

THE CHURCH AND THE FREEDOM OF THE PRESS IN MALTA

By Mgr. Prof. A. BONNICI

The legislation and practice of the Order of St. John with regard to printing and censorship remained in force during the twelve years of British Protectorate in Malta. On August 24, 1812, a Proclamation was issued to this effect, which was confirmed by a Minute of June 18, 1814, and by another Proclamation dated December 24, 1825 (1).

By this legislation the censorship of writings was entrusted to the Government Chief-Secretary and to the Superintendent of the Printing Press, but dependently to the former. The rules governing the censorship were the following:

- i. the script to be printed must contain no censure of the local Government or of Governments of H.M.'s dominions;
- ii. it had to abstain from any censure against foreign Governments in amity or friendship to H.M.'s Government;
- iii. *it was to keep away from any controversy or any other sort of discussion with regard to religion;*
- iv. it could not censure any person either in his private life, or in his private capacity (2).

Since the year 1809, Bible Societies had striven to establish themselves in Malta, and for this purpose they sent many boxes full of Bibles in the Italian and Maltese languages to be distributed in Malta. This activity, however, was soon frustrated, because some of the Bibles distributed in Valletta reached the local priests, who energetically fought this kind of Protestant propaganda, banning their reading by Catholics (3).

By way of exception a permit was granted to the American Missionary Society and to a Society of English Independents to have and to use their own Printing Press. Such licence was later on given also to the Church Missionary Society, who went so far as to translate St. John's Gospel into Maltese. After representations made by Archbishop Mattei, the Governor Sir Thomas Maitland called the Ministers of this Society and prohibited them the use of their Printing Press to the detriment of the Roman Catholic Religion (4). The Society was not to print any tract or book in Maltese and they were only allowed to distribute gratuitously the bibles to the crews of ships and vessels (5). However, we positively know that the Government took no pre-

(1) Royal Commissioners' Report 1836, p. 7.

(2) *Ibid.*, p. 8.

(3) Archiepiscopal Archives (A.A.) Corresp. ann. 1826 — Bp. Mattei's Promemoria to the Holy See — pp. 615 sqq.

(4) *Ibid.*

(5) Colonial office (C.O.) — Lord Bathurst to Hastings; 4. v. 1825, 158/9, p. 54.

cautions to secure the due observance of this proviso against the circulation of biblical books among the Maltese. This statement was made by the Royal Commissioners of 1836, who made it their duty to mention also in their Report that the Chief Secretary, Sir Fred. Hankey, had promised that, if thenceforth any breach of this condition should come to the knowledge of the Government, the licence to use the press granted to the Missionary Society would be instantly withdrawn (6).

If, on the one hand, the Maltese people as a whole were against the printing of scripts which could in any way attack the Catholic Religion, better educated persons, particularly the politicians, were clamouring for legislation in favour of the freedom of the Press in Malta.

Since the days of Sir Hildebrand Oakes (1810-13), the Maltese had complained of maladministration in the Island, and insisted on reforms. On February 28, 1810, the Nobility and the people asked the British Government, through their Agent in London, John Richards Esq., to grant them (i) a free representation of the people (*Consiglio Popolare*), (ii) the establishment of independent Tribunals, (iii) a free but not licentious press, nor offensive to Religion, and (iv) the institution of Trial by Jury. A similar appeal was again addressed to H.M. King George III by almost all the Nobility and other respectable inhabitants, on July 10, 1811.

The period between 1832 and 1836 was troubled by agitation for political freedom. Camillo Scieberras and George Mitrovitch, the Maltese champions of the time, set up the *Comitato Generale Maltese* and asked for administrative reforms, revealing as a fundamental defect in the Government the absence of a popular assembly and the lack of a free press, the two most influential means of expressing public opinion.

Mitrovitch asked for a moderate freedom of the Press, a freedom which the Maltese expected "from a liberal Nation like the English", and he solicited the attention of the Honourable Members of Parliament towards the absence of a proper medium for improving and informing the minds of the people of this Island. But the freedom of Press requested was not to degenerate into immorality or offence to Religion (7).

The publication in England of a pamphlet by Mitrovitch, under the title of "Claims of the Maltese founded upon the Principles of Justice", dated 1835, as well as the exchange of correspondence between the same and H.M.'s Government on the subject of Printing and other grievances, together with the efficient help of Members of the English Parliament, particularly of Mr. William Ewart, and a letter personally addressed to Lord Glenelg, the then Secretary of State for the Colonies, persuaded the latter to take the necessary steps to enquire into the affairs of Malta (8).

A correspondence started on this subject between Lord Glenelg and Col. Cardew, the Officer Administering the Government of this Island. On November 25, 1835, the latter informed Lord Glenelg of the censorship then existing in Malta, as well as of the advantages and disadvantages attending such system. The Secretary of State came to the conclusion that such a

(6) Royal Commissioner's Report p. 7.

(7) Mitrovitch, George — *The Cause of the People of Malta*, London, 1836, p. 23.

(8) *Ibid.*, passim.

system was inapt, and expressed his earnest wish "to administer the affairs in Malta in the free, open, and confiding spirit which is the peculiar excellence of the British Constitution, and that consequently the censorship of the Press should be abolished without delay" (9).

On the 20th February 1836, the Chief Secretary to Government, Sir Frederic Hankey, approached the Chief Justice Sir John Stoddart, and confidentially asked him to draw up the sketch, to be laid before the Council of Government. Stoddart declared that, though several difficulties could be foreseen, yet with prudence and perseverance, they could be overcome, if they were not unnecessarily and incalculably augmented by being mixed up with "the alarms of bigotry and the terrors of consciences". It was the religious part of the question, he said, from which that great and beneficial measure stood the greatest chance of making shipwreck; and, at the same time, that was the part which had the least natural or necessary connection with those political considerations to which the Secretary of State's attention had been so anxiously and so liberally directed. If religious matters, he therefore opined, were to be left on the same footing as they stood at the moment, a great part of the opposition would be neutralized. The principle of political freedom once established, it might prepare the minds of men for that religious freedom of discussion, which, he alleged, "we Protestants consider to be so valuable an Engine for the attainment of Eternal Truth". Hence he suggested a "lawful freedom of the Press in all matters not concerning Religion" (10).

The Acting Lieutenant Governor explained to Lord Glenelg how matters stood in Malta, and among other things he wrote that the proposed abolition of Censorship was not popular in the Island. "The Clergy", he said, "who influence..... the great mass of the population apprehend from it an attack on the Catholic Religion from the Agents of the Missionary Societies or others, from which that Religion had been hitherto protected through the Censorship". But he was of opinion that the then prevailing feelings, hostile to the intended measure, would gradually subside. He also acquainted the Secretary of State with Stoddart's views and transmitted to him the latter's Memorial on the subject (11).

The Archbishop Mgr. F.S. Caruana was not, however, a passive witness to the proposal of the introduction of the freedom of the Press in his Diocese, which measure he feared could be used as a weapon against the Roman Catholic Religion. In point of fact, on March 18 of the same year 1836, he addressed a representation to the Government and in his capacity as Head of the Catholic Religion in Malta he prayed the Governor that such freedom of the Press would not be granted *in the same measure as it was practised in England*, because the most fatal consequences to good morals and to the Roman Catholic Religion were to be expected therefrom. Nay, the freedom of the Press in Italy being much restricted, he feared lest all the irreligious writings be sent to be printed here, and Malta would become loaded with

(9) Royal Malta Library (R.M.L.) — Despatches 1836 I. — Cardew to Glenelg: 1. iii. 1836, p. 442.

(10) Ibid. — Stoddart to Hankey: 8. iii. 1836, pp. 463/5.

(11) Ibid. — Cardew to Glenelg: 1. iii. 1836, p. 449.

detrimental books more than any other country (12). A copy, together with the translation of the Bishop's letter, was transmitted to Lord Glenelg by the Acting Lieutenant Governor on April 1, 1836 (13).

In June 1836, the latter in Council passed two Ordinances on the freedom of the Press, which he, however, later on, deemed inexpedient to put into force as framed. The reason, as was explained in a Memorandum drawn up by the Chief Secretary to Lord Glenelg, was the reference they had to, and the connexion they had with, another most important measure then on the eve of completion i.e. the promulgation of the New Codes of Criminal Laws and Procedure (14), drawn up by two Maltese Judges — Ignatius Bonavita and Claudio Bonnici — commissioned by His Majesty King William IV, on the 15th of November 1831 (15).

The Ordinances, he reported in the Memorandum, were a distinct piece of legislation contradictory and opposed to the Codes, in style, language, principle and spirit, and would consequently render the interpretation of the Codes dubious, and paralyse their effect. He therefore suggested that soon after the promulgation of the Codes (which he thought was very near), the whole substance of the two Ordinances could be included in one Ordinance symmetrical with the language, style, principle, spirit and provisions of the Codes. In such a measure the Orders of the Secretary of State would be carried into effect in a fitting manner (16).

By Lord Glenelg's order, the promulgation was indeed suspended until the subject had been investigated by the Commissioners of Enquiry into the Affairs of Malta, to be appointed by H.M. and due to arrive shortly after (17).

On July 21, a Minute was published over Sir Frederic Hankey's signature, promulgating the New Penal Code and the Code of Procedure in Penal Matters, allowing a term of three months for observations and remarks on the Codes (18). This period was later extended to another date in the following year.

Although in their Project of Penal Laws presented in the year 1843, the Maltese Commissioners had laid down a section in Book II called "*Dei Reati contro la Religione*", contrary to what Col. Cardew had promised, the New Codes were silent in regard to the freedom of the Press. But the Minute just mentioned stated that "there were positive orders of His Majesty's Government to abolish the Censorship, now in the hands of the local Government, and to establish the freedom of the Press in these Possessions". If we were to believe the Chief Justice, Sir John Stoddart, who was not always precise in his allegations, this imprudent publication created effervescence in a large and very influential part of the population (19). But let us not forget what the Governor wrote to the Secretary of State about this personage; that he

(12) Ibid. — Caruana to Hankey: 18. iii. 1836. pp. 476/8.

(13) Ibid. — Cardew to Glenelg: 1. iv. 1836, p. 474.

(14) R.M.L. — Desp. 1836 II. — Cardew to Glenelg: 1. vii. 1836, p. 61.

(15) R.M.L. — Desp. 1831, pp. 499 sqq.

(16) R.M.L. — Desp. 1836 II. — Memorandum 1. vii. 1836, pp. 63/65.

(17) Ibid. — Note on Governor's Despatch; 29. vii. 1836, p. 62.

(18) Ibid. — Minute: 21. vii. 1836.

(19) Ibid. — Stoddart to Hankey: 8. xi. 1836, p. 314.

identified himself with the people to oppose the local Government in order to disparage the compilers of the Codes (20).

The Bishop, as in duty bound, had already informed Rome of the proposed Press Laws and had also received instructions from the Secretary of State, Cardinal Lambruschini, on the line of conduct he had to take in face of the proposal. He later informed the Holy See of his positive opposition to the Press Law, and Cardinal Lambruschini, the new Papal Secretary, expressed the Holy Father's complacency for the Bishop's compliance with the Papal instructions (21).

By King William IV's orders dated the 10th September 1836, a Commission was appointed to enquire into the affairs of Malta in the principles and practices of the Judicature, the Civil and Ecclesiastical Establishments in Malta. The Commissioners were John Austin Esq. and George Cornwall Lewis Esq. (22).

A Government Notice was issued on the 25th October, proclaiming such Commission. The next day, the Commissioners arrived in the Island. At that time the new Governor, Sir Frederic Bouverie, had not yet been a month exercising his Governatorial duties.

"At the time of our arrival in the Island"; the Commissioners reported, "the Clergy contemplated the abolition of the Censorship with some alarm or anxiety..... They feared that the abolition of the temporal censorship would involve that of the spiritual, and assuming that the latter would be abolished, they wished to see their religion protected by the law of libel from *attacks by argument*, as well as from insults". Just about the same time, 250 members of the secular Clergy, among whom there were several parish priests, elected a Committee of eight ecclesiastics, who would defend the Church's and the Clergy's rights before the Commission. According to the Commissioners' report, this Committee approved of the freedom of the Press, but qualified its approval with the following resolution, that every printed attack, direct or indirect, upon the Catholic Apostolic Roman Religion, as **determined** by the Sacred Canons, ought to be prohibited under the severest penalties, or more clearly that the Law of Libel would protect the Roman Catholic Religion from attacks by arguments as well as from insults (23).

In spite of the Bishop's representations and the Holy Father's explicit condemnation of the proposed introduction of the freedom of Press, as well as the abovementioned state of alarm and anxiety among the Clergy, the Royal Commissioners took up as their first subject the liberty of the Press. They heard several witnesses, clergymen not excluded, and examined all the advantages and the disadvantages which this freedom would entail. Among the disadvantages they enumerated the following:—

- i) The King's Government in the Island would be exposed to dangerous attacks;
- ii) the amity between England and foreign Nations would be prejudiced;

(20) Ibid. — Bouverie to Glenelg : 3. xii. 1836, p. 355.

(21) A.A. — Corresp. ann. 1838-40 — Lambruschini to Caruana : 6 viii. 1836, p. 825.

(22) Royal Commissioners' Report — 1836, p. 4.

(23) Ibid., p. 16.

iii) private and public persons would be open to attacks in their private character;

iv) *Religion would be subject to insult and attacks*; and

v) dangerous disclosures concerning the military defences of the Island might be made (24).

It seems that the most thorny question was the objection arising from the religious standpoint. The Commissioners, foreseeing some trouble, studied the question whether it was expedient to introduce a Censorship limited to printed matters concerning Religion. But they expressed their fear lest the same Censorship would have to be extended to writings on all subjects, since any writing, they said, may concern Religion; and in this way the freedom of Press would become nugatory (25).

Hence they decided that all Christian Religions — and not only the Roman Catholic — should be defended from any attack in the way of vituperation, ridicule or other insult, but not, as the Clergy had asked, even from argumentative attacks, because no English Government, they said, would ever grant to any Religion the protection from being attacked by argument. This was in accord with the rule to be gathered from the decisions of the English Courts of Justice at that time (26).

The Commissioners based their decision on the following grounds. First: the abolition of temporal censorship — they said — would in no way involve the abolition of the spiritual censorship, as the Clergy seemed to have feared in the beginning, and the Maltese Catholics would therefore remain bound by the ecclesiastical law, not to read heretical or other books condemned by the spiritual censors.

In the second place, there was no fear that the abolition would open a way to Protestant propaganda, since in spite of all the Protestant Missionaries' zeal and extrinsic help, their endeavours in Malta had been wholly or nearly fruitless: since the establishment of the British Government in Malta only 5 or 6 persons had been converted to Protestantism out of the whole Maltese population.

Thirdly — they added — with the freedom of Press checked by a Law of Libel, the Catholic Religion would enjoy a more ample protection than it had derived thereto by the Government monopoly and censorship: the Law in fact would be extended also to irreligious and immoral books, so far freely and with impunity imported from abroad. They concluded that, as matters stood, the Missionary Society of England as well as that of the United States, with all the money placed at their disposal, could easily import attacks upon the Catholic Religion, and were consequently in a better position than that of the Catholics, who could not print any religious discussion in Malta; nor could they afford to print religious scriptures abroad, with the result that the former could attack, without the latter having opportunity or means to defend themselves. A liberty of printing and publishing would place the two parties on an indisputable footing of equality (27).

(24) *Ibid.*, pp. 13/18.

(25) *Ibid.*, p. 17.

(26) *Ibid.*, pp. 15/17.

The last two motives were very reasonable and no one of the Clergy could impugn their veracity; hence the Commissioners came to the conclusion, which we consider too far fetched, that they believed many of the respectable order of the Clergy approved of the degree of security, which the Law of Libel would give to the Church, and were far from desiring to see it protected by the Law from purely argumentative attacks; that the instructed and enlightened Clergy were convinced that no religion ought to be protected by law from sincere but decorous examination; that such a protection would naturally raise a presumption against the soundness of its doctrines; and that such protection in the XIX century would expose the people of Malta to the ridicule of civilized Europe..., would redound to the disgrace of its authors, and would cause the loss of the clergy's influence over the laity (28).

In November 1836, there arose in the Island an extraordinary ferment among the people. Some were for the introduction of the freedom of the Press, others were against it. The Editor of the "*Gazzetta di Malta — Il Mediterraneo*", 18 months after the event, mentioned this upheaval in the "*Prospectus*" which he circulated previous to the publication of the first issue of his paper. And he reported that those who were contrary to the introduction were moved by their love of preserving ancient habits and by the fears of some evil that could come out of this new practice (29).

The same Editor went on to say that the sound judgement of well informed citizens had been sufficient to remove prejudices and had succeeded in calming the consciences of pious men disturbed by ideal fears. Who could these *pious men* be, if not the members of the Clergy? As a matter of fact, after the former anxieties, no less than 372 secular clergymen, said the writer, together with 11,485 laymen signed the most serious and fervent application on this subject to Her Majesty's Commissioners (30).

Immediately before or after the ferment the same ecclesiastics — this time 314 in number — after the explanation made by the Commissioners to those of the Clergy who appeared before them as witnesses, to the effect that the abolition of the temporal censorship would not involve the spiritual censorship, and that the English Government would not grant to any Religion the protection from argumentative attacks, conceived a resolution which was signed, on November 17, and transmitted to the Commission. In this resolution, they expressed their unanimity in the opinion that since the establishment of the British Government in Malta, books against Religion were introduced without hindrance, and were sold and circulated with impunity; they were also unanimous in complaining that several presses in Malta had been employed in printing books of the same nature without any punishment ever being inflicted upon the printers, sellers or distributors; they agreed in the opinion that, if the liberty of the Press were granted by the Government — or better, if the Censorship then existing were abolished — and this grant were accompanied by a Law that whoever indecently offend-

(27) *Ibid.*, pp. 15/17.

(28) *Ibid.*, p. 17.

(29) Malta Government Gazette: 13. vi. 1838, p. 245.

(30) *Ibid.*

ed or insulted our *dominant Religion* with books or writings should be punished, this system would be far preferable to the first, and much more useful and advantageous to the Roman Catholic Church. But at the same time they asserted that it was their unanimous opinion that Catholic Christians will not by the abolition of the civil censorship be dispensed from the spiritual censorship imposed upon them by the Canon Laws. And they concluded saying that in this sense must be understood any opinion theretofore expressed by any of them (31).

The Commission reached the conclusion that the then existing Government Censorship and Monopoly was to be substituted by a liberty of printing and publishing accompanied by a Law for preventing abuses (32).

The Bishop seems to have received beforehand a Memorandum from the Royal Commissioners, because, since December 3 of the previous year, he had transmitted to the Cardinal Secretary of State the same Memorandum in which the Royal Commission had communicated their opinion of what they called a moderate freedom of the Press. Mgr. Caruana informed the Cardinal Secretary of his line of conduct in respect of this matter and asked for further Papal instructions. In answer to this despatch, the Papal Under-Secretary, Mgr. Capaccini, recalled the fatal consequences of such freedom and the sentiments manifested on the subject by the Holy Father in his Circular letter addressed to the Bishops of the Catholic world as far back as the 15th August 1832 (33). He then approved of the Archbishop's satisfactory behaviour in this respect and exhorted him not to deviate from the line of conduct so far pursued, because in spite of the Law intended to refrain abuse, wherever the freedom of the Press existed, the heaviest injuries had been borne by Religion. Moreover — he said — the Law would prevent neither the discussions of every kind against the Catholic Religion, nor the printing of books explicitly impugning and combating its doctrines: nay, these books could be printed with impunity, and consequently the evil would be caused not only by the circulation of imported books, as before, but also by the printing of new ones. The Pope could not approve of the Bishop's ever yielding to the introduction of this liberty. Mgr. Capaccini also called to the Bishop's mind the right he had to persist in the expostulation, in virtue of the promise made by the British Government to maintain to the Maltese Catholics in its integrity their Ecclesiastical Establishment, which integrity would cease altogether with the liberty of the Press. He finally expressed His Holiness's hope that the project of such measure would remain without effect, if the Bishop availed himself of such reasons and seasonably interposed his best efforts (34).

On the 10th March 1837, the Commissioners were in a position to send to the Secretary of State not only a detailed Report on the subject, but also draft Ordinances required by the changes they proposed to be put in force with the Home and the Local Governments' consent (35). Eleven months later — on the 6th February 1838 — the Commissioners' papers on the state

(31) Royal Commissioners' Report — 1836, p. 17.

(32) *Ibid.*, p. 13.

(33) Gregorius XVI — *Misari vos*. C.I.C. Fontes, Vol. II. N. 485, §§ 15-24.

(34) R.M.L. — Desp. 1837 — Capaccini to Caruana: 17. i. 1837, pp. 280/3.

(35) Royal Commissioners' Report — 1836, p. 6.

of the Press, of the grain supply and other affairs in Malta were laid before the Parliament by Her Majesty's Command, and the House of Commons resolved to print such papers. These printed papers, containing extracts from the Reports and Correspondence of the Commissioners with the Secretary of State for the Colonial Department, were received in Malta during the month of March, and Mr. Luigi Tonna and Mr. Filippo Izzo published an Italian version of the said papers (36). In the meantime the Governor had given permission to import printing presses into the Island and granted the licence to use them under the Chief Secretary's censorship.

By this time the Italian Government seems to have launched some protests against the introduction of the free press in Malta. The *Florence Gazette*, perhaps in an issue of the year 1838, complained that such protests had been published in the Island and announced that a prospectus of a new journal to be published in the Island was being circulated in Rome. For which motives the Italian Governments protested we do not know. What we know for certain is that the *Florence Gazette* was wrong in announcing that the Press legislation had already been proclaimed. We suppose that the permission to import printing presses into the Island, as well as the licence to import and use them under the Chief Secretary's censorship, together with the commencement of a prospectus of the new journal mentioned, might have led the Editor to such a conclusion. The Government Gazette availed itself of this news to affirm that, although the Law was not yet proclaimed, it was the intention of the Government to promulgate, as soon as the details which were then in preparation should have been arranged, a Law which would permit the free discussion of all subjects connected with the affairs and interests of the Island (37).

On the 23rd of April, the first number of the monthly newspaper *Lo Spot-tatore Imparziale*, in Italian, saw the light. The appearance of the first independent paper was hailed by the Government Gazette as an epoch in the history of Maltese Literature and political condition. The projector and proprietor of this journal was the priest Can. Fortunato Panzavecchia. The printer was Mr. Luigi Tonna. The typographical appearance far surpassed what could have been expected from its infant establishment (38).

In the short span of three months six local newspapers were published, in English, in Italian and in both languages. The Censorship by the Chief Secretary to Government was very mild. But the most noteworthy occurrence for our purpose was the publication of journals which argumentatively attacked the Roman Catholic Religion. Religious freedom or the liberty of conscience was thus sanctioned. The *Phosphorus* or *Anglo-Maltese Miscellany* was a typical example of this kind of periodicals. Edited by Mr. James Richardson and sold at S. Saïd's Coffee House, in Strada Reale no. 248, this periodical supported the Protestant Religion, preaching the principles of the Reformation, proclaiming the liberty of conscience, attacking the Catholic doctrines, such as the Papal Infallibility and the existence of Hell, and backing

(36) Malta Government Gazette: 28. iii. 1838, p. 118.

(37) Ibid.: 7. iii. 1838, p. 90.

(38) Ibid.: 25. iv. 1838, p. 158.

Malthusianism (39).

The Bishop did not fail to inform the Holy See of these articles. The Cardinal Secretary of State could not but exhort the Maltese Pastor to do his utmost to prevent the faithful from drinking from such poisonous spring and he suggested as the fittest means to attain this scope the publication of a Catholic paper, in which those baneful articles could be firmly, but calmly and decorously refuted. This publication could be entrusted to one or more learned ecclesiastics. But, above all, the Bishop should prohibit his subjects from reading papers which favoured Protestantism. Only the application of these means, the Cardinal Secretary wrote, could alleviate the sorrowful heart of the Holy Father (40).

Abiding by the Papal instructions, the Bishop by a pastoral letter ordered the preachers to impugn the doctrines of the *Phosphorus* from the pulpits and to acquaint the people of the prohibition of its reading and circulation. We know that the Maltese readers of such paper were but few. Cardinal Lambruschini eulogized Mgr. Caruana for his pastoral letter and his earnest zeal in the matter (41).

On the 19th of January 1839, Lord Glenelg transmitted to the Governor copies of a draft of the Law drawn up by Her Majesty's Commissioners of Enquiry for the Abolition of Censorship and for the provision against the abuses in the Liberty of the Press. He instructed him to communicate these papers together with the relative illustrative annotations to his Council with the view of an enactment of an Ordinance based on the draft transmitted, but with such modifications as would appear necessary or practicable to the circumstances of the place (42).

Having given due consideration to such papers, the Governor deemed it advisable to publish the Ordinance without loss of time, and, after the expiry of a three week publication, to propose it to the Council. He also remarked to Lord Glenelg that a Law of Libel was new to the Council, as well as to the inhabitants of Malta, and that they consequently could not at once judge of the expediency of the new Law: time and experience, he thought, would amend what might prove to be faulty in the Law and reconcile the people to its enactments (43).

On March 14, the Council of Government sanctioned the proposed Law with slight amendments. The Government Gazette remained no longer a newspaper: it changed its nature and became a weekly official Gazette (44).

The next day, Ordinance No. IV of 1839 was published, whereby it was enacted:— "Whereas printed writings printed in these Islands are liable and subjected to the Censorship, and other printed matters are liable to the same Censorship, although in practice they are not subjected

(39) This publication was printed at Valletta, 138, Strada Cristoforo. It was sold at 1½d. per copy. The first issue saw the light on November 6, 1838.

(40) A.A. — Corresp. ann. 1838-40 — Lambruschini to Caruana: 18. xii. 1838, pp. 862/3.

(41) Ibid.: — Lambruschini to Caruana: 27. xii. 1838, p. 894.

(42) R.M.L. — Desp. 1839: Bouverie to Glenelg: 18. ii. 1839, p. 87.

(43) Ibid.: pp. 87/88.

(44) Ibid.: Bouverie to Normanby: 19. 20. iii. 1839, pp. 117, 121; Malta Government Gazette: 22. iii. 1839, p. 102.

thereto: And whereas it is expedient that the aforesaid Censorship should be abolished: therefore His Excellency the Governor with the advice and consent of the Council of Government hereby enacts as follows: From the day of the promulgation of the present Ordinance no printed writing shall be subjected to the Censorship which is now exercised in these Islands by Her Majesty's Government thereon... and the provisions in the II and following Chapters shall have in these Islands the force of Law" (Chap. I, Sect. I).

Chap. III, Sect. VI prohibited the publication of any writing reviling, ridiculing, or otherwise insulting an essential of fundamental doctrine of the Christian Religion, i.e. a doctrine received by the generality of Christians of every Church, Society, or denomination. Similarly was prohibited by the same Ordinance any writing, reviling, ridiculing, or otherwise insulting any doctrine or the government or discipline, or any ritual or other religious observance of the Roman Catholic Christians of any class or description (para. 2), or of the Established Church of England (para. 3), or of any church or society of Christians (para. 4). Whoever shall offend against the prohibition by publication or by any contribution to any such publication shall be punishable with imprisonment not exceeding twelve months.

Section VII extended this prohibition and punishment to publication of any obscene writing (45).

By this Law the Roman Catholic Religion was put on the same footing with the Anglican and other Christian Churches, societies and denominations, and argumentative attacks against our Established Religion were sanctioned as legal.

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In the development of this constitutional and legal measure, we note two phases: a first phase, in which a conflict was waged by the people of Malta against the British Government, for the attainment of a right most essential to a people to express their views and their feelings; and a second phase, in which a battle was fought between the Church and the Government, because of the incompatible religious principles held by either.

In the first struggle the protagonists were the Maltese people and the British Government; the Bishop and the Clergy were hardly involved in it, or at least they were in the background. As a matter of fact, though the Maltese Clergy had been always in the forefront in leading their people, in this first phase they played no important role. This is why George Mitrovitch in 1836 complained of the Bishop, who had checked his Clergy from taking part in the political affairs of the Island (46).

There is no doubt, however, that the Clergy were in favour of a moderate freedom of the Press, or such that would not degenerate into immorality and offence to Religion.

Of this struggle there is but little for us to say in connexion with our subject. We can and shall say much more about the second phase.

Once the British Government had perceived, after so many petitions and

(45) Royal Commissioners' Report — 1836, pp. 122/4.

(46) Mitrovich George — *Correspondence between G. Mitrovich and H.M. Government*, London, 1858.

representations by the people of Malta, that the Censorship system was inapt, and decided "to grant to the same people a right to administer their affairs in the free, open and confiding spirit, which is the peculiar excellence of the British Constitution", there remained only the question to what extent could this freedom be granted without infringing the rights of the Established Catholic Church in Malta.

What was the Church's attitude towards the freedom of the Press, as to its application?

From what we have so far read in books, or learnt from hearsay, or perhaps even from a shallow knowledge of what had passed between Government and Church, the latter seems to have strongly opposed the introduction of the freedom of the Press in the Island. But this is not the case. The Holy Father, the Bishop and the Clergy as a whole did all want this freedom, but a freedom qualified with regard to Religion.

Archbishop Caruana was, not against the Press but only against an absolute exercise of it. As a matter of fact, in his letter to Hankey, he prayed the Government that such freedom would not be granted *in the same measure* as it was practised in England, where the press was most liberal. From an *unrestricted* Press, in fact, he expected the most fatal consequences to good morals and to the Roman Catholic Church. He knew of a stricter measure in Italy, and he consequently feared lest Malta would become the emporium for the printing of immoral and irreligious books, which could not be printed on the Continent.

The Holy Father, whose feelings on this subject had already been manifested in his Circular to the Bishops of the Catholic world since August 15, 1832, and who knew by experience how baneful the unrestricted freedom of the Press proved to be in other countries, could not but approve the Bishop's line of conduct in this matter, and encouraged him to continue to take a firm stand against the introduction of the freedom of the Press, even if accompanied by the Law of Libel, because with an *absolute* freedom or better with a freedom extending to religious matters the integrity of the Ecclesiastical Establishment in Malta would cease altogether, in spite of all the promises made by Great Britain to protect this Establishment.

One of the most debatable points in the introduction of the freedom of the Press in Malta is undoubtedly the Clergy's attitude with regard to this innovation.

The assertions made by the Royal Commission, confirmed by an unofficial report of the answers given by witnesses — several of whom were ecclesiastics and the most enlightened too — to the Royal Commissioners prove this assertion. This report was drawn up by such persons as George Mitrovitch, Dr. Ludovico Mifsud Tommasi, Dr. Naudi and Dr. Francesco Caruana Dingli and signed by Notary G.A. Parodi. We learn from this report or "Note" (47), as they are styled, that the number of priests in the secular Clergy of the time amounted to about 720, and that out of these only 200 had been present at the first meeting of the Clergy in October 1836. (Evidence: Dr. Can.

(47) These "Notes" are in the possession of Prof. W. Ganado, who was kind enough to lend them to me for the period during which I was writing this article.

F. Caruana Dingli, p. 34). Later on, this number increased and 327 priests signed the petition launched to the Royal Commission.

Leaving apart the half of the Clergy who did neither attend the meeting, nor sign the petition, let us examine what were the views of the 327 who showed more interest in the matter.

Dr. Paolo Sciortino categorically asserted that the Clergy together with the Bishop and the Government were the chief opponents to the introduction of a free Press (p. 14). The same feeling was displayed by Dr. Giovanni Conti, who asserted that the Clergy were contrary to its introduction, but that they would have reconciled themselves to the common opinion (p. 44). Paolo Eynaud, merchant, entertained the same view and the same hope (p. 51).

We prove, however, from several evidences that the greater part of the Clergy were not against the Press Law as such.

Dr. Emmanuele Caruana, the King's Senior Counsel, in his evidence classified the Clergy into three groups:

a) The group of the enlightened and the well-meaning — these were the majority — who were pleased with the introduction of the Free Press;

b) the group of the timid and the bigots, who did not dare to take a decision, because they could not imagine the good effects of the new system;

c) the group of those who did not like the innovation, because they feared lest with the new system their shortcomings and defects would be made public (pp. 43, 47, 48).

The majority admitted the utility, nay the necessity of a free Press in Malta; a part of them insisted on having a Law protecting the Roman Catholic Religion from invective and insults; while others asked for its protection even from argumentative attacks.

Among those who would have the Roman Catholic Religion protected not only from invective, but also from argumentative attacks we enumerate the Archbishop's Secretary, Dr. Can. Filippo Amato, the Professor of Dogmatic Theology, Can. P.P. Psaila, Canon Leopold Fiteni, Archpriest of Senglea, and Dr. Salvatore Lanzon, Archdeacon of the Cathedral Chapter and Vicar General, and up to a certain point also Dr. Ludovico Mifsud Tommasi.

Dr. Amato deposed before the Royal Commissioners that he felt thankful towards the King for the concession of the freedom of the Press in Malta as regards political matters. He stated that with the then existing system the Catholic was not protected, and consequently a free Press accompanied by a Law of Libel would prove more efficient. But he would not permit the publication of any book or pamphlet such as called the Roman Catholic Religion a false Religion: this allegation, according to him, amounted to an insult and would be dangerous and worse than any other means of perversion (p. 38).

Canon Psaila admitted the utility of a Free Press in civil matters, but he was for a censorship even of publications containing arguments not offensive to or insulting the Roman Catholic Religion (pp. 38/39).

It seems that Can. Fiteni was of the same opinion, since he would have the Government ban the distribution of Protestant books and asked for a previous censorship of religious books (p. 28).

Another prominent ecclesiastic, Dr. Salvatore Lanzon, expressed his views as a spiritual head of the Church, and said that there should be a free Press

governed by the Laws of the Church as regards conscience i.e. a previous censorship of religious publications (p. 38).

We know for certain that the Archpriest of the Cathedral (Chapter, Dr. Giuseppe Galea, admitted before the Royal Commission that the liberty of the Press was useful, nay very useful, but only when Religion and good morals were not impaired by it; and consequently, while he complained of the practice then obtaining, whereby irreligious and immoral books were imported with impunity, he insisted on still having a temporal censorship on publications in the interests of Religion (p. 36). He, however, deemed it impracticable to have a previous temporal censorship of religious books of an argumentative character in a country ruled by Protestants, who would not as a consequence be free to read what they liked (p. 37).

But, side by side with these high dignitaries of the Maltese Church, there were not wanting other ecclesiastical personalities who were in favour of the freedom of Press with the abolition of Censorship, even in religious matters, accompanied by a Law of Libel. These were the majority.

George Mitrovitch opined that the view of the greater part of the Clergy was that there should be no Censorship (p. 32). Mr. Emmanuele Zammit, tradesman, alleged that only some of the Clergy were against a free Press, because all the other clergymen were in favour of it. They only requested some restrictions of their own (p. 53).

A similar declaration was made by Mr. Giuseppe Gauci Azzopardi who stated that the few priests he came in touch with were in favour of the freedom of the Press (p. 57). Similarly Dr. Giacomo Pantaleone Bruno spoke of the opposition of some ecclesiastics to the proposed law (p. 45), but he entertained hopes that all the Clergy would later on have been persuaded of the utility of such freedom, just as the majority — the *independents* as he calls them — have already realized (p. 49).

Robert Langslow, the King's Procurator General, opined that the Clergy in its majority would have been satisfied with a Law protecting the Roman Catholic Religion from offensive arguments (p. 41).

From Dr. Francesco Caruana Dingli's evidence we gather that the eight ecclesiastics forming the Committee of the Clergy, together with a considerable number of the priests who attended the meeting of October — nay the greater part of them — were in favour of the freedom of the Press, provided that the Law punished any publication containing invective, or insults against the Roman Catholic Religion (pp. 34/35).

Dr. Ludovico Mifsud Tommasi, one of the eight, was for the toleration of a Free Press in Malta equal to that of the Protestant worship then existing in Malta (p. 14). This freedom was to be on the same footing as it was in England to the effect that the Law should mete out severe punishments to those who insulted the Catholic Religion (p. 15). According to him, since this Religion is the dominant Religion in Malta, the Catholics should have the privilege of speaking freely in favour of their Religion, even attacking other Religions (p. 17). A Protestant, however, who defended his Religion from these attacks by means of pure arguments was to be tolerated, even if he said that the Roman Catholic was not the true Religion. In other circumstances however, even argumentative attacks could be subjected to censure, because

of the poison they might contain (p. 17).

He went so far as to deem worthy of tolerance the distribution of religious tracts by the Missionary Societies (p. 18), because, he stated, the Catholic Religion fears no attack. This was his view as a citizen; as a priest, however, he thought otherwise, and as such he stated that books of a religious character should be subjected to previous censorship (p. 15).

Perhaps the staunchest supporter of a Free Press up to the limit of permitting argumentative attacks was Dr. Salvatore Cumbo, Professor of Moral Theology and one of the subscribers of the *Note* to the Royal Commission (p. 64).

The Royal Commissioners expressed their belief that many of the respectable order of the Clergy approved of the security of the proposed measures and that the instructed and enlightened among them were far from desiring to see the Church protected by the Law from purely argumentative attacks (48).

Therefore it is logical to conclude that the Pope, the Bishop and the Clergy, at least in their majority, were of one and the same opinion on this matter, that is, they would have a liberty of the Press, but such as would not be harmful to the Established Roman Catholic Religion in the Island (49).

If the Church were against a moderate freedom of the Press with no tendency of abuse, she would have been despotic and wrong. But as we have said above, this was not the case. What she opposed was the grant of a freedom in the same measure as it was practised in England, where there were no religious restrictions. The moderately free press which the Church was for would have excluded the importation, the printing, the selling and the circulation not only of books containing a vituperative, but also of books with argumentative attacks on the Roman Catholic Religion.

Though with no intention to favour the Catholic Church, the Chief Justice Sir J. Stoddard had well understood this position, when he opined that if religious matters were left on the same footing as they stood at the moment and a lawful freedom of the Press were given in all matters not con-

(48) Royal Commissioners' Report — 1836 p. 17.

(49) To the Protestants, this provision seems to be a restriction of human liberty. The Church, however, imposes this restriction as a right and as a duty to safeguard the faith and morals of her children (can. 1384 C.I.C.). And she sanctions this restriction by laws prohibiting the printing, selling and reading of books dangerous to the spiritual welfare of the faithful. In this the Church is only interpreting the Divine Law, which forbids men to expose themselves to danger of losing their faith and their good moral conduct. And since the Faith is one, as Truth is one, and Morality is one as Right is one, and this one Faith and one Morality are those preached by the Roman Catholic Church, she would not suffer the weak and the ignorant to fall victims of the snares of Error and Vice.

Leaving apart theological arguments, we adduce other arguments to prove that an unrestricted freedom of the Press is not always advisable, not only from a religious standpoint, but not even from a political point of view. Who of the Protestants would dare denounce a Government who, in time of war, prohibit the publication and the circulation of writings favouring the enemy? Or who would condemn the British Parliament if, at a future time, they were to ban communistic views as dangerous to the British interests? No wonder, therefore, if the Church strives to keep away from her children all writings which she deems to be dangerous to their souls!

cerning Religion, a great part of the opposition to the innovation would have been neutralized.

The Commissioners, however, were at variance with Stoddart in their views about this matter, and they agreed with him on the other point where he stated that religious freedom of discussion was "so valuable an Engine for the attainment of Eternal Truth": which is the Protestant principle on this subject. This is easily understood since the Commissioners and the majority of the Parliamentarians were Protestant, and consequently held the same views.

On the other hand, however, the British Government was bound by several official and formal promises to safeguard the interests of the Established Roman Catholic Religion of the Maltese people. This conflict between views and duties gave rise to a problem of a difficult solution.

On several previous occasions, the British Government had taken measures in favour of the Roman Catholic Church; on other occasions they came to an agreement with the Ecclesiastical Authorities; but there were not missing opportunities in which the British Government had gone ahead with their resolutions, not heeding the representations made by the Bishop or even by the Holy Father. The question in hand was solved in the last mentioned manner. In spite of the Pope's and the Bishop's representations, the old system of censorship was abolished and the freedom of Press with the Law of Libel protecting all Religions from invective or insult was introduced.

We believe that the British Government would have complied with the Church's demands, of limiting the Censorship to religious matter, but we should not forget that besides the Protestant mind and Protestant standpoint of the Commissioners and the Parliamentarians, the Protestant Missionary Society in England and in Malta had been constantly asking and insisting upon the home and the local Governments for a freedom to print, to sell and to circulate Bibles and religious tracts. On this occasion they would have doubled their efforts and the British Government found an opportunity to comply with their requests.

For the sake of telling the whole truth, we should not pass in silence the attitude of the people in this affair. Sir J. Stoddard, though not a man beyond exception, stated that the determination of His Majesty's Government to abolish the old system and supplant it by the freedom of Press had created an effervescence in a large and very influential part of the population. The Acting Lieutenant Governor, Col. Cardew, seems to have entertained the same views when he wrote to the Secretary of State, that the Clergy, who influence the great mass of the population, apprehended from the freedom of the Press an attack on the Catholic Religion from the Agents of the Missionary Society and others. The Lieutenant Governor, Sir Frederick Bouverie, was not free from the fear of a reaction of the people against the shortly to be published Press Legislation, whose expediency the new Council, as well as the inhabitants, could not at once judge. Time and experience, he hoped, would reconcile the people to its enactments.

The extraordinary ferment of the people during the month of November 1886, alluded to by the "Mediterraneo" confirmed the unpopularity of the proposed legislation. But according to the same, a change of view soon took

place and consciences were calmed.

What we know for sure is that when on March 14, 1839, the proposed Law was brought before the local Government, it was sanctioned with slight amendments from the unofficial Members, and on the part of the people there seemed to have been no dissatisfaction.

Events, however, proved that the Church's preoccupations and fears were well-founded. In fact, with the licence of the use of printing presses in the Island, since a year before the Proclamation of the Ordinance for the freedom of the Press was notified, newspapers such as "*The Phosphorus*" or "*Anglo-American Miscellany*", edited by Mr. James Richardson, started to be published supporting the Protestant Religion.

And but a few days after the promulgation of the Press Legislation, the same writer was prosecuted under the new law for reviling the Roman Catholic Religion in the newspaper "*Harlequin*" calling it "a system of religion the most detestable the world has ever seen" and "a system which leaves the mind at a loss to determine whether it is better not to have any religion at all" (50). He was condemned to a fine of 100 dollars or to 6 months imprisonment. Some members of the House of Lords left no stone unturned to free him from jail, but their efforts were vain. He was set at liberty after a month's imprisonment and the payment of a fine proportional to the remaining five months. A pardon would have entailed a defeat of the Commissioners' assurances and promises (51).

The Church's fears proved true, but at the same time the new law proved efficient to check the abuses it was meant for.

(50) *Harlequin*: 12. vii. 1839.

(51) R.M.L. — *Desp.* 1839: pp. 211/35.