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WEATHER FORECAST

(Issued by the Meteorological Office of the Civil Aviation Department)
General statement: A ridge of high pressure extends from the Black Sea to the Ionian Sea.

Forecast from dawn to dusk

Mainly sunny and warm. Visibility: good. Wind: mainly S'y light to moderate. Sea: slight. Swell: low S'y. Max. temp.: 29°C.

Luqa observations at noon

Mean sea level pressure.....1019.3 hPa
Wind.....S by W 8 kts.
Cloud.....2/8 cu
Relative humidity.....54%
Hours of bright sunshine.....10.4
Visibility.....20 km
Max. shade temp. during day.....29°C
Minimum temperature during previous night.....19°C
Average sea temp. around Malta.....26°C
Rainfall average Malta (past 24 hours up to noon yesterday).....nil
Average Gozo and Comino.....nil
Since September 1 for the Maltese islands.....24.8 mm
Sunrise.....6.49 a.m.
Sunset.....7 p.m.

From trilogy to trinity

Thoughts on consumer protection in Malta and the recent White Paper

by David Fabri, LL.D.

THERE have always been laws which directly or indirectly protected certain legitimate expectations of purchasers of goods. Controls over the price of commodities, prohibitions of false weights, measures and hallmarks, and controls over the sale of deteriorated substances and expired medical products have been with us for a long number of years; some regulations date back to the last century.

Much more recently, the Sixties witnessed the introduction of interesting statutes which in a variety of ways — not all successful — sought to secure a better service for the purchaser of certain goods and services. The principal statutes enacted in Malta during this period were the Trading Stamps Scheme (Restoration) Act 1964, the Malta Board of Standards Act 1965, and the Hotels and Catering Establishments Act 1967.

The Seventies saw the enactment of the Food, Drugs and Drinking Water Act 1972, which is still essential reading for anybody interested in consumer matters. This law was an almost literal reproduction of the original UK statute.

However we had to wait till the Eighties before real consumer protection measures entered our statute book. Indeed the Eighties heralded a trilogy of Acts of Parliament which for the first time explicitly referred to the figure of the "consumer" in recognition of the proposition that the consumer merited a particular status in the law.

The first blows were struck against the ancient civil law principle that sellers and buyers are all equal parties, each able and free to negotiate the best terms for themselves. This trilogy consisted of the Consumers Protection Act 1981, the Trade Descriptions Act 1986 and the Door-to-Door Salesmen Act 1987.

Although collectively these measures were a great step forward, one cannot fail to note that no proper organisation or infrastructure was put into place to ensure the adequate and effective enforcement of the laws.

The Consumer Protection Act was a short piece, pretentiously titled and hastily drafted a few weeks before the 1981 elections. Its section 6 established an immensely cumbersome procedure of control over the activities of consumer associations by a Parliamentary committee. A very discouraging and uncontrolled ministerial discretion determined the legal recognition or otherwise of any consumer association. This statute deserves the complete re-appraisal promised in the recently published White Paper.

The Trade Descriptions Act, another carbon copy of a UK law, was a much trumpeted affair, but its overall enforcement and its half-baked regulation of advertising methods left much to be desired. Not an easy law to read either.

The Door-to-Door Salesmen Act was a more confident production. Not perfect by any means, its direct approach and drafting marked an improvement over previous efforts. This Act provided safeguards against nasty salesmen practices. Enacted in response to an actual need, it revealed a more satisfactory understanding and identification of actual consumer concerns.

Competition not enough

Since its election in 1987, the present government has hardly distinguished itself in the consumer protection field. Not one single new law has been passed and the administration's sense of initiative has been unremarkable. The statement often repeated that the best form of consumer protection lies in providing a wider range of goods holds little water and discloses an ignorance of what consumer law is about.

Competition does not by itself exclude unfair trading practices. Instead, in a competitive environment, improper sales methods, whereby one trader seeks to unfairly gain an edge over his rivals, often become an integral element of the competition phenomenon.

One recalls with sadness Government's inertia in the context of the so-called "disclaimer clauses" which our local banks acting in concert (so much for competition!) unleashed one fine day on their unsuspecting customers. Both the substance and the method of this step were, or still are, highly controversial.

The strong public reaction failed to spur Government to take suitable remedial action. The banks, again proceeding with a collective voice, apparently promised to reconsider the controversial wording. Five months later the banks' legal minds are still wrestling with the huge task of re-drafting two short sentences.

The recent pronouncement by the Minister of Finance, in reply to a Parliamentary question, that the banks are engaged in discussions to re-word the disclaimer clause not only in the banks' own interest but also in furtherance of their customers' interests, was neither encouraging nor convincing.

Government has now published its White Paper inelegantly titled

"Rights for the Consumer". It has allotted three months for the public's comments. The wide-ranging legislative reforms contemplated in this document may pave the way for the most ambitious and extensive consumer protection measure ever undertaken in Malta, and may yet redeem the administration's credentials.

A brief glance at the contents on page 3 immediately displays the variety of matters tackled. One must however wait and see whether there is enough time for all the necessary laws and amendments to be passed through Parliament. At this stage, the time available may be too short.

No doubt, the publication of the White Paper is an important event, a turning point which should serve as a point of reference for any future discussion on consumer protection in Malta.

Deficiencies

But let us now briefly examine a number of deficiencies in the White Paper; some relate to matters of principle, others to points of detail.

(a) The title itself, "Rights for the Consumer", sounds more like an electoral slogan heralding a political handout rather than the title of a serious exercise.

(b) The Maltese text is often incomprehensible and one should opt for the English text. A few examples will suffice: para 148 reads, in English: "The law must accommodate new principles which safeguard the consumer and which redress the imbalance existing between the individual consumer and manufacturers, suppliers and other traders."

The Maltese version distorts the whole idea:

Il-ligi trid tahseb ghal principji god-da li jissalvagwardjaw lill-konsumatur individwali u dawk li jissupplixxu u negozjanti ohra.

We also find "cancellation" being converted into *kancellazzjoni* instead of *kancellament*, and "transaction" translated as *transazzjoni*, which means something completely different. Para 17 has "competing traders" turned into "*negozjanti kompetittivi*". A rather shabby performance for a document issued under the umbrella

of our Ministry of Education.

(c) The proposed Consumer Protection Council is described as the "focal point" around which much of the White Paper revolves. Para 22 makes reference to its "watchdog" function. One hopes that in reality the Council will not turn out to be a mere poodle, cute and harmless. The Council seems inherently weak, its composition relying mainly on government employees attending as ministerial nominees, some on a part-time basis. It has not been allocated any effective investigatory authority and is burdened with too many political masters. Can the Council be reasonably expected to take any worthwhile initiative when it has to satisfy and report to no less than a trinity of authorities, namely:

The Parliamentary Secretary responsible for Consumer Protection;
The Minister of Education (to whom the first one is accountable);
The Minister of Trade.

Too many cooks spoil the broth and three's a crowd, but not so, the government thinks, in the case of the proposed consumer watchdog. Neither does the White Paper disclose what funds, facilities and manpower will be allocated to the Council to enable it to function properly.

(d) Why should new consumer associations (para 39) register themselves twice, once with the Council and then with the Minister of Trade? The duplication is senseless and seems to have a closer connection with inter-ministerial sensitivities than with consumer protection.

Some of the early publicised reactions to the White Paper make interesting reading.

Latent defects

Daphne's comments (*The Sunday Times*, September 8) were substantially valid with one small exception. Quoting from para 80 of the White Paper, she complains that the law still permits a seller to reduce or withdraw the legal guarantee against latent defects, but fails to notice that the succeeding paragraph clearly proposes to "introduce a new legal principle to the effect that where an article being sold is new, then the legal warranty against serious hidden defects cannot be reduced or excluded".

Daphne's other concern about shopkeepers placing strategic signs to discourage customers from exercising their rights is of course a real one. But it shall be one of the primary functions of the proposed Council to stamp out such practices. Para 23 of the White Paper clearly states that the Council shall be empowered to pro-

(Continued on back page)

LOOKING AHEAD

YESTERDAY Malta began its 28th year of existence as an independent state — an anniversary our home-bred Socialists still childishly insist on running down, misinterpreting or ignoring altogether — and the Prime Minister, Dr. Fenech Adami, justifiably felt that an assessment of the change wrought so far by his four-year-old administration was in order.

The Nationalist Party's week-long activities marking the independence anniversary tried to convey what will probably be the theme of its electoral campaign: things have changed, appreciably, for the better, and will continue to get better, under PN management. It was a theme which Dr. Fenech Adami played again and again in the course of his speech at Friday's meeting.

Even allowing for the optimism induced by the partisan nature of the occasion, it is difficult not to be in basic agreement with Dr. Fenech Adami's assessment of the state of the nation today, which he could not help contrasting with that under the Socialists as recently as four and a half years ago.

The political polarisation which then pervaded Maltese society to such an extent, though still present, is much less noticeable today, and indeed, much less of a talking point. The country is enjoying full employment and although the Socialists frequently fret about living beyond our means, the fact is that while the Maltese are spending more (partly because of pent-up demand for goods they were denied for years under the Socialists), they are also producing more, exporting more and earning more, to the extent that further growth risks being stalled by shortages of skilled and trained labour, and of personnel in several key service areas. And yet, as Dr. Fenech Adami pointed out last Friday, employment in the private sector has grown by 9,000 since May, 1987.

The present administration immediately recognised what its priorities should be: an end to division, winning back international respect, overhauling the nation's infrastructure, essential to economic progress, and, above all, putting faith in the resourcefulness and potential of Malta's citizens.

It was this faith in the ability of the Maltese to face up to the challenges which lay ahead, Dr. Fenech Adami reminded his audience, which inspired the late Dr. George Borg Olivier to seek, and obtain, independence back in September 1964. And such faith must be a constant in every Maltese administration's plans, whatever its ideology.


As for the reshaping of the infrastructure, the present administration is well on its way to meeting its targets: the first phase of the new power station at Delimara, which the MLP had turned into a needlessly controversial issue, will come on stream within the next few months. The airport terminal, to handle the ever-growing number of tourists, is fast nearing completion; the water problem — so endemic and so widespread five years ago — has been largely overcome, except in some areas bedevilled by distribution and low-pressure problems, while telecommunications have expanded at an unbelievable pace (with the rising number of portable telephones providing one gauge of the nation's growing affluence) and the changeover to a digital system about to be completed.

On the international scene, Malta's stature has grown by leaps and bounds. The foreign minister, Professor Guido de Marco, has just completed his one-year term as president of the United Nations General Assembly, a role to which he brought initiative and dynamism, and one which served to highlight Malta's new image; the island has hosted a string of world leaders — from President Bush and President Gorbachev putting their seal to the end of the cold war in December, 1989, to the historic visit of Pope John Paul II in May, 1990, to German President von Weizsäcker, coming here a few days after his country's reunification, and President Cossiga of Italy last week.

Naturally, a few shadows remain, as Dr. Fenech Adami realistically acknowledged. The drugs problem has grown — no use trying to blame anyone in particular here — and the government is setting up a "central intelligence unit" (not a happy choice of name) to co-ordinate the fight against drugs. Closely allied to drugs, of course, is the growing crime rate, and there is no doubt that a large proportion of thefts, break-ins and hold-ups are drugs-related. Another growing headache is the environment, of which we all, government and citizens, need to become more aware.

Yet these problems, and problems there will always be, must be seen in their proper perspective. By no stretch of the imagination can they be compared to the far more serious, and basic, issues of democratic freedoms, political violence and intolerance, politically-inspired police torture and frame-ups, the survival of private schools, or the increasingly stifling presence of the State in all sectors of Maltese society, with which Malta had to deal in 16 years of Socialist rule.

These issues, so fundamental to democratic society, have been happily resolved since May 1987, the role of government (though still a formidable one) has been scaled back, citizens have been given a much bigger share in their country's future by being encouraged to invest in what have been hitherto state monopolies and, with the institution of local government (yet to come), should be able to play a more active role in the running of the country. The nation has good reason to look with confidence to the future, and particularly to taking its rightful place in the European Community, as warmly augured by President Cossiga last week.



FIFTY YEARS AGO

SEPTEMBER 21, 1941

KIEV

The latest Soviet communiqué speaks of fierce fighting at Kiev, while a Moscow broadcast adds that a life-and-death struggle is raging in the northern limits of the city. An Angora despatch claims that this battle is one of the fiercest and bloodiest the world has ever witnessed.

The official army organ, *Red Star*, declares that the "defenders of Kiev are fighting until death" and goes on to declare that of the 15 German divisions thrown against the approaches to the city, at least 10 were destroyed together with hundreds of tanks and aircraft.

STOP PRESS: A supplement to the Soviet midnight communiqué says that in three months of war the Germans have lost over 8,500 planes....

* * *

King Peter of Yugoslavia

St. Paul's Cathedral, London, was the scene on Tuesday of pomp and colour when Their Majesties the King and Queen, with Mr. Winston Churchill and members of the British cabinet, attended a special service to celebrate the coming of age, at 18, of King Peter II of Yugoslavia.

"The Times" tribute to Malta

A striking tribute to "great deeds in Malta" is paid in an Editorial of *The Times* (London) which recalls that air attacks upon Malta have already reached nearly 200 and adds... "The defensive place of the Island in our system of communication has been fundamental for more than a century."

"In the present war", *The Times* Editorial continues, "we have learnt that Malta can also vigorously perform an offensive function. Its impregnable resistance has enabled us to take the initiative in the air war in the central Mediterranean and constantly threaten communications of the Axis with Africa."

"It is because of that threat that the enemy can never afford to relax efforts to reduce this invincible fortress."

"When victory comes," concludes *The Times*, "no community of comparable size will have contributed more to it than the Maltese by their steadfast faith in Britain and their own courage."

* * *

Malta historian

Miss Elizabeth Wheeler Schermerhorn has followed up her successful book *Malta and the Knights* (published in 1929) with *On The Trail of the Eight-Pointed Cross* — a comprehensive study of the Knights Hospitallers in feudal Europe, published in New York by Putnam and Sons. Miss Schermerhorn is a recognised authority on the subject.

* * *

Points from letters

"X" writes: A reel of cotton, formerly twopence, is now one shilling and fourpence. Primus stoves, formerly six shillings and sixpence, are now two pounds. Instances could be multiplied. This, presumably, represents Malta's "total war effort".

"Total Tomfoolery" might better describe it.



Independence Day celebrations

(Continued from page 1)

dent, Dr. Vincent Tabone, who was greeted with the national salute.

Dr. Tabone then inspected the guard of honour and later attended the concelebrated Mass. The *Te Deum* was sung in thanksgiving.

Also present were the Deputy Prime Minister, Professor de Marco, and members of the Cabinet, the Speaker of the House of Representatives, Dr. Lawrence Gonzi, members of the diplomatic corps led by the Apostolic Nuncio, Mgr. Pier Luigi Celata, parliamentary secretaries, MPs and members of the Judiciary.

There was also Mrs. Alexandra Borg Olivier, widow of Dr. George Borg Olivier, first Prime Minister of independent Malta.

The ceremony continued at Floriana where Dr. Tabone and Dr. Fenech Adami laid wreaths at the foot of the Independence monument.

Independence activities in Gozo will be held this morning at 10.15 with a wreath-laying ceremony on Independence Square, Victoria, in which the Prime Minister will take part.

Message from Bush

President Bush sent a message to President Tabone on Friday congratulating him on Malta's Independence Day. Mr. Bush said: "We have seen our relations with your country steadily improve, and look forward to working together with Malta even more closely in the future in our many areas of mutual interest."

President Tabone also received a message from PLO Chairman Yasser Arafat, which he signed as President of the State of Palestine.

White Paper on consumer protection

(Continued from page 14)

hibit the use of unfair contractual terms in consumer contracts and to halt any other practice deemed harmful to consumers, including any conditions relating to the supply of goods and services, to the manner in which these are communicated to the public, etc.

The other letter carried last Sunday from the president of the *Ghaqda tal-Konsumaturi*, in reply to one of Daphne's comments, was remarkable in a distorted sense. First of all, it revealed that this association still exists, contrary to what most of us believed, and that it has apparently survived despite founder Jimmy Magro's increasing political commitments. Secondly Mr. Farrugia calls on Daphne to communicate her suggestions on the White Paper to the authorities. But weeks after its publication, we have yet to discover what the *Ghaqda's* own views are! Having been active in some form for nine years, this association should have been the best placed and the first to offer its studied critique. One may hope, therefore, that the publication of the White Paper may give the *Ghaqda* a new lease of life.

New association

On the contrary, one feels that no new lease of life can now arouse the *Ghaqda tal-Konsumaturi* (*Fergha Laboratorju tal-Paci*) which in 1982 published a booklet on various matters of consumer interest. It had emphasised the need to protect young consumers and was recognised by the Minister of Trade of the time in terms of the 1981 Act. Nothing has been heard from it since.

Alternattiva Demokratika has in the past months been very active in promoting consumer affairs particu-

PRESIDENT TABONE inspecting an AFM guard of honour on St. John's Square yesterday morning before leading the congregation (right) at the Pontifical High Mass in St. John's Co-Cathedral led by the Archbishop, Mgr. Mercieca.

Alternattiva's referendum campaign

ALTERNATTIVA DEMOKRATIKA has begun a campaign for the holding of a referendum on hunting.

The theme of the campaign, launched at Buskett on Friday, is *Il-Maggoranza Kontra l-Kacca* ("The majority is against hunting").

Dr. Wenzu Mintoff, *Alternattiva's* only MP, told a press conference that they will be circulating a public petition against hunting, which will be eventually presented in Parliament.

Alternattiva Demokratika, he continued, was proposing a two-year moratorium on hunting, followed by a referendum on the issue.

The movement also wanted the government to withdraw its permission for hunters to use land at Mizieb and L-Ahrax tal-Mellieha, and to stop giving part of the revenue from hunting licences to the hunters' association. This subsidy has so far totalled Lm18,000, Dr. Mintoff said.

Although the government wanted to join the European Community, it was not saying that this would restrict trapping and hunting. The Malta Labour Party, on the other hand, was not referring to hunting in their campaign but were promising hunters and

PN celebrations in Gozo

THE Nationalist Party's independence anniversary activities yesterday shifted from the Granaries in Floriana to Gozo, where a programme of music and other entertainment was held on St. Augustine Square in Victoria.

It ended with a message by the Prime Minister and Nationalist Party leader Dr. Eddie Fenech Adami.

larly through its bi-weekly organ *Alternattiva*. In its early response to the White Paper (editorial of September 7 issue, under the title "*Konsumatur Protetti?*") some negative aspects of the document were highlighted, the main objection being that the proposed Council for Consumer Protection will inevitably fail to co-ordinate the workings of all the various boards and authorities whose functions affect consumers, and that it will end up losing its way inside a bureaucratic jungle. It is refreshing to note that *Alternattiva Demokratika* had not limited itself to expressing such pessimistic views but has now also undertaken to actually set up a new consumer association of its own. There is no reason why this new venture should not prove successful, although one wonders whether a proliferation of consumer associations will be beneficial to consumers in the long term. It is not clear whether or how far the publication of the White Paper has spurred the setting up of this new association.

There are others who are apparently pretending not to know about the White Paper, or have chosen to keep their comments to themselves, or are reacting very slowly. These include not only the GRTU, the other recently established retailers association, the Federation of Industry and other constituted bodies (including as usual the Chamber of Advocates), but also the Malta Labour Party, whose Jimmy Magro had been active in this sphere for the past ten years.

In any case, readers are encouraged to obtain a copy of the White Paper and to form their own opinion about the various proposals. The White Paper expressly offers itself for discussion and comments; it defines itself as a "point of departure". It is not a point of no return.

trappers more lands and rights.

He said that the only remaining nature reserve in our country was Ghadira. Protected birds were being killed every day in other places, such as Buskett, which were supposed to be protected areas.

Mr. Natalino Fenech said that millions of birds were being caught and killed in Malta as a hobby. In Buskett more than 20 per cent of migratory birds are shot in September and sometimes more than 50 birds of prey were shot in one day. Malta had not yet signed the Berne and Bonn conventions to safeguard birds of prey.

The MOS yesterday said it supported the referendum campaign.

Man's corpse found floating in sea at Sliema



The police said the man, later identified as Sciberras, was about 1.66 metres tall and was wearing a light blue shirt, brown trousers and a pair of black slip-on shoes.

A MAN'S CORPSE was found dead floating in the sea close to the Taormina kiosk in Sliema early yesterday morning.

The man last night was identified as Joseph Sciberras, a watchman from Hamrun in his late 50s. The police released a close-up of him (left).

He had slight injuries, but according to informed sources, the police are ruling out foul play.

The sources added that the injuries could have been caused when the man hit the rocks on falling into the sea.

Youth killed in car crash

by a Staff Reporter

A YOUNG MAN was killed and another seriously injured in a car crash on the Regional Road, St. Julian's, early yesterday morning.

The victim, David Grech, 23, of Sliema, was driving a high-powered Alfa Romeo 164 in the direction of Gzira when he apparently lost control after tackling the bend on leaving the Regional Road tunnel at about 4.30 a.m.

The car hit and partly knocked down a low wall on the left side of the road and, after careering at speed for some 100 metres, crashed into the corner of the boundary wall of the Indian High Commission, receiving the impact at great force on the driver's side.

The Alfa, which ended in the middle of the road, was a total wreck. Riccardo Greco, 27, also of Sliema, who was a passenger in the Alfa, was seriously injured but, informed sources said, he was not in danger.

Another car, a Vauxhall Nova with an English registration, which was being driven in the same direction by Robert White, a British resident, was also damaged when it was hit by the Alfa Romeo. White and a passenger

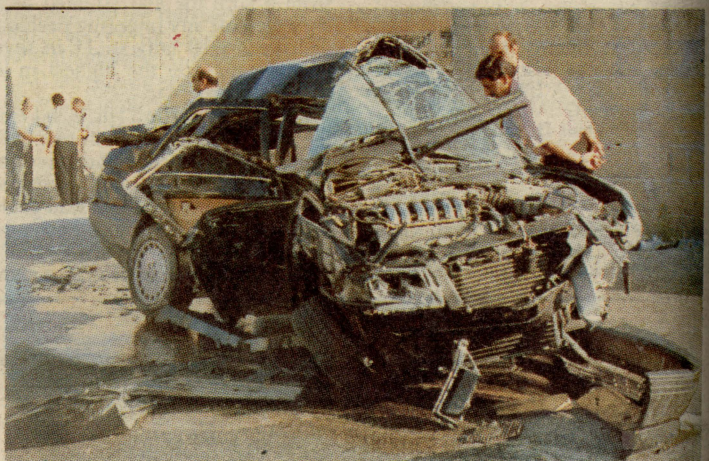
in the Nova, British tourist Stephen Forster, were unhurt.

Among the first who gave first aid to the fatally injured Grech was Forster, who had received medical training in the army.

Grech was rushed to hospital where he died later in the morning.

Traffic proceeding to Gzira was closed and cars were diverted through another route in St. Julian's until duty Magistrate Noel Cuschieri carried out an inquiry and the car was removed by the police.

Traffic legal expert Dr. Simon Micallef Stafrace, Architect Richard Aquilina and mechanical expert Joseph Zammit were appointed by the court to help in the inquiry.



THE WRECKED ALFA ROMEO 164 in which its 23-year-old driver, David Grech, lost his life yesterday.

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