

MEMORANDUM BY THE M.T.I.A.

MEMORANDUM ON THE SUBMISSIONS MADE BY MR M. MIFSUD BONNICI, DEPUTY CHIEF ENGINEER AND MR A. MUSCAT, ENGINEER II, IN THE POSTS AND TELEPHONES DEPARTMENT, FOR A REVIEW OF A CABINET DECISION FOR THE SUSPENSION OF THEIR PROMOTION TO CHIEF ENGINEER AND ENGINEER I, RESPECTIVELY.

Reference is made to the decision which was taken in Cabinet on the 21st October, 1969, in the case against Messrs. M. Mifsud Bonnici and A. Muscat, Deputy Chief Engineer and Engineer II respectively, to the effect that no disciplinary action is to be taken against them but their appointment to Chief Engineer and to Engineer I is not to be proceeded with.

2. Mr Mifsud Bonnici and Mr Muscat have both felt aggrieved by the said decision and they have made submissions for a re-consideration of their case. A copy of the memorandum submitted by each of them is attached.

3. The facts that led to the above decision were briefly the following. In August 1968, pursuant to a Parliamentary question asking who were the directors of the Malta Installations Co. Ltd., Mr M. Mifsud Bonnici and Mr A. Muscat reported to the then Postmaster General, Mr I. Xuereb, that the said company was owned between them in equal shares. They also informed him that the company, the affairs of which were all in the hands of managing directors, had been awarded a small contract by the Department.

4. The Postmaster General did not take action under the Public Service (Disciplinary Procedure) Regulations, but simply ordered them to regularise the position immediately. The two engineers took immediate action to sell their holdings but the arrangement for the sale and the production of a deed of sale acceptable to the Crown Advocate General took up to March 1969.

5. In the meantime the Postmaster General died and his successor, with the concurrence of this Ministry, recommended that as the Department had a number of posts of engineers vacant and the number of experienced engineers was very limited, no disciplinary action be taken against Mr Mifsud Bonnici and Mr Muscat but, to show them disapproval of their misconduct, their appointment which was due to

/have effect .....

have effect from the 12th February, 1968 in the case of the former and from 1st October, 1966, in the case of the latter, be made effective from the 23rd May, 1969, that is with a delay of 15 and 24 months respectively.

6. Following the said recommendations the case was discussed in Cabinet with the result stated at paragraph 1 of this memorandum.

7. Without losing sight of the seriousness of the case although the two engineers might not have realised it at the time, for if they had done so, Mr Mifsud Bonnici would certainly not have refused the appointment as Chief Engineer which was offered to him prior to the detection of the irregularity, this Ministry would very much wish that in the interest of the Department, the decision for the withholding of the appointment indefinitely, be reviewed.

8. In order to cope with the great increase in the demand for telephone service that the economic and social development of Malta has brought with it, the Department is preparing a vast expansion programme for the next five years to the value of over £7,000,000. Such a vast programme, however, will require an adequate engineering staff. The Department has three vacant posts of engineers and there is no likelihood of their being filled for a long time, for telephone engineers are in short supply, not only here but all over the world and our Polytechnic is not producing them at the rate needed by the Malta Electricity Board and the Telephone Department. Of the serving engineers only three are chartered, Mr Mifsud Bonnici the senior, Mr Mule' Stagno and Mr Barbara. The latter is a retained pensioner. Mr Mule' Stagno obtained his M.I.E.E. only last month. Of the remaining engineers, Mr Muscat is the most senior and most experienced because, besides having the necessary academic qualifications, he has also years of experience. He is also expected to get his M.I.E.E. shortly.

9. Mr Mifsud Bonnici is the most experienced engineer in the Department and he has been performing the duties of Chief Engineer since February 1968. Mr Muscat has also been doing duties of an Engineer I and a Senior Engineer for a long time. In their submissions these two

/engineers have ...../



engineers have stated that they have been working very hard and for long hours in the interest of the Department. The present Postmaster General confirms that during his appointment all the engineering staff have been exerting themselves to the limit for as stated above, apart from the existing vacancies of engineers, which it has, the department is under a constant heavy pressure of work.

10. The two engineers have also submitted "that the withholding of their appointment is having a depressing effect on them and their families and is also creating for them an invidious position in the Department". This cannot but be true because they have been labouring under an anxiety state since August 1968. The decision to suspend their promotion indefinitely will now continue to undermine not only all their good will and zeal to work diligently and efficiently but will also undermine their authority over their subordinates and their position in relation to all those within and outside Government Service with whom they might have official dealings.

11. In the case of Mr Muscat, it has also to be stated that the suspension of his appointment as Engineer I is also blocking his appointment as Senior Engineer from the 1st April, 1969.

12. The moral and financial effect that the delay on their appointment has had on these two engineers and on their families cannot be considered as a light punishment even though it may not perhaps be considered adequate to the nature of their irregularity, but all the same it has taught them a very hard lesson which shall be to them a constant deterrent against any further misconduct in the future.

13. It is, therefore, recommended rather in the interest of the Department that their case be reconsidered and their appointment be approved from the date recommended by the Postmaster General with the concurrence of this Ministry or from any later date which Cabinet Ministers may consider appropriate. It is further recommended that a definite date on which it may be given to them be established for thereby they will be relieved of the anxiety state from which they are suffering and thereby be able to give good service to Government.

12 DEC 1969

## Memorandum by Maurice Kufus Bonnici

- 1/ The letter dated 24<sup>th</sup> January, 1968 and signed by the Honorable Minister of Trade Industry and Agriculture appointing me Chief Engineer as from the 11<sup>th</sup> February, 1968 was handed to me.
- 2/ By letter-minute dated 29<sup>th</sup> January, 1968 (copy of which is attached hereto) addressed to the Honorable Minister of Trade Industry and Agriculture, I stated that unless the conditions obtaining then in the Department were improved to enable me perform my duties as Chief Engineer effectively, I was left with no other option but to be unable to accept this appointment. The letter of appointment was therefore returned to the Honorable Minister.
- 3/ As I have stated in my letter, my refusal was not intended as a gesture to embarrass in any way Government. In fact I have accepted to act as Chief Engineer, and in February, 1968 I was sent as the head of a Departmental Delegation to Rome to hold discussions with the Italian Government. Following my interview with the Honorable Minister of Trade Industry and Agriculture on the 15<sup>th</sup> May, 1968 during which I was given to understand that Government had the intention of improving these conditions, I accepted the appointment of Chief Engineer by a letter which I wrote on the 24<sup>th</sup> May 1968 (copy of which is attached hereto)
- 5/ Following the acceptance on my part, the Administrative Secretary recommended in writing that my appointment be back-dated from the 11<sup>th</sup> February, 1968

- 6 Before I received the letter of appointment, questions were made in the House of Representatives to the Honorable Minister of Trade Industry and Agriculture on the 2<sup>nd</sup> June, 1968 regarding the Malta Installations Ltd.
- 7 When formulating the draft reply to these Parliamentary Questions the late Postmaster General, Mr. Igino Xerri, asked me whether there was anyone of my staff who had an interest in the Malta Installations Ltd. At this point I made known to him that both Mr. Anthony Muscat and myself had equal shares in this Company which is registered as a Commercial Partnership.
- 8 Later on the late Postmaster General drew my attention to that part of the Estate Code which refers to shares owned by Government employees. He asked me to regularise matters to which I replied that we both intended to sell all our shares.
- 9 The late Postmaster General stated to me that as he was satisfied that I have never used my official position to prefer in any way the Malta Installations Ltd in connection with tenders of the Department, he was not going to proceed with a formal report of the case.
- 10 I at once took action to regularise my position and although with difficulty I did dispose of all my shares by the Private Writing dated 10<sup>th</sup> October, 1968. This private agreement was immediately handed to the Postmaster General.
- 11 In early January, 1969 the late Postmaster General told me that the Crown Advocate General did not accept the wording of the Private Writing mentioned above



and advised me to revise it in accordance with the wishes of the Crown Advocate General

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Mr. A. Muscat and I took the matter up immediately with our Legal Adviser and our Notary Public. Although both the Notary Public and our Legal Adviser maintained that the original agreement was correct, both of us insisted that it should be amended to cover the point raised by the Crown Advocate General.

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Our Notary Public then called on the Crown Advocate General to discuss the proposed amendment

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The new wording was acceptable to the Crown Advocate General and was incorporated in the private writing which we signed on the 14th March, 1969. This agreement was handed to Mr. J. Buttegej, the Postmaster General, on or about the 15th March, 1969.

15

As it has been decided by the Cabinet that no disciplinary action should be taken against me I fail to understand why my appointment as Chief Engineer should not now be proceeded with

As the Private Writing has been accepted by the Crown Advocate General there would not appear to be any further action which I am called upon to take to rectify my position. I wish to state further that I have no connection with the Malta Installations Ltd and with any other commercial concern.

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I have always placed the interests of the Department above my own. I have worked exceedingly long hours and in my devotion to duty have practically gone without vacation leave especially in recent years

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I am confident that the late Postmaster General was influenced by these facts when he

- 4 -

decided not to recommend that disciplinary  
action be taken against me.

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It will be appreciated that the withholding  
of my appointment to Chief Engineer is having  
a demoralizing effect not only on me but on my  
family. It is also creating an invidious position  
for me in the Department.

Maurice Alfred Bonnici  
5th December, 1969.

COPY

29th January, 1968

The Hon Minister of Trade Industry and Agriculture,

On being offered the post of Chief Engineer I wish to thank you and the Postmaster General for having recommended me for this promotion and for the gratitude you have shown me by being so appreciative of my unflinching devotion to my duties. I wish also to thank the Prime Minister for offering me the appointment, and other officials who have in some way helped me to be privileged by this offer. However as I have already explained in detail in my letter-minute which I submitted to your Secretary on the 19th January, 1968, the following conditions and customs existing in the department make it impossible for me to accept this nomination:

1. Although the Chief Engineer deals invariably directly with the Postmaster General a great amount of interference in the management of his section is exercised by other officials who render it very difficult for the Chief Engineer to conduct his normal duties.
2. The close association of the Chief Engineer with the Postmaster General in the field of decision-making and formulation of policy, entitles the Chief Engineer to aspire for the title of Assistant Postmaster General or Director of Telecommunications, which I believe is more indicative of his duties and responsibilities, from where he should have the opportunity of becoming subsequently Postmaster General.
3. The re-establishment of the structure in which there were before the Anomalies Revision reshuffle two Senior Engineers over the basic Engineers. It is very difficult and practically impossible to run such a highly technical Department such as the Telephones Branch without these controlling Engineers. It is however believed that in order to be more indicative of the relative duties and responsibilities these Senior Engineers should be designated Chief Engineers. Because of the reasons mentioned in my letter-minute mentioned above, the post of Deputy Director is indispensable.

I regret to say that <sup>unless</sup> I am offered a post which I could possibly occupy effectively with the conditions obtaining at present in the Department, I am left with no other option but to be unable to accept this appointment. I am aware of my duties of Deputy Chief Engineer, and here I wish to state that my refusal is not intended as a gesture to embarrass in any way Government, but rather as a direct effect of the impracticability of the offer. My action serves also as an opportunity for Government to reconsider its responsibilities to offer me a post and better opportunities more in resonance with my responsibilities and fair aspirations.

Sd M. Mifsud Bennici  
Deputy Chief Engineer.



COPY

Central Telephone Exchange

Marsa

24th May, 1968.

The Hon Minister of Trade Industry and Agriculture,  
(Through Postmaster General)

In the last interview which you granted me on Wednesday 15th instant I was given to understand that Government intend to re-organise the Telephones Department in order to be able to shoulder the new responsibilities and at the same time meet the expiration of the Telephone Branch. Referring to my letter dated 29th January, 1968 I wish to state that I had then made it clear that unless the conditions obtaining at present in the Department are improved to enable me perform my duties effectively as Chief Engineer I am left with no other option but to be unable to accept this appointment. Once I have now reason to believe that these conditions will improve, I accept the appointment of Chief Engineer and submit that this appointment be back-dated to the 11th February, 1968---the date I took over the responsibilities of Chief Engineer on the retirement of my predecessor. I understand that as Chief Engineer I will be responsible directly to the Postmaster General and that as the head of the Telephone Division I will be directly under the Postmaster General in the Posts and Telephones Department Organisation.

I am attaching herewith a report with recommendations on the reorganization of this Department. The situation in this Department is already getting out of hand and with the Third Five Year Development Plan at the doorstep with an expenditure of about four million pounds looming on the horizon, it is least desirable and less sensible to delay unnecessarily the application of the necessary remedies.

26 Maurice Mifsud Bennici

Acting Chief Engineer.

MEMORANDUM PREPARED BY A. H. MUSCAT

L-ARKIVJI NAZZJONALI TA' MALTA

1. About January, 1968, prior to calling for applications to fill vacant posts for Engineers within the Department, the late P.M.G. recommended to the Public Service Commission that both Mr. V. Hule' Stango and myself be appointed Engineers I on the grounds that, we both were Associate Members I.E.E., were performing the duties of Senior Engineers - Eng I - (my acting appointment to this post was approved in writing by the late P.M.G. on the 24th August, 1967) and also in order to eliminate the possibility of newly recruited Engineers, holding the M.I.E.E., be automatically appointed Engineers I before we had obtained this qualification.

2. In May, 1968, the late P.M.G. officially informed me that I had been appointed Engineer I. This was not immediately confirmed in writing because the Department, without any prompting from me, was trying to get my appointment back dated to the date on which I was elected Assoc. Memb. I.E.E. i.e. October, 1967. In this connection I should mention that Mr. V. Hule' Stango did in fact have his appointment to Eng. I. back dated.

3. Towards the end of June 1968, Mr. H. Hifsud Bonnici, the Acting Chief Engineer, informed me that as a result of a Question put to the Honourable Minister of Trade, Industry, and Agriculture in the House of Representatives on the 24th June 1968, the late P.M.G. had made enquires about the Company Malta Installations Ltd. Mr. Hifsud Bonnici informed me that he had told the late P.M.G. that both he (Mr. H. Hifsud Bonnici) and myself had equal shares in the said Company. I agreed with Mr. H. Hifsud Bonnici's

## Action.

4. About the middle of July 1968, at his request, I gave the late P.M.G. details of my involvement in Malta Installations Ltd. and confirmed that I had 50% of the shares in it and that the remaining 50% were owned by Mr. H. Mifsud Bonnici.
5. The late P.M.G. pointed out that by having shares in the Company I was in breach of the Estacode. I then admitted that in the circumstances I was in breach of the Estacode and asked the late P.M.G. to accept my apologies for what I have done. He stated that he was satisfied that I had never used my official position to prefer in anyway the said Company in connection with the work the Malta Installations made to the Department.
6. I at once took action, and although with difficulty, did dispose of all my shares by the "Private Writing" dated 10th October, 1968. This Private Writing was immediately handed to the late P.M.G.
7. In the meantime Mr. H. Mifsud Bonnici informed me that he had been told by the late P.M.G. that the P.M.G. had no intention of proceeding with a formal report on the matter.
8. In early January, 1969 the late P.M.G. told me that the Crown Advocate General did not accept the wording of the "Private Writing" and advised me to revise it in accordance with the wishes of the C.A.G.
9. Mr. Mifsud Bonnici and I immediately took the matter up with our Legal Adviser and the Notary Public. Although both our legal advisers and the Notary Public maintained that the original



Private Writing was correct, Mr Mifsud Bonnici and I insisted that it should be amended to cover the point raised by the C.A.C. The Notary Public then called on the C.A.C. to discuss the proposed amendment.

10. The new wording was acceptable to the C.A.C. and was incorporated in the Private Writing which we signed on the 14th March, 1969. This agreement was handed to Mr. J. Buttigieg, the P.M.C. on or about the 15th March, 1969.

11. 'As it has been decided by the Cabinet that no disciplinary action should be taken against me I fail to understand why my appointment as Eng. I should not now be proceeded with.

12. As the Private Writing has been accepted by the C.A.C. there would not appear to be any further action which I am called upon to take to rectify my position. I wish to state further that I have no connection with the Malta Installations Co. Ltd. or with any other commercial concern.

13. I have always placed the interests of the Department above my own. I have worked exceedingly long hours, especially since August, 1967, and in my devotion to duty have practically gone without my vacation leave in recent years.

14. I am confident that the late P.M.C. was influenced by these factors when he decided not to recommend that disciplinary action be taken against me.

15. Applications for posts of Engineers are constantly being called for and it is possible

that new applicants holding the M.I.E.E. could in present circumstances be appointed senior to me despite my long service and experience.

16. A situation is now developing where Engineers who are my juniors may be promoted to a grade above my present appointment, although I am performing the duties of a Senior Engineer.

17. It will be appreciated that the withholding of my appointment to Eng. I for over two years and to Senior Engineer since 1st April, 1969 is having a demoralizing effect not only on me but on my family. It is also creating an invidious position for me in the Department.

Rudolf Munn

4th. December, 1969.

A B I L L  
entitled

AN ACT to make provisions relating to the extradition to and from Commonwealth Countries of persons accused of, or sentenced for, offences.

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. 1. This Act may be cited as the Extradition (Commonwealth Countries) Act, 1970.

Persons liable to be returned.

2. Subject to the provisions of this Act, a person found in Malta who is accused of an extradition crime in any other country being a Commonwealth country designated for the purposes of this section under subsection (1) of section 3 of this Act or who is alleged to be unlawfully at large after conviction of such an offence in any such country, may be arrested and returned to that country as provided by this Act.

Designated Commonwealth countries.

3. (1) The Governor-General may by Order designate for the purposes of section 2 of this Act any country for the time being mentioned in subsection (3) of section 29 of the Constitution of Malta (countries having separate citizenship), or any other country within the Commonwealth; and any country so designated is in this Act referred to as a designated Commonwealth country.

(2) The Governor-General may by order direct that this Act shall have effect in relation to the return of persons to, or in relation to persons returned from, any designated Commonwealth country subject to such exceptions, adaptations or modifications as may be specified in the order.



(3) An order containing any such direction as is authorised by the last preceding subsection shall not be made by the Governor-General unless a draft of the order has been laid before the House of Representatives and approved by resolution of the same.

(4) For the purposes of an order made under subsection (1) or (2) of this section -

(a) a colony, territory or protectorate of a country;

(b) a territory for the international relations of which a country is responsible; and

(c) a ship or an aircraft of, or registered in, a country other than Malta,

shall, unless the contrary intention appears, each be deemed to be within the jurisdiction, and to be part, of that country.

(5) The last preceding subsection does not apply in relation to a colony, territory or protectorate of a designated Commonwealth country or in relation to a territory for the international relations of which a designated Commonwealth country is responsible, if the colony, territory or protectorate is itself a designated Commonwealth country.

Extradition offences.

4. (1) For the purposes of this Act an offence of which a person is accused or has been convicted in a designated Commonwealth country is an extradition offence if -

(a) it is an offence which, however described in the law of that country, falls within any of the descriptions set out in the First Schedule to this Act, and is punishable under that law with imprisonment for a term of twelve months or

any greater punishment; and

(b) the act or omission constituting the offence, or the equivalent act or omission, would constitute an offence against the law of Malta if it took place within Malta or, in the case of an extra-territorial offence, in corresponding circumstances outside Malta.

(2) In determining for the purposes of this section whether an offence against the law of a designated Commonwealth country falls within a description set out in the said First Schedule, any special intent or state of mind or special circumstances of aggravation which may be necessary to constitute that offence under the law of Malta shall be disregarded.

(3) The descriptions set out in the said First Schedule include the offences therein described whether accompanied by an aggravating or mitigating circumstance, or not, and include complicity in any such offence as well as the attempt to commit any such offence within the meaning respectively of sections 42 and 43 of the Criminal Code.

(4) References in this section to the law of any country include references to the law of any part of that country.

5. (1) A person shall not be returned under this Act to a designated Commonwealth country, or committed to or kept in custody for the purposes of such return, if it appears to the Minister responsible for Justice (in this Act hereinafter referred to as "the Minister") or to the competent court -

(a) that the offence of which that person is accused or was convicted is an offence of a political character;

(b) that the request for his return (though purporting to be made on account of an extradition offence) is in fact made for the purpose of prosecuting or punishing him on account of his race, place of origin, nationality, political opinions, colour or creed, or

(c) that he might, if returned, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, place of origin, nationality, political opinions, colour or creed.

(2) A person accused of an offence shall not be returned under this Act to any country, or committed to or kept in custody for the purposes of such return, if it appears to the competent court that if charged with that offence in Malta he would be entitled to be acquitted under any provision of law relating to previous acquittal or conviction.

(3) A person shall not be returned under this Act to any country, or committed to or kept in custody for the purpose of such return, unless provision is made by the law of that country or by an arrangement made with that country, for securing that he will not, unless he has first been restored or had an opportunity of returning to Malta, be dealt with in that country for or in respect of any offence committed before his return under this Act other than -

(a) the offence in respect of which his return under this Act is requested;

(b) any lesser offence proved by the facts proved before the Court of committal;

(c) any other offence being an extradition offence in respect of which the Minister may consent to his being so dealt with.



(4) Any such arrangement as is mentioned in the last preceding subsection may be an arrangement made for the particular case or an arrangement of a more general nature; and for the purposes of that subsection a certificate issued by or under the authority of the Minister confirming the existence of an arrangement with any country and stating its terms shall be conclusive evidence of the matters contained in the certificate.

(5) In this section "competent court" means a court, whether of first instance or of appeal, within whose competence the decision on any matter lies and whose decision on such matter has become "res judicata".

Authority  
to proceed.

6. (1) Subject to the provisions of this Act relating to provisional warrants, a person shall not be dealt with thereunder except in pursuance of an order of the Minister (in this Act referred to as an authority to proceed), issued in pursuance of a request made to the Minister by or on behalf of the Government of the designated Commonwealth country in which the person to be returned is accused or was convicted.

(2) There shall be furnished with any request made for the purposes of this section on behalf of any country -

(a) in the case of a person accused of an offence, a warrant for his arrest issued in that country;

(b) in the case of a person unlawfully at large after conviction of an offence, a certificate of the conviction and sentence in that country, and a statement of the amount if any of that sentence which has been served, together (in each case) with particulars of the person whose return is requested and of the facts upon which

and the law under which he is accused or was convicted, and evidence sufficient to justify the issue of a warrant for his arrest under section 7 of this Act.

(3) On receipt of such a request the Minister may issue an authority to proceed unless it appears to him that an order for the return of the person concerned could not lawfully be made, in accordance with the provisions of this Act.

Arrest  
for pur-  
poses of  
committal.

7. (1) A warrant for the arrest of a person accused of an extradition offence, or alleged to be unlawfully at large after conviction of such an offence, may be issued by a Magistrate of Judicial Police for the Island of Malta -

(a) on the receipt of an authority to proceed;

(b) without such authority, upon information that the said person is or is believed to be in or on his way to Malta; and any warrant issued by virtue of paragraph (b) above is in this Act referred to as a provisional warrant.

(2) A warrant of arrest under this section may be issued upon such evidence as would, in the opinion of the magistrate, authorise the issue of a warrant for the arrest of a person accused of committing a corresponding offence or, as the case may be, of a person alleged to be unlawfully at large after conviction of an offence, within the jurisdiction of the courts of criminal justice of Malta.

(3) Where a provisional warrant is issued under this section, the magistrate by whom it is issued shall forthwith give notice to the Minister, and transmit to him the information and evidence, or certified copies of the information and evidence,

upon which it was issued; and the Minister may in any case, and shall if he decides not to issue an authority to proceed in respect of the person to whom the warrant relates, by order cancel the warrant and, if that person has been arrested thereunder, discharge him from custody.

(4) A warrant of arrest issued under this section shall be forthwith executed by a police officer.

(5) The provisions of sections 362, 363(1), 364, 366, 367 and 369 of the Criminal Code shall apply "mutatis mutandis" to a warrant of arrest and to a warrant of search issued for the purposes of this Act.

Proceedings for committal.

8. (1) A person arrested in pursuance of a warrant under section 7 of this Act shall (unless previously discharged under subsection (3) of that section) be brought as soon as practicable and in any case not later than forty-eight hours from his arrest before the Court of Judicial Police for the Island of Malta as a court of criminal enquiry (in this Act referred to as the court of committal) which shall have for the purposes of proceedings under this section the same powers, as nearly as may be, including power to remand in custody or on bail, as the said court has when sitting as aforesaid.

(2) Where the person arrested is in custody by virtue of a provisional warrant and no authority to proceed has been received in respect of him, the court of committal may fix a reasonable period (of which the Court shall give notice to the Minister) after which he will be discharged from custody unless such an authority has been received.

L-ARKIVI NAZZONALI TA' MALTA



(3) where an authority to proceed has been issued in respect of the person arrested and the court of committal is satisfied, after hearing any evidence tendered in support of the request for the return of that person or on behalf of that person, that the offence to which the authority relates is an extradition offence and it is further satisfied -

(a) where the person is accused of the offence, that the evidence would be sufficient to warrant his trial for that offence if it had been committed within the jurisdiction of the Courts of Criminal Justice of Malta;

(b) where that person is alleged to be unlawfully at large after conviction of the offence, that he has been so convicted and appears to be so at large,

the court shall, unless his committal is prohibited by any other provision of this Act, commit him to custody to await his return thereunder; but if the court is not so satisfied or if the committal of that person is so prohibited, the court shall discharge him from custody.

Duty of  
Court of  
committal.

9. (1) Without prejudice to the provision of section 3 of the Extradition Ordinance, where a person is committed to custody under section 8 of this Act, the Court shall, besides informing him as is required under the said section 3, also inform him that, if he thinks that any of the provisions of subsections (1) or (2) of section 5 of this Act has been contravened or that any provision of the Constitution of Malta is, has been or is likely to be so contravened in relation to his person as to justify a reversal, annulment or modification of the Court's order of committal, he has the right to apply

for redress in accordance with the provisions of section 47 of the said Constitution.

(2) A person committed to custody under the said section 8 shall not be returned under this Act -

(a) in any case, until the expiration of the period of fifteen days beginning with the day on which the order for his committal is made;

(b) if the person committed for custody is entitled to institute any proceedings, whether of appeal or otherwise, which may lead to the reversal, annulment or modification of the Court's order of committal, and there is established by law or there has been fixed by a Court's order or judgment a time-limit within which such proceedings are to be instituted, until the expiration of such time-limit;

(c) if any proceedings referred to in the last preceding paragraph have been instituted, until the conclusion of such proceedings:

Provided that the proceedings shall be deemed to have been concluded also if they have been withdrawn or abandoned.

(3) On any application of appeal under section 4 of the Extradition Ordinance, the Court of Criminal Appeal, sitting as a court of appeal from judgments of the Court of Judicial Police, or on any application of appeal under section 47 of the Constitution of Malta the Constitutional Court, may, without prejudice to any other jurisdiction of the Court, order the person committed to be discharged from custody if it appears to the Court that -

(a) by reason of the trivial nature of the offence of which he is accused or was convicted; or

(b) by reason of the passage of time since he is alleged to have committed it or to have become unlawfully at large, as the case may be; or

(c) because the accusation against him is not made in good faith in the interests of justice,

it would, having regard to all the circumstances, be unjust or oppressive to return him.

Order for return to requesting country.

10. (1) Where a person is committed to await his return and is not discharged by order of the Court of Criminal Appeal or of any other competent court, the Minister may by warrant order him to be returned to the country by which the request for his return was made unless the return of that person is prohibited, or prohibited for the time being, by section 5 of this Act or this section, or the Minister decides under this section to make no such order in his case.

(2) An order shall not be made under this section in the case of a person who is serving a sentence of hard labour, imprisonment or detention, or is charged with an offence, in Malta -

(a) in the case of a person serving such sentence, until the sentence has been served;

(b) in the case of a person charged with an offence, until the charge is disposed of or withdrawn and, if it results in a sentence of hard labour, imprisonment or



detention, until the sentence has been served.

(3) The Minister shall not make an order under this section in the case of any person if it appears to the Minister, on the grounds mentioned in subsection (3) of section 9 of this Act, that it would be unjust or oppressive to return that person or if he considers, on any such grounds as are mentioned in paragraphs (a) to (c) of subsection (1) of section 5 of this Act, that the order ought not to be made.

(4) The Minister may decide to make no order under this section in the case of a person accused or convicted of an extradition offence not punishable with death in Malta if that person could be or has been sentenced to death for that offence in the country by which the request for his return is made.

(5) The Minister may decide to make no order under this section for the return of a person committed in consequence of a request made on behalf of any country if another request for his return under this Act or any other extradition law for the time being in force in Malta has been made on behalf of another country and it appears to the Minister, having regard to all the circumstances of the case and in particular -

(a) the relative seriousness of the offence in question;

(b) the date on which each such request or requisition was made; and

(c) the nationality or citizenship of the person concerned and his ordinary residence,

that preference should be given to the other request or requisition.

(6) Notice of the issue of a warrant under

this section shall forthwith be given to the person to be returned thereunder.

Discharge  
in case of  
delay in  
returning.

11. (1) If any person committed to await his return is in custody in Malta under this Act after the expiration of the following period, that is to say -

(a) in any case, the period of two months beginning with the first day on which, having regard to subsection (2) of section 9 of this Act, he could have been returned;

(b) where a warrant for his return has been issued under section 10 of this Act, the period of one month beginning with the day on which that warrant was issued,

he may apply to the Court of Criminal Appeal, sitting as a court of appeal from judgments of the Court of Judicial Police, for his discharge.

(2) If upon any such application the Court is satisfied that reasonable notice of the proposed application has been given to the Minister, the Court may, unless sufficient cause is shown to the contrary, by order direct the applicant to be discharged from custody, and, if a warrant for his return has been issued under the said section 10, quash that warrant.

Evidence.

12. (1) In any proceedings under this Act, including proceedings referred to in section 5 in respect of a person in custody thereunder -

(a) a document, duly authenticated, which purports to set out evidence given on oath in a designated Commonwealth country shall be admissible as evidence of the matters stated therein;

(b) a document, duly authenticated, which purports to have been received in evidence, or to be a copy of a document so received, in any proceeding in any such country shall be admissible as evidence:

(c) a document, duly authenticated, which certifies that a person was convicted on a date specified in the document of an offence against the law of, or of part of, any such country shall be admissible as evidence of the fact and date of the conviction.

(2) A document shall be deemed to be duly authenticated for the purpose of this section -

(a) in the case of a document purporting to set out evidence given as aforesaid, if the document purports to be certified by a judge or magistrate or officer in or of that country to be the original document containing or recording that testimony or a true copy of that original document;

(b) in the case of a document that purports to have been received in evidence as aforesaid or to be a copy of a document so received, if the document purports to be certified as aforesaid to have been, or to be a true copy of a document which has been, so received;

(c) in the case of a document which certifies that a person was convicted as aforesaid, if the document purports to be certified as aforesaid,

and in any such case the document is authenticated either by the oath of a witness or by the official seal of a Minister in or of the designated Commonwealth country.



(3) In this section "oath" includes affirmation or declaration; and nothing in this section shall prejudice the admission in evidence of any document which is admissible in evidence apart from this section.

Custody.

13. (1) Any person remanded or committed for custody under section 8 of this Act shall be committed to the Corradino Prison or to a place appointed for the purpose by the Minister and shall in any case be treated as a person awaiting trial.

(2) Such person shall be deemed to be in legal custody from the moment that he is so remanded or committed until he is beyond the jurisdiction of the Courts of Criminal Justice of Malta.

Restriction upon proceedings for other offences.

14. (1) This section applies to any person accused or convicted of an offence under the law of Malta who is returned to Malta from any designated Commonwealth country under any law of that country corresponding with this Act.

(2) A person to whom this section applies shall not, during the period described in subsection (3) of this section, be dealt with in Malta for or in respect of any offence committed before he was returned to Malta other than -

(a) the offence in respect of which he was returned;

(b) any lesser offence proved by the facts proved for the purposes of securing his return; or

(c) any other offence in respect of which the Government of the country from which he was returned may consent to his being dealt with.

(3) The period referred to in subsection (2) of this section in relation to a person to whom this section applies is the period beginning with the day of his arrival in Malta on his return as mentioned in subsection (1) of this section and ending forty-five days after the first subsequent day on which he had the opportunity to leave Malta.

(4) The provisions of section 535 of the Criminal Code shall not apply in relation to a person to whom this section applies if the institution or continuation of criminal proceedings against him is precluded by the operation of the foregoing provisions of this section.

Restoration of persons not tried or acquitted.

15. (1) This section applies to any person accused of an offence under the law of Malta who is returned to Malta as mentioned in subsection (1) of section 14 of this Act.

(2) If in the case of a person to whom this section applies, either -

(a) proceedings against him for the offence for which he was returned or for an offence for which he may be dealt with in accordance with paragraph (b) or (c) of subsection (2) of section 14 of this Act are not begun within the period of three months beginning with the day of his arrival in Malta on being returned; or

(b) on his trial for that offence, he is acquitted, or he is discharged absolutely or conditionally under the provisions of the Probation of Offenders Act, 1957

the Minister may, if he thinks fit, on the request of that person, arrange for him to be sent back free of charge and with as little delay as possible to the country from which he was returned.

Form of  
warrants  
and orders.

16. The Minister may by regulations prescribe the form of any warrant or order to be issued or made under the provisions of this Act.

Repeal.

17. (1) Saving the provision of the next following subsection, the Fugitive Offenders Act, 1881, so far as in force in the law of Malta, shall cease to have such force.

(2) Any proceedings commenced under the provisions of the Fugitive Offenders Act, 1881, before the coming into force of this Act, shall be deemed to have been properly commenced and shall continue to be governed by those provisions except that, where any provisions are introduced by this Act which afford to the person concerned a protection or an advantage which the former Act did not afford or which afford to such person a greater protection or advantage than those afforded by the former Act, such provisions of this Act shall apply.

Amendments  
of the  
Extradition  
Ordinance  
(Cap.33)

18. The provisions of the Extradition Ordinance specified in the First Column of the second schedule to this Act shall be amended in the manner and to the extent specified in the second Column of the said schedule.

Schedules  
First schedule

(Section 3)

1. Wilful homicide.
2. Involuntary homicide.
3. An offence against the law relating to abortion.
4. Wilful grievous bodily harm.
5. Assault occasioning actual bodily harm.
6. Rape (carnal knowledge with violence).
7. Abduction.

/17...



8. Unlawful sexual intercourse with a female.
9. Violent indecent assault.
10. Procuring, or trafficking in, women or young persons for immoral purposes.
11. Bigamy.
12. Illegal arrest, detention or confinement, or dealing in slaves.
13. Unlawful removal of persons to a foreign country or confinement therein.
14. Kidnapping, abandoning or exposing a child.
15. Bribery.
16. Perjury or subornation of perjury or conspiring to defeat the course of justice.
17. Arson or fire-raising.
18. An offence concerning counterfeit currency.
19. An offence against the law relating to forgery.
20. Theft.
  
21. Misappropriation, fraud relating to insurance, barratry, fraudulent breach of trust in respect of powers signed in blank or otherwise, commercial or industrial fraud, obtaining money or property by false pretences, other cases of fraudulent gain.
22. Receiving stolen property or property which was misapplied or obtained by means of any offence, or knowingly taking part in the sale or disposal thereof.
23. Embezzlement.
24. Blackmail, private violence, unlawful exaction, extortion.
25. An offence against bankruptcy law or company law.
26. Malicious or wilful damage to property.
27. Acts done with the intention of endangering vehicles, vessels or aircraft.
28. An offence against the law relating to dangerous drugs or narcotics.
29. Piracy.
30. Revolt against the authority of the master of a ship or the commander of an aircraft.

Second Schedule

(Section 18)

First Column	Second Schedule
<p data-bbox="344 465 512 499">Section 3</p> <p data-bbox="344 815 600 965">Subsection (1) of section 4 and subsection (1) of section 8.</p> <p data-bbox="344 1037 600 1294">Section 7, subsection (2) of section 8, section 9, section 10 and subsection (1) of section 12.</p> <p data-bbox="344 1355 600 1417">Subsection (1) of section 11.</p>	<p data-bbox="651 465 1426 801">For the words "His Majesty's Criminal Court" there shall be substituted the words "Her Majesty's Court of Criminal Appeal sitting as a court of appeal from judgments of the Court of Judicial Police, hereinafter referred to as "Her Majesty's Court of Criminal Appeal" or "the Court of Criminal Appeal"."</p> <p data-bbox="651 815 1426 976">For the words "His Majesty's Criminal Court", wherever they occur, there shall be substituted the words "Her Majesty's Court of Criminal Appeal".</p> <p data-bbox="651 1037 1426 1198">For the words "the Criminal Court", wherever they occur, there shall be substituted the words "the Court of Criminal Appeal".</p> <p data-bbox="651 1355 1426 1516">For the words "the Criminal Court, sitting the Judge Ordinary" there shall be substituted the words "the Court of Criminal Appeal".</p>