

Written evidence submitted by Mr. Simon Comino (TTC 34)

My background

I am a retired schoolteacher from Malta, now resident in Catania, Sicily. I am now 86, but unfortunately, I was unable to vote in the 1956 referendum on integration with the U.K., as I was only 18, and the voting age in Malta was not lowered to 21 until 1974.

During the 1960's I worked in Gibraltar, home to many people of Maltese origin, at the time when the Pro-Integration Movement (PIM) was first established, salvaging the proposals for Malta, by then been discarded as unworkable. This later became the Integration With Britain Party (IWBP), briefly in power between 1969 and 1972.

Purpose of my submission of evidence

Seeing that your Committee is considering the issue of Westminster parliamentary representation for the Overseas Territories, it would be useful for you to learn from the experience of the last place outside Britain or Ireland where this was attempted, certainly the only colony.

I would therefore, like to focus on the following:

- **What level of representation for the Overseas Territories in the UK Parliament would be most effective.**
- **How the arrangements for Overseas Territories compare with those of the Crown Dependencies, and whether there are any lessons to be learnt.**

While Malta was offered representation in the House of Commons in 1955, this was by a Round Table Conference, not under a U.K. Act of Parliament, and nor was the referendum held under one. Due to a boycott by the opposition parties and the Catholic Church, this only had a 59.1% turnout, so it was easier for the U.K. to back-pedal, watering down the proposal, proposing a half-way house whereby Malta would be under the Home Office, but without MPs in Westminster.

This could not have gone unnoticed by the Government of Gibraltar, which stated in its evidence "Our firm belief is that any new Constitution should make provision for the people of Gibraltar to be represented in one or both of the Houses of Parliament in Westminster". As this "Constitution" would be a U.K. Order in Council, this would require the U.K.'s prior agreement, but would this be any more forthcoming than in 1976, when integration was formally rejected in a memorandum by Roy Hattersley, then a Foreign Office Minister?

Even though integration had greater support from Malta's entire electorate in 1956 than Brexit did from the U.K.'s in 2016, 44.2% versus 37.4%, it is easier to leave a club that would have been happy for you to remain in it than to join a club that does not want you to join it. Or indeed, rejoin one that you have left!

Historical background

Unlike Gibraltar, where integration with the U.K. was primarily seen as a form of security in the face of a hostile Spain, and only gained support in the mid-1960's after Malta's independence, the in Malta of the 1940's and 50's, it was seen as a means of raising the standard of living in a poor colony devastated by the Second World War, and with few prospects for independence.

Writing in a *Times of Malta* editorial in 1943, Mabel Strickland, daughter of the former Constitutionalist Prime Minister Sir Gerald Strickland, called for integration, declaring Malta "as much a part of Britain as Portsmouth or Croydon", but later rejected it, seeing as a threat to the position of the Catholic Church. On the other hand, Dom Mintoff, the secular and avowedly anti-clerical new Labour leader, would embrace it for precisely that reason.

Miss Strickland's father, Sir Gerald Strickland had the distinction of being the only person ever to have simultaneously been a member of the U.K.'s House of Commons and a colonial legislature; between 1924 and 1928, he was Conservative MP for Lancaster, while also serving as Leader of the Opposition in the Legislative Assembly in Malta, becoming the colony's Prime Minister in 1927, only resigning his seat on being appointed to the House of Lords.

Granted he represented a parliamentary seat in England, not Malta, but if Sir Gerald could pull off a feat like that nearly a century ago, why not someone in Gibraltar now, given the daily direct flights to London, and indeed the ease of electronic communication, illustrated during the COVID pandemic? Sir Peter Caruana, KC, former Chief Minister, is the same age now as Sir Gerald was then, but I doubt he would want to return to politics in any jurisdiction.

By contrast, calls for integration in Gibraltar after the War soon subsided. Although a delegation went to the Colonial Office in London in November 1945 to propose that the Rock become "an integral part of the United Kingdom, so that it might have a representative in the House of Commons", this had little appeal locally, as one man remarked at the time:

We do not want to be an integral part of England. Our customs and needs are different. We want coffee and brandy at 7 in the morning – English law would stop that. We have no need for orphanages and institutions, and English Income Tax which means that we pay for things we don't need.¹

English law on drink is much more liberal now, but in Gibraltar, that sentiment is the same!

Consequently, while there was talk in the Colonial Office of transferring Gibraltar's affairs to the Home Office, along the lines of the Channel Islands and Isle of Man, in the 1950s, it detected no appetite for Westminster representation. In fact, a "Home Office offer" had been made to Malta's Nationalist Prime Minister George Borg Olivier in 1954, only to be declined, as was one to Dom Mintoff in 1954 before the integration talks collapsed.

Whereas Mintoff saw it as a sop after being denied Commons M.P.s, and not close enough to integration, Borg Olivier saw it as too close for comfort. He favoured what he described as qualified dominion status. Under this, Malta would have a Governor-General

¹Report on meeting held by the Association for the Advancement of Civil Rights, 9 December 1956, CO 91/524/8, The National Archives

representing the Queen as head of state, and exchange High Commissioners with the U.K., but the U.K. would remain responsible for defence and external relations, albeit through a joint ministerial committee in London and Valletta.

Round Table Conference

When a Round Table Conference in 1955 agreed to representation in the House of Commons for Malta, it decided against restricting the voting rights of the three Maltese M.P.s, despite the fact that they could potentially be voting on matters that did not apply to their constituencies or their constituents, far more than was the case with Northern Ireland's M.P.s, then or now.

At the time, the only Western European country with non-voting members in its parliament was West Germany, with West Berlin only represented in the Bundestag and Bundesrat in Bonn by non-voting delegates indirectly elected by the city's parliament and government; West Berliners themselves could not vote in federal elections.

Malta's level of internal self-government was comparable to that of Gibraltar today, with the U.K. only responsible for defence and external relations, despite the so-called diarchy, with the unelected Maltese Imperial Government, presided over by the Governor, responsible for reserved subjects, including immigration, currency and communications, the elected Maltese Government responsible for all others, though the former did encroach on the powers of the latter.

In its proposals to the Conference, Mabel Strickland's Progressive Constitutional Party called for the creation of a Malta Office in London, either as independent department or as part of the Home Office, with a Minister of State or Parliamentary Under-Secretary of State responsible for Maltese affairs. There were even calls to enable someone chosen by the Maltese Parliament to sit in the House of Lords, a radical proposal at a time before life peers, but this was rejected.

Gibraltar was discussed during the Conference, but it was considered too small for Commons representation, even combined with a larger constituency, as it later was with South West England. However, Conservative MP Sir William Teeling, a Catholic who sided with the Church against integration, argued that it would be next, along with many other small colonies.

We begin to hear about Gibraltar and there is a suggestion about Cyprus. It is a possibility that in the long run someone may be able to find a solution whereby Cyprus could ask for representation. Then there are other areas, for instance the Seychelles. One cannot tell, but perhaps Archbishop Makarios might come to this House as a representative from the Seychelles – after having been there for a very long time – instead of as a representative from Cyprus. This matter may well become absurd. If we go on indefinitely in this way, we shall reach a stage where a number of representatives from the Colonies might make a serious difference to this country at a General Election.²

A joke at the time was that “we will be shooting the Cypriots for wanting to leave us, and the Maltese for wanting to join us!” Ironically, Sir William became a supporter of the Pro-Integration Movement in Gibraltar, and was to present its petition calling for the Rock's affairs to the Home Office to the Commons in 1966, to the annoyance of its Chief Minister, Sir Joshua Hassan.

²'Round Table Conference', Hansard, Volume 550, HM Stationery Office, 1956, page 1837

In response, Sir Joshua cited Erskine May, and the convention that the Parliament of the United Kingdom should not interfere in the affairs of a self-governing colony, save that at the request of its Government or Parliament; he added: "This is not a law. It is a convention. But it is obviously a realistic and important convention and we believe we should adhere to it."³

Legislation by consent

In its talks on integration, the Maltese government sought an affirmation in an Act of the U.K. Parliament that it would not legislate for matters within the competence of the Maltese Parliament without that Parliament's consent, unless these were in relation to defence and external relations. This caused concern in Whitehall, as no such provision existed in relation to Northern Ireland, for example.

A similar one was sought by the Pro-Integration Movement in Gibraltar a decade later in 1965. Like Mintoff in Malta before them, the Integrationists on the Rock declared that transferring powers over income tax to the U.K. would only occur at some undefined future date; Mintoff was looking at a timescale of fifteen to twenty years, with representation without taxation in the interim.

Later on in 1967, such an affirmation was included under Section 3 of the West Indies Act, establishing self-governing Associated States, declaring that "no Act of the Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to an associated state as part of its law, unless it is expressly declared in that Act that that state has requested and consented to its being enacted."⁴

This more closely resembled the situation in the Crown Dependencies, where U.K. Acts of Parliament do not automatically apply to the Channel Islands and the Isle of Man, though they contain Permissive Extent Clauses providing for them to be extended by Order in Council. While it avoided the headaches of U.K. parliamentary representation and taxation, Associated Statehood did lead to Anguilla, unhappy at union with St Kitts and Nevis, breaking away.

Ironically, while the 1954 Television Act, like the 1947 Wireless Telegraphy Act before it, was extended to the Crown Dependencies, it was used by Cabinet ministers as an example of what a farce it would be to have Maltese M.P.s voting on issues out of all relation to their knowledge and responsibility.⁵ At the time, Malta had no television service at all, BBC, commercial or otherwise.

And there were even concerns about aspects of Malta's new status being coveted in the Channel Islands, not because either Jersey or Guernsey wanted MPs in Westminster, but because Malta would, presumably, retain the right to issue its own postage stamps, one that neither Island then possessed!⁶ More seriously, there were concerns about control of civil aviation and shipping, now more likely to be sought by Scotland post-devolution, if not Wales and Northern Ireland.

³"Gibraltar's Elected Members pit themselves against P.I.M.", *Gibraltar Chronicle*, 30 July, 1966, page 1

⁴"Enactment of legislation by Parliament of United Kingdom", West Indies Act 1967

⁵"Future status of Malta: joint Cabinet memorandum", by Sir D Maxwell Fyfe and Mr Lyttelton, 14 April 1954, CAB 129/67, C(54)141, The National Archives

⁶"Repercussions of "integration" on the United Kingdom and its dependencies': joint note by the Home Office and the Scottish Home Department for the Cabinet (Official) Committee on Malta, 5 August 1955, CAB 134/1296, MC(O)(55)10, The National Archives

Conceivably, Gibraltar could adopt a hybrid of the Permissive Extent Clause system, used for the Crown Dependencies, and the Sewell Convention, under which the Scottish Parliament passes a Legislative Consent Motion agreeing to the passing of a Bill by Westminster that affects Scotland. However, in 2017, the U.K. Supreme Court ruled that this did not constitute a legally enforceable veto.⁷

⁷About Legislative Consent: Refusing consent, Scottish Parliament

Wielding power without responsibility

James Stuart, Secretary of State for Scotland, threatened to resign over the issue of Malta's representation in Westminster; in a letter to the Prime Minister Sir Anthony Eden, dated 14 March 1956, he declared:

I cannot force myself to believe that anyone has any right to wield powers without responsibility—which is what we seem to be in danger of offering the Maltese. I do feel sincerely that it is a risk which I, personally, cannot accept.

I believe it to be wrong fundamentally that the power to vote about any and every domestic, foreign, and colonial problem in England (& Scotland) should be confided to Maltese M.P.s who are devoid of any real responsibility for the effect which their votes may have upon our economy, welfare and future.

To be 'crystal clear', I should add that I would have to resign before I agree to 'integration' on present conditions. Sorry.⁸

These concerns were echoed by Tam Dalyell's "West Lothian Question" twenty years later in the debate on Scottish devolution, despite Westminster retaining far more control over Scotland's affairs post-devolution than it would have done over Malta's post-integration, or Gibraltar's, were it to have Commons representation now, though it would only have one M.P. there, not three.

In an article on constitutional reform in 1991, *The Economist* argued:

It would be indefensible for Scottish MPs to attend the London lower house and vote on English legislation. There is a better alternative... Scots would no longer vote for the Westminster Commons. Instead, the Edinburgh body would send some of its members (say 50) to Westminster when the lower house there was discussing matters of common concern.⁹

One possible solution for Gibraltar might be to have one of the members of its Parliament elected to serve as its delegate to the House of Commons, as and when required, and vote as instructed; how might the indicative votes on Brexit have gone if such a mechanism been in place? Or alternatively, elected outside its membership, like its Speaker, but that is for it to decide.

Perhaps this could be a latter-day "West Berlin Answer". However, despite the restrictions on voting rights imposed by the Allied Powers, West Berlin's representatives in Bonn sought to align their laws as closely as possible to those of the Federal Republic, which were rubber stamped by the city parliament. By contrast, Gibraltar, like Malta before it, would probably feel no such inclination to align itself as closely with the U.K.

Conclusion: Once bitten, twice shy?

An important point to make is that the integration experiment in Malta marked a departure from British colonial policy, and its failure was a case of "once bitten, twice shy". This influenced subsequent thinking in Whitehall. As Anthony Kershaw, a Conservative Foreign

⁸[Integration]: letter from Mr Stuart to Sir A Eden expressing concerns over the constitutional implications of integration and offering his resignation, 4 March 1956, PREM 11/1491, ff 6–7 1

⁹"The British Constitution", *The Economist*, 8 July 1991, page 20

Office minister, said about rejecting integration for the Seychelles, "The answer was no. We had been all through this with Malta years ago." In other words, never again.

Obviously the world of 2023 is a very different place from now, with the number of people outside the U.K. living under British sovereignty far smaller than it was in 1956, in the tens of thousands, not the tens of millions. If the worst came to the worst, there would be only an additional 270,000 people represented in the House of Commons, smaller than the population of Malta 70 years ago, with even fewer electors, barely able to elect more than a handful of M.P.s.

However, even though the Maltese experiment is long forgotten in Malta itself, never mind the U.K., it does still seem to me that there is still a gut reaction against integration for the Overseas Territories on the part of the U.K., rejecting it as culturally alien, unlike France. The lack of support for integration in these places themselves works to its advantage; it is not on offer from the U.K., but that is academic as it is not in demand locally, it is not in demand locally, but that is academic as it is not on offer from the U.K., and so on.

Speaking as someone from somewhere nearly represented in your Parliament, but never was, and never will be, I wish you all luck. If nothing else, there is still the Commonwealth Parliamentary Association's British Islands and Mediterranean Region!