

In Search of A Style

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IN 1943 the "Għaqda tal-Kittieba tal-Malti" (Association of Maltese Writers) submitted to the Government of Malta a memorandum on the advisability of correct terminology in legal documents and official enactments.

In 1934, by Proclamation issued by H.E. Sir David Campbell dated 21st August 1934 amending Section 57 of the Malta Constitution Letters Patent 1921, Maltese was adopted as the official language of the Law Courts of the Maltese Islands, a measure which opened a new era in the civic life of the Islands and which was hailed as a pledge of national assertion in domestic affairs.

The great Napoleon, before attaining dictatorial power, in introducing his Code of Laws to the French people had insisted that the law was to be presented within the smallest possible compass and in a form clear, logical and complete (1). It is true that later on, after assuming the Imperial Crown, Napoleon became reluctant to have his subjects fully conversant with the law, but when he took possession of our Islands he lost no time in introducing his own language in local Courts of Law and administration (2).

A movement for the introduction of our national language in our Courts of Law had been going on for well over a century, Schlienz writing in 1838 about the importance of our language as a means of uplifting the outlook of the masses, asked: "How shall the Maltese become acquainted with the laws? In what language shall they learn the *carmen necessarium*, a just knowledge of their natural rights, the rule of their civil conduct.....? For again, if this knowledge is to be acquired in the Italian, the great-

(1) Grant & Temperly: "Europe in the Nineteenth Century" page 110.

(2) Paolo De Bono: "Sommario della Storia della Legislazione in Malta" page 264.

There was however some doubt as to the suitability of our language as a means of expression of the tenets of justice; it was maintained that the Maltese language is not pliable enough to er part of the people are excluded from the benefits thereof" (3). serve as a vehicle for expressing the correct views and aims of legislators. So ingrained was this misconception in the mind of high Government Officials, that they opposed with all their means the introduction of Maltese in the Law Courts on the false assumption that such an innovation would lower the dignity and prestige of the Courts and spell disaster to Court proceedings.

Such opposition was overcome but it led to an inevitable reaction : it was felt necessary to take drastic measures for the protection of our language against alien encroachment; this was effected by the elimination or suppression of all foreign and loan words from official documents, whether legal or otherwise.

Thus a drive for purism of diction was set in motion; henceforth official publications appeared in a purity of language that sometimes proved embarrassing. Nomenclatures and expressions were trimmed of all traces of foreign forms and the resulting construction sometimes obscured the true meaning of the law and caused not a little inconvenience.

As stated in the Memorandum submitted by the *Għaqda* : "Maltese, like any other ancient language, cannot very well express ideas of modern thought, in abstract forms, or even technical, philosophic, argumentative and legal parlance, without borrowing from other more modern languages". Every effort to write on modern or abstract subjects in pure Maltese proved a failure.

Failure in a literary sense does not produce serious consequences, but when legal documents fail to impart the real aims and scope of the legislators, the resulting confusion might upset the peaceful life of citizens.

In matter of legal importance it is impellant that purity should give way to clarity and the style of language should be

(3) Rev. C. F. Schlienz: "Views on the Improvement of the Maltese Language", page 25.

such as to avoid confused or doubtful interpretation. Dr. Falzon in his "Annotazioni" states that uncertain interpretations of the law may be quoted in defence of the accused. He comments: "E quindi non vi ha concussione, se la percezione, comunque illegale, fondisi su di una interpretazione di legge, la quale comunque sia poco esatta, può nondimeno valere a scusarlo" (4).

Legal documents should be drawn in clear, simple and possibly idiomatic style, but when such a style cannot express the exact sense of the legal context, it should be permissible to borrow from foreign sources..

The Memorandum laid stress on the vocabulary and the construction used in legal documents and made pertinent remarks on their choice and usage.

Lately a tendency has arisen amongst few modern Maltese writers to coin new words by a process of derivation from ethymological roots; this has been mostly marked in certain nominative and adjective forms. This process of inventing new words has always been a risky one and should be deprecated in official use where only terms with old established and definite meaning should be employed. Such new words may be fancied in poetical effusions but are incongruous in matter-of-fact documents such as legal instruments and official injunctions.

In translations from foreign texts, we have often observed that the construction is cumbersome and dragging, the reason being that the translators were often unable to give a proper Maltese rendering to original texts. It is always very hard to express faithfully in one's own language the purport and spirit of a text originally written in a foreign tongue, but the difficulty may be much increased by the rejection of the help of loan words and/or by too servile an imitation of the foreign pattern.

Every language has its own intrinsic forms of construction and translators should abide faithfully to native characteristics of speech and writing. Defective translations have been the cause of serious misunderstandings which might even embroil an individual in futile litigation.

(4) Avv. Giuseppe Falzon: "Annotazioni alle Leggi Criminali", page 252.

A former Chief Justice of Malta, Sir John Stoddart, advised against the use of obscure or incomprehensible terms when he wrote: "Such words ought either to be altogether omitted, or explained by others better adapted to the general understanding." (5).

Another defect to which reference is made in the Memorandum, is the frequent and indiscriminate use of certain obsolete and archaic words which cannot but mar the fluency of modern expressions. Their use in legal documents, as the Memorandum rightly remarks "is nothing else but the fossilization of the Maltese language".

This haphazard use of vocabulary, terminology and phraseology not only impairs the true sense and creates difficulty of understanding, but sometimes borders on the ridicule. Such words as "robgħ" for "one fourth", "marfgħa" for "storage", the suffix "aġġ" as in "wasletaġġ" for "her coming of age", the expression "tidlik Scott" for "Scott's Emulsion", cannot but raise a sarcastic smile on the lips of many a fastidious reader.

Since the submission of the "Għaqda's" Memorandum, our Codes of Laws have been reprinted and now form a complete set of statutes. This work was done by a commission, The Statute Law Revision Commission, which deserves full credit for the excellent work produced by it. The Maltese texts of laws have been admirably rendered, having all the clarity, simplicity and accuracy as behoves the dignity of the Law.

The publication of the Maltese texts should serve as a standard to be aimed at by future compilers of legal enactments; indeed the task of those responsible for the publication of legal and official documents, will in future be much simplified for they now possess an excellent pattern on which to shape their work.

In submitting their Memorandum to Government the Mem-

(5) Sir John Stoddart: "Third Annual Address delivered on Occasion of Opening a Commission Issued under the Law for establishing at Malta a modified 'Trial by Jury'," page 31.

bers of the "Għaqda" were actuated by a single motive: the desire to assure the success of their native tongue by the adoption of a rational system in its official use. They deprecated both pedantry and levity in official documents; their contention is that such documents should be issued in correct form and with all the dignity inherent to their nature.

Legal Maltese could and should be written in a polished form which would be comprehended without causing mental strain or effort. In order that this might be achieved commonplace terms and mediocrity of style should be eliminated and only perfect literary standard and fluent style should be employed. If this is realized in responsible quarters, the Memoandum of the Għaqda will not have been submitted in vain.

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