[TRIANTAFYLLIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

COSTAS G. PIKIS,

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH
1. THE MINISTER OF INTERIOR,
2. THE COUNCIL OF MINISTERS,

Respondents.

(*Case No.* 12/66).

Immovable Property—Acquisition of Land—Decision turning down Applicant's request that an area of land compulsorily acquired from him in 1952 *be offered to him for sale—Law relevant to the matter—Exact ambit of section* 23 (2) *of the Compulsory Acquisition of Property Law,* 1962 (*No.* 15 *of* 1962)—*Section* 13 *of the Land Acquisition Law, Cap.* 226 *only relevant provision when Council of Ministers considered Applicant's request in* 1965—*Any interest of the Applicant in the property in question disappeared, when the property concerned had been utilized before Independence, for another purpose of public utility in* 1959—*Not within the competence of the Respondent Council of Ministers to take a decision reversing what had been done in* 1959, *before Independence—Case of Karnaou and The Republic* (1966) 3 *C.L.R.* 757, *distinguishable—Respondent Council of Ministers could not, in the circumstances, have lawfully done otherwise than to turn down Applicant's request.*

Acquisition of Land—Request of Applicant that an area of land compulsorily acquired from him in 1952 *be offered to him for sale—See under Immovable Property above.*

Administrative Law—Act or decision validly based on one out of several given reasons of law subject to certain exceptions—Validity thereof should be upheld irrespective of the validity of any of the other reasons—Even if an act or decision cannot be validly based on reasons of law actually given in support thereof, but it is nevertheless valid in law for some other reason such act or decision should be judicially upheld.

The Applicant in this recourse complains against the decision of Respondent 2 the Council of Ministers, by means of wihch

Applicant's request, that an area of land, which was compulsorily acquired from him in 1952, be offered to him for sale was turned down , the Applicant further complains against an alleged omission to offer back to him for sale the aforementioned property The acquisition of the lands in question was sanctioned on the 7th May, 1952, and it was made for " public health purposes " as they were adjacent to the Leper Farm In 1955, however, the Leper Farm moved from its original site to a new site near Larnaca and until then no works of any kind were carried out on the area which had been acquired from Applicant The ex property of the Applicant was fenced in, together with the site of the ex-leper farm, as grounds of the Teachers' Training College which started being erected on the old site of the leper farm in 1956, and it was completed in 1959

Applicant's request for the offer to him for sale of his property was based on the provisions of the Land Acquisition Law, Cap 226, as well as on the provisions of the Compulsory Acquisition of Property Law, 1962, (Law 15/62) and it was made by a letter dated 23rd June, 1962, and after the enactment of Law 15/62 on the 1st March, 1962

Held, (1) As the compulsory acquisition of the property of the Applicant took place in 1952, before the date of the coming into operation of the Constitution—on the 16th August, 1960—the provisions of section 15 of Law 15/62, regarding the disposal of property acquired compulsorily after the date of the coming into operation of the Constitution, are inapplicable to the circumstances of the present Case

(2) Nor do I find that section 23 (2) of Law 15/62 is, either, relevant to the present matter

Such section 23 (2) reads as follows :

> «Τηρουμένων τῶν διατάξεων τοῦ ἐδαφίου (1) τοῦ ἄρθρου 14, ἀνεξαρτήτως ὁμως πάσης ἑτέρας διατάξεως τοῦ παρόντος Νόμου, ἀκίνητος ἰδιοκτησία ἀπαλλοτριωθεῖσα πρὸ τῆς ἐνάρξεως τῆς ἰσχύος τοῦ παρόντος Νόμου, δυνάμει τῶν διατάξεων τῆς τότε ἐν ἰσχύι νομοθεσίας, ἥτις εἴτε ἀποδεικνύεται ὅτι ὑπερβαίνει τὰς πραγματικὰς ἀναγκας, ἢ μὴ οὖσα περαιτέρω ἀναγκαία, διὰ τὸν σκοπὸν δι' ὃν ἐγένετο ἡ ἀπαλλοτρίωσις, δύναται νὰ διατεθῇ καθ' ὃν τρόπον προβλέπεται ἐν τῷ περὶ 'Απαλλοτριώσεως Γαιῶν Νόμῳ τῷ καταργηθέντι διὰ

τοῦ παρόντος Νόμου, ὡς ἐὰν ὁ παρὼν Νόμος δὲν ἐθεσπίζετο».

(and in English translation it reads :

" Subject to the provisions of sub-section (1) of section 14 but notwithstanding any other provision of this Law, any immovable property acquired before the coming into operation of this Law, under the provisions of legislation then in force, and later found to be in excess of the extent actually required or to be no longer required for the purpose of which it has been acquired may be disposed of as provided in the Land Acquisition Law repealed by this Law, as if this Law had not been enacted ").

(3) The question of the exact ambit of section 23 (2) has been left open in the recently decided case of *Forsyth* v. *The Republic*, (1967) 1 C.L.R. 101 ; but it has become necessary to decide it for the purposes of the present Case. As already indicated in this Judgment, I am of the opinion that section 23 (2) of Law 15/62, both on a proper construction of its Greek official text and in view of its object in the context of Law 15/62 and of the series of relevant legislative enactments, must be treated as applicable only to cases where land compulsorily acquired *before* the date of the coming into force of Law 15/62 turns out to be surplus land or no longer required in relation to the object of its acquisition *after* the date of the coming into force of Law 15/62. In the event of the surplus or the non-requirement having occurred prior to such date then the provisions which are applicable are those of section 13 of Cap. 226, as by virtue of the provisions of section 10 of the Intepretation Law (Cap. 1) the application of section 13 of Cap. 226 to a proper case is not affected by the fact that Cap. 226 has been repealed by Law 15/62.

(4) So, though the request of the Applicant, contained in the letter dated the 23rd June, 1962 (*exhibit* 1), was made after the enactment of Law 15/62—on the 1st March, 1962—the provision relevant to the matter raised by the Applicant continued to be section 13 of Cap. 226, directly as such, by virtue of the provisions of section 10 of Cap. 1, and not indirectly by virtue of the provisions of section 23 (2) of Law 15/62.

(5) I might state, also, at this stage, that I cannot agree, either, with a submission regarding the non-applicability of section 13 of Cap. 226 on the ground that the matter is governed by the law as it stood when the property of the Applicant was

compulsorily acquired in May, 1952, when in the place of the said section 13 there was in force section 19 of Cap. 233 (as the Land Acquisition Law was then to be found in the 1949 edition of the Cyprus Statutes). In my opinion the disposal of compulsorily acquired land, when it becomes surplus or is no longer required, is not governed by the law in force at the time of the acquisition, but by the law in force when the question of disposal arises ; and such question arose, if at all, in the present Case, in 1955, when the Leper Farm was moved to Larnaca ; and then there was in force section 13 of Cap. 226.

(6) Thus, when the Council of Ministers came to consider in 1965 the request of the Applicant for the offer back to him for sale of his property concerned, the only relevant provision of law was section 13 of Cap. 226 as in force at the material time ; such time, under the provisions of the said section 13 (1), being 1956, *i.e.* one year after the move of the Leper Farm to Larnaca in 1955, when it might possibly be said that the undertaking, in relation to which the land of the Applicant had been compulsorily acquired, came to an end

What was the Council of Ministers to do, in the light of section 13 of Cap. 226, in 1965 ?

(7) In the meantime—between 1956 and 1965—the position had radically changed in the sense that the land in question had been utilized, before the creation of the Republic in August 1960, for another purpose of public utility, *i.e.* in 1959 for the Teachers' Training College.

(8) Had there been published at the time, in the official Gazette, the notification—envisaged under section 13(1) of Cap. 226—about such College being an undertaking of public utility, no question of disposal by sale of the land of the Applicant would have arisen at all, under the provisions of section 13 of Cap. 226 ; but it appears that no such notification was published.

(9) So, in 1965, when the Council of Ministers came to deal with the matter, it was faced with the aforesaid *accomplished fact*, namely, that in 1959 a course of action had been taken resulting in the disposal of the property acquired from Applicant ; even if it were to be granted that such disposal was contrary to section 13 of Cap. 226, nevertheless, it was still a definite disposal of the said property ; therefore, there could not be said to exist still, in 1965, a continuing omission to dispose by

sale of property no longer required for the pusposes of the undertaking which led to its compulsory acquisition.

(10) Nor, in my view, was it within the competence of the Council of Ministers to take a decision reversing what had been done in 1959, before the Republic was created in August, 1960, and before the Council's competence commenced to be exercisable. It was faced with a situation already created which it could not validly remedy ; it could not put the clock back.

(11) The present case is distinguishable from that of *Karnaou and The Republic* (1966) 3 C.L.R. p. 757 ; there the Council of Ministers was exercising its competence in relation to a current matter of pension rights with which it had, and was competent, to deal with after 1960, and it merely took into account, as a relevant factor, the legality of administrative action resulting in a break of service, of the Applicant in that case, before 1960; but in the present Case the Council was called upon, in effect, to undo, as such, the disposal of the property of the Applicant before 1960—in 1956 ; this would amount to the Council exercising powers of administration directly in respect of the period prior to August, 1960, a thing which it was not competent to do.

(12) I quite agree, therefore, in particular, with reason (e) for the *sub judice* decision—as such reason has been set out in the letter of the 11th November, 1965—namely, that any interest of the Applicant in the property in question disappeared when the property concerned was utilized for the purposes of the Teachers' Training College. Actually, this reason could have been more explicitly framed, but this does not detract from its validity ; not only any existing interest of the Applicant disappeared, but in fact, no right of pre-emption in favour of the Applicant had ever the opportunity to arise at all, once the property was not disposed of by sale, so as to have it offered, first, to the Applicant for sale under the provisions of section 13 of Cap. 226. It was disposed of in 1959 by being utilized for purposes of the Teachers' Training College and, thereafter, no question of its sale could arise.

(13) In view of my above conclusion I need not deal with the validity of any one of the other reasons set out in support of the *sub judice* decision in *exhibit* 1.

It is well settled in Administrative Law—subject to certain exceptions which do not arise in the circumstances of this

Case—that if an act or decision was validly based on one out of several given reasons of law its validity should be upheld, irrespective of the validity of any of the other reasons—the validity of which need not be gone into, either.

(14) So, even if all of the reasons given in the letter, *exhibit* 2, in support of the *sub judice* decision, were not correct in law, I would still be prepared to find that, in the circumstances, the Respondent Council of Ministers could not have lawfully done otherwise than to turn down Applicant's request, contained in *exhibit* 1.

For all the foregoing reasons this recourse fails and is dismissed accordingly ; there shall be no order as to costs, however.

Application dismissed. No order as to costs.

Cases referred to :

Forsyth v. *The Republic*, (1967) 1 C.L.R. p. 101;

Karnaou v. *The Republic* (1966) 3 C.L.R. p. 757;

Decisions 1005/1933, 2066/56, 403/1936, 776/1937, 1753/1950 and 2122/1956 of the Greek Council of State.

Recourse.

Recourse against the decision of Respondent 2 whereby the request of Applicant, that an area of land at Pallouriotissa, which was compulsorily acquired from him in 1952, be returned to him, was turned down.

A. Triantafyllides with *L. Demetriades*, for the Applicant.

K. Talarides, Counsel of the Republic, for the Respondents.

Cur. adv. vult.

The following Judgment* was delivered by:

TRIANTAFYLLIDES, J.: In this Case the Applicant complains against a decision of Respondent 2, the Council of Ministers, conveyed to him through the Director of Lands and Surveys Department—who comes under Respondent 1—by a letter dated the 11th November, 1965 (see *exhibit* 2); by means of such decision a request of the Applicant, contained in a letter dated the 23rd June, 1962 (see *exhibit* 1), that an area of land at Pallouriotissa (plot 81, sheet/plan XXI/55.4.II) be offered

*For final decision on Appeal see (1968) 6 J.S.C. 611 to be published in due course in (1968) 3 C.L.R.

to him for sale, was turned down; such property was compulsorily acquired from the Applicant in 1952.

The Applicant complains, also, in this Case against an alleged omission to offer back to him for sale the aforementioned property.

There has been past judicial history in this same matter, by way of recourses 104/61 and 197/62, by the same Applicant against the Republic, which were determined together by a judgment given on the 27th March, 1965 ((1965) 3 C.L.R. 131).

As a result of the said Judgment—whereby it was held that there was a wrongful refusal to deal with, and reply duly on, the substance of the Applicant's request, contained in the above—referred to letter of the 23rd June, 1961 (*exhibit* 1)—the matter was considered by the Council of Ministers, "in accordance with the judgment of the Supreme Court..... in recourses Nos. 104/61 and 197/62", and the *sub judice* decision, refusing Applicant's request, was reached.

This recourse was filed on the 18th January, 1966.

The relevant facts are not in dispute and they may be usefully summarized in the manner in which they have been set out in the aforesaid Judgment:

> "On the 24th October, 1951, a notice under sections 2, 3 and 5 of the Land Acquisition Law (then Cap. 233), was published under Not. 545 in Supplement No. 3 of the official Gazette, in which it was stated that having been represented to the then Governor that it was 'desirable in the public interest to acquire certain lands adjacent to the Leper Farm..... for purposes of public health' he declared 'the acquisition of the said lands to be an undertaking of public utility' and authorized its carrying out entrusting its supervision to the Director of Land Registration and Surveys.
>
> On the 27th February, 1952, a notice to treat for the acquisition under section 6 of Cap. 233, was published under Not. 98 in Supplement No. 3 of the official Gazette, by the then Commissioner of Nicosia and Kyrenia, who after referring to the notice published by the Governor earlier, as aforesaid, proceeded to specify the area to be acquired as follows: 'All that area of private land situated at Palouriotissa in the District of Nicosia, being plot No.

81 of the Government Survey Plan No. XXI, 55.4.II, containing 5 donums, 2 evleks and 2100 square feet or thereabouts..... belonging to Mr. Costas Pikis of Nicosia.....". The area is delineated in red on the relevant survey plan, *exhibit* 23 in this Case.

On the 7th May, 1952, a notice under section 7 of Cap. 233 was published under Not. 188 in Supplement No. 3 of the official Gazette, by the Governor, sanctioning the acquisition of the property of Applicant.

As no agreement was reached with Applicant regarding the compensation to be paid to him an application was made (No. 46/52) to the Nicosia District Court, on the 2nd August, 1952, for the matter to be referred to arbitration.

Before the conclusion of the arbitration an agreement was reached by which it was agreed that, instead of monetary compensation, two areas of Government land would be given to Applicant in exchange for his area which was the subject of the acquisition. These areas are both situated at Strovolos and are delineated in red on the relevant survey maps, *exhibits* 24 and 25 in this Case. It is in evidence that at the time these properties were of equivalent value with the property of the Applicant. This agreement was made a joint award of the Arbitrators on the 27th February, 1953. Since then Applicant has disposed, through sale by way of building sites, of one of the said areas which was given to him, as above.

The Leper Farm moved from its original site to a new site near Larnaca in 1955. Until then no works of any kind were carried out on the area which had been acquired from Applicant.

In 1956 a Teachers' Training College started being erected on the old site of the Leper Farm and it was completed in 1959, when the ex-property of Applicant was fenced in, together with the site of the ex-Leper Farm, as grounds of the College.

No building of such College was actually erected on the area acquired from Applicant but only an access road, passing over a small part of such area and leading to the College, was constructed and it still exists to-day.

After the establishment of the Republic the said College and its grounds were ceded to the Greek Communal Chamber and are now the Paedagogical Academy.

The area which was acquired from Applicant is still registered in the name of the Cyprus Government under a registration dated the 9th March, 1953, which was made pursuant to the compulsory acquisition".

The *sub judice* decision, as communicated to the Applicant by the letter of the 11th November, 1965 (*exhibit* 2), appears to have been based on several reasons, some of which are alternative to each other.

Counsel for the Applicant have submitted that this kind of reasoning is not the proper one for an administrative decision, but I cannot agree that this is so, in the circumstances, at any rate, of this particular Case, because it is clear that the reasoning in question has been so framed, not due to any defective approach to the matter, but in a thorough effort to inform the Applicant, as fully as possible, why, for various reasons, it was not possible to accede to his request.

It is necessary, next, in this Judgment, to ascertain what is the law relevant to the matter before the Court:

The request of the Applicant, for the offer to him for sale of his property concerned, was based—as it appears from the relevant letter of the 23rd June, 1962, *exhibit* 1—on the provisions of the Land Acquisition Law, Cap. 226, as well as on the provisions of the Compulsory Acquisition of Property Law, 1962 (Law 15/62).

As the compulsory acquisition of the property of the Applicant took place in 1952, before the date of the coming into operation of the Constitution—on the 16th August, 1960—the provisions of section 15 of Law 15/62, regarding the disposal of property acquired compulsorily after the date of the coming into operation of the Constitution, are inapplicable to the circumstances of the present Case.

Nor do I find that section 23(2) of Law 15/62 is, either, relevant to the present matter.

Such section 23(2) reads as follows:

«Τηρουμένων τῶν διατάξεων τοῦ ἐδαφίου (1) τοῦ ἄρθρου 14, ἀνεξαρτήτως ὅμως πάσης ἑτέρας διατάξεως τοῦ παρόντος

Νόμου, ἀκίνητος ἰδιοκτησία ἀπαλλοτριωθεῖσα πρό τῆς ἐνάρξεως τῆς ἰσχύος τοῦ παρόντος Νόμου, δυνάμει τῶν διατάξεων τῆς τότε ἐν ἰσχύι νομοθεσίας, ἥτις εἴτε ἀποδεικνύεται ὅτι ὑπερβαίνει τας πραγματικας ἀναγκας, ἢ μὴ οὖσα περαιτερω ἀναγκαία, διὰ τον σκοπον δι' ὃν ἐγένετο ἡ ἀπαλλοτρίωσις, δύναται νὰ διατεθῇ καθ' ὃν τρόπον προβλέπεται ἐν τῷ περὶ 'Απαλλοτριώσεως Γαιῶν Νόμῳ τῷ καταργηθέντι διὰ τοῦ παρόντος Νόμου, ὡς ἐὰν ὁ παρὼν Νομος δὲν ἐθεσπίζετο»

(and in English translation it reads

"Subject to the provisions of sub-section (1) of section 14 but notwithstanding any other provision of this Law, any immovable property acquired before the coming into operation of this Law, under the provisions of legislation then in force, and later found to be in excess of the extent actually required or to be no longer required for the purpose of which it has been acquired may be disposed of as provided in the Land Acquisition Law repealed by this Law, as *if this Law had not been enacted*")

The question of the exact ambit of section 23(2) has been left open in the recently decided case of *Forsyth* v *The Republic* (1967) 1 C L R p 101 , but it has become necessary to decide it for the purposes of the present Case As already indicated in this Judgment, I am of the opinion that section 23(2) of Law 15/62, both on a proper construction of its Greek official text and in view of its object in the context of Law 15/62 and of the series of relevant legislative enactments must be treated as applicable only to cases where land compulsorily acquired *before* the date of the coming into force of Law 15/62 turns out to be surplus land or no longer required in relation to the object of its acquisition *after* the date of the coming into force of Law 15/62 In the event of the surplus or the non-requirement having occurred prior to such date then the provisions which are applicable are those of section 13 of Cap 226 as by virtue of the provisions of section 10 of the Interpretation Law (Cap 1) the application of section 13 of Cap 226 to a proper case is not affected by the fact that Cap 226 has been repealed by Law 15/62

So though the request of the Applicant, contained in the letter dated the 23rd June, 1962 (*exhibit* 1), was made after the enactment of Law 15/62—on the 1st March, 1962—the provision relevant to the matter raised by the Applicant continued

to be section 13 of Cap. 226, directly as such, by virtue of the provisions of section 10 of Cap. 1, and not indirectly by virtue of the provisions of section 23(2) of Law 15/62.

I might state, also, at this stage, that I cannot agree, either, with a submission regarding the non-applicability of section 13 of Cap. 226 on the ground that the matter is governed by the law as it stood when the property of the Applicant was compulsorily acquired in May, 1952, when in the place of the said section 13 there was in force section 19 of Cap. 233 (as the Land Acquisition Law was then to be found in the 1949 edition of the Cyprus Statutes). In my opinion the disposal of compulsorily acquired land, when it becomes surplus or is no longer required, is not governed by the law in force at the time of the acquisition, but by the law in force when the question of disposal arises; and such question arose, if at all, in the present Case, in 1955, when the Leper Farm was moved to Larnaca; and then there was in force section 13 of Cap. 226.

Thus, when the Council of Ministers came to consider in 1965 the request of the Applicant for the offer back to him for sale of his property concerned, the only relevant provision of law was section 13 of Cap. 226 as in force at the material time; such time, under the provisions of the said section 13(1), being 1956, *i.e.* one year after the move of the Leper Farm to Larnaca in 1955, when it might possibly be said that the undertaking, in relation to which the land of the Applicant had been compulsorily acquired, came to an end.

What was the Council of Ministers to do, in the light of section 13 of Cap. 226, in 1965?

In the meantime—between 1956 and 1965—the position had radically changed in the sense that the land in question had been utilized, before the creation of the Republic in August 1960, for another purpose of public utility, *i.e.* in 1959 for the Teachers' Training College.

Had there been published at the time, in the official Gazette, the notification—envisaged under section 13(1) of Cap. 226—about such College being an undertaking of public utility, no question of disposal by sale of the land of the Applicant would have arisen at all, under the provisions of section 13 of Cap. 226; but it appears that no such notification was published.

Let it, therefore, be assumed, at this stage, for the purposes of this Case, that the then Colonial Government of Cyprus,

instead of disposing of, by sale, the property in question in 1956, utilized such property for the purposes of another undertaking of public utility—as the Teachers' Training College was, no doubt—and it did so without conforming with the law in force at the time *i.e.* section 13(1) of Cap. 226.

The fact remains, however, that then, in 1959, a definite act took place, disposing of the said property and making it cease to be property lying there in the state in which it was found to be after the abandonment of the undertaking in respect of which it had been compulsorily acquired; it ceased to be property having, or awaiting, to be disposed of by sale under section 13 of Cap. 226.

So, in 1965, when the Council of Ministers came to deal with the matter, it was faced with the aforesaid *accomplished fact*, namely, that in 1959 a course of action had been taken resulting in the disposal of the property acquired from Applicant; even if it were to be granted that such disposal was contrary to section 13 of Cap. 226, nevertheless, it was still a definite disposal of the said property; therefore, there could not be said to exist still, in 1965, a continuing omission to dispose by sale of property no longer required for the purposes of the undertaking which led to its compulsory acquisition.

Nor, in my view, was it within the competence of the Council of Ministers to take a decision reversing what had been done in 1959, before the Republic was created in August, 1960, and before the Council's competence commenced to be exercisable. It was faced with a situation already created which it could not validly remedy; it could not put the clock back.

The present case is distinguishable from that of *Karnaou* and *The Republic* (1966) 3 C.L.R., p. 757); there the Council of Ministers was exercising its competence in relation to a current matter of pension rights with which it had, and was competent, to deal with after 1960, and it merely took into account, as a relevant factor, the legality of administrative action resulting in a break in service, of the Applicant in that case, before 1960; but in the present Case the Council was called upon, in effect, to undo, as such, the disposal of the property of the Applicant before 1960—in 1956; this would amount to the Council exercising powers of administration directly in respect of the period prior to August, 1960, a thing which it was not competent to do.

I quite agree, therefore, in particular, with reason (e) for the *sub judice* decision—as such reason has been set out in the letter of the 11th November, 1965—namely, that any interest of the Applicant in the property in question disappeared when the property concerned was utilized for the purposes of the Teachers' Training College. Actually, this reason could have been more explicitly framed, but this does not detract from its validity; not only any existing interest of the Applicant disappeared, but in fact, no right of pre-emption in favour of the Applicant had ever the opportunity to arise at all, once the property was not disposed of by sale, so as to have it offered, first, to the Applicant for sale under the provisions of section 13 of Cap. 226. It was disposed of in 1959 by being utilized for the purposes of the Teachers' Training College and, thereafter, no question of its sale could arise.

In view of my above conclusion I need not deal with the validity of any one of the other reasons set out in support of the *sub judice* decision in *exhibit* 1.

It is well settled in Administrative Law—subject to certain exceptions which do not arise in the circumstances of this Case—that if an act or decision was validly based on one out of several given reasons of law its validity should be upheld, irrespective of the validity of any of the other reasons—the validity of which need not be gone into, either.

In its Decision 1005/1933 (vol. 1933 III p. 878 at p. 886) the Greek Council of State had this to say in a case on the point:-

> «Ἐπειδὴ κατὰ τὰ ἐκτεθέντα ἡ προσβαλλομένη ἀπόφασις ἐρείδεται πλήρως εἰς τὴν διάταξιν τοῦ δευτέρου ἐδαφίου τοῦ ἄρθρου 122 τοῦ Δημοτικοῦ Κώδικος, ἐπομένως καὶ ὑποτιθεμένου ὅτι δὲν ἐφηρμόσθη ὀρθῶς τὸ πρῶτον ἐδάφιον τοῦ αὐτοῦ ἄρθρου, ὅπερ ἐπίσης ἐπικαλεῖται αὕτη, δὲν καθίσταται ἐντεῦθεν ἀκυρωτέα, διότι ἂν διοικητικὴ πρᾶξις ἡ ἀπόφασις δικαστικὴ ἐπικαλεῖται πλείονα ἐρείσματα ἀρκεῖ ἡ ὀρθότης ἑνὸς τούτων ὅπως στηρίξῃ αὐτήν, ἀνεξαρτήτως τῆς ὀρθότητος τῶν λοιπῶν ἐρεισμάτων. Κατὰ συνέπειαν περιττὴ καθίσταται ἡ ἐξέτασις τῶν λόγων τῆς ὑπὸ κρίσιν προσφυγῆς τῶν ἀφορώντων ἐσφαλμένην ἑρμηνείαν ἢ πλημμελῆ ἐφαρμογὴν τῆς διατάξεως τοῦ πρώτου ἐδαφίου τοῦ ἄρθρου 122 τοῦ Δημοτικοῦ Κώδικος».

> ("Because, in view of what has been put forward, the decision challenged is fully supported by the provisions

of the second paragraph of section 122 of the Municipal Code, therefore, even if it were to be assumed that the first paragraph of the same section, on which the said decision is also based, was not correctly applied, such decision does not have to be annulled, because if an administrative act or a judicial decision is based on more than one reasons there suffices the validity of one of them in order to support it, irrespective of the validity of the other reasons. Therefore, it is rendered unnecessary to examine the grounds of the recourse before us which refer to a wrong interpretation or an erroneous application of the provisions of the first paragraph of section 122 of the Municipal Code").

Also in its Decision 2066/1956 (vol. 1956 Γ p. 925 at p. 926) the Council stated:-

«Ἐπειδή, τῆς αἰτιολογίας ταύτης περὶ τῆς ἀδυναμίας τοῦ παρεμβαίνοντος Ταμείου, ὅπως φέρῃ τὸ βάρος τῆς μισθοδοσίας τοῦ αἰτοῦντος, δυναμένης νὰ στηρίξῃ, κατὰ τὴν μνησθεῖσαν διάταξιν τοῦ ἄρθρου 4 παραγρ. 4 τοῦ Ν.Δ. 2657/1953, τὴν προσβαλλομένην ἀπόφασιν, ἀλυσιτελὴς ἀποβαίνει ἡ ἐξέτασις τῶν λοιπῶν λόγων ἀκυρώσεως, διὰ τῶν ὁποίων πλήττονται ἐπάλληλοι αἰτιολογίαι ταύτης».

("As the reasoning regarding the inability of the objecting Fund to bear the burden of the payment of the salary of the Applicant is sufficient, in accordance with the provisions of section 4(4) of Law 2657/1953, to support the decision which is challenged, there is not need to examine the alternative grounds for annulment by means of which are attacked other reasons given for such decision").

One might, also, usefully refer on this point to the Decisions of the Greek Council of State 403/1936, 776/1937 and 1753/1950.

Even if an act or decision could not be validly based on the reasons of law actually given in support thereof, but it is nevertheless valid in law for some other reason, the relevant Administrative law jurisprudence has gone so far as to lay down that such act or decision should be judicially upheld. In its Decision 2122/1956 (vol. 1956 Γ, p. 1028 at p. 1030) the Greek Council of State has stated:-

«Νομίμως, ὅθεν, ἀπερρίφθη, εἰ καὶ ἐπ' ἄλλῃ αἰτιολογίᾳ ἡ ὡς ἄνω αἴτησις ἀναθεωρήσεως τοῦ προσφεύγοντος, διὰ

τῆς προσβαλλομένης ἀποφάσεως, καὶ κατ' ἀκολουθίαν ἀπορριπτέα ἀποβαίνει ὡς νόμῳ ἀβάσιμος ἡ ὑπὸ κρίσιν ἔνδικος αἴτησις...»

("There has lawfully, therefore, been rejected, by means of the decision challenged, even though for other reasoning, the said application of the Applicant for a review, and thus the *sub judice* recourse has to be rejected as unfounded in law").

So, even if all of the reasons given in the letter, *exhibit* 2, in support of the *sub judice* decision, were not correct in law, I would still be prepared to find that, in the circumstances, the Respondent Council of Ministers could not have lawfully done otherwise than to turn down Applicant's request, contained in *exhibit* 1.

For all the foregoing reasons this recourse fails and is dismissed accordingly; there shall be no order as to costs, however.

Application dismissed.
No order as to costs.