

MEMORANDUM BY THE MINISTER OF JUSTICE AND
PARLIAMENTARY AFFAIRS

Claim by Mr. Stejfen Debono of Mellieha for:

- (i) Loss of Crops; and
- (ii) Loss of Earnings brought about in 1957.

I Period 1957 - 1960

Stejfen Debono the cultivator of portion 70 of tenement 222 (Qasam Barrani) suffered severe losses as a result of the bursting of a dam, following heavy rain in 1957.

It must be borne in mind that, although all along the Water Works Department have been disclaiming liability, as it is alleged that the damage suffered by Debono was mainly brought about by the water pouring down from other highlands above Debono's land and partly by the water which flowed when the dam burst, one cannot exclude that this water from the dam was the direct and final cause of the damage suffered by Debono. It proved too much for the strength of the retaining wall bordering Debono's land, which was already under pressure from other water accumulating there. It is no surprise that the wall was washed away by the excess water, for on that day the dam itself gave way, and once the wall was washed away, the cultivated land was destroyed.

By an official letter of the 31st May, 1961 Mr. Debono claimed £126.16s d. for loss of crops and £470 for loss of earnings a total of £604. 1s. 8d for the period 1957 - 1960 when the emphyteusis expired.

The assessment of damages made by the Department of Agriculture amounts to £95 in respect of the loss of crops and the rate of £50 per tumolo of irrigated land for loss of earnings is also accepted. In their assessment the Department of Agriculture state that the loss of earnings suffered by Debono amounts to £600. This is in excess of the amount of £470 claimed by Debono himself for loss of earnings in the Official letter.

Claimant in all, up to 1960, should be paid £126.16s.8d. plus £470 as claimed by him or £95 plus £600 and that is £695, in terms of the assessment made by the Department of Agriculture. The Manager, Water Works Department, on the basis that only 44% of the damages suffered by Debono are attributable to the water which flowed as a result of the bursting of the dam, maintains that Debono be paid £75 for loss of crops and £235 for loss of earnings, a total of £310, which is an average on the assessments made by the Department of Agriculture and the Water Works.

Today the position is that Debono up to 1960 has claimed a total of £604.1s.8d, the Department of Agriculture has assessed the claim as amounting to £695 and the Water Works have proposed the payment of £310, which as far as can be made out, Debono does not accept.

Without entering into details and in order to settle the claim, it is proposed to offer Debono 75% of the original claim amounting to £453 up to 1960, with interest at the rate of 5% thereon as from the date of the official letter. The interest due is £114.5s.0d up to 31st May, 1966 and therefore a total of £567.5s.0d should be offered to Debono.

II period 1960 - 1966

Debono, although the emphyteusis expired in 1960, was put in an unfavourable position vis-a-vis the other cultivators of adjacent lands who, without title, have been allowed to go on cultivating the land. Repairs were not carried out. This may justify Debono's claim for compensations for loss of earnings even after 1960.

Should it be decided that an "ex gratia" payment be made to Stejfen Debono for loss of earnings for the years 1960 to 1966 it is recommended that as these are perhaps not legally due, once the emphyteusis of Portion 70 of Tenement 222, Qasam Barrani expired in 1960, a payment of £100 per annum be also made, this would amount to £600 in full and final settlement.

In view of the special circumstances of the case under review, Hon. Ministers are invited to recommend.

13th June, 1966.
Land 49/63.