

RE-ESTABLISHMENT OF SELF-GOVERNMENT

(A lecture delivered by H.H. Sir GEORGE BORG, K., M.B.E., LL.D.)

I FEEL it an honour and a pleasure to have been asked by your Society to deliver this inaugural address after that the Rules of the Society have been definitively approved by the General Council of the University. It is an honour because the objects the Society has in mind, as stated in the rules themselves, are of raising the standard of University Students and to place them in a position ready to prepare themselves befittingly for the hard struggle of life after that they shall have finished their university career. It is a pleasure, because it reminds me of the good old days when I was a University student and this gathering recalls to my mind the anxieties of school life to which, once they are over, I look with satisfaction. Indeed, University life represents the happy periods of one's life, when one does not realize the heavy responsibilities of office and of manhood in general.

You will, in the ordinary course of events, as I do hope, finish your career with the conferment of the degree of Doctor of Laws and you will be ready for the hard struggle of life. The end of your University career will, I presume, coincide with the introduction of radical constitutional changes in the Government of these Islands. I am sure you have followed with interest, not unmingled with satisfaction, the announcement made a few months ago by His Excellency the governor on behalf of his Majesty's government to the effect that as soon as the present state of hostilities is over and circumstances permit, Self-Government will be re-established in Malta. You, who have gone through the constitutional history of Europe and more particularly of the British Empire, know too well that members of the legal community have invariably throughout the whole civilized world taken the most active interest in all representative institutions, and, therefore, both by reason of your professional learning and of your love for your country, which I am sure, is not wanting in every Maltese breast, you will participate to a large degree in the shaping of the future destinies of our Island by taking direct and immediate interest in all public affairs affecting the well being of all sections of the Maltese community.

The occasion which will present itself to you. As soon as your University studies are over, will indeed be unique. For, Gentlemen, it is the hearty and disinterested co-operation of the rising generation, to which you belong, that will make the grant of self-government a success especially in its experimental stages.

His Majesty's Government have given a tangible proof of their willingness to assist the inhabitants of these Islands towards sharing the great advantages of British Constitutional liberties and it rests entirely with the Maltese people to show, by example and precept, that they are competent and mature to administer their local concerns.

A statement of the British Government's policy regarding the constitutional future of all the Colonies held in trust by the British Crown has been made in unequivocal and clear terms, namely to the effect that gradually, as the different colonies become ripe, they will enjoy the blessings of autonomy.

Nor could it be otherwise : for the present universal struggle is being fought for the supremacy of Democracy and for the prevalence of liberal institutions.

This statement of policy has been dictated by the sheer experience of hundreds of years of British Colonial Government, which has been a constant change towards that state of perfection, which only liberal institutions can introduce and which will in the long run lead towards happiness and prosperity of both governors and governed.

We see the development of political institutions from the time of the French Revolution, the series of changes towards limited Monarchical and Republican ideas on the whole continent and their repercussions on the minds of the ordinary conservative English people. We see the Boston Tea Riots at the time of George III who insisted on ruling the American states from the Metropolis of the Empire without the right of those immediately concerned to express their views. We see the reaction to this high-handed political system, which brought about the establishment of the well known principle of "no taxation without representation."

These mistakes served to change the whole colonial policy of the Authorities at Downing Street and to induce responsible ministers of the crown to advise the Sovereign to grant gradual reforms which culminated in the establishment of Colonial Dominions, bringing about that marvelous piece of legislation and statesmanship known as the Statute of Westminster, according to which each dominion has the fullest right to govern itself, to secede from the mother country. But far from encouraging separatist ideas these liberal institutions are the wonder of the whole world since they have engendered a feeling of genuine fellowship which has given such an eloquent proof during the life and death struggle we are now traversing.

The history of the British Constitution is emphatically the history of progress and it is on this basis that Colonial Government has been carried out. The fundamental principle of religious toleration has been propounded throughout the whole empire with unique constancy. Those who are familiar with the evolutionary progress of Europe, as you are, are fully aware of the series of quarrels and immense bloodshed due to religious intolerance. By allowing everybody to observe his religious beliefs the State in England and throughout the Empire has eliminated one of the main causes of constant misunderstanding and bloodshed. In Malta this principle was propounded by the Maltese National Congress which met 114 years ago, that is, on the 11th February, 1800. One of its first acts was to issue a declaration of the rights of the Maltese people and in it the Congress affirmed the principle of religious toleration.

Unfortunately the Congress was soon to be dissolved and the first shape of constitutional Government was given to the Maltese people in 1849 when a Council of Government was granted with power to make laws for the peace and good government of these Islands. The council being composed of 18 members, namely: of the Governor as President, nine appointed by Her Majesty and eight elected by the electorate of Malta. I need hardly point out that as the official members were always in the majority it was very often difficult if not impossible that the elected members could make their will prevail. But in examining the importance of that concession one must not overlook the state of European politics one hundred years ago, the ferment prevailing in the neighbouring peninsula and the uncertainty of conditions throughout the Continent. Nevertheless the elected members had the means of ventilating the grievance of their constituents and more particularly of the lower section of the Maltese community.

But the most important constitutional concession at that time was embodied in the dispatch of the then Secretary of State the Earl Grey dated 16th November, 1847 wherein the principles on which these Islands should be governed were set down.

An important concession was made in 1887 when the so called Knutsford Constitution was granted. The constitution took the name of the then Colonial Secretary Lord Knutsford. The elected members were in a decided majority and they had absolute power of purse for the

official members could not according to the Letters Patent even registry their votes on all money matters.

This form of Government had a relatively short life and it was evident from the very beginning that engineers were wanting who could make the legislative machinery work properly. The constitution suffered so many mutilations and it was so thoroughly truncated that at the end one deadlock followed another with such rapidity that it had ultimately to be withdrawn.

I need not go in detail through the subsequent constitution and the abstention policy followed by the then elected members because this is now old history and it would serve no useful purpose.

I come at once to the Letters Patent of 1921 when Self Government was for the first time established in these Islands. As I presume you are aware, that was a marked concession as it practically granted a quasi-Dominion status to the inhabitants of these Islands. The constitution established Two Houses of Parliament, namely, the Senate composed of 17 members and the Legislative Assembly consisting of 32 members. In the Senate two members represented the Church, two the professional classed, two the Chamber of Commerce, two the Nobility, and two the Trade Unions, the remaining seven being returned by the Special electors. In the Legislative Assembly the 32 members represented the General electors on a quasi-universal male suffrage.

The defects in the constitution itself and the mistakes perpetrated by the political parties, into which it would be both impolite and useless to enquire, brought about the destruction of the Constitution itself. Nevertheless they would serve as example regarding the working of the future form of government which His Majesty's Government has promised to grant to the people of Malta as soon as the war is over and some of the post-war problems have been settled.

That Constitution is technically styled as 'hierarchical', that is to say, there was the Imperial Government at the head of which the King's representative presided, being ultimately responsible towards the Crown for the security of the Fortress and there was the Civil Government entrusted to the representatives of the people who had a real and efficient control over all money votes, appointment of Civil Servants, alienation of public property and the administration in general.

The stumbling-block was the line of demarcation between Imperial and local interests which the Letters patent tried to define but which they failed to do. The consequence was constant clashes between the Imperial and the Civil Governments—A series of law suits ensuing.

There is no doubt that according to the spirit of the Constitution as originally granted the idea of the legislator was that except in extraordinary cases when Imperial interests were in jeopardy the will of the people was to prevail. Unfortunately through a series of misunderstandings it was in several instances difficult to compose the difficulties of the two interested parties and either through want of foresight or stunnornness of one or of the other party deadlocks were reached.

But the main and, I hope I may be allowed to state, the principle cause of the destruction of the constitution, was the want of fair play on the part of the political parties themselves and total absence of reciprocal toleration which reached its climax in 1930.

A liberal constitution undoubtedly grants immense power to the party enjoying a majority in the legislative Assembly which is responsible for the doing and undoing of ministries but it

would be a grievous mistake if such powers were to be used to the extent of suffocating all reasonable opposition.

The situation becomes more acute, when the Senate goes beyond its power rendering the Constitution unworkable. The Senate is intended everywhere as an Upper House or Review and never as a means of propping up a weak and unsteady Government.

The Assembly is the direct and immediate emanation of the people whose will must prevail, especially as regards the expenditure of public money. It is the body politic that has the power of the purse.

On the other hand the Senate is calculated to control all hasty legislation and to see that a House of Representatives which may happen to be composed of rash and unthinking people should not succeed in placing on the statute book legislative enactments which might in the long run prove deleterious to the best principles of the community in general.

For obvious reasons I am referring to these matters and to a relatively recent period of the constitutional history of these Islands in a very generic way, because I wish to have it clearly understood that I have not the least desire to re-open past quarrelling. But I am simply referring to them as they will serve as an illusion of past mistakes with a view to their not being repeated as such a thing might render nugatory the promised constitutional liberties.

To my mind the future constitution should be composed of two Chambers, the Upper House to represent the vested rights of the Upper classes as well as duly constituted working classes. Its members should have reached a certain age when judgment is ripe and experience offers a guarantee of prudence and moderation. All interested sections of the community ought to be represented therein.

The Lower House should be elected on a universal male suffrage without distinction to knowledge or economic conditions. Before the appointment of the Royal Commission in 1932 persons sentenced to imprisonment with hard labour were not entitled to be registered as electors even after that they had served their sentence. The Royal Commission recommended that the principle obtaining in England, to the effect, that after the person concerned had served its sentence he may be registered as voter, should be established in Malta and the disqualification regarding character should be done away with. I strongly believe that a system which has worked satisfactorily in Great Britain should likewise apply to Malta and that the recommendation of the Royal Commission should be adopted in the future Constitution.

A Congress is being appointed for the purpose of preparing a draft of the Constitution to be submitted to the Colonial Office. Delegations are being sent and I am strongly of opinion that the University students as a body should be represented on the Congress. No other section of University students is more competent to take part in the discussions and deliberations of the Congress than students attending the Law Courses and I am sure that you will not fail to press your claims and to send representatives. Several are the questions of a controversial nature that will have to be discussed, foremost amongst which is the system which is to be adopted for the general and partial elections. Proportional representation by the single transferable vote was imposed on the people of Malta in 1921 and it has remained in operation for twelve years, none of the parties ever tried to do away with it, for I am of opinion that although it is not a perfect system, nevertheless, it is the most scientific that has up to now been excogitated by the human mind.

I remember that during the first elections of 1921, Mr. Humphreys, Secretary of the British Proportional Society came over to Malta to see how it would work. In a conversation I had with him I pointed out that the University had refused to adopt it with regard to the election of

the two representatives of the Professional Classes and his reply was that he was not at all surprised, because all Universities, including those of the United Kingdom, were pre-eminently conservative. It is a fact that proportional representation cannot gauge public opinion during the lifetime of the legislature as to popularity or otherwise of the party in office, in so far as no partial elections in the true sense of the word are held. At the same time it secures a guarantee to minorities to have their views represented.

Another question which will have to be settled before Self-Government is re-established refers to female suffrage which has now been established on sound lines in England. There is no doubt that a majority of the Maltese women are not sufficiently instructed in political matters and it would be dangerous to give them the franchise; nevertheless, a considerable number of Maltese ladies, both by reason of their attainments of the interest they have in the proper working of the Constitution on account of their being landed owners, should be given the opportunity of taking a more direct activity in the well-being of the community. A fairly large number of young ladies who have succeeded in getting their degrees in our Alma mater and who are still pursuing their studies, shows that brains amongst the fair sex are not wanting.

In a properly organized Society the powers of the State are divided into three sections : the Executive, the Legislative and the Judiciary. The principles which govern each sphere of activity of the three powers were Sir Thomas Maitland assumed the Governorship of these Islands. Any encroachment of one power within the sphere of any of the two other powers would bring about confusion and misgovernment. It is one of the glories of the Maltese race that the Judiciary has been known for its independence and loftiness of character and it is imperative that the absolute independence of the judiciary should be maintained and that the emoluments of the Members of the Bench should not be subject to any political influence or interference. In other countries the validity of the elections is entrusted to the Chambers themselves where party spirits are high and impartiality is difficult to secure. In so small a place like Malta it is sound that any question which might arise regarding the legality of elections as well as the validity of laws to enacted by future legislatures should remain within the purview of His Majesty's Civil Courts.

Another question intimately connected with the three powers of the State refers to the appointment of His Majesty's Judges. Under the Constitution of 1921 as originally granted, the right of appointing Judges was vested in the Governor on the advice of his Ministers. In virtue of the Malta Constitution Act passed by the Imperial Parliament in 1932 this right was denied to Ministries. It is a matter of serious consideration whether the old system obtaining in 1921 should be reintroduced or otherwise. On the one hand the appointment of Judges by His Majesty the King offers a sound security regarding the efficiency of persons to be selected, while on the other hand such a system might in the long run be an obstacle to members of the legal profession of outstanding capabilities from participating in local politics, as they might labour under the impression that political considerations might be an obstacle to their elevation to the Bench.

In virtue of the Act of the Imperial Parliament to which I have just referred, the Department of Police was declared to be a reserved matter and, therefore, beyond the jurisdiction of the Ministry. In coming to a decision on this matter one must proceed with the greatest circumspection and the question offers food for much thought and reflection. Whatever may be the ultimate decision, to my mind, the Chief of Police should not be an easy instrument in the bands of any capricious Minister of Justice but should be responsible to a higher authority as the Police ought not to be an instrument of revenge or of political intrigue.

Unless free opportunity is given to the public to ventilate their views in a free and unfettered press and unless they are of public meetings, no election can be conducted on a sound basis and therefore it is imperative that full opportunity be given for the holding of public meetings. Experience has shown that opposite parties have invariably been intolerant of what exponents of public opinion have to say and many a public meeting has been frustrated through organized opposition. This is regrettable in the extreme for the spirit which should animate our public meeting if the future Constitution is to work harmoniously, should be that of reciprocal toleration.

You will perhaps at some future date remember the words of a man who is past his past his fifties and who has nothing to hope for . Prior to the withdrawal of the Knutsford Constitution when the then elected members had indulged in systematically rejecting money votes which were considered to be absolutely necessary for the conduct of the administration the then governor Lord Grenfell called upon Sir Philip Sciberras who was justly considered as one of the leading citizens of that time, although he was not an elected member, and asked him to warn the representatives of the people that the Constitution did not belong to them, but that they were the trustees of that precious liberal institution. The Governor added that it was their duty to hand it to future generation as a sacred heirloom. I tell you the same thing today. Possibly rash and ill-advised people might at some time take steps leading to the Constitution being threatened. You will remember that a second chance is being given to the people of Malta to govern their own affairs and to shape their own destinies. It will be your duty to do your level best with a view to securing the proper working of the Constitution and to safeguard so liberal an establishment.

I have started this lecture by stating that, as soon as you receive your degree and leave the University benches, you will be called upon to register your votes in the forthcoming elections. As His Excellency the Governor stated in his speech when the Degree of LL.D. was conferred on him, much more is expected from you. You will be leaders of public opinion, for the future welfare of your fellow countrymen mainly depends on your activities. Gentlemen, it is not a right but a duty on your part to take an active part in politics and to help in the proper working of the future constitution. A unique chance is given to the inhabitants of these Islands to govern themselves. Experience elsewhere has shown that seventy-five per cent, of all constituted bodies belong to the legal community which is the best suited to participate in public affairs both by reason of its knowledge and of the gift of the cap.

In doing so, look back at the past constitutional history of Malta, try to learn from the mistakes committed, so that the will not be repeated. Be indulgent towards your adversaries. Remember that under Self-Government. His Majesty's Opposition is as important as His Majesty's Government, for the opposition may at any moment be called up by the King's Representative to form the Government of the Island and to have the destinies of the whole population entrusted to it.

But, over and above all, remember that Malta's most important feature is that Malta is a Fortress of the highest importance, as the present war has shown, and that it is a great bulwark in the great chain of Imperial defence. Remember that it is the generosity of a great democratic and liberal Government that can permit of autonomy being given to a small island with few resources, surrounded everywhere by enemies whose aim, the present war has shown, is that of destroying the Great Empire of which we are proud to form part.