shows that the revenue amounts to £E26,259 and the expenditure to approximately £E46,171. The deficit is met by a loan of £E17,082 from the Greek Government and various loans amounting to £E2,830.

The total liabilities therefore at the close of the year amount to approximately :

	£E
Brought forward from 1919	501,296
Deficit for 1920	19,912
Interest on current account, Credit Lyonnais Bank	1,767
	£E522,975

To the above must be added the following sums which must be regarded as approximate calculations only. These items represent outstanding debts, &c., contracted during the year under review. Accurate figures could not be supplied by the Accounts Section :

	£E	£E
Arrears of Salaries		5,000
Stores purchased on account	8,000	
Interest on Debt	20,000	
		28,000
		£E33,000

The above statement does not take into consideration the difference in the rates of exchange discussed in para. 15.

Present Revenues

19. The total receipts for the financial year 1920 amount to £E46,171, of which the following sums are non-recurring:

	£E
Donation of Greek Government for Education	2,744
Extraordinary Receipts	19,912
Sale of Land (credited to Rents)	6,450
	£E29,106

The recurring revenue amounts, therefore, to approximately £E17,065, if the entries of the Cash Book are accepted as a basis. These figures may, however, be increased on the assumption that each year's revenue is collected within the particular year to which it is assigned.

Owing, however, to leases being contracted from Muharrem to Muharrem it may conceivably happen that rents do not always appear in the accounts of the financial year to which they belong.

20. The amounts receivable on account of rental contracts are as follows:

<i>Palestine—</i>	<i>Buildings</i>	<i>Lands</i>
	£E	£E
Jerusalem	12,149	484
Jericho	100	50
Malha	—	20
Bethlehem	45	—
Beit Jala	—	650
Jaffa	3,300	308
Ramleh	215	—
Ludd	18	—
Caesarea	—	—
	£E15,827	£E1,512

<i>Abroad—</i>	<i>Buildings and Lands</i>
	£E
Beirut	—
Cyprus	—
Constantinople and environs	450
Smyrna	1,000
Mitylene and Asia Minor	100
Greece, Epirus, Bosnia, and Crete	773
	<u>£E2,323</u>
<i>Summary—</i>	£E
Palestine	17,339
Abroad	2,323
	<u>£E19,662</u>

21. If the figures given in para. 20 are accepted, the total receipts, including donations, receipts for central maintenance, and sundries, may be estimated to amount approximately to £E22,000.

22. There can be no doubt that with proper management the receipts can be substantially increased, and as a case in point the possibility of obtaining revenue from the printing press may be mentioned.

It is customary for the rural monasteries to farm or lease out the lands attached to them without any form of financial control being exercised by the Central authorities. The monk or abbot in charge remits to the Convent the net receipts, having deducted all expenses attendant upon management from the revenues accruing. The same procedure is applied by the representatives of the Patriarchate in Constantinople, Athens, Smyrna, Cyprus, and elsewhere, with the result that only a proportion of the actual receipts finds its way into the Treasury of the Convent. The encashments at the Credit Lyonnais Bank, Smyrna, on account of rents for the period 1910–1914 are as follows:

1910	£E895
1911	710
1912	451
1913	670
1914	391

The representatives abroad submit annual statements of accounts, but as far as can be ascertained no audit of these accounts is made.

Expenditure

23. Excluding the payment of interest or provision for a sinking fund, the annual expenditure required by the Convent to maintain its establishments now open, may be summarized as follows :

I. <i>Establishments and Institutions.</i>			
		£E	£E
Central Convent		14,000	
Church of the Holy Sepulchre		5,000	
Various Convents		1,000	
		-----	20,000
II. <i>Maintenance of Foreign Representatives.</i>			2,000
III. <i>General Administration.</i>			
Various Departments		4,000	
Festivals		600	
Accommodation for Pilgrims		700	
Sundries		300	
		-----	5,600
IV. <i>Expenditure upon Congregation.</i>			
Relief		2,000	
Rents to Congregation		3,000	
Hospital and Dispensary		1,000	
Patriarchate Agencies		15,000	
		-----	21,000
V. <i>Education.</i>			8,000
VI. <i>Repairs and Maintenance of Property.</i>			4,000
VII. <i>Annuities.</i>			
Commission and Exchange on Cash		500	
Remittances		200	
Sundries		500	
		-----	1,200
			<u>£E61,800</u>

The above figures must be regarded as rough calculations only.

24. It will be observed that Item II, Maintenance of Foreign Representatives, is introduced into the estimates

of expenditure. The annual sum required for this item is approximately £E2,000, but I am of opinion that in the straitened financial circumstances of the Patriarchate this expenditure can be very considerably reduced.

Item IV, Patriarchate Representatives, £E15,000, requires further investigation. It includes the salaries of parish priests and representatives in the various convents throughout Palestine.

25. Summarized the results are as follows :

	£E
Receipts	22,000
Expenditure	61,800
Deficit	<u>£E39,800</u>

Bessarabian Revenues

26. The revenues from the Bessarabian Lands were in

1872	£E19,247
1911-1912	29,471
1913-1914	26,445

The Russian Government collected the rents crediting the Patriarchate Account in the Credit Lyonnais Bank with the proceeds. Three-fifths of the total collections are passed to the credit of the Convent, the remainder being retained for local purposes and expenses attendant upon collection.

Since 1914-1915 no revenue has been received from this source, but assuming that in the near future these revenues will return to the Convent, the position is as follows :

	£E
Receipts	48,445
Expenditure	61,800
Deficit	<u>£E13,355</u>

27. Possible receipts from Russia have been omitted from calculation.

28. It will thus be seen that the Patriarchate has to meet an annual deficit of £E39,800, or after including the Bessarabian Revenues of £E13,355. These figures exclude the interest on the Debt, or an annual provision for a sinking fund, the former being approximately £E25,000 per annum.

Debts contracted in Damascus

29. Immediately prior to the British Occupation of Jerusalem the Patriarch and members of the Synod were exiled to Damascus by the Ottoman Government. They returned to Jerusalem after an absence of twelve months, during which period certain loans were contracted in Damascus. It has been stated that only a small portion of these loans appear in the accounts of the Patriarchate.

From the figures submitted it would appear that the amount of such loans, not reported in previous statements, is £T35,777 or £E31,394. This sum converted at the current rate of exchange, *i.e.* PT21.15 Egyptian per Turkish pound, equals £E7,567.

J. B. BARRON.

STATEMENT A

LOAN ACCOUNT FOR THE FINANCIAL YEAR 1906-7

<i>Debtor</i>	££	££	<i>Creditor</i>	££
1. Brought forward from the year 1905-6				
	££			
(a) Drafts and Bills	150,631		5. Amount realized from sale of Bukovina Lands and applied to the settlement of Item 1 (a) Drafts and Bills	45,853
(b) Current a/c., Credit Lyonnais Bank	15,330	165,961	6. Various Loans	19,045
				<hr/>
2. Drafts and Bills	1,596		Balance	64,903
3. Zervoudaki Loan	19,275			123,561
4. Current a/c., Credit Lyonnais Bank	1,632	22,503		<hr/>
				££188,464
		<hr/>		<hr/>
		££188,464		££188,464

STATEMENT B

STATEMENT B

STATEMENT OF RECEIPTS AND EXPENDITURE

		<i>Receipts</i>		
		£E	£E	£E
I.	<i>Donations.</i>			
	(a) Pilgrims	5,480		
	(b) Collecting Boxes and Trays	726		
	(c) Donations sent from abroad	2,938		
	(d) Wills and Testamentary Dispositions	202		
		<hr/>		9,346
II.	<i>Establishments.</i>			
	(a) Educational Fees	—		
	(b) Printing Press	66		
	(c) Contributions from Convents for Central Maintenance.	38		
		<hr/>		104
III.	<i>Rents.</i>			
	(a) House Property	18,606		
	(b) Land	30,294		
		<hr/>		48,900
IV.	<i>Deposits and Sundry Receipts.</i>			
	(a) Deposits	1,260		
	(b) Sundries	2,862		
		<hr/>		4,122
V.	<i>Loans on Promissory Notes</i>	10,100		
	Various	4,458		
		<hr/>	14,558	
	Credits opened abroad for representatives	2,047		
	Less Collections abroad	262		
		<hr/>	1,785	
	Credit opened for Bethlehem representative		1,063	
			<hr/>	17,406
			<i>Total</i>	<u>£E79,878</u>

FOR THE FINANCIAL YEAR 1913-14

<i>Expenditure</i>		££	££
<i>I. Establishments and Institutions.</i>			
(a) Central Convent		6,276	
(b) Church of the Holy Sepulchre		7,594	
(c) Other Convents		2,105	
(d) Extraordinary Expenditure		3,102	
		<hr/>	19,077
<i>II. Maintenance of Foreign Representatives.</i>			
(a) Various			5,112
<i>III. Central Administration.</i>			
(a) Holy Synod and Departments	3,456		
(b) Sundries	3,953		
(c) Festivals and Lay Feasts	1,062		
(d) Accommodation for Pilgrims	1,830		
		<hr/>	10,301
<i>IV. Expenditure upon the Congregation.</i>			
(a) Relief, &c.	2,911		
(b) Rents to Congregation	6,415		
(c) Hospital and Dispensary	2,284		
(d) Patriarchate Agencies in Con- vents	5,115		
		<hr/>	16,725
<i>V. Education.</i>			
(a) Various Schools	8,572		
(b) Printing Press	614		
		<hr/>	9,186
<i>VI. Repairs and Maintenance of Property.</i>			
(a) House Property	6,855		
(b) Lands	1,000		
		<hr/>	7,855
<i>VII. Extraordinary Expenditure.</i>			
Provision for Sinking Fund		213	
Interest		9,780	
Annuities (Pensions)		349	
Commission and Exchange on Remittances		281	
Sundry Debtors		393	
		<hr/>	
		11,016	
Less entry passed in error		394	
		<hr/>	10,622
		<hr/>	
<i>Total</i>			<u>££79,878</u>

STATEMENT C

STATEMENT OF THE LIABILITIES AT
DECEMBER 31, 1919

Nature of Debt.	£E
1. Promissory Notes payable to Brothers and Laymen	304,121
2. Unknown and Doubtful Debts	6,601
3. Interest on Permanent Deposits	2,024
4. Short Term Drafts and Bills	50,707
5. Annuities payable to Depositors	614
6. Greek Government	25,137
7. Credit Lyonnais	29,454
8. Loan of Mr. Zervoudaki	18,747
9. Current Accounts, payable on demand	1,484
10. Palestine Government	1,200
11. Sundry Accounts	1,602
12. Accounts due in Constantinople on a/c of Patriarchate Representatives	6,996
13. ditto	8,482
14. Arrears of Salaries of Priests	6,000
15. Teachers	2,500
16. Abbot, Brothers and Lay Employees	16,000
17. Amounts payable on a/c of rents to congregation	14,960
18. Arrears of rents of houses, rented for paupers	4,661
	<u>£E501,290</u>

STATEMENT D

STATEMENT D

CASH STATEMENT JANUARY 1, 1920 TO

<i>Receipts</i>		£E	£E
I. <i>Donations.</i>			
(a) Pilgrims		309	
(b) Collection Boxes and Trays		—	
(c) Donation sent from Abroad		—	
(d) Wills and Testamentary Dispositions		—	309
II. <i>Establishments.</i>			
(a) Greek Government Donation for Educational Purposes		2,744	
(b) Printing Press		—	
(c) Contributions from Convents for Maintenance		250	
		<hr/>	2,994
III. <i>Rents.</i>			
(a) House Property		15,291	
(b) Lands		6,716	
		<hr/>	22,009
IV. <i>Deposits and Sundry Receipts.</i>			
(a) Deposits		—	
(b) Sundries		947	
		<hr/>	. 947
V. <i>Extraordinary Receipts.</i>			
Loans :			
(a) Greek Government Loan		17,082	
(b) Various Loans		2,830	
		<hr/>	19,912

Total £E46,171

DECEMBER 31, 1920

Expenditure

	£E	£E
I. <i>Establishment and Institutions.</i>		
(a) Central Convent	9,275	
(b) Church of the Holy Sepulchre and others	1,341	
(c) Other Convents	257	
(d) Salaries:		
Brothers	4,413	
Priests	2,751	
Employees	4,379	
	—	22,416
II. <i>Maintenance of Foreign Representation.</i>		
III. <i>General Administration.</i>		
(a) Various Departments	1,195	
(b) Festivals	520	
(c) Accommodation for Pilgrims	691	
(d) Sundries	905	
	—	3,311
IV. <i>Expenditure upon Congregation.</i>		
(a) Relief	1,682	
(b) Rents to Congregation	3,487	
(c) Hospital and Dispensary	472	
(d) Patriarchate Agencies	775	
	—	6,416
V. <i>Education.</i>		
(a) Schools	3,750	
(b) Printing Press	60	
	—	3,810
VI. <i>Repairs and Maintenance of Property.</i>		
(a) House Property	2,069	
(b) Lands	829	
	—	2,898
VII. <i>Provision for Sinking Fund.</i>		
Interest	6,007	
Annuities (Pensions)	106	
Commission and Exchange	110	
Advances (Debtors)	55	
Extraordinary Expenditure	107	
Petty Expenses	367	
Settlement of Loan-	528	
Cash in Hand	40	7,320
	—	—
<i>Total</i>		<u>£E46,171</u>

APPENDIX G

MEMORANDUM ON THE LANDS OF THE FRATERNITY OF THE HOLY SEPULCHRE IN BESSARABIA.

1. THE question discussed in this memorandum is that of certain lands belonging to the Fraternity of the Holy Sepulchre in Bessarabia. It is understood that the territory in which these lands are situated is now in the occupation of Rumania, and this question will be best understood if it is considered in connexion with an earlier question relating to certain similar lands in Rumania. The latter question has a very long diplomatic history.

2. In the centuries succeeding the fall of Constantinople in 1453, extensive endowments were made in the territories subject to the princes of Wallachia and Moldavia for the benefit of the Holy Sepulchre, the four Patriarchates, the Monastery of Mount Sinai, the Monasteries of Mount Athos, and certain other Religious Foundations. The persons responsible for the greater part of these Foundations were the princes of Wallachia and Moldavia themselves.

3. The form of these Foundations appears generally to have been the establishment of local monasteries with lands attached to them. The monasteries were presided over by Superiors sent by the various religious institutions to which the lands were dedicated, and the revenues of these lands, after deduction of the expenses of management and the upkeep of the local monasteries, were sent to the various institutions for whose benefit the lands had been dedicated.

4. In 1812 the greater part of Bessarabia (which belonged to the principality of Moldavia) was annexed to Russia in pursuance of the Treaty of Bucharest. It is the lands situated in the territory so annexed with which this memorandum is principally concerned. From this point these lands have a separate history, but before it is considered it will be convenient to deal with the general body of the dedicated lands remaining in the two principalities which were subsequently united in the kingdom of Rumania.

THE RUMANIAN LANDS

5. The system of administration, described above, continued for many years. At the time of the Greek revolt the remittance of the revenues from the dedicated lands was suspended by the Turkish Government on the plea that they were being sent to aid the revolting Greeks. But in 1827 the remittances were resumed and continued until 1863. For a long time prior to that date, however, questions had been raised with regard to these dedicated lands, a national Rumanian reaction had taken place against the Greek Phanariote princes, and the existence of these numerous Greek monasteries in the principalities appears to have been unpopular. Complaints were made of the mismanagement of the lands so administered. In 1829, in pursuance of the peace of Adrianople, 'Organic Laws' were drawn up for both the principalities. In both these documents it was declared that steps should be taken to reform the administration of these monastic lands and that a committee should be appointed to investigate the matter and to deal with the alleged abuses complained of. These committees were to investigate the titles of the various monasteries to the lands in question and to determine a proportion of their revenues to be allotted in aid of local benevolent institutions.

6. No result came from the deliberation of these

committees. The Rumanian members wished to make regulations for the management of the lands and to determine the proportion of revenues to be set aside for local purposes. The representatives of the ecclesiastical corporations concerned insisted on their absolute right of ownership, and altogether disputed the right of the local Governments to exact any contribution whatever for local purposes. The question thus smouldered for nearly a generation. At the time of the Crimean war it was revived. A committee was appointed by the Porte for the investigation of the question and recommended the allotment of one-fourth of the revenues for local purposes. But no conclusion was reached, and at the end of the war the matter was brought before the Congress of Paris.

7. By the 13th Protocol of the Treaty of Paris it was decided that the question should be referred to arbitration. The Treaty of Paris established a new constitution for the principalities. They were to remain under the suzerainty of the Porte but to be independent in their internal administration. Representative councils were established which were to consider the revision of the laws and statutes of the principalities in conjunction with a European commission. These councils voted with unanimity the union of the two principalities into a single state. This decision was set aside by the Powers and the assemblies were ordered to elect separate princes. Both, however, chose Prince Alexander John Cuza, and the choice was finally ratified by the Powers.

8. It was the duty of this prince to set in motion the arbitration ordered by the Powers, but he put off the matter on various pretexts, and on the 13th of November, 1862, issued a decree confiscating all these monasteries with the lands attached to them. Subsequently the use of the Greek language in the services of the churches and monasteries of the country was prohibited, and the Superiors of the various monasteries were dismissed and some of them were imprisoned, and the courts were

prohibited from taking into consideration complaints by the Greek Monasteries. Various consequential decrees were made for carrying out this policy of confiscation.

9. Protests were addressed to the great powers and received sympathetic responses. Lord Russell, then Foreign Minister, in a telegram to the British Ambassador in Constantinople, on August 10, 1863, declared that 'The monks of the dedicated monasteries had been shamefully robbed', and Prince Gorchakov, on the 19th of September, 1863, telegraphed to the Russian Ambassador at Constantinople, declaring that the Eastern Church was the victim of an act of robbery, and insisting on the carrying out of the provisions of the Treaty of Paris.

10. In the face of these protests the Government of the United Principalities offered, as a compromise, the sum of 51,000,000 piastres, but under conditions of an illusory and insulting character. The Religious Foundations affected declined the offer.

11. In 1864 a conference was held at Constantinople in pursuance of the provisions of the Treaty of Paris. Cuza, on this occasion, offered 150,000,000 piastres, also under very unsatisfactory conditions. The offer was again rejected. The deliberations of the conference, which held forty sittings, proceeded until the year 1866. But in the meantime Cuza was dethroned and the further consideration of the subject was suspended.

12. In 1867 Prince Charles I of Rumania made an attempt to settle the question, which also failed. The question was again brought up at the time of the Treaty of Berlin. By the 15th Protocol of the Treaty of Berlin it was decided that the question should be referred for examination and solution to the attention of the Powers taking part in the conference.

13. Various other efforts were made to revive the question. Finally, at the Peace Conference of 1919, the Fraternity of the Holy Sepulchre and the other Religious Foundations affected presented a memorandum

demanding the restoration of the confiscated properties and an account of their revenues since 1863.

14. There appears to have been no legal or moral justification for this act of confiscation. The arguments advanced in support of it, so far as can be judged from the various statements of the case prepared on the other side, were of a purely sophistical nature. The real reasons for the policy adopted by Rumania were, no doubt, political. It is said that the lands in question occupied no less than one-third of the total area of the country. There was a natural repugnance to allow so large a proportion of the national territory to be tied up in mortmain under the administration of foreign religious corporations, and an indisposition to pay the heavy compensation which the legal expropriation of these lands would have involved.

15. The question is now a very old question. It has been the subject of a most voluminous diplomatic correspondence. The Rumanian Government formally declined to reopen it in 1880 and appear never to have receded from that position; and although the Fraternity of the Holy Sepulchre has a claim for compensation against the Rumanian Government there does not appear the least likelihood of it receiving serious consideration. It would probably not be for the advantage of the Fraternity to allow its claim, with regard to these lands, to become in any way complicated with the question of the Bessarabian lands, which has had a separate history and on which its position is very much stronger.¹

THE BESSARABIAN LANDS

16. The Bessarabian lands which belong to the Fraternity of the Holy Sepulchre are situated in that part of

¹ The authorities for the above observations are Papadopoulos, *History of the Church of Jerusalem*, pp. 720-30; and a publication by a well-known Constantinople advocate, Miltiades Karabokuros, entitled *The Rights of the Monasteries of the Holy Places in Rumania*, which contains a narrative of the diplomatic history of the question and a bibliography of publications with regard to it.

Bessarabia which passed to Russia by the Treaty of Bucharest in 1812, and are understood to be now under the control of the Rumanian Government. These properties are some thirty-one in number. A list giving the name of each property and its situation is appended to this memorandum. It should be understood that each one of these names represents a group of several individual lands. Complete plans of all these properties are in the possession of the Patriarchate, and copies can, if necessary, be furnished for the purpose of identification. The history of these lands has been as follows:

17. Upon the annexation of Bessarabia in 1812, the Treaty of Bucharest by Article 7 confirmed the rights of all individual property-owners in the annexed district. A question arose whether this article applied to the monasterial lands, and in 1817 it was settled by an Imperial decree which declared that: the properties belonging to the monasteries are subject to no exception, and, in pursuance of the Treaty, enjoy the same privileges as those given to other private owners. (See memorial on the properties of Bessarabia by Tertios Philippov, late Controller-General of the Russian Empire.)

18. The attention of the Russian Government was from time to time called to the alleged mismanagement of these properties, and the suggestion was made that the Government should itself undertake their management and remit the proceeds to the Religious Foundations interested. But the proposal was rejected as involving an act of sacrilege. Repeated declarations of the most formal character, by the Russian Government, to this effect will be found set out on pages 5-7 of a memorial published on this subject by the Fraternity of the Holy Sepulchre. There can be no question that the Russian Government in the fullest possible manner recognized the title of the Fraternity to the lands in question.

19. In 1872, however, the Russian Government came into conflict with the Oecumenical Patriarchate and the other

Greek Orthodox churches over the question of the Bulgarian church. A 'Local Synod' of these churches, which took place at Constantinople, declared the Bulgarian church to be in a state of schism on the ground of its having adopted the principle of 'Racialism' in religion. The Patriarch, Cyril, of Jerusalem was deposed by his bishops for refusing to take part in this proceeding and was forcibly removed by the Turkish Government, but continued to be recognized by Russia. Under the influence of these events the Russian Government adopted the proposal which it had previously rejected and itself took over the management of the land dedicated to the Holy Sepulchre and the other Religious Foundations.

20. But it went further than this. It claimed to appropriate one-fifth of the revenues to meet expenses of management. With regard to the remaining four-fifths, in accordance with a Decree dated 21st of May, 1876, it appropriated two-fifths to local religious and charitable purposes and only remitted two-fifths to Jerusalem and the other places interested, and any surplus of the one-fifth retained for expenses of administration not spent for this purpose was to form a reserve fund at the disposition of the Foreign Minister for extraordinary expenses.

21. The reasons for this reversal of policy were obviously political. No serious attempt was made to justify it. A pretext was indeed put forward, namely a suggestion that it must have been the intention of the pious donors that the monasteries to which these lands were committed were to make provisions for local churches, schools, and philanthropic establishments. It was suggested that the conditions of the various bequests had not been fulfilled and that the corporations to whom the bequests had been made, knowing this to be so, had withheld from production the documents of title in their possession. There was no truth in this suggestion. The same suggestion had been put forward in connexion with the question of the Rumanian lands, but it had never been substantiated.

Numbers of the original documents have been produced and were submitted with a memorial to the recent Peace Conference.¹ The suggestion was a speculative one only, and had no substantial basis.

22. The question of the injustice thus done to the Fraternity of the Holy Sepulchre was brought before the personal consideration of the Emperor Alexander III, and on the 3rd July, 1881, he issued a decree which to a great extent remedied that injustice in the following terms: 'In view of the exceptional position of the Patriarchate of Jerusalem, it shall henceforth receive, in view of the two-fifths accorded to it at present, the whole of the produce of the revenues of its properties in Bessarabia, that is to say, four-fifths altogether. As to local religious requirements, they shall be satisfied by the surplus of the one-fifth retained for expenses of administration.'

23. Unfortunately there were subsequent developments. A local agitation took place in Bessarabia, and the suggestion was again put forward that the religious corporations had not complied with the supposed clauses of the original bequests, making it obligatory upon them (so it was suggested) to spend sums for local purposes. The question was brought before the Duma on the discussion of the budget of the Holy Synod, and a committee was appointed to consider the subject and to prepare a draft amending law. This committee presented a report in favour of the *status quo*, 'seeing that any reduction or restriction of the rights of property of the possessors of these lands could not but produce a most painful impression on the Orthodox population of the East, and would be incompatible with the dignity of Russia'. A draft law was submitted in accordance with this recommendation on the 28th

¹ Several of them will be found printed in a pamphlet entitled 'Answer to the article published in the Russian newspaper, *The Saint Petersburg News*, relating to the properties of the Holy Places situated in Bessarabia'. See pp. 14-17 of the French translation.

of February, 1912, by the Ministers of Foreign Affairs, the Interior, and Agriculture. In an accompanying memorandum it was observed that 'any retrenchment of the rights recognized as belonging to the proprietors by a series of imperial decrees would be a flagrant violation of the wishes of the donors and would rapidly produce, in the Near East, an impression unfavourable to Russia'.

24. The committee of the Duma, however, to which the law was referred (its Reporter was a deputy of Bessarabia) took the contrary view. It reported that it would be just to reduce the proportion of the revenues conceded to the Holy Places to three-fifths of the whole and to dispose of the remaining one-fifth for works of utility in Bessarabia. . . . The committee reached these decisions induced by the consideration that historical evidence indicates with certainty that the greater part of the properties in Bessarabia had been given to the monasteries on the indispensable condition that their revenues should be expended in the maintenance and adornment of the churches, as well as for the instruction of the local population of Bessarabia. As observed above, this suggestion is a pure fiction. Published documents show beyond question that the donations were pure and simple donations for the benefit of the Holy Sepulchre in perpetuity.

25. An amended law was, however, contrary to the wishes of the Government, framed in this sense and took the following form :

1. From the total amount of the revenues of the properties there was to be deducted the sum necessary for the payment of imperial and local taxes and judicial expenses.
2. In the next place, there was to be a further reduction in respect of (a) the expenses of the administration, (b) 10 per cent. granted to the Minister of Agriculture for special services.

3. After these deductions the remainder was to be divided into five portions, of which three-fifths were to be granted to the Holy Sepulchre on the preliminary authorization of the Minister of Foreign Affairs, '*at times and in quantities corresponding to the local circumstances and the condition of the Orthodox church in the Near East*'.

26. The Russian Government, in response to remonstrances from the Patriarchate of Jerusalem, replied 'that the diminution of the revenues of the Holy Sepulchre had not been anticipated in the draft law elaborated by Government. This reduction to three-fifths took place on the initiative and decision of the legislature. I beg you to take into consideration the fact that in consequence of the able administration of the properties at the hands of the State their revenues are yearly increasing to such an extent that within a short time these revenues, in these diminished proportions, will be equal and will even surpass those which the Holy Sepulchre has hitherto received'.

27. This was the position at the beginning of the war. Through the course of events these properties have now passed into the hands of Rumania. There can be no question that the Fraternity of the Holy Sepulchre is legally and equitably entitled to the whole of the revenues of these properties. It is a matter of urgent necessity that it should now receive them. For years past the revenues received from these properties have been one of the mainstays of the annual budget of the Patriarchate. In its present distressed condition they may be regarded as equivalent to 50 per cent. of its possible total revenues. It is confidently anticipated that the Government of Rumania will extend to the Patriarchate of Jerusalem at least the same consideration as it received from the Imperial Russian Government. But it is hoped that the Rumanian Government will go further than this and that it will restore the proportion of the revenues remitted to

the Patriarchate to the four-fifths which were remitted from 1881 until 1912. Strictly speaking the Patriarchate is entitled to the direct administration of these properties, of which it is no doubt the owner. It is possible that the Patriarchate may wish to press this view, but pending a fuller consideration of this question it is suggested that the Rumanian Government should be urged, in view of the acute necessities of the Patriarchate, to remit the four-fifths of the revenues of these properties now in its hands, as from the date when it first became responsible for them.

PROPERTY OF THE ORTHODOX PATRIARCHATE OF
JERUSALEM IN BESSARABIA

<i>Name of Property.</i>	<i>Situation of Property.</i>
1. Zapreou	1. Hotini
2. Arionesti	2. Soroka
3. Ongry	3. „
4. Kalaradovska	4. „
5. Safka	5. „
6. Sondarka	6. „
7. Prinzany	7. „
8. Kakazen	8. „
9. Yortzinitza	9. Jassy
10. Dintzeny	10. Soroka
11. Parkova	11. Jassy
12. Fintina Alba	12. „
13. Stourzeni	13. „
14. Koukouetzy	14. „
15. Danoul	15. „
16. Hinzdigeni	16. „
17. Dousmany	17. „
18. Kitrisi Logotheteni	18. „
19. Skoumpia	19. „
20. Kalougaro	20. „

<i>Name of Property.</i>	<i>Situation of Property.</i>
21. Moreny	21. Jassy
22. Radeny	22. „
23. Oustin	23. Orchei
24. Halerkany	24. „
25. Trifesti	25. Kishinev
26. Piskaresti	26. Orchei
27. Glintzeny	27. „
28. Oknitza	28. „
29. Onesty	29. Kishinev
30. Doproussa	30. Orchei
31. Kostouzeny	31. Kishsnev

SUPPLEMENT
THE ORTHODOX PATRIARCHATE
ORDINANCE, 1921

**AN ORDINANCE FOR THE LIQUIDATION OF
THE DEBTS OF THE ORTHODOX PATRIARCHATE
OF JERUSALEM AND FOR OTHER PURPOSES.**

Whereas certain dissensions have arisen in the Holy Synod of the Orthodox Patriarchate of Jerusalem, and in consequence of the said dissensions the meetings of the said Holy Synod have been suspended ;

And Whereas by reason of circumstances arising out of the late war, the said Patriarchate is not at present able to liquidate its debts or to provide for its current expenses ;

And Whereas it is expedient that the Government of Palestine should take measures to assist the said Patriarchate in its present embarrassments and for this purpose to establish a control over its financial affairs,

Be it therefore enacted by the High Commissioner for Palestine after consultation with the Advisory Council.

Short Title.

1. This Ordinance may be cited as 'The Orthodox Patriarchate Ordinance, 1921'.

2. In this Ordinance

'The Patriarchate' means the Patriarchate of the Holy Orthodox Eastern Church in Jerusalem and the Dioceses subject thereto ;

'The Patriarch in Synod' means the Patriarch acting by and with the consent of the Holy Synod of the Patriarchate.

Any reference to the Patriarchate shall be deemed to include a reference to the Fraternity of the Holy Sepulchre.

Members obeying summons of Patriarch to be deemed to constitute the Holy Synod.

3. The Synod composed of the Patriarch and those persons who were members of the Synod on May 24th/June 6th 1921 and obeyed the Patriarch's summons to attend a meeting of the Synod on that date shall exercise all the powers conferred by the organic law upon the Synod of the Patriarchate of Jerusalem, including the power to add to or remove from the membership of the Synod.

High Commissioner may establish Commission on the Finances of the Patriarchate.

4. As a condition of the prolongation of the special moratorium now in force with respect to the debts of the Patriarchate, the High Commissioner, with the consent of the Patriarch in Synod, may direct the establishment for the purpose of liquidating the financial affairs of the said Patriarchate of a Commission on the Finances of the Orthodox Patriarchate.

The Commission a legal personality.

5. (i) The said Commission shall for all purposes constitute a legal personality, under the title of 'The Commission on the Finances of the Orthodox Patriarchate'.

(ii) It shall consist of 5 persons to be appointed by the High Commissioner from time to time, of whom one shall be appointed after consultation with the Patriarch and one after consultation with the lay Orthodox Community. The High Commissioner may appoint persons to act as members during casual vacancies caused by illness or absence.

Duties of the Commission.

6. It shall be the duty of the said Commission
(a) to liquidate the debts of the Patriarchate;

- (b) out of the funds at its disposal to supply the moneys necessary for the current expenses of the Patriarchate as controlled by the Commission ;
- (c) to establish a balance in the annual accounts of the Patriarchate ;
- (d) to render to the Patriarch and the other officers of the Patriarchate all such advice and assistance as the said Commission may deem requisite for the re-establishment of the financial affairs of the Patriarchate on a sound basis ;
- (e) to prepare a complete register of all the immovable property of the Patriarchate ;
- (f) as soon as practicable out of the funds at its disposal to allot one-third of the total amount sanctioned for the expenditure of each financial year to the Mixed Council established by the order of the Turkish Government, published on the 17/30 May, 1910, for the purpose specified in the said order.

Powers of the Commission.

- 7. (i) The said Commission shall have the following powers :
 - (a) out of the funds at its disposal to pay the debts and discharge the obligations of the Patriarchate in such order and in such instalments as in its uncontrolled discretion it may determine ;
 - (b) subject always to the provisions of section 8, to sell any immovable property belonging to the Patriarchate or held in the name of any person on its behalf, or for its benefit ;
 - (c) to contract loans on the security of any such immovable property, or of a charge on the proceeds of any intended sale or sales of any such property ;
 - (d) to compromise or settle any debt by or to the Patriarchate or any claim by or against the Patriarchate ;

- (e) to require all persons indebted to the Patriarchate to pay the amount of such debt to the Commission ;
- (f) to give receipts or discharges in respect of all sums due to the Patriarchate ;
- (g) to assume control of all revenues of the Patriarchate ;
- (h) in consultation with the financial authorities of the Patriarchate to regulate its annual budget ;
- (i) to assume the direct administration of any department, property, or operation of the Patriarchate ;
- (j) To inspect any movable or immovable property and all documents of title, books, or other financial records, of the Patriarchate, and to require all such explanations from persons in charge thereof as it may deem necessary for the discharge of its powers and duties ;
- (k) generally to exercise on behalf of and on account of the Patriarchate all such powers with respect to its funds or immovable property as, but for the establishment of the Commission, the Patriarchate could have exercised in its own behalf ;
- (l) such further and special powers as the High Commissioner by order published in the Official Gazette may confer on the Commission for the purpose of the discharge of its functions.
- (ii) The powers conferred upon the Commission by the Ordinance shall extend to all property, revenues and establishments of the Patriarchate, whether within or outside Palestine.

Sales to be authorized by Patriarch in Synod.

8. (i) All sales of any immovable property referred to in section 7 (i) (b) shall be made in pursuance of a general authorization of the Patriarch in Synod.

Provided always, that in the following cases, that is to say,

- (a) when the sale is made for the purpose of meeting the current expenses of the Patriarchate, and not for the purpose of the liquidation of its debts ;

- (b) where the sale would involve the closing of any metochion or other institution dependent on the Patriarchate ;
- (c) where the sale is a sale of any property developed by buildings situated within the walls of Jerusalem ;
- (d) When the sale is a sale of any immovable property attached *ab antiquo* to any monastery ;

no such sale shall take place without the special authorization of the Patriarch in Synod.

(ii) The immovable property of the Patriarchate subject to sale under this Ordinance shall be deemed to include any property dedicated to the poor or the monks of the said Patriarchate, whether with or without any reminder in trust for any other object, any provision of the Law of *Waqf* to the contrary notwithstanding.

No loans or contracts during continuance of Commission to be valid without its authority.

9. During the continuance of the Commission no loan or any other contract or transaction affecting the property of the Patriarchate shall be valid unless made with the express authority of the Commission.

Power of Commission to ratify invalid contract or transaction.

10. The Commission may ratify and adopt any contract or other transaction which was entered into by or on behalf of the Patriarchate before the Commission assumed its duties, and which is invalid, or may be thought to be invalid, by reason of want of Synodical confirmation, or other similar cause.

Audit of Accounts.

11. During the continuance of the Commission the accounts of the said Commission, as well as those of the Patriarchate and of the Mixed Council referred to in

Article 6 (f) shall be submitted to a Government audit in such manner as the High Commissioner may direct.

Staff and Salaries.

12. (i) The Commission shall appoint a chief executive officer, to be called 'The Controller,' and such subordinate clerical and other officers as it may from time to time require.

(ii) The salaries of the said Controller and such other officers shall be paid out of the funds at the disposal of the Commission and shall be of such amount as the Commission with the approval of the High Commissioner, may from time to time determine.

(iii) The High Commissioner may authorize the payment out of the funds at the disposal of the Commission of such remuneration to any member of the Commission as he may deem fit.

Power of the Commission to state a case for the opinion of a Court.

13. (i) In the event of any question arising in the course of the operations of the Commission as to which the Commission shall be of opinion that a judicial determination is necessary the Commission shall be entitled to state a case for the opinion of any Court which the High Commissioner, by notice published in the Government Gazette, may declare to be a competent Court for the purpose, and the said Court may issue all such orders and directions as may be necessary to enable it to give a just determination of the matters at issue.

Power to require Commission to state a case.

(ii) Any person aggrieved by any action, omission or decision of the Commission may apply to the Commission requesting it to state a case for the opinion of the said competent Court on the matter in question and, if the Commission shall refuse so to state a case, may himself apply to the said competent Court for a mandatory order

requiring the said Commission to state a case with respect to the matter in question, and on such application the said competent Court may make such order as justice shall require.

Protection of Commission and its officers.

14. (i) No action or other legal proceeding shall be instituted against the Commission or any member or officer thereof, in respect of anything done or omitted to be done in pursuance or intended pursuance of its powers or duties under this Ordinance, except with the previous sanction of the High Commissioner.

(ii) No member or officer of the Commission shall be personally liable in respect of anything in good faith done or omitted to be done in pursuance or intended pursuance of his powers or duties under this Ordinance.

Duration and dissolution of Commission.

15. (i) The Commission shall continue in operation for a period of two years, when it may be renewed for a further two years by order of the High Commissioner. The Order dissolving the Commission shall be published in the Gazette.

(ii) By any such order the High Commissioner may declare that liquidation of the debts of the Patriarchate has been completed, or completed subject to the reservation of such account or matters as may be specified in the Order, and in any such case no action or other proceeding shall be instituted against the Patriarchate, or the Patriarch or any other officer of the Patriarchate in respect of any account or matter which was or might have been made the subject of a claim in the liquidation, not bring an action or proceeding relating to any account or matter reserved as aforesaid.

Power of High Commissioner to issue Orders.

15. The High Commissioner may from time to time issue orders, published in the Official Gazette,

- (a) for the purpose of carrying into execution the provisions of the Ordinance ;
- (b) for the purpose of the interpretation of any of the said provisions ;
- (c) for the purpose of supplementing the said provisions in respect of any matter not specifically provided for.

HERBERT SAMUEL
High Commissioner.

Government House. Jerusalem.

June 17th, 1921.

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