

Memorandum by the Minister of Justice
Legislation for the Abatement of Litter

1. In a memorandum to the Minister of Industrial Development and Tourism by the Chairman of the Malta Government Tourist Board (Appendix I, para. 8) it was requested that anti-litter legislation should be brought up-to-date particularly as the fines contemplated under existing laws do not provide a deterrent. This suggestion was made as part of an overall plan for making the public recognise its civic responsibility in the maintenance of general cleanliness not only in the field of tourism but also as a basic element of the hygienic life desired to-day (Appendix I, paras. 3, 4m 5, 6, 9, 10, 11).

2. The Minister of Industrial Development and Tourism referred this memorandum to the Minister of Justice for consideration from the point of view of legislation.

3. It then transpired that as far back as October, 1959, the Deputy Attorney-General, while acting as Attorney-General, had submitted to the Legal Secretary, on his own initiative, a draft Ordinance on the subject modelled on the Litter Act, 1958 of the United Kingdom, but that the Legal Secretary had refused to move in the matter. (Copy of the Acting Attorney-General's letter-minute to the Legal Secretary of 5th October, 1959, which contains important background information is attached as Appendix II).

4. A table showing the existing provisions of law relating to litter and the inadequacy of the penalties thereunder is attached as Appendix III. This legislation is weak not only in that it does not offer a sufficient deterrent but also in that it contemplates only certain specific acts and not the depositing of litter in general.

5. A fresh draft Bill, strengthened in certain respects, is now attached as Appendix IV.

6. The enactment of this law may not, by itself, be sufficient to remove the eyesore of the litter which is gradually creeping into our public places, including not only streets in Valletta and other towns, but also the country-side and the beaches. The law should be followed

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up by Government action as suggested at para. 5 of Appendix I, and by a Government-sponsored campaign as at para. 10 of the same appendix. Teachers could perhaps also be instructed, if the Minister of Education agrees, to impress on school-children by a brief fortnightly talk during lessons, the need of a more litter-conscious generation of people and of a cleaner island-home. The law, however, should have a two-fold beneficial effect - (a) by providing a stiff deterrent, and (b) by bringing about a greater awareness of the evil in the public at large.

7. The Bill is a short one. Its main provision, clause 2 (1), is so worded as to cover all forms of defacement of public places by litter, ranging from the depositing of filth or garbage in a street to the inconsiderate dropping of newspapers, empty bottles and preserve tins on beaches and other public places. The only other important provision is clause 3, which should adequately meet the nuisance caused by persons who leave litter on the streets after they close their shops or by householders who deposit their dustbins on the street hours ahead of the time of collection, leaving the contents as a prey to unauthorised scavengers and stray dogs.

8. The safeguards provided by the Criminal Code for appeals and other matters are applicable to the Bill.

9. Two important aspects deserve further consideration, namely:-

(1) The Bill is drafted so as to come into force one month after enactment. Are Ministers of opinion that a longer period of warning should be given before the law is enforced? In this connexion the co-operation of the Police and of the Department of Information is required.

(2) The Bill provides for a specific fine (ammenda) of £5 which is the maximum of the ammenda under the Criminal Code. Should the law allow the Magistrate a latitude of from £5 to £50? A fine of anything less than £3 is not considered adequate to remove, or at least check, this spreading anti-social conduct.

3.

10. Honourable Members are requested, after deciding on the above two points, to give approval to the Bill with a view to further action in the Legislative Assembly.

1st February, 1963.

APPENDIX I

MEMORANDUM by the Chairman, Malta Government Tourist Board
to the Minister of Industrial Development & Tourism on
the subject of general cleanliness in Malta and Gozo.

The cleanliness of the Islands in general and of the beaches and resort sites in particular has always been foremost in the minds of Members of the Tourist Board. In the knowledge that no amount of publicity and advertising will keep the tourists on the Island if our natural resources are not properly presented, the Board had, as early as June 1959 sent a copy of a resolution, taken at a Board Meeting, to the Commissioner of Police, the Director of Public Works and the Chief Government Medical Officer on the problem of maintaining beach cleanliness. A copy of this resolution is attached to this memo.

2. As stated in that resolution, the physical cleaning of beaches, resort sites, &c. is not the responsibility of the Tourist Board and funds are not, therefore, allocated to it for the purpose. The Board has necessarily to confine itself to tendering advice to and enlisting the assistance of the Departments concerned to ensure that neither the tourists nor the public in general would have cause for complaint about the state of our beaches and the general cleanliness of the Islands.

3. The maintenance of general cleanliness is primarily a civic responsibility and like other civic responsibilities, the general public should, in the first instance, be made to recognize its importance and then to accept it as being essential, not only to achieve what we have set ourselves to carry out in the tourist field, but even more as a basic element of the hygienic life which we must all lead in this day and age.

4. In so far as general cleanliness concerns tourism, it is necessary in the first place to bring about a greater sense of awareness to the people of the vital importance of tourism to the economy of Malta, and therefore, of the basic elements relating to the promotion of a tourist industry, to which cleanliness in the streets and roads, on the beaches, in hotels and restaurants, necessarily belongs. The responsibility to promote general cleanliness rests with the Tourist Board which should be provided with the necessary funds and authority to launch a local campaign making use of all available media to drive home the necessity of a cleaner and healthier island-home.

5. The effects of such a campaign would hardly be felt during the first months. A promotional campaign, on whatever platform it is mounted, is a long-term exercise. It is, therefore, essential that concurrently the Government should take the lead by (a) undertaking a general clean-up of the innumerable refuse dumps on the Island, (b) removing the relics of the last war still in existence after two decades, (c) re-decorating public buildings, (d) providing refuse containers in streets and squares and on the beaches and (e) adequately supervising refuse collection and scavenging.

6. As far as the Medical and Health Department is concerned it has been brought to the knowledge of the Government in the past that the funds at the disposal of the Department were not sufficient to bring about the improvement in the scavenging service and to include all the places of interest from a tourist standpoint. This was only possible if adequate funds were made available for wages and the purchase of equipment. The Health Department, furthermore, were (and I believe still are) experiencing considerable delays in recruiting substitute personnel to fill gaps due to absenteeism, sickness and other causes.

7. The co-ordination of the duties of the Medical and Health Department and the Department of Public Works is, of course, very necessary.

8. Apart from the steps described above, it seems also necessary to bring anti-litter legislation up-to-date. It is considered all round that the fines contemplated under existing legislation do not provide a deterrent and amendments should be introduced at once to make it more expensive for anyone to litter the streets and public places. Cases have been brought to the attention of the Board where private refuse collectors have disposed of tins and other materials on our popular beaches and other sites of tourist interest. With the law as it stands today this is understandable, since it is more economical to risk a fine of 5s/- than to have to cart a load of refuse to distant disposal centres.

9. The tightening up of the law alone would serve no purpose unless the provisions of the law are strictly enforced. It has been recommended to the Government time and time again that a policeman should be detailed for duty at every beach during the summer months, with special instructions to bring litter-bugs to book and particularly to prevent the holding of barbeques which are to a large extent responsible for the deplorable state of our beaches and in many cases for accidents to bathers through broken glass buried in the sand.

10. It is suggested that a three month anti-litter campaign should precede the introduction of heavier penalties, followed by a probation period of one month. The following departments, firms and organisations might be asked to assist:

- a) The Department of Information,
- b) The Department of Education,
- c) Rediffusion,
- d) Boy Scout, Girl Guide and other youth associations,
- e) The Press and
- f) Civic Committees.

I am sure that the Church will be only too pleased to assist the Government in this campaign through its Parish Priests.

October 5, 1959

Hon. Legal Secretary

Before I come to the end of my present assignment as Acting Attorney-General I would like to submit for the consideration of the Government a draft Litter Ordinance, copies of which you will find attached, which I have drawn up on my own initiative as a personal contribution to the tourist drive, of which I am an ardent supporter.

2. As you know a Litter Act was passed in the United Kingdom in 1958, and the provisions of the draft Ordinance, saving for some variation of the punishment, are modelled strictly on that source.

3. The problem of litter in Malta has become a very sore one. The beaches are littered, the streets are littered, every public or open space is littered with all sorts of refuse or rubbish. Malta used to be considered as the cleanest spot in the Mediterranean and as "fior del mondo" ("flower of the world"). The author of Waverley described Valletta as "the city quite like a dream", but if he were to come back to life I am afraid he would think it was rather a bad dream. This is the opinion of many tourists and tourist experts who have visited us in the last two years. This is also the opinion of many Maltese and United Kingdom persons who have returned to visit Malta after many years.

4. That things have gradually come to such a sad pass at a time when Malta, because of the need for diversification of its economy, is planning to attract tourists, and large sums of money are being invested in the building of hotels for their reception, is all the more heart-breaking.

5. The newspapers complain every day and demand urgent and determined action by the Government. The attached copy of a letter to the Times of Malta from Mrs Roger Strickland shows that any leadership given by the Government in the abatement of litter will have the unqualified support of all right thinking people, though no doubt a large mass of teddy boys, vandals and others who simply do not know better will complain.

6. The law, if enacted, will not be a panacea for this ill. The Government would have to take other action by means of the placing and maintenance of a large number of litter baskets and by publicity. There should also be a "catch them young" campaign in the schools to produce a litter-conscious generation. But the law will, in my view, serve at least two very good purposes:-

(a) it will set up a stiff deterrent by means of the £5 or £3 fine. Similar measures were resorted to, at the request of the ecclesiastical authorities, by means of

Act No. X of 1949 (sec. 2) to abate blasphemy, and very good results have been obtained.

(b) It will make people talk and give them a very definite lead from the Government. Many people, I am sure, fail to cooperate in keeping Malta clean merely through ignorance, and will realise the inconsiderate nature of their conduct when they hear how serious are the Government's views on the matter. It will make people think before they throw litter about.

7. The only provisions having any connection with the subject under consideration, as far as I know, are section 352 (b) of the Criminal Code (Chapter 12), 31 (1) (a) (b) and 33 (a) of the Code of Police Laws (Chapter 13), and section 21 (1) (a) of the Prevention of Disease Ordinance (Chapter 59) but, to my understanding, they are totally inadequate having regard not only to the absurdly small fines they provide but also to the narrowness of the field to which they apply.

8. The maximum punishment under the U.K. Litter Act is £10 and there is no minimum, but it appears that the courts of summary jurisdiction in U.K. consider £5 as the proper penalty. In Malta fines are classifiable into multa or ammenda. By a general provision of the Criminal Code the extent of the two fines, unless otherwise prescribed by a special law, is as follows:

Multa £5 - £20
Ammenda 2s/6d - £5.

9. I have thought that, having regard to the difference in the earning power of the individual in the U.K. and in Malta £10 would be too much. At the same time one cannot say in general terms that the offence is punishable by multa or by ammenda. One cannot say multa, first of all, because this would render the offence a crime (as against a contravention) and, secondly, because the maximum would be too high (£20). One cannot say simply ammenda because the minimum would be much too low (2s/6d). I have therefore reached the conclusion that what is needed is a specific type of ammenda, and I have fixed a quantum at £5, neither more nor less. I have inserted in square brackets an alternative of from £3 to £5, but the latitude which this would allow to the court would be too small to be really worth while and I personally prefer the specific fine for this type of offence, the whole object being that of providing a stiff fine without making it too harsh.

10. By virtue of section 4 of the Punishments Ordinance (Chapter 37) all the other provisions of the Criminal Code, such as those relating to relapse, to appeals, to the allowance of time for payment and the power to award less than the prescribed minimum for special reasons would automatically apply.

11. The draft also makes provision for the law to come into force one month after enactment.

12. I am most anxious that the draft should have your support and, if you agree, I will prepare the necessary memo for presentation to Council on your behalf at the sitting of the 13th October, unless, of course, you wish to draw it up yourself.

(Sd) (M. Caruana Curran)
A/Attorney-General

Summary of existing anti-litter legislation

Note:-

1. The words underlined in the middle column show the weakness of existing legislation by attempting to define acts too closely, while the proposed legislation contains a more comprehensive concept of litter in the few words "depositing and leaving any thing whatsoever in such circumstances as to cause, contribute to, or tend to lead to, the defacement by litter of any place in the open air".

2. Though the fines range from 2s.6d to £5, the Courts invariably impose a 5s/- fine.

LAW	NATURE OF OFFENCE	FINE
1. Criminal Code (Cap. 12), section 352 (b).	Throwing any building material or rubbish in any <u>ditch</u> or near any <u>fortification</u> .	2s.6d - £5.
2. Code of Police Laws (Cap. 13), section 31 (1) (a).	Throwing or letting fall any dirt, rags or other matter in any street; Letting flow offensive or stinking material that <u>may render a street slippery</u> . Conveying <u>such materials</u> otherwise than in covered containers; Voiding urine, otherwise than in a place appointed for the purpose, in <u>any street forming part of an inhabited area</u> ; Leaving in any street <u>rubbish fallen from a conveyance</u> ; Depositing stones on the wall of <u>any enclosure contiguous to a street</u> ;	2s.6d - £5.
Section 31 (1) (b).	Throwing refuse on to any debris from a demolished or damaged building.	2s.6d - £5.
Section 33 (a).	Casting filth, rags or other matter <u>in the drains of the streets</u> .	2s.6d - £5.
	Throwing stones or other things <u>from windows or roofs</u> .	2s.6d - £5.
3. Water Supply Ordinance (Cap. 36), section 20 (1).	Throwing dirt, rubbish or other noisome thing <u>into the waterworks</u> .	2s.6d - £5.

4. Prevention of
Disease
Ordinance
(Cap. 59),
section 21 (1)
(a).

Knowingly cast into any
dustbin or otherwise expose
any article infected by
disease.

2.

2s.6d - £5.

A BILL
entitled

AN ACT to make provision for the abatement of
litter.

ENACTED by the Legislature of Malta:-

Short title
and commencement.

1. This Act may be cited as the Litter
Act, 1963, and shall come into force at the
expiration of one month beginning with the date
of its enactment.

Penalty for
leaving litter.

2. If any person throws down, drops or
otherwise deposits in, into or from any place in
the open air to which the public are entitled or
permitted to have access without payment, and
leaves, any thing whatsoever in such circumstances
as to cause, contribute to, or tend to lead to,
the defacement by litter of any place in the open
air, then unless that depositing and leaving was
authorised by law or was done with the consent of
the owner, occupier or other person or authority
having the control of the place in or into which
that thing was deposited, he shall be guilty of
an offence and be liable, on conviction, to a
fine (ammenda) of five pounds. [of not less than
three pounds].

Defence against
prosecution
under this Act.

3. In any prosecution under this Act it
shall not be an adequate defence to plead that
any dustbin, used box, bottle, tin, carton or
other container, any paper, straw or other
material used for packing, or any offal, garbage,
sweeping or other refuse or matter was deposited
and left in any place in the open air for the
purpose of permitting it to be collected, unless
the Court is satisfied that such depositing and
leaving was carried out at a time reasonably
approximate to, and before, the time at which
refuse collection ordinarily occurs in such
place.

/4. For the

Interpretation
of "place in
the open air".

4. For the purposes of this Act any covered place open to the air on at least one side and available for public use shall be treated as being a place in the open air.

Objects and Reasons

The purpose of this Bill is that of providing a specific fine for the offence of depositing and leaving litter in any place in the open air to which the public are entitled or permitted to have access without payment.