

THE OATH QUESTION

by

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Up to the year 1813, when the British Crown claimed and entirely obtained to herself the full sovereignty over these Islands, no Oath of Allegiance was administered to any Maltese person holding Civil Office. The Maltese people had been assured in the fullest manner of the free exercise of their Religion and of the maintenance of their Ecclesiastical Establishment. Their established Religion being the Roman Catholic, no Acts of Parliament imposing disabilities upon the persons professing this Religion were ever enforced. Consequently Roman Catholics in Malta had been eligible to all offices, except that of Governor.

On July 15, 1813, however, King George III gave new instruction to Sir Thomas Maitland, the new Governor of Malta, among which he imposed the taking of the Oath prescribed in the Act 14 Geo III cap. 83, sect. 7, entitled "An Act for making more effectual provision for the Government of the Province of Quebec in North America", or more briefly the Quebec or Canada Oath¹.

The form of the Oath was the following:

"I A.B. do sincerely promise and swear that I will be faithful to bear true allegiance to H.M. King George as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of these Islands, dependent on, and belonging to, the said Kingdom, and that I will defend Him to the utmost of my power against all traitorous conspiracies and attempts whatsoever, which shall be made against his Person, Crown and Dignity; and that I will do my utmost endeavour to disclose and make known to His Majesty, His Heirs and Successors, all treasons and traitorous conspiracies and attempts, which I shall know to be against Him or any of them. And all this I do swear without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any Person or Power whatever to the contrary. So help me God".

This form of Oath was approved by the General Constitution of the Superior Courts of Malta, published on the 25th May, 1814². No one doubted as to its liceity.

In the Instructions accompanying His Majesty's Commission to the Marquis of Hastings (1824-26), the Governor was directed to take the Oath of Allegiance, Supremacy and Abjuration and to subscribe the Declaration against Transubstantiation, and further to administer the Oaths and the Declaration to persons entering Office, except Catholics, who were to take the Oath prescribed in the said Act 14 Geo III³.

In March 1829, a Catholic Relief Bill was introduced in the House of

1. C.O. — *Despatches, Malta*, 159/4, p. 186.

2. R.M.L. — *Despatches* 1848, p. 197 — O'Ferrall to Earl Grey: 13.I.1848.

3. R.M.L. — *Despatches* 1829, p. 185 — Ponsonby to Murray: 18.VIII.1829.

Commons, and the following month passed into law. Under its provisions Catholics were admitted to Parliament and to the corporations, being only excluded from some of the higher offices. Public religious procession were forbidden. Priests were forbidden to wear sacred vestments outside their churches, and bishops to assume the titles of their dioceses. Jesuits were to leave the Kingdom, and other Religious Orders were to be rendered incapable of receiving charitable bequests. Subsequently, a new formula of Oath was proposed by Act 10 Geo. IV⁴.

On June 12, Sir George Murray, the Secretary of State, sent a despatch to Governor Sir Ponsonby, enclosing copy of the Act of Parliament which had been previously passed and stating his opinion that the Act should be extended to the Colonies. To remove all doubt in so important a subject, the S. of S. directed the Governor to issue a Proclamation enacting that this Statute extended to, and was in force in, the Island of Malta and Its Dependencies⁵.

The Governor found it difficult to carry out such Instruction and, recalling the promise made by Great Britain to the Maltese regarding their Religion, suspended its execution until further Instructions were given him on this subject. He explained to the Secretary of State that the whole of that Act would be inoperative in Malta, because the Maltese had always had the full royal sanction of their public religious functions, through all the Governors. As to sections 20 and 21 of the Act, these were inapplicable to Malta, since the Established Religion mentioned in the Act was the Protestant Religion, and the Religion established by Law in this Island was the Roman Catholic⁶. The Governor, with all due deference, suggested the repeal of some parts of the Act, and asked that the Catholics, upon admission to Office — not excepting that of Governor — would take the Oaths which they had theretofore taken, and Protestants the Oaths of Allegiance, Supremacy and Abjuration⁷.

A doubt as to the morality of this new formula of the Oath of Allegiance had been already entertained by the Catholics of the United Kingdom. The Vicars Apostolic of England and the Bishops of Ireland seemed to have been worried about a certain form of Oath which would have been presented them in case of the sanctioning of the Catholic Relief Bill. Mgr. Poynter, contacted Mgr. Quarantotti, the Vice-Prefect of the Congregation *De Propaganda Fide*, who, in the absence of the Pope from His See, had arbitrarily answered that such a formula was approvable.

It was later stated by the Earl of Shrewsbury, the Premier in the Peerages of England and Ireland, the most generous promoter of the Catholic revival, that the 4 Vicars Apostolic of England as well as the Bishops of Ireland, on the 24th of November 1829, had come to a resolution that the Oath in the New Bill might be safely taken by all Catholics and that it did not interfere with any rights of Members of Parliament. The Earl added that, since that resolution was signed, several of the Apostolic Vicars had visited the Court of Rome, but had received no reprimand for their expression of that opinion⁸.

4. Catholic Encyclopedia — art. *Catholic Emancipation*.

5. R.M.L. — *Despatches* 1829, p. 182 — Ponsonby to Murray: 18.VIII.1829.

6. Ibid., pp. 184/5.

7. Ibid., pp. 185/6.

8. G.G., 9.V.1838, p. 184; 30.V.1838, p. 220.

This notwithstanding no one can deny that it was imprudent to propose the new Oath to the Maltese subjects, whose position was other than that of the English Catholics, because the Established Religion in Malta was the Roman Catholic, and how prudent was Sir Frederick Ponsonby to dissuade the Secretary of State from enforcing such an Oath form in Malta.

In a confidential despatch dated 1st October 1829, the S. of S. had directed the Governor to propose certain returns with reference to the provisions of the mentioned Act. These returns seem to have been sent and the views of Sir Frederick, as to the general applicability of the Act and the undesirableness of enforcing the only operative part, were thus practically admitted and acquiesced in. To the latter's suggestion, that no inconveniences would be felt by considering that the Act did not apply to Malta, no answer was directly returned, so far as could be ascertained from the records in the Chief Secretary's Office, as, 13 years later was stated by the Governor O'Ferrall⁹.

The Question seemed to have stopped here. But it was again raised and more fiercely in the year 1835. On May 1st, a Proclamation was published in Malta announcing the formation of a Council of Government in Malta, for the purpose of advising and assisting in the administration of the Government of these Islands. The members of the Legislative Assembly were to be seven, besides the Head of Government, namely: four persons holding offices in Malta: — the Senior Officer in Command of the Land-Forces, not being in the administration of the Government, the Chief Justice, the Bishop of Malta, and the Chief Secretary to the Government — and three unofficial persons to be selected by the Governor¹⁰.

But what concerns us most in these Letters Patent is the Oath that was imposed upon the Members of the Council of Government. It was composed on April 1, 1835, according to the Instructions given by William IV. The following is the formula:

"I do sincerely promise and swear, that I will be faithful and bear true allegiance to H. M. King William IV and will defend him to the utmost of my power against all conspiracies and attempts whatever which will be made against his Person, Crown or Dignity, and I will do my utmost endeavour to disclose and make known to His Majesty, his Heirs and Successors, all treasons and traitorous conspiracies which may be found against Him or Them: and I do faithfully promise to maintain support and defend to the utmost of my power the succession of the Crown, which succession by an Act entitled "An Act for the further limitation of the Crown and better securing the Rights and Liberties of the Subject", is and stands limited to the Princess Sofia, Electress of Hanover, and the Heirs of her body being Protestants; hereby utterly renouncing and abjuring any obedience or allegiance unto any other Person claiming or pretending a right to the Crown of the Realm of Great Britain and Ireland; and I further declare that it is not an article of my faith, and that I do renounce, reject and abjure the opinion that princes excommunicated or deprived by the Pope, or any other authority of the See of Rome, may be deposed or murdered by their subjects or by any person whatsoever. I do

9. R.M.L. — Despatches 1848, pp. 205/6 — O'Ferrall to Grey: 13.I.1848.

10. G.G., 6.V.1835, Proclamation, p. 153.

declare that I do not believe that the Pope of Rome or any other foreign prince, prelate, person, state or potentate, hath or ought to have any temporal or civil jurisdiction, power, superiority or pre-eminence, directly or indirectly within the Realm of Great Britain and Ireland; I do swear, that I will defend to the utmost of my power the settlement of property within the said Realm as established by the laws and I do hereby disclaim, disavow and solemnly abjure any intention to subvert the present Church establishment, as settled by law within the said Realm, and I do solemnly swear, that I never will exercise any privilege to which I am or may become entitled to disturb or weaken the Protestant Religion or Protestant Government in the United Kingdom; and I do solemnly, in the presence of God, profess, testify and declare that I make this declaration and every part thereof in the plain and ordinary sense of the words of the Oath, without any evasion, equivocation or mental reservation whatsoever. So help me God".

Archbishop Francesco Saverio Caruana had already complained and protested for his being given the third place in this Council of Government. The complaint had been communicated to the Secretary of State by the Lt. Governor. The former admitted the Bishop's claim and placed him next to His Majesty's Representative¹¹. But when, on the 17th October, the Lt. Governor invited all the Members of the Council to attend at the Palace of Valletta on Wednesday, 21 inst. at noon, for the purpose of taking the Oaths prescribed, the Archbishop answered on the next day, that since the prescribed Oath was a purely religious Act and one theretofore never taken by the Bishop of Malta, he had sent a copy of the form to His Holiness to sound his views about the matter, and had since solicited him five times for a prompt answer, by means of the Cardinal Secretary of State and of the Agent at Rome. In conclusion, owing to the silence of Rome, he asked the Acting-Lt. Governor Cardew to dispense him from attending for the moment¹². Following the Archbishop's message the Acting-Lt. Governor postponed the meeting from the 21st to the 28th of the same month.

The Archbishop's answer to a second invitation was that he would not attend either on the 28th, unless he received an answer from Rome¹³. The Acting Lt. Governor answered dramatically. He said that it was his duty to inform the King of the obstacles that prevented the carrying out of His Majesty's Orders, and "without pausing for a moment to consider whether any previous authorization from Rome was necessary for the due execution of commands of the Sovereign", he expected to have from the Archbishop a full and distinct declaration, whether any, or what, part of the form of the Oath was repugnant to his conscience¹⁴.

The Archbishop was not slow in giving an adequate reply. As it had been repugnant to the Catholic Bishops of England, in like manner it was repugnant

11. G.G., 22.VI.1835, *Minute*, p. 212. For financial motives the Governor of Malta had, at that time, the rank of a Lieutenant Governor.

12. R.M.L. — *Despatches* 1835, pp. 497/9 — Hankey to Mgr. Caruana: 17.X.1835; Mgr. Caruana to Hankey: 18.X.1835.

13. *Ibid.*, pp. 500/1 — Hankey to Mgr. Caruana: 19.X.1835; Mgr. Caruana to Hankey: 22.X.1835.

14. *Ibid.*, p. 502 — Hankey to Mgr. Caruana: 23.X.1835.

to his conscience, to take the said Oath, without premising those protests which the Holy See directed the said Bishops to make in taking their Oaths; his repugnance was increased by the addition of the word *weaken* which did not appear in the Oath proposed to the Bishops of England¹⁵. And if His Majesty insisted that he should take the Oath, he would have extended to him the explanation given by the Holy See to the Bishops of England, and he would make the protests which he had already made known through his Vicar General¹⁵. The Archbishop concluded that he did make reference to Rome of the matter, because the Oath was purely religious Act, that he was a Bishop of the Roman Catholic Apostolic Church, and that he never pretended to make the due execution of His Majesty's Orders dependent upon the authorization of the Holy See. He hoped however that the Government would not hesitate to approve his conduct on that occasion¹⁶.

This letter was submitted to the Acting-Lt. Governor, who found himself under the necessity of again putting off the Installation of the Council to some future day to be fixed later on. He informed the Archbishop that it was his intention to submit to the consideration of His Majesty's Government in England all that had passed, with the view of obtaining further Instructions on the subject, for his guidance¹⁷.

In the meantime the two Catholic nominated Members of the Council, Baron De Piro and Mr. Agostino Portelli, earnestly entreated the Acting-Lt. Governor to prorogue, stating that it would be hard on them to be called on to take the Oath on the day when the Bishop refused to attend for the purpose: one of them added that if they were to do so, they would incur the public indignation. Subsequently, however, they solemnly declared to the Acting-Lt. Governor that they would take the Oath whenever called on, without a word of objection, whatever might be the result of the Bishop's application to Rome¹⁸.

As stated before, by means of two despatches dated 28 and 30 October 1835, Cardew exposed what happened and disclosed his fear that the occurrence would perplex in some degree His Majesty's Government at home. He enclosed a copy of the correspondence between him and the Archbishop. He manifested also his doubts whether he was right in postponing the Installation, or should have sworn in the other Members of the Council¹⁹.

With regard to the answer from Rome, the Acting-Lt. Governor stated that it was problematic, because the Papal Government was slow in answering direct applications of such a nature as the one in question: the Authorities in Rome would have been better pleased, had the Bishop taken the Oath than have made the said application, "for His Holiness, wrote the Lt. Governor, tacitly permitted many things, for the doing of which he would not grant his express warrant and sanction", and mentioned the case of the King's prayer after Mass²⁰.

He seemed also to put aside the Archbishop and added that the latter was of an advanced age, apoplectic, failing in health and with mental faculties

15. Ibid., pp. 503/4 — Mgr. Caruana to Hankey: 24.X.1835.

16. Ibid., p. 504.

17. Ibid., p. 505 — Hankey to Mgr. Caruana: 26.X.1835.

18. Ibid., p. 490 — Cardew to Glenelg: 30.X.1835.

19. Ibid., pp. 483/95.

20. Ibid., pp. 491/2.

impaired, drawing unimportant distinction between the Oath of the Catholics in England and that of those in Malta. It also occurred to his mind that after the Bishop's application to Rome, His Majesty might not be disposed to admit him into the Council²¹.

He concluded the Despatch putting the following questions to the Secretary of State:

(i) what was he to do, if the Papal Government withheld its sanction of the Oath, or remained silent?

(ii) was it possible to put aside the Bishop and place his Archdeacon instead of him in the Council?²²

(iii) if so, what seat was he to occupy?

(iv) could the Council be constituted and put in motion without the Bishop's participation?

The Secretary of State approved of the course the Hon. Cardew had adopted in suspending the Installation and directed him to summon all the Members who had been nominated and to swear in those who might present themselves accordingly²³.

In accordance with these Instructions, the Acting-Lt. Governor issued a Minute fixing Tuesday, the 29th December, for the ceremony, inviting all the Members, including the Bishop, to attend²⁴ hoping that an answer from Rome would at no distant period remove the existing difficulties²⁵.

The Archbishop once more excused himself on the grounds that he still ignored His Holiness's sentiments on the Oath. The other Members attended and took their Oaths and their respective seats in the Council²⁶.

On the same day the Lt. Governor issued a Proclamation declaring the Installation of Members of the Council with the exception of the Hon. and Most Rev. Archbishop Dr. F.S. Caruana, Bishop of this Island, who did not attend²⁷.

By then the Holy See expressed its views with regard to the liceity of the Oath, through a despatch to the Archbishop, dated 19th December, 1835, which reached its destination much later. In this despatch Card. Bernetti, the Secretary to the Papal State, apologized for the delay in answering the Bishop's three letters (of 21 May, 13 September, and 31 October), attributing it to the several delicate and urgent questions which had to be considered by the Congregation. In this letter the Cardinal Secretary tried to persuade the Bishop to abstain from taking part in a Council where Ecclesiastical matters could be dealt with in a manner prejudicial to his and to the Catholic Faith's interests, since the majority

21. *Ibid.*, p. 492.

22. If we are to believe what Cardew wrote to the Secretary of State, the Archdeacon Salvatore Lanzon, a person of ability and discretion, in his capacity of Vicar General, strongly advised the Archbishop to take the Oath, as he found in it nothing objectionable, and frankly declared that he himself was ready to take it. He also urged the Bishop to take it on the ground of the silence observed at Rome in respect to his application. But it was all in vain. (Cardew to Glenelg: 30.X.1835, pp. 492v/3).

23. R.M.L. — *Despatches* 1835, p. 493.

24. *Ibid.*, p. 616 — Cardew to Glenelg: 30.XII.1835; G.G., 16.V.1835, p. 197.

25. G.G., 16.V.1835, p. 198.

26. *Ibid.*

27. R.M.L. — *Despatches* 1835, p. 622 — Proclamation 29.XII.1835.

of the Members were of the Anglican Sect. In such case, even if he duly made his protests against these decisions, these would be known only by the Members, and the faithful under his care would be greatly scandalized; whereas, if he kept himself outside the Council and protested against any eventual decision prejudicial taken therein, his disapproval would be known by everybody and would be more efficient. As regards the Oath formula, the Papal instructions were that it could not be approved, nor had it been approved by the See, in spite of what had been said by Mgr. Quarantotti, the Vice-Prefect of the Congregation "*De Propaganda Fide*" on the 16th of February 1814 to Mgr. Poynter in the absence of His Holiness from his See²⁸.

The Bishop sent his Vicar General to explain the contents of Card. Bernetti's communiqué to the Officer Administering the Government; and the next day he applied by letter to be allowed to resign his seat in the Council²⁹.

The Acting Lt.-Governor informed the S. of S. in London, who announced, later, that His Majesty was graciously pleased to accept the Bishop's resignation, adding his regret that the same motives which had influenced the Bishop's decision in that instance would apply with equal force to every other ecclesiastic in the Island who might belong to the Romish Church³⁰.

Lord Glenelg disclosed his surprise for this behaviour of the Bishop, "whose elevation to the Episcopal See was due to England and on whom the British Government thought they could entirely count"³¹.

By Letters Patent of the 28th October 1838, the Bishop was substituted in the Council by the Auditor General³².

The Oath Question, however, did not stop here.

The Bishop's refusal to take the Oath prescribed by William IV had a remarkable resonance in the British Parliament. On the 27th of March 1838, the Bishop of Exeter called the attention of the House of Lords to the facts which had occurred in Malta. He moved that an address should be presented to Her Majesty the Queen (Victoria) praying that She would be pleased to cause to be laid on the table a copy of any despatch from the Governor or Acting Lieutenant Governor to His late Majesty's Secretary of State for the Colonial Department, respecting the appointment of the Bishop of Malta to be a Member of the Council of Government of this Island, his refusal to take the Oath requested by the Law, as well as his resignation from the said office, together with any other document received from the said Bishop on the occasion of his refusal and resignation. The motion was agreed to³³.

On the 6th of April, the Earl of Shrewsbury gave notice that in consequence of having seen the said papers, he felt it his duty to bring the subject again under their Lordships' consideration after the Easter recess, "when he should be able to prove that the said Oath remained as stringent as it was before the

28. A.A. — *Corrispondenza* 1833/5, pp. 542/3 — Card. Bernetti to Mgr. Caruana: 19.XII.1835.

29. G.G., 16.V.1838, p. 198 — Cardew to Glenelg: 27.II.1836.

30. *Ibid.* — Glenelg to Cardew: 12.IV.1836.

31. *Ibid.*

32. G.G., 26.VI.1838, *Proclamation* p. 537.

33. G.G., 30.V.1838, pp. 201/2.

opinion of the Pope of Rome had been communicated to the Bishop of Malta, and that the Pope's opinion did not convey a condemnation of that Oath''³⁴.

In pursuance to this promise the Earl did bring the matter in the same House on the 8th of May, and he assured the House that the Oath was still in the same position as it was in 1829. Nay, he added that the Oath Formula had been approved by the 4 Vicars Apostolic of England and by the Bishops of Ireland, that several of the latter had — since their resolution of approval — visited the Court of Rome, but had received no reprimand.

He also read a passage from a letter he had received from Dr. P.A. Baines Tit. Bishop of Siga and Vicar Apostolic for the West of England, to the effect that the Court of Rome did not condemn the formula of the Oath, but, evasively, it only declared it not approvable.

The Earl read also a second passage from a letter by Dr. Murray (very likely Daniel Murray, Archbishop of Dublin (1768-1854), stating that he (Dr. Murray) had no knowledge of any communication with Rome about this matter, nay the Catholic prelates of Ireland had deemed themselves competent to judge about the morality of this Oath without a reference to any other quarter, and confessing that he (Dr. Murray) had at all times disapproved of that Oath as unnecessary, insulting and calculated to excite conscientious scruples in timorous minds, when not sufficiently acquainted with the animus of Parliament in proposing it. But while he did not approve it, he never condemned it as unlawful³⁵.

The Earl of Shrewsbury finally moved for further despatches. But these being of a private nature, he was persuaded by Lord Melbourne to withdraw the motion, which the Earl assented to in a brief reply³⁶.

In a despatch numbered 312, dated 20th November 1838, the Governor was instructed to extend the obligation to take the same Oath from the Members of Council to all persons of the Roman Catholic Faith holding offices or places of trust or profit under the Government in the Island³⁷. This was made known and imposed in Malta by a Proclamation dated 3rd January, 1839.

The controversy as to the liceity of the Oath formula now, assumed a public character in the Island. Among those who supported the liceity, the most outstanding person was Salvatore Cumbo, a Doctor of Divinity and Professor of Theology in the University. Dr. Cumbo published a *Discourse* with the aim of persuading the public that the form of the new Oath contained nothing against the Catholic doctrine, or objectionable, because, he wrote, art. III was not meant to stop the preaching of the Catholic Faith in the United Kingdom. As a matter of fact, the Bishops and the Rectors of Churches did preach freely, and although they obtained from the State the permission to open their Churches and they took the Oath of Allegiance mentioned, they were never convicted of any perjury, not even when they preached against the Protestant Faith. What this article prohibited was, therefore, the use of foul means, violence, political discord through difference of Religion, riots and deprivation of the Protestant Churches

34. Ibid.

35. Ibid.

36. Ibid.

37. R.M.L. — *Despatches 1847/8*, p. 196 — O'Ferrall to Grey: 12.I.1848.

of the goods they enjoyed. Not even the University of Paris, he wrote, did condemn this Oath. Nay, the Holy See, he added did neither condemn it, nor approve it³⁸.

This last allegation was not exact, because on the 15 January the Bishop informed the Holy See of this new imposition, and Card. Lambruschini the Papal S. of S. was instructed by the Holy Father to answer that, according to what had been already stated in his previous letter, the formula was neither approvable nor ever approved by the Holy See, and that the Holy Father was extremely grieved that some ecclesiastics had already sworn in this formula, and that moreover a Professor of the University had defended and supported its liceity in the public press³⁹.

Following this controversy, some representations were made to Lord Normanby, the Colonial Secretary of State, that dissatisfaction had been excited amongst the Roman Catholic population at Malta, owing to the new Proclamation⁴⁰.

The Colonial Secretary asked the Governor to draw a report upon this subject, and state: (1) what had taken place, (2) what were the former Laws with regard to the Oath of Allegiance, and (3) whether it was advisable to continue to adhere to the new form of Oath or to revert to the previous Law or practice⁴¹.

The Governor Bouverie, forecasting that the thing would reach the Secretary of State, had already addressed to him some information anent this matter on the 16th of May. He, now, repeated and corroborated what he had already stated in his former despatch, namely, that previous to 1813 no Oath of Allegiance was taken by the Maltese to the British Crown, that following the Instructions given him, Sir Thomas Maitland and his successors imposed the Oath known as the Canada or Quebec Oath for the Roman Catholics; that this went on up to the publication of the Proclamation of 1839. With regard to popular feelings he declared that no dissatisfaction or excitement prevailed or had prevailed in Malta upon the imposition. Consequently, he did not feel justified to recommend any alteration in the Law of 1829, because he deemed that the Oath prescribed therein was not of a nature that could not conscientiously be taken by Her Majesty's Roman Catholic Subjects in Malta. The Governor posed rather as a Theologian than as a General! He attributed the clamours against the Oath to the Bishop, from whom representations were to be expected after his decline to take the same Oath himself years before. Nay, he added that the Clergy in Malta viewed it differently from their Pastor, and enclosed three copies of Dr. Cumbo's pamphlet⁴².

On the same day, in a separate and confidential despatch, Bouverie acquainted the Secretary of State that some weeks before he had been confidentially informed "from a quarter in which he placed reliance", that the Bishop had been carrying on a correspondence with Rome on the subject, and that five

38. Cumbo Dr. Salv. — *Discorso sul Giuramento*, Malta 1839.

39. A.A. — *Corrispondenza* 1838/40, pp. 841/2, Card. Lambruschini to Mgr. Caruana: 12.II.1839.

40. R M.L. — *Despatches* 1839, p. 268 — Normanby to Bouverie: 26.IV.1839.

41. *Ibid.*

42. *Ibid.*, pp. 269/271 — Bouverie to Normanby: 13.VI.1839.

weeks before he had received a letter from Cardinal Lambruschini, which had been kept secret, recommending him to get up a Petition to Her Majesty against the Oath, and stating that if it were numerously signed, the Cardinal would be able to secure for it the favourable consideration of Her Majesty's Ministers. "The Bishop", he said, "had so far, taken no open steps to agitate the Petition, and the Governor hoped he would show more prudence and honesty than to follow the Cardinal's advice". He finally stressed the point that the question did in no way engage the public mind, whether clerical or lay, and that he would leave it in a state of inaction and indifference, unless some undue means were resorted to by Rome, through the Bishop, which he would duly discountenance⁴³.

Less than a month later the Governor informed the Secretary of State that the draft of the Petition from Rome had reached the Bishop, accompanied by a letter from Mgr. Capaccini, the Pro-Secretary of Papal State. But the Bishop, as far as the Governor was aware, did not take any steps to get this Petition signed⁴⁴.

A lull followed from the year 1839 to 1847, interrupted only by the following event. In the year 1845, the Hon. John O'Connell, a member of the English Parliament, published on a double issue of the *Tablet* (26th July and 9th August) some documents anent the Maltese religious grievances, which he had already read in the Conciliation Hall at Dublin. Among the several acts and enactments of the British Government in Malta, prejudicial to our Religion, he mentioned the Proclamation imposing the new Oath, which he dubbed and proved to be stupid⁴⁵.

On the 17th November, 1847, Bishop F.S. Caruana died, and he was succeeded by Mgr. Publio M. Sant, his Coadjutor, who appointed Can. Vincenzo Chapelle and the Archpriest Giuseppe Galea to be his Vicar General and Pro-Vicar for Notabile and its district. He also confirmed Canon Tommaso Vel'a as Pro-Vicar for Gozo⁴⁶.

According to the Proclamation of April 10, 1828, these Ecclesiastical Functionaries had to take the Oaths of Allegiance and Office in the presence of the Head of Government, before entering in their respective duties.

Colonel Mildmay Fane, the Officer administering the Government after Stuart's retirement, accordingly informed the new Bishop of his Functionaries' obligation of taking these Oaths. Three days later Canons Chapelle and Galea, in an interview, declared to him that they were prevented by conscientious motives from taking the Oath of Allegiance in the form prescribed by Act 14 Geo IV. cap. 7. Col. Fane promised that he would immediately communicate the circumstance to the Secretary of State and ask instructions for his guidance in this matter⁴⁷.

The Bishop, duly informed by his Functionaries of what occurred, addressed

43. Ibid., pp. 274/5.

44. Ibid., p. 324 — Bouverie to Normanby: 9.VII.1839.

45. O'Connell John — *Documents* (Ital. transl.) Malta, 1896, p. 17.

46. R.M.L. — *Despatches* 1847/8, pp. 155/7 — Fane to Grey: 25.XI; 4.XII.1847.

47. Ibid., pp. 157/8 — Fane to Grey: 4.XII.1847; pp. 163/5: Mgr. Sant to Fane: 4.XII.1847.

a letter to the Administering Governor, acquainting him that he was entirely of their opinion and added that neither himself, nor his predecessor had ever taken that Oath, which, according to Card. Bernetti's communication of the 19th December 1835, had never been, nor ever could be approved by the Holy See. He pointed out that the said formula was conceived for the Catholics of England. He finally requested him to ask Her Majesty's Ministers to propose a formula reconcilable with the principles of the Catholic Religion and tending, therefore, to tranquillize the consciences of the Maltese subjects⁴⁸.

Fane transmitted a copy of this letter, together with a translation thereof to Lord Grey (the letter was written in Italian), remarking that in no time the Ministers of the Council of Government, Her Majesty's Judges and the Professors of the University and many others, had refused to take the prescribed Oath. The only exception, he wrote, was that of Archbishop Caruana when he declined to take that Oath on the occasion of his being named one of the Official Members of the Council⁴⁹.

In the month of December of that same year the Hon. Richard More O'Ferrall was appointed Governor of these Islands. On New Year's Day, Canons Chapelle and Galea informed him by a letter that they were ready to take the Oath of Allegiance, provided it contained no expressions which might disturb their consciences as Catholics and Ecclesiastics, or purport a sense of little reverence to the Holy See. They remarked that the consequence of their not taking the Oath was impeding the despatch of their business of a judiciary nature to the prejudice of the public service⁵⁰.

O'Ferrall, as a Catholic, could understand much better the proviso made by the two Canons. He made it, therefore, his duty, to study personally the question. He went over the documents in the Chief Secretary's office. Owing to the delicacy of the matter, he did not even consult the Crown Advocate, but directly reported the whole matter to Lord Grey, the Secretary of State, repeating the history of the Oath Question, not failing, however, to add some remarks of his own.

He started with the statement that it was a matter of regret that the Canada Oath was no more considered as sufficient to bind the conscience of the Maltese. He added that the new formula had been, since the year 1829, considered of doubtful applicability to the Colonies: it was still doubtful whether this formula had been legally imposed upon the Roman Catholic subjects in Malta, since it had been imposed by Bouverie in 1839, without the assent of the Council of Government, which was required by the Constitution of 1835, and consequently, not being a case of the most immediate and pressing urgency, it could not have the force of Law for the Island. He stressed again the particular situation of Malta, where the Roman Catholic Church had been guaranteed by Great Britain, and the Maltese had never been subject to the Penal Laws. Therefore, he argued, the Act for the Relief of Catholics of 1829, which imposed the new formula of Oath, was not applicable to Malta. Besides, he observed, if the

48. Ibid., pp. 163/4 — Mgr. Sant to Fane: 4.XII.1847.

49. Ibid., pp. 161/2 — Fane to Grey: 13.XII.1847.

50. Ibid., p. 211 sqq. — Chapelle and Galea to O'Ferrall: 1.I.1848; O'Ferrall to Grey: 13.I.1848.

Relief Act were to apply to these Islands, it should apply in all its parts, and this would entail the imposition of section 26 (which inflicted penalties on Roman Catholic Ecclesiastics exercising any of the rites of the Roman Catholic Religion, or wearing the habits of their Order, save within their usual places of Worship or private houses) and of section 28 (which made provision for the gradual suppression of the Jesuits and other Religious Orders of the Church of Rome). This imposition, he remarked, would not only be an act of impolicy, but could also be directly contrary to the solemn engagements entered into with the Maltese by Great Britain.

He added, moreover, that the very terms of the Oath referred to seemed essentially to contradict the supposition that it was intended to be taken by Maltese Catholics. As a matter of fact the Act mentioned "the present Church Establishment as settled by Law within this realm" (i.e. Protestantism in the United Kingdom), while the established Church in Malta was the Roman Catholic; and, further, it imposed that the Oath should be taken in fixed places, namely, in Westminster or Dublin, or before determined Judges in Ireland or Scotland: it would be absurd to say that all the Maltese subjects seeking office with the Government were obliged to travel to the United Kingdom for the purpose of taking the Oath.

His last remark was that Ponsonby's suggestion to enforce section 26 (regarding processions) could not be enforced compatibly with the observance of good faith on the part of Great Britain. He finally concluded that upon a full consideration of the matter, he was strongly inclined to believe that it was illegal to tender the latter Oath to the Maltese, and the former form (of Quebec) was the only Oath of Allegiance which could be legally required to take.

As a conclusion to his despatch, O'Ferrall dared to suggest a new formula, if the Secretary of State deemed it sufficient to attain all the objects contemplated by the Oath prescribed by Act 10 Geo IV. The new formula was the following: "I, N.N., do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria. So help me God"⁵¹. (O'Ferrall to Grey: 13. I. 1848, D. 1847/8, pp. 195/207).

While this communication was passing between the Governor and the British Government, a certain Dr. Michael Micallef, who wished to exercise the profession of lawyer, entertained some religious doubts as to his taking the oath prescribed. He wrote to the Governor to this effect.

On the 18th of June 1848 the Chief Secretary answered Dr. Micallef stating that "the Oath of Allegiance, commonly so called, had substituted the one prescribed by the Notification of 1839, and that directions had been already given for the administration of the said Oath of Allegiance in future"⁵².

51. Ibid., pp. 195/207 — O'Ferrall to Grey: 13.I.1848.

52. Debono P. — *Sommario della Storia di Legislazione a Malta* p. 344. n. 39.

The Oath form suggested by O'Ferrall had been accepted by the British Government for the people of Malta, and later on it was introduced, as it read, in the *Codice di Organizzazione e Procedura Civile art. 9*.

Thus another thorny question in the relations between the Church in Malta and the British Government came to a happy end.

SOURCES

- C.O. — Colonial Office Records in the Public Records Office, London.
R.M.L. — Royal Malta Library Newspapers, Valletta.
A.A. — Archbishop's Archives Correspondence, Valletta.
G.G. — Government Gazette, Malta.

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