

MEMORANDUM TO CABINET BY THE
HONOURABLE THE PRIME MINISTER

Dual Citizenship

Consequent to the decision taken by Ministers on the 20th September, 1966, regarding the extension of the periods laid down in the Constitution within which certain categories of citizens of Malta were obliged to renounce any other citizenship held by them, Crown Advocate-General has prepared the attached draft Bill.

...
... A copy of Crown Advocate-General's minute covering the Bill is also attached.

Hon. Ministers are invited to approve the Bill.

3rd October, 1966.

A B I L L

entitled

AN ACT to amend the Constitution of Malta.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the House of Representatives of Malta, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title
and
commencement

1. (1) This Act may be cited as the Constitution of Malta (Amendment) Act, 1966, and shall be read and construed as one with the Constitution of Malta, hereinafter referred to as "the Constitution".

(2) This Act shall be deemed to have come into force on the 21st September, 1964.

Amendment
of section
28 of the
Constitution.

2. Section 28 of the Constitution shall be amended as follows:-

(a) Immediately after subsection (1) there shall be inserted the following proviso:-

"Provided that, in relation to a person who attains the age of eighteen years on or before the 20th September, 1966, this subsection shall apply as if for the reference to his attainment of the age of nineteen years there were substituted a reference to the 20th September, 1967.";

(b) In subsection (2) for the words "on the expiration of two years" there shall be substituted the words "on the expiration of three years";

(c) Immediately after subsection (4) there shall be inserted the following proviso:-

"Provided that, in relation to a person who becomes a citizen of Malta by registration as aforesaid on or before the 20th September, 1966, this subsection shall apply as if for the reference to the expiration of six months after the date on which he acquired the citizenship of Malta there were substituted a reference to the 20th March, 1967";

(d)/.....

- (d) In subsection (5), immediately after the words "For the purposes of this section", there shall be inserted the words "and of any law relating to citizenship".

Objects and Reasons

The object of this Bill, which amends the Constitution of Malta, is to provide, with retrospective effect, for new terms within which the citizenship of a country other than Malta may be renounced by certain categories of citizens of Malta who, being also citizens of that other country, would have ceased to be citizens of Malta on the expiration of the periods now ~~allowed~~ by the Constitution for such renunciation.

The Bill also extends the provision of subsection (5) of section 28 of the Constitution of Malta to any law relating to citizenship.

Administrative Secretary

The Bill at red 32 is forwarded for the Government's final approval.

2. In paragraph 4 of my minute 23, I set out a form of amendment drafted along broad lines and I said that, once the question of policy was decided, I would be looking deeper into the final form of the amendment.

3. The attached Bill provides for each specific case of renunciation envisaged under the different subsections and paragraphs of section 28 of the Constitution in the manner which appears the more appropriate to each case.

- (a) In regard to citizens of Malta who, upon the attainment of their eighteenth year of age, were also citizens of some other country and who should have renounced the citizenship of such other country on the attainment of their nineteenth year of age (section 28(1) the new term has been fixed at 20th September, 1967.
- (b) In regard to citizens of Malta who, on the 21st September, 1964, had already attained their eighteenth year of age, became citizens of Malta under section 23 of the Constitution and were also citizens of some other country (section 28 (2)), the 20th September, 1967, has been substituted for the 20th September, 1966, as the last date allowed for renunciation.
- (c) In regard to citizens of Malta, who became such by registration under section 24, 25 or 27 of the Constitution and who were also citizens of some other country, the term of renunciation, which should have expired six months after registration, will now expire on the 20th March, 1967. There is a reason for the distinction in the fixing of the new expiry date between the two preceding cases, on one part, and this third case, on the other part. In the first two cases the terms originally fixed in the Constitution were one year and two years respectively. But in this case the original term was six months and it would be absurd to fix a new term which expires one year after 20th September, 1966. Moreover, if citizens of Malta falling within this category who should have renounced their other citizenship at the latest by the 20th September, 1966, were to be allowed until the 20th September, 1967, for the purpose of such renunciation, they would be in a privileged position vis-a-vis citizens of Malta falling within the same category who acquire citizenship by registration in the period between the 21st September, 1966 and the 19th March, 1967,

for whom the term of renunciation would remain six months from registration, that is to say would expire before the 20th September, 1967.

- (d) A new term of renunciation has not been established for the category of citizens of Malta, holding dual citizenship and falling under paragraph (b) of subsection (3) of section 28 of the Constitution of Malta. This category includes women who, being citizens of Malta, marry a non-Maltese husband and acquire his citizenship by marriage. The term within which such women should have renounced their acquired citizenship is one year from marriage. This is a clear cut case in which, it is felt, the fixing of a new term would not be justified also because normally a married woman chooses to retain her husband's citizenship and to relinquish her own original citizenship.

4. In the drafting of the Bill the opportunity has been availed of to extend the provision of subsection (5) of section 28 of the Constitution to any other law relating to citizenship. The said subsection (5) provides for the purpose only of section 28 of the Constitution that, "where under the law of a country other than Malta, a person cannot renounce his citizenship of that other country, he may instead make such declaration concerning such citizenship as may be prescribed". Unless this provision is extended to any laws dealing with citizenship, a citizen of Malta who has acquired and has to renounce his other citizenship under any of the provisions of the Maltese Citizenship Act, 1965, will have no remedy and will have to stand helpless, if the law of the other country does not allow him to renounce its citizenship.

(sgd.) M. Tufigno
Crown Advocate-General

27-9-66