

LAW & PRACTICE



ISSUE 9 Dec. 2004

THE MALTA CHAMBER OF ADVOCATES

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A TRIBUTE TO FRANCESCO CARRARA (1805-1888)

An Eminent Jurist and Campaigner for the Abolition of the Death Penalty

Year 2005 marks the bicentenary of the birth of Francesco Carrara, one of the most assiduous practitioners and influential theorists in the field of Criminal Law and penal reform in Italy and beyond.

Born in Lucca on 18 September 1805, Francesco was the only son of a thriving middle-class family. On completing his early formative years as a student under private tutors, he then furthered his studies at the Liceo Universitario di Lucca. Guided by Gaetano Presi, a lawyer and a friend of the family, he was soon introduced to the works of Giovanni Carmignani (1768-1847), a brilliant academic professor and leading exponent in the field of criminal law, also hailing from Lucca.

After obtaining his law degree on 1 November, 1827, he started his law practice in Florence where he secured his professional warrant in December 1831. Returning to his native Lucca, Francesco built a reputation as a competent and hard-working lawyer especially in criminal matters.

From the very outset, Francesco Carrara strove hard towards the realization of an enlightened overhaul of both substantive and procedural penal laws then prevalent in Italy. He coupled this ambitious aim with a campaign for the abolition of the death penalty. Among his many trial engagements, he unsuccessfully defended five accused persons who faced a capital charge and ended up on the gallows. For a time he felt shaken at this sad outcome of events but he did not give up the cause. On the contrary, he intensified his efforts and, with the support of his mentor Carmignani, mounted a pro-abolition campaign against the death penalty.

When a Commission for a Penal Code for the Kingdom of Italy was set up, Francesco Carrara was appointed as one of its members. He sought to bolster up his pro-abolition stand by procuring the translation and publication of major foreign written contributions advocating the removal of the death penalty. Scientific academies, leading university professors and politicians from all over



Europe were contacted with the aim of lending their support to this noble cause.

During the Risorgimento uprisings, Carrara did not remain a passive bystander. In 1831 he befriended a youth circle at Lucca with leanings in favour of the ideals of Giovanni Mazzini for a unified Italy. In 1847 he also took part in the uprising which led to the ousting of Carlo Ludovico and the annexation of Lucca to the Grand Duchy of Tuscany. Despite his patriotic involvement in the insurgency, Carrara chose to remain among the moderate liberals, distancing himself from any political group. Meantime he was appointed colonel of the National Guard of Capannoro. It was during this turbulent period that he embarked upon his successful academic career at the University of Lucca as professor of criminal law.

In 1859, under the provisional government that was set up in Florence, a project was launched for a reorganization of Tuscan universities, which were still bearing the brunt of a series repressive bye-laws and decrees issued by the Grand Duke in 1851. Carrara was asked to take up the Chair of Criminal Law of the University of Pisa. At that same year he initiated the publication of his works. The first volume of his monumental *PROGRAMMA DEL CORSO DI DIRITTO CRIMINALE* was published at Lucca. The whole project was only completed in 1870 with the

publication of the ninth volume. This outstanding opus was always kept under the critical eye of its author who from time to time kept on retouching or expanding it during its seven re-editions. Carrara also published a series of legal essays with the aim of complementing his major work.

Following Italy's unification, Carrara was elected a Parliamentary deputy. Suffering from a progressive degeneration of his eyesight, which had already appeared to be of a serious nature way back in 1864, his participation in the parliamentary debates was a limited one. In 1866 he joined another project for a penal code of the Canton Ticino. In 1872 he submitted a Working Paper to the Commission for Penal Reform. In 1874 he lost his seat at the Collegio di Borgo at Mazzano but two years later was nominated Senator.

During his last years of life, Francesco Carrara became virtually blind. He hardly travelled anymore beyond Lucca and his country estate, save for delivering his lectures at Pisa.

He died at Lucca on 15 January 1888. ■

"Il magistero penale che l'autorità dello Stato esercita col vietare certe azioni e con lo conflaggere castighi agli autori colpevoli delle medesime, ha il fondamento della propria legittimità nella legge suprema dall'ordine imposta da Dio all'Universo"

- F. Carrara, *Programma, Introduzione, Parte Speciale ossia Esposizione dei Delitti in Specie, vol. 1, Lucca, 1891.*

"Nel formare questo libro (disposto secondo l'ordinamento logico che segno Carmignani, nostro grande maestro) io non cercai la gloria mia, ma l'utile vostro; intesi a raccogliere, non a creare; non a dir cose nuove, ma vere; non fui vago dei modi brillanti, ma della chiarezza. Se il mio lavoro può facilitarvi lo studio delle criminali discipline, io ho ottenuto il mio scopo. Dio vi dia salute, e amore alla scienza"

- F. Carrara, *Programma del Corso di Diritto Criminale, Pisa, 1859.*

"Il dolo si definisce - la intenzione più o meno perfetta di fare un atto che si conosce contrario alla legge"

- F. Carrara, *Programma, Parte Generale, Ottava Edizione, Firenze, 1897.*



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