

Spying in British Malta in the 1930s

ALTHOUGH the crime of espionage in its current version has been on the statute book since the promulgation of the Official Secrets Ordinance No. VI of 1914, only three cases have been prosecuted under that Ordinance which, since 1996, has been renamed the Official Secrets Act.¹ These are: *His Majesty the King vs Herbert Charles Pollok and Constant Kahil*, *His Majesty the King vs Arnaldo Belardinelli* and *His Majesty the King vs Dr Nicolò Delia and Giuseppe Flores*.

These cases were all decided in the 1930s by His Majesty's Criminal Court sitting without a jury as the Governor, General Sir David Campbell had, on March 7, 1934, by means of Ordinance No. IX of 1934, purposely amended the Official Secrets Ordinance immediately before Pollok and Kahil's arraignment before the inferior court on March 10, 1934 so as to do away with the institute of the jury in the case of prosecutions under the Official Secrets Ordinance.

All three cases resulted in a conviction, and imprisonment with hard labour was inflicted upon all five accused. The Criminal Court was presided over by Sir Arturo Mercieca, Chief Justice and President of the Court of Appeal.

Spying on Royal Navy ships

In the first case, the accused were Herbert Charles Pollok and Constant Kahil. Pollok, a 45-year-old engineer, was born in London and resided at the British Hotel, Valletta. Kahil, an accountant, 32, was born in Cairo and resided in Tunis. Several witnesses testified, including Major Bertram Montague Ede, the Defence Security Officer.

According to Deputy Police Commissioner Joseph E. Axisa, Kahil informed him that he worked for the *Deuxième Bureau*² and saw nothing wrong in such employment bearing in mind the friendly relations existing between France and England at the time. Kahil maintained that his target in British Malta was Italy and not the British Empire.

The Criminal Court's judgment was delivered on June 16, 1934.

References

1. Cfr Kevin Aquilina, "The Historical Evolution of the Law of Official Secrecy in Malta", *Melita Historica*, Vol. XIV, No. 2 (2005), pp. 137-160.

2. The *Deuxième Bureau* was established by the French government in 1878 to provide intelligence involving the fields of crime and espionage.

3. For a discussion of this case, vide Barry Collett, "The Foreign Office, the Colonial Office, and the Spy: The Belardinelli Affair, Malta, 1934-1935", in Stanley Fiorini and Victor Mallia-Milanes (eds.), *Malta: A Case Study in International Cross-Currents*, Malta, 1991, pp. 241-252.

4. For a study of the political situation prior to and at the time of these cases, vide Dominic Fenech, *Responsibility and Power in Inter-War Malta, Book One: Endemic Democracy (1919-1930)*, PEG Ltd, 2005, in particular Chapter 6, and Joseph M. Pirota, "Enrico Mizzi targeted for deportation in 1934", *The Sunday Times*, June 4, 2006, pp. 60-61.

5. Public Records Office, London, File No. Foreign Office (FO) 371/19535, 89 quoted in Liliana Lucia Belardinelli, *Destination Australia*, Australia, 2002, at p. 188.

6. John Manduca, *The Bonham-Carter Diaries: 1936-1940 - What the British Governor thought of Malta and the Maltese*, PEG Ltd, 2004, at p. 132. Regarding Dr Delia and Giuseppe Flores, vide also Sir Arturo Mercieca, *Le Mie Vicende: Note Autobiografiche*, Lux Press, 1984, p. 268.



by Dr Kevin Aquilina

Pollok was found guilty of having, between December 1, 1933 and March 8, 1934, been employed in, or had been entrusted with, espionage services having his base in Tunis, approached several members of the British Imperial Services belonging to ships of the British Navy in the Mediterranean, having their base at Malta, and had conducted several interviews with them tending to elicit information in regard to (i) the manner in which ships were controlled; (ii) the various torpedoes to be found on board British warships and the range of such torpedoes; (iii) whether certain British warships were equipped with underwater sound range finder; (iv) which British warships were equipped with wireless apparatus capable of communicating directly with the Admiralty Offices in London; (v) the specifications and the qualities of motor engines installed in submarines belonging to the British Navy; and (vi) breakdowns which had previously occurred in the engines of warships belonging to the British Navy.

Pollok had visited several British warships, including HMS *Thames* and HMS *Cyclops*, with the object of obtaining information calculated to be or which could have been or was intended to be directly or indirectly useful to an enemy. Pollok was found in possession of a diary which contained secret details as to equipment and armaments on board HMS *Codrington* and the British submarine *Thames*. The court found that Pollok had been in communication with Kahil by means of telegrams and letters sent through the post, and by packages delivered to persons in transit through Malta.

Indeed the court was satisfied that Kahil had commissioned Pollok to commit, for purposes prejudicial to the safety and the interests of the State, the crime of obtaining, collecting, recording, and communicating notes, code-words and information calculated to be, or which could have been, or were intended to be, directly or indirectly useful to an enemy.

Kahil had instigated this crime by means of bribes and promises, and of having given instructions for the commission thereof. Moreover, he had knowingly aided and abetted Pollok, the author of the crime in question, and incited Pollok and strengthened his resolve to commit the crime, promising him rewards later. In addition, Kahil had written to Pollok from Tunis giving him instructions as to required information, remitted money to Pollok and promised him further remittances.

Italian spy

In the second case, the accused was Arnaldo Belardinelli. In its judgment of March 13, 1935 the Criminal Court convicted Belardinelli of having, between March 21 and December 25, 1934 been employed in or entrusted with espionage service having its base at Tripoli, and of having approached the Hal Far Aerodrome, Fort Bingemma, Fort San Leonardo and other fortified posts to obtain information regarding: (i) a certain num-

ber of cases containing aeroplanes which had arrived at Kalafrana from England; the number of aeroplanes, their type and the place of storage; (ii) anti-aerial batteries, their number and position, and the calibre of the guns manning the batteries; (iii) the number, position and the projecting range of service searchlights; (iv) the existence or otherwise of Fort San Leonardo and whether it was manned; (v) the number, type and tonnage of submarines belonging to the Royal Navy and stationed at Malta.

After having inspected the different localities where forts were situated, Belardinelli bought a map of Malta from the Government Printing Office, on which he noted all the fortifications in Malta by marking each fort with a given number, and on a separate sheet noted all details referring to each fort by the corresponding number which he had marked on the map. He delivered this map and statement containing details referring to forts in Malta to an Italian officer who was in transit through Malta with a view to the latter handing this information to Commandante G. Durante, a foreign agent residing in Tripoli.

Belardinelli, by means of letters as well as by means of packages delivered to persons in transit through Malta, was found by the court to be in communication with Durante, who had been or was reasonably suspected of having been employed by a foreign power either directly or indirectly to commit an act, either within or outside Malta, prejudicial to the safety or interests of the State, or suspected of having committed, or attempted to commit, an act in the interests of a foreign power or a hostile agency.

On Christmas Day, 1934, at the Custom House Valletta, Arnaldo Belardinelli was in possession of two letters which he himself previously wrote containing information as to the forts, troops, fleet, service planes and other similar matters which he was on the point of delivering to a person in transit through Malta on board the steamship *Garibaldi* with a view to such person handing these letters to Durante on the ship's arrival in Tripoli.

Spying at Dockyard

The third case concerned Dr Nicolò Delia and Giuseppe Flores and was decided by the Criminal Court on June 26, 1936. Both were charged with having, at Valletta, Hamrun and elsewhere, been employed in or entrusted with espionage service against England by the Italian consul-general in Malta, and acting together with a common intent having met, on many occasions, Michele Casaletto, a draughtsman in the Engineering Department of HM Dockyard, and proposed to him that he should furnish them with secret information as to the aims and calibre of guns and the speed of His Majesty's warships, where such size and calibre of guns and such speed of the warships were in fact different from those known, and the plans and sketches of anti-submarine devices.

The accused had proposed to Casaletto that he should obtain and furnish them with plans and sketches of anti-submarine devices. To persuade him to do so, the accused assured Casaletto that the Italian authorities would pay high rewards for such services and that there was some influential person who was in a position to pay a high sum for these services.

Further, Flores met Giuseppe Attard, employed in the Constructive Department of HM Dockyard and requested and persuaded him to obtain for him notes and information regarding bomb-proof shelters being constructed by the Naval authorities of HM Dockyard and, particularly, notes and information regarding bomb-proof shelter No. 10 situated



GENERAL SIR DAVID CAMPBELL, Governor of Malta, 1936-40

(L.S.)

D. CAMPBELL,
Governor.

[7th March, 1934.]

ORDINANCE No. IX of 1934.

AN ORDINANCE enacted by the Governor of Malta in exercise of the powers conferred on him by His Majesty's Letters Patent dated the 14th of April, 1921, constituting the office of Governor and Commander-in-Chief of Malta.

To amend the law relating to the protection of Official Secrets.

Preamble. WHEREAS the Defence of the Island is a reserved matter under the provisions of the Malta Constitution Letters Patent, and it is necessary for the purpose of the said defence that further and better provision be made for the protection of Official Secrets:

Be it enacted by the Governor as follows:—
Short title. 1. This Ordinance may be cited as the Official Secrets (Amendment) Ordinance, 1934, and shall be read as one with the Official Secrets Ordinance, 1923, hereinafter referred to as the principal Ordinance, and the principal Ordinance and this Ordinance may be cited as the Official Secrets Ordinances, 1923 and 1934.

Composition of Court. 2. Notwithstanding the provisions of any law to the contrary any person who is indicted for an offence under the provisions of the principal Ordinance before His Majesty's Criminal Court (whether the offence was committed before or after the date of the commencement of this Ordinance) shall be tried by His Majesty's Criminal Court sitting without a jury but in any such case the Court shall be composed of three of His Majesty's judges to be appointed by the Governor and the provisions of the criminal law shall apply to any such case insofar as they may be applicable.

Sentence, How to be passed. 3. In passing sentence upon any person accused under the provisions of the principal Ordinance and this Ordinance the Court shall state separately in writing the reasons on which the sentence of the Court is based: Provided always that if application is made by the prosecution on the ground that the publication of the reasons aforesaid would or might be prejudicial to the national safety the public shall be excluded during the delivery of such reasons, but the passing of the sentence shall take place in public: Provided also that if the reasons aforesaid are not delivered in public they shall not be inserted in the record, but shall be kept by the Registrar under seal, and shall not be inspected by any person without the written permission of the Governor.

Passed, 7th March, 1934.

For: R. Mrs. S. B.
Clerk of the Nominated Council.

[228]

ORDINANCE NO. IX of 1934

underneath Senglea church. Flores requested and endeavoured to persuade Attard to enter this shelter, make out a plan of its chambers and its shape and to deliver the plan to him.

Seventy years have passed since the third espionage case was decided. In a three-year time span, three espionage cases were successfully prosecuted by HM Criminal Court. This notwithstanding, none of the accused served their sentence: Belardinelli was released and deported to Italy under the amnesty

granted to political prisoners when King George VI ascended the throne in December 1936. Governor Bonham-Carter states in his *Diaries* that the same treatment was meted out to Pollok, Kahil, Delia and Flores when they were all prematurely discharged from prison.

Dr Kevin Aquilina, Dip. Phil., BA (Hons), LL.M., LL.D., Ph.D. (Lond.), is senior lecturer in the Department of Public Law, Faculty of Laws, University of Malta.