The 1921 Self-Government Constitution

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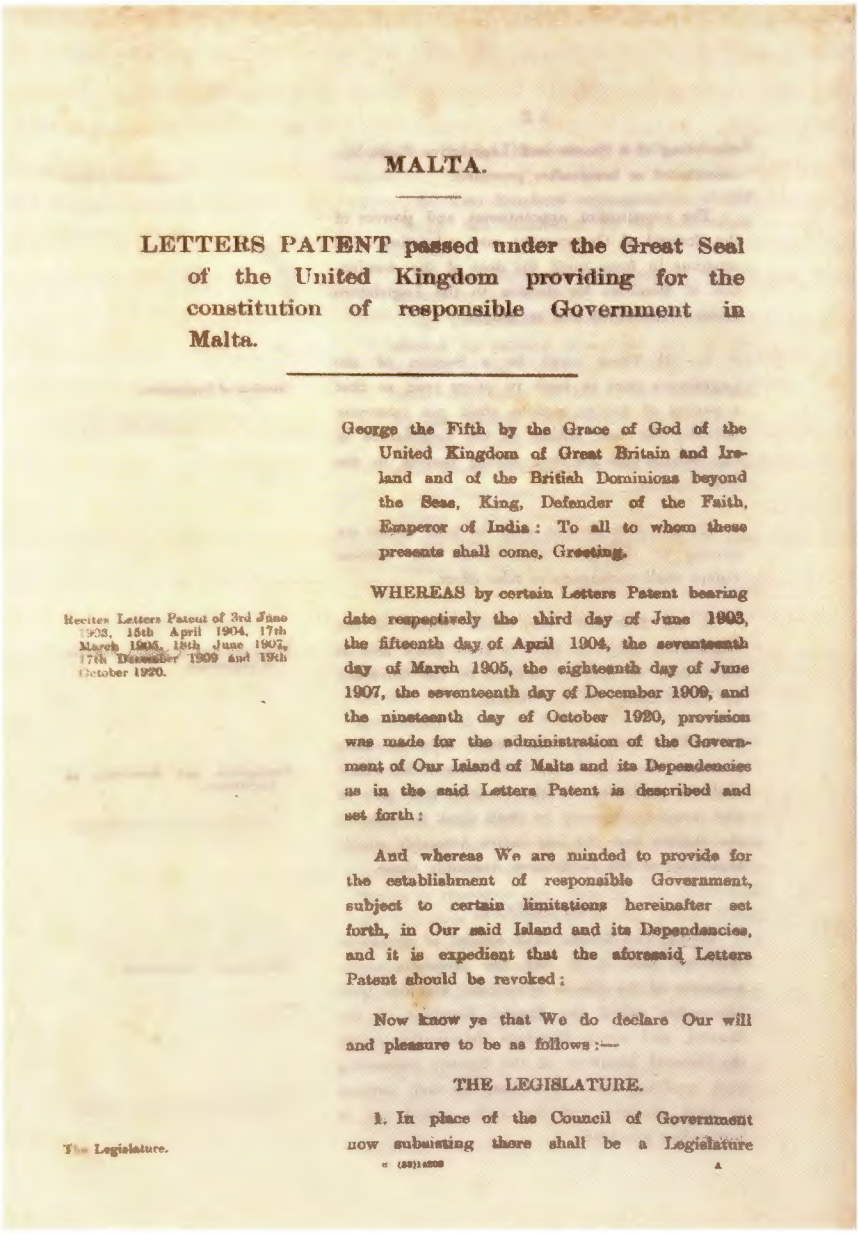
The grant of the 1921 constitution was part-fulfilment of a quest that had spanned more than a century. It was the result of sustained pressure by the Maltese political elite that had always aspired to local autonomy. The question is, why 121 years? And was this something that in fact had been anticipated by the Maltese? The fact that such a prolonged struggle ensued is evidence of an initial and a rather naïve Maltese trust in Britain's willingness to enter into a partnership under which they would gain British protection, administer their own affairs while Britain gained a Mediterranean fortress that would eventually become a great commercial depot. This is what they promised. The Maltese had sought and thought that they had secured the blessings of a benevolent paternalism only to discover that they had entrusted themselves to a form of benign despotism. They had failed to take into account two main things: Britain's determination to retain a free hand in the running of the fortress, this was axiomatic as far as they were concerned. If this was a fortress, we call the shots. We cannot have a civilian government interfering. And secondly, official British contempt regarding Maltese political and administrative

abilities. The royal commission of 1812 actually put this on paper. It said that there was no people on earth so unfitting to hold any sort of political power and it would therefore be in the Maltese best interest to ensure that they had no such political responsibility. Of course Imperialists were always known for the great care they took of the well-being of colonialized people! The British kept the politicians at arm's length, claiming that they only represented themselves, and cultivated the loyalty of the population by maintaining excellent relations with the Church, whose influence over the people they well understood. The persistence, however, of Maltese politicians was still there, but it was met by grudging minor constitutional concessions: in 1835, a consultative Council of Government; in 1849, limited representation; in 1864, a certain control on fiscal matters of purely local affairs; in 1887, majority representation with limited responsibility.

It was a policy aptly described by Walter Ellis, an official at the Colonial Office, as:

> granting Malta from time to time more or less illusory constitutions and then withdrawing them as soon as the Maltese attempted to use their power in any way which does not approve itself to us.

There in a nutshell you have early Maltese constitution history. Even the 1887 constitution fell into this category. Though it was supposed to give to the Maltese the power to decide financial and other matters of a purely local nature, it enabled the Crown to intervene in all matters by legislative or other means. By 1903 the constitution was dead, it was withdrawn and London remained stubbornly deaf to persistent Maltese protests. The outbreak of war in 1914 put the question on a back burner until the end of hostilities. But, the war and the Allies' insistence on the national right of all peoples to self-rule strengthened Maltese grievances. Maltese leaders, particularly the young Enrico Mizzi, he was not the only one but I am signalling him out because he was a constant thorn in the British side, quoted British statements in favour of the right of peoples to national self-rule and branded them as hypocritical. Once the



MALTA.

LETTERS PATENT passed under the Great Seal of the United Kingdom providing for the constitution of responsible Government in Malta.

George the Fifth by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India: To all to whom these presents shall come, Greeting.

Recites Letters Patent of 3rd June 1903, 15th April 1904, 17th March 1905, 18th June 1907, 17th December 1909 and 19th October 1920.

WHEREAS by certain Letters Patent bearing date respectively the third day of June 1903, the fifteenth day of April 1904, the seventeenth day of March 1905, the eighteenth day of June 1907, the seventeenth day of December 1909, and the nineteenth day of October 1920, provision was made for the administration of the Government of Our Island of Malta and its Dependencies as in the said Letters Patent is described and set forth:

And whereas We are minded to provide for the establishment of responsible Government, subject to certain limitations hereinafter set forth, in Our said Island and its Dependancies, and it is expedient that the aforesaid Letters Patent should be revoked:

Now know ye that We do declare Our will and pleasure to be as follows:—

THE LEGISLATURE.

The Legislature.

1. In place of the Council of Government now subsisting there shall be a Legislature

The 1921 Letters Patent which established responsible Government in Malta.

war was over political agitation increased. Dr Filippo Sciberras called for unity to formulate a national demand for self-government. The resultant National Assembly held its first session on 25 February 1919 demanding "full political and administrative autonomy in affairs of local nature and interest". The Assembly courted King George V who had told President Wilson that national rights belong to every nation. In a resolution the delegates demanded

> the full and unalienable natural and historical right of the Maltese to a government worthy of their race and their civilization, and consonant with the high principles of freedom and nationality nobly proclaimed and victoriously defended by the allied nations.

In the meantime severe unemployment, actual and dreaded, the persisting economic hardships caused by the war, and the political discontent, led to social unrest culminating in the riots of 7 and 8 June 1919, which coincided with the second meeting of the National Assembly. It is important to underline the national character of the Assembly, with the nascent working class included albeit in a distinct minority, and also the central part played by the clergy as the church sought not to be outdone by the politicians. That the new constitution would be granted to Malta was already by this time generally accepted in London, but the difficulty remained how to ensure that imperial interest was securely safeguarded. The great divide over language in Malta was also a cause for concern in London. One of the things that we hear very often for example is the fact that the 7 June riots were responsible for the granting of the 1921 constitution. This is not exactly correct. In fact one of the officials at the Colonial Office, noted, when discussing the proposed constitution for Malta, that 'the Maltese will now think that we have granted constitution because of the riots' when in fact the process had already started. What was not yet clear was what form this constitution was to take. The Assembly was all out for the widest autonomy, but publicly recognised imperial interests and Britain's responsibility for them. This was crucial to

the British, it was crucial to help them to make up their mind that, after all, they could possibly work with the Maltese government. This helped to mitigate fears, in London, of anti-imperial sentiments taking control in Malta, and helped to spur a genuine attempt at finding a solution to the Malta 'problem'. The National Assembly drew up a draft constitution and sent it to London. There consensus had grown that the key to placating the Maltese was to introduce the separation of powers on the diarchical system, something which had already been tried successfully in India. The 1921 constitution, as promulgated, differed from the draft drawn up by the National Assembly but it also tried to adhere as much as possible to the Assembly's wishes.

The Assembly favoured the *scrutin de liste* but Amery insisted on proportional representation, which we have to this day, although it was played about with, with the intention of making it difficult for any one party to gain an outright majority and be a possible threat to British interest. On this Amery was adamant: it had to be proportional representation based

The Prince of Wales after the granting of the 1921 constitution

on the single transferable vote or nothing, because in his eyes this would guarantee a weak government.

Reserved matters were introduced under the diarchy. There was to be an elected Maltese government responsible for purely local affairs, and a nominated Imperial government responsible for all matters directly or indirectly connected with Defence and Foreign Affairs, listed as Reserved Matters. The Assembly felt that the list was far too wide; in fact anything which even remotely approached the element of foreign affairs or defence was kept safely out of the reach of local legislators.

There were to be two official languages: English as the language of administration and Italian as the language of the courts. In the schools and university the two languages were of equal importance, particularly from the upper classes of the primary school onwards.

Under the constitution the Maltese Government was responsible towards a Legislative Assembly of 32 members and a Senate of 17 members. The Assembly had a maximum life of three years, the Senate of six. The Executive Council consisted of the Head of the Ministry and not more than six other ministers. You will notice here that you have there a Legislative Assembly not a Parliament; you have an Executive Council not a Cabinet; you have a Head of the Ministry not a Prime Minister. This was one way by which the British hoped to keep the Maltese in their place. For the purpose of electing the Legislative Assembly, Malta was divided into seven districts, the eighth being Gozo, each returning four members. The Senate consisted of a corporate element of ten members, with the other seven elected, four from one district, and three from the other. All males of 21 years and above who could read and write or who derived an income of at least £5 annually from his or his wife's property or capital was eligible to vote for and contest for election to the Legislative Assembly. The minimum age for eligibility to the Senate was 35. Two corporate members were elected from each of the special electoral colleges representing the nobility, the University graduates, the Chamber of Commerce and the Trade Union Council, while a further two members representing the clergy were nominated by the Archbishop. An immediate problem was the Trade Union Council because no such body existed in Malta. This was hastily

set up without any legal definition of a trade union with the result that its composition became a hotly contested political issue and the legitimacy of its Senators liable to legal challenge. The state of affairs contributed in no small measure to the political crises of 1928-1930. Justices of the Superior Courts were appointed by the Governor, presiding the Privy Council, and could only be removed by the Governor on grounds of misbehaviour or incapacity to carry out their duties, and following a request made during a joint session of the Legislative Assembly and the Senate.

The constitution was promulgated on 14 April 1921 and the first Maltese Parliament was inaugurated by His Royal Highness Edward Prince of Wales on 1 November 1921. Four parties had contested the election to the Legislative Assembly with none achieving an overall majority, which certainly would have pleased Amery. The 1921 constitution introduced

The crowds outside the Palace, Valletta, 1921

limited responsible government to Malta. The experiment was short lived; by 1933 it was over. But its significance in Maltese political development should not be underestimated. It helped to delineate the political forces on the island and for the first time political parties could vie for power and could be held accountable for decisions in the local sphere. It provided local politicians with important administrative experience. It confronted Maltese opinion with the first significant questions regarding the participation of the clergy in politics. If you look at the goings on of the National Assembly one of the things that strike you is a motion put forward by two clerical members of the Assembly which wanted the Assembly to ensure that anything having to do with the church would be considered as a Reserved Matter under the constitution. So we have at this stage the clear indication that the church is looking to the future and thinking in terms also about the separation of powers. It raised for the first time in an active context the issue of the separation of church and state leading to the first political religious quarrel. It drove home a key change that the birth of political parties had brought about: the replacement of the church as the people's interlocutor with British power. It made the church determine to be at the centre of the decision making process. It enhanced the feeling of nationhood, made local politicians directly responsible for improving the common good whilst underlining the restrictions imposed on Maltese representatives by the reality of living in a fortress colony. It encouraged politicians to dream and later strive for Malta to loosen its colonial status through further constitutional advancement. Later, when the time came and there was political consensus on the Island, that it would no longer rely on dependency, Malta was ready to shed completely its colonial status and achieve sovereignty.