

A DEBT THAT WAS NEVER SETTLED

by

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During the rule of the Order of St. John there existed in Malta a municipal corporation styled the "*Università*". Its management was in the hands of directors appointed by election. One of the corporation's task was to keep a constant and sufficient provision of corn in the Maltese Islands. As a commercial enterprise, known by the name of *Massa Frumentaria* or *Monte Frumentario*, it was very prosperous and enjoyed a remarkable public credit. People used to deposit their money in its *Banca*, receiving thereof an interest of from 3 to 6%.

By the end of the 18th century, the Bank had among its assets 123 grain-stores with 75,747 *salme* of grain, 23 oil-vats containing 25,431 *ca-fisi* (12,715 barrels), barley stores, markets and shops. Add to this the vast landed property, whose value amounted to about 1,800,000 m.sc. (£150,000). The average annual profit from the selling of corn amounted approximately to 132,000 m.sc. (£11,000). In 1798, immediately before the French occupation of Malta the *Pious Institutions and Ecclesiastical Bodies of the Maltese diocese had a capital of 1,121,402 m.sc. (£93,450) deposited in that Bank at the interest of 3%*. The Order's Exchequer, on the other hand, had received on loan 788,066 m.sc. (£65,672) from that Bank¹.

With Napoleon's occupation of our Island all the corn in the granaries, as well as the hard cash deposited in the chests of the *Università*, jointly with the enterprise itself, passed into the hands of the French. It is estimated that the sums appropriated by them amounted to several million francs. We gathered this, from General Vaubois' letter addressed to the French Government Commissioner on the 20 Floreal VII Year of the Republic (i.e. on the 9th May, 1799) and from the bonds and documents left by the General himself before leaving the Island after the Capitulation of the 5th September 1800². In the said letter the General ordered the Commissioner: "Try to convince them (the Maltese) that several millions of francs have already been lost, and many others will be lost for ever, if the French will lose this Country (Malta) because of the ambition of some of their compatriots . . ." Vaubois mentioned the big sums of money the French were compelled to appropriate, the forced loans they made, the value of the merchandise requisitioned by them and all other money due to the Maltese by the Republic for other reasons. He added in the letter: "Many would be inevitably ruined, were the French to be defeated. Ask (therefore) the

1. A.A., *Corresp. Bp. Pace* — 1895, — *Claims of H.G. the Archbishop of Malta on behalf of the Ecclesiastical Corporations and Pious Trusts of the Church in Malta No. 50*, pp. 5-6.
2. R.M.L. — *Collezione di Bandi. 1784-1813*. pp. 175-6.

citizens of both districts — eastern and western — to pay a tax amounting to 150,000 frs. for each district, to be levied and paid as to one half up to the middle of the month Prairial (June 3) and as to the other half up to the middle of the month Messidor (July 3).³

When on the 5th September 1800, the French were forced to capitulate, before leaving Vaubois had to leave some hostages, as a pledge of the payment of all the above mentioned debts, but the English General Pigot, in his anxiety and earnestness to occupy Valletta, thoroughly neglected the financial interests of the Maltese — the Allies who had suffered all the troubles and damages of war. It is commonly believed that, if the Maltese had been allowed to take part in the Capitulation of 1800, they would have compelled the French to give security for the extinction of their debts⁴.

After the British occupation of the Island, the Civil Commissioner Sir Alexander Ball and his successors, in their proclamations, promised and assured the Maltese people as to their rights and properties. They even impeded the *Università* from taking steps against the debtors, because of the state of confusion and poverty that existed in the Island immediately after the capitulation⁵.

On March 8, 1805, however, a Proclamation was issued over the signature of Mr. Samuel Taylor Coleridge (the famous poet), Public Secretary to the Royal Commissioner, wherein the latter stated that, after having organized the Courts of Justice, Public Instruction and the Public Works, and systematized the *Monte di Pietà*, the hospitals, the Poor Houses and the orphans' Asylum, his chief aim was to reorganize the *Banca dell'Università* of the four cities because he had at heart the welfare of all the families, who owed their living to no other means but the savings deposited therein. He imposed, therefore, a duty on wine (10d. per barrel) and on alcohol (50d. per barrel), which duties were to be exacted by the *Università*, under penalty of the confiscation of the taxed goods. No specific details could be given as to the disposal of the profits accruing from that duty, since no one could off-hand know its amount. But His Excellency made it known to the public that it was his intention to pay all private owners of capital invested in the *Banca* the interest of 2½% thereon, without any reference to the rate of interest agreed upon at the time of the investment⁶. The payment was to be made half-yearly and to start six months after the publication of the Proclamation. With reference to the interest due to Ecclesiastical Corporations and Pious Administrations, the Proclamation added that His Excellency would *not fail to adopt, at the proper time, just and convenient measures*⁷. From the day indicated in the Proclamation onward

3. *Ibid.*

4. G. METROVITCH, *The Cause of the People of Malta*, pp. 71-75.

5. R.M.L., l.c., p. 62.

6. It was also the Commissioner's intention to increase the salary of employees according to their merits and to help hospitals, and in a particular way to aid the building of factories which were already in course of construction, for public weal.

7. R.M.L., l.c. p. 96.

the Government started to pay private persons the mentioned interests and to extinguish their capital.

Other proclamations on the subject were issued on July 5, 1819, June 26 and July 21, 1824, April 1832, August 2, 1833, September 8, 1835⁸. But, notwithstanding the fact that France, in the treaty of the 25th April 1818, bound herself to pay to Great Britain her claims for the damages suffered by the British subjects in the previous war and despite the awareness of the British Government of the losses suffered by the Maltese in that war, in no one of those proclamations mention was ever made of payment to the Ecclesiastical Bodies.

The Ecclesiastical Corporations and the Administrators of Pious Trusts were very patient and for a long time they waited for their turn to come, when the Government would start paying them interest or refund the capital invested. It was very generous of them to have awaited till all the private individuals were paid. But their turn did never come. They filed several petitions with the Government asking their due. The answers to those petitions were stereotyped: their petitions would be taken into consideration⁹.

Very naturally, Jurists and Judges were consulted with reference to those claims and petitions. The juridical answer was that the Proclamation of 1805 barred all right to action at law or in equity, once the legislative power rested wholly with the Royal Commissioner and the said Proclamation had the power of law, until it was repealed by another Proclamation decreeing the payment of interest on the sums deposited or the refunding of the capitals invested by those Corporations and Administrations¹⁰.

The Government was quite sure of this legal interpretation. In fact, when, on the 20th June 1823, Archbishop Mattei sent a letter to the Chief Secretary to Government, Frederick Hankey, asking for the refund of a sum of money which had been deposited a long time before in the *Banca dell'Università*, by the Sacred Congregation *de Propaganda Fide*, the Chief Secretary's answer thereto was, that research was made in the books of the *Università* but it was found out that the amount had been paid on August 23, 1794, with the consignment of 1635 *sc. romani* (£350 app.) to the Inquisitor Mgr. Julius Carpegna, that sum being the balance due to the said Congregation for capital and interests. The Secretary further added, and this is more important to us: "while furnishing Your Grace with this information, I beg at the same time to add that, if the debt had not been settled, it would not now be paid, because it would be a debt due to a Pious Institution; and this would be in accordance with the resolutions adopted by this Government soon after the expulsion of the French, when the payment of a reduced annual amount was decreed instead of the interest on

8. *Ibid.*, Proclamations 1803-35.

9. A.A., l.c., Claims. No. 50, p. 12.

10. *Ibid.*, pp. 10-11.

the Capital formerly invested in the *Università*, in favour of private persons only"¹¹.

It was only after several years that the issue was again raised. On the 13th August 1894, Archbishop Pietro Pace addressed a petition to the Marquis of Ripon K.G., Secretary of State for the Colonies, submitting therein that the Marquis might have been aware of the fact that the issue about the credits of the Ecclesiastical Bodies in the Bank of the *Massa* or *Monte Frumentario* of Malta had not yet been paid by the Government. The creditors never ceased to put forth their claims, either through the people's representatives in the Council of Government, or through the Civil Tribunals. The Government, wrote the Archbishop, declined any responsibility and denied the acknowledgement of the debt. The Tribunals declared their incompetence in the matter, because of the Proclamation of 1805, which was still pending and had the force of a law¹².

After a diligent study of the matter and following some lawyers' advice, it resulted evidently clear, continued the Archbishop, that the Ecclesiastical Organizations had a right to get back their investments. As chief head of those corporations, he consequently asked the Secretary of State for an amicable adjustment, in order to avoid long and expensive disputes. The Archbishop then summarized what had happened to the Capital invested in the *Massa Frumentaria* since the year 1798, when the French occupied the Island. The Bank, he said, was in flourishing state; the French appropriated the capital and the grain stores for the service of their troops; in the Proclamation of 1805, the British Commissioner in Malta acknowledged the debts contracted by the French Government and promised to pay those debts to the Creditors, the Ecclesiastical Bodies not excluded — a statement which constituted an indisputable right for the refund of their Capital. In 1829, he said, France paid England a big sum of money to compensate her for war damages: the creditors of the *Massa Frumentaria* were the first among those affected by the French war. The promise officially made by the Civil Commissioner in 1805 and the payment of indemnities by the French, argued the Archbishop, formed a double right for the refunding of the Capital to the investors. Moreover there could be no place for the Government to put forth the right of prescription: first, because the Government had hindered the creditors from suing them in Court and that was a coercive silence; secondly because, since the issue dealt with was that of a deposit (investment), there could be no place for a negative prescription. The Archbishop finally suggested the setting up of a Mixed Commission with the task of examining the arguments of the Creditors and those of the Government and of reporting upon the reasonableness of his request on behalf of the Ecclesiastical Bodies. In case his proposal were deemed reasonable, he would immediately nominate the person to represent him

11. *Ibid.*, *Corresp. Bp. Mattei* — 1825, f. 737.

12. *Ibid.*, *Corresp. Bp. Pace* — 1893-4, No. 112.

on that lawful Commission¹³.

Mgr. Pace hoped that his submissions would be deemed fair and his suggestions practical to solve the issue for the sake of equity, by which the British Government had always shown to be inspired particularly in regard to British subjects, deeply attached to the English Crown¹⁴.

The next day, the Governor Sir Arthur Lyon Fremantle, through whom the Archbishop's petition was to reach the Secretary of State, acknowledged the receipt of the despatch with its enclosure and assured that, in due course, he would forward the petition to its destination¹⁵.

Nine months passed by and the Archbishop received no answer to his petition of the 13th August 1894 for the final settlement of the Ecclesiastical Bodies' claims. Consequently, he entrusted the barrister in law, Alfred Mattei, with the task of drawing a memorandum containing the same claims this time based on documentary evidence. Dr. Mattei, helped by the Archbishop's legal adviser in Rome, drafted a memorandum, dated 5th April 1895, drawn in English and in Italian. It was styled "Claims", or "Reclami". The document concluded: "Will H.M.'s Government disregard His Grace's appeal for justice and for redress of the wrongs so long endured, under a sense of loyalty and devotion to the British Crown, by the Ecclesiastical Corporations and Pious Trusts and in consequence of the faith and confidence reposed by them in a British Royal Commissioner's promise?"¹⁶

On April 20, Mgr. Pace transmitted 4 copies of the 1895 "Claims" to the Governor, asking him to forward two copies to the Secretary of State for the Colonies, and to inform the same that the Archbishop's legal adviser reserved the laws and legal doctrines, especially with regard to prescription, for the legal argument by Counsel before the Commission in the event of any such argument becoming necessary, should any legal objection be raised¹⁷.

Four days later, the Governor acknowledged the receipt of that letter and asked the Archbishop to send him a list of the names of the original creditors, whose interests were being represented by him and to indicate the sums claimed by each of them.¹⁸ He sent copy of the Colonial Regulations calling his attention to parag. 219-223, which required that communications of that nature be forwarded to the Secretary of State accompanied by a Report of their contents by the Governor. Subsequently, he insisted upon the information he had required in his previous letter.¹⁹

The Archbishop answered that the Government had never put in doubt the existence of the credits not yet given back, and that it was premature

13. *Ibid.*

14. *Ibid.*

15. *Ibid.*, No. 115.

16. *Ibid.*, *Claims*. No. 50, p. 14.

17. *Ibid.*, Archbishop to Governor: 20. iv. 1895, No. 50.

18. *Ibid.*, Governor to Archbishop: 24. iv. 1895, No. 53.

19. *Ibid.*, Governor to Archbishop: 1. v. 1895, No. 59.

and of no avail to present that list before the discussion of the legal issue, as was asked in the petition of the 13th August 1894. This notwithstanding — he wrote — all moral bodies were advised to furnish him with the lists of the sums invested and he promised to transmit the same to the Governor. But that work required some time²⁰.

In the meantime, the Archbishop communicated the issue to the Holy See and sent copies of the pamphlets drawn by Dr. Mattei. The Papal Secretary of State, Cardinal M. Rampolla, acknowledged receipt, thanked His Grace and expressed His Holiness's pleasure for the copies sent him²¹.

On the 1st May, the Governor informed Mgr. Pace that Lord Ripon had through him duly received the Archbishop's letter of the 13th August 1894, as well as the printed statement of Dr. Mattei. The Secretary of State, however, deferred the answer because he required a full report including the list of creditors and of the sums deposited²². That letter was answered by the Vicar General, Mgr. Giuseppe Mercieca, who wrote that the Archbishop would give the required information in due time, because the research work required some time²³. As a matter of fact, the Archbishop had circulated a letter asking the Procurators of the Ecclesiastical Bodies concerned to hand the required information. Many procurators, however, were not willing to embark upon so much labour and expense, which might not have any useful result. The Bishop felt that he could not compel them to perform that work before the setting up of the Mixed Commission he had applied for in August of the previous year, or before a recognition, in principle, on the part of the Government, of the claims submitted²⁴.

He, therefore, asked the Governor to courteously permit some trusted person of his employees to draw the required lists from books of the extinct *Massa Frumentaria*, which were still kept in the Government Treasury. This could be done with some ease and without expense. He dared do that suggestion to comply with the Governor's wishes and to maintain the very good relations that ran between them two. Mgr. Pace communiated all this in a confidential letter²⁵. In another letter of even date, he enclosed an incomplete list of creditors and the respective investments in the *Massa*, expressing his view that the information given was sufficient to complete the report to the Secretary of State. The creditors who gave the required information were 15 and the sum of their credits amounted to 252,654.5.2 maltese scudi (£21,054) out of the £93,450.²⁶

The Governor promised to forward that letter to Lord Ripon and added

20. *Ibid.*, Archbishop to Governor: 15. v. 1895, No. 67.

21. *Ibid.*, Card. Rampolla to Archbishop: 24. v. 1895, No. 69.

22. *Ibid.*, Governor to Archbishop: 21. v. 1895, No. 73.

23. *Ibid.*, Vicar-General to Governor: 28. v. 1895, No. 77.

24. *Ibid.*, Bishop to Governor (confidential): 19. vi. 1895, No. 81.

25. *Ibid.*

26. *Ibid.*, Archbishop to Governor: 19. vi. 1895, No. 82. The Sodality of the Holy Souls in Valletta had a deposit of £3,464; the Nuns of St. Scholastica the sum of £3,300 and the Chapter of St. Paul Shipwrecked that of £2,793.

that any important information arising from the books or other documents in the possession of Government would of course be submitted to the Secretary of State, because he was very earnest to maintain the friendly relations with the Archbishop²⁷.

After the lapse of five months, the Archbishop asked the Governor whether he had transmitted the correspondence and the report to the Secretary of State²⁸. The Governor answered that he had forwarded them on 20 August²⁹.

On the 30th December, Cardinal Rampolla sent a note to Mgr. Pace, expressing his pleasure for what the Bishop was performing in the issue of the *Massa Frumentaria* and heartily wished him a happy end.³⁰ The end came, but it was not a happy one.

Since 1892, discontent had been brewing in Malta, because of a proposed marriage legislation against some points already agreed upon during Sir Lintorn Simmons' Mission at Rome in 1890. On August 13, 1895, Queen Victoria approved by an Order-in-Council, a report drawn by the Lords of the Committee of the Privy Council on that subject and bade all concerned to take notice and govern themselves accordingly. That Order-in-Council shook the stability of the principles established in the Rampolla-Simmons agreement. An outcry soon burst out in Malta and Gozo. Archbishop Pace of Malta and Bishop Camilleri of Gozo issued Pastoral letters insisting upon the sacramental character of Marriage. People and Clergy protested in two "monster" meetings, as they were called, held at Floriana³¹.

That issue was of such a great moral and religious importance that it absorbed all other issues, included that of the claims of the Ecclesiastical Bodies for the sums invested in the *Massa Frumentaria*, which was shelved never to be raised again. Bishops, Clergy and people gave an evident proof that, when the spiritual welfare was at stake, they were ready to put aside all other — even great financial — issues.

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ABBREVIATIONS

R.M.L.: *Royal Malta Library*.
A.A.: *Archiepiscopal Archives (MALTA)*.

27. *Ibid.*, Governor to Archbishop: 20.vi. 1895, Nos. 84-85.

28. *Ibid.*, Archbishop to Governor: 14.xi. 1895, No. 154.

29. *Ibid.*, Governor to Archbishop: 16.xi. 1895, No. 155.

30. *Ibid.*, Card. Rampolla to Archbishop: 30.xii. 1895, No. 173.

31. ART. BONNICI, *Mixed Marriages in Malta*, in *Melita Theologica*, Vol. XX, pp. 22-23.