BRITISH POLICY TOWARDS THE RELIGION, ANCIENT LAWS AND CUSTOMS IN MALTA

1824—1851

by

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PART I. PRINCIPLES OF POLICY, AND APPOINTMENT TO ECCLESIASTICAL OFFICE

> "The Catholic Church is as much the established Church in Malta as our own Church in England and it would be a flagrant breach of faith towards the people of Malta and a violation of the understanding upon which they voluntarily placed themselves under the protection of the British Crown, if any measures were now to be adopted implying that the claims of the Catholic Church to be considered as the established Church of the island were to be disregarded" (1).

In writing this minute at the Colonial Office in 1847, the Secretary of State, Earl Grey, reaffirmed a policy which had originated when the British first set foot in Malta. In 1800 all the rights, privileges and immunities of the Church were confirmed to the Maltese people and in his proclamation of October 1813 Maitland guaranteed to them the full exercise of their religion and the maintenance of the Ecclesiastical Establishment. Such a policy was not particular to Malta. The principle of preserving local privileges, particularly in respect of religion and ancient laws and customs, was in the early 19th century firmly established "as a neessary feature of the Imperial system" (2); it had been applied by the Colonial Office to Canada in 1774, to Martinique and San Domingo in 1794, and to the Cape and other colonies ceded in 1815.

In Malta it was a policy strongly criticised by the Bishop of Gibraltar whose See was first erected in 1842 (3). He deplored among other things the fact that the Local Government refused to support his establishment in Malta (4) or to pay him those military honours which were accorded to the Archbishop of Malta (5). His strongest attack was made in 1850 when the Legislative Council introduced a clause into the Criminal Code by which the Catholic Church was

(1) Grey's Minute on Fane to Grey. 26. 11. 1847. No. 79 WO 1/506.
(2) See C. H. Brit. Empire. Vol. II. p. 129.
(3) See Bouverie to Stanley. 14. 9. 1842. No. 60. CO 158/123.
(4) Stuart to Stanley. 10. 8. 1843. Separate. CO 158/126.
(5) Bouverie to Stanley 17. 7. 1842. Separate CO 158/123.

described as "dominant" in Malta, while the Church of England was included, without being named, among "other worships dissenting from that of the Dominant Church." It was an attack in which the Bishop had the ready support of the Queen and Parliament, but Earl Grey objected not so much to the designations as to the intrinsic injustice of the clause by which greater protection was granted to the Roman Catholic religion than to that of any other (6).

Catholicism was the dominant religion in Malta. The Protestant population did not exceed 700 excluding the garrison (7); of the remaining 120,000 inhabitants, 1,020 were clergymen, the rest staunch Catholics. In Malta and Gozo there were 17 male convents and 5 nunneries (8) and a total of over 250 churches and chapels (9). The Ecclesiastical Establishment was supported independently of the local Government (10). The life of the people was centred in their Church, they began the day's work by hearing Mass and their main recreation was centred in religious festivals. In these circumstances an anti-Catholic policy was impossible of success, in fact the tranquillity of the island was seen in 1825 as a consequence of the British policy of non-interference in religious affairs (11).

It was just at this point, however, that the Colonial Office became aware of the existence in Malta of many ecclesiastical privileges which it decided to abolish. The Right of Sanctuary, exemption from lay jurisdiction and from liability to give evidence in the lay courts were by no means dormant privileges in the island. Their existence produced great obstruction and delay to public justice (12); but these privileges had been enjoyed for centuries by the Church in Malta, and to negotiate their abolition was a delicate task.

Sir John Richardson, who had been commissioned in September 1826 to report on the administration of Law in Malta (13), recommended that although the Civil Government was fully competent to proceed unfettered to the abolition of the ecclesiastical privileges, it was advisable to obtain if possible the previous concurrence of the Court of Rome (14). Goderich agreed that the ecclesiastical privileges in question were "rightly prejudicial and inconvenient," and accepted Richardson's advice for diplomacy with Rome before promulgating their abolition. It was by such an act that the British Government could respect the promises made to the Maltese and that the policy to consult as as much as possible

> "the religious feelings and even the prejudices of the Roman Catholic population of Malta,"

could best be served (15). The Colonial Secretary intended that the privileges

(6) See Minutes on O'Ferrall to Grey. 23.3.1850. No. 40. co. 158/151.
(7) Governor's Report for 1830. Ponsonby to Goderich. 2. 3. 1831. No. 13 CO 158/68.
(8) Report for 1836. Bouverie to Glenelg. 11. 3. 1837. No. 38. CO 158/95.
(9) Report for 1845. Stuart to Gladstone. 14. 4. 1846. No. 22. CO. 158/134.
(10) Report for 1836. Bouverie to Glenelg. 11. 3. 1837. No. 38. CO. 158/95.
(11) Manley Power to Bathurst. 15. 6. 1825. CO 158/41.
(12) A full account of the operation of these ecclesiastical privileges is given in the Report of Sir John Richardson 19. 8. 1826. pp. 29-43. CO 158/54.
(13) Bathurst sent Hastings a draft commission which he was to issue to Richardson under the seal of Malta. See Bathurst to Hastings 24. 9. 1824. CO. 159/5.
(14) Report of Sir J. Richardson p. 33. CO. 158/54.
(15) Goderich to Ponsonby 2. 7. 1827. No. 6. CO. 159/8.

enjoyed by the Roman Catholic Church in Malta should conform as far as possible with those tolerated in the Catholic countries of Europe, but on this point Robert Hay confessed himself uninformed. It was on Richardson's recommendation that he obtained for the Colonial Office a book "*Catholicism in Austria*," in which a study was made of the policy of the Austrian rulers to subject successfully the Catholic establishment within their Dominions to the municipal law! (16)

There was, however, another motive underlying the Colonial Office respect for Rome. It was realised that obedience to the purposed Government regulations would demand from the people action contrary to certain Papal Bulls; and that such an offence merited excommunication. Obviously the difficulties of executing the regulations under such circumstances would be almost insuperable, for loyalty to their religion was the first principle upon which the Maltese based their actions.

The Governor Ponsonby doubted whether diplomatic negotiations with Rome would be successful, but nevertheless recommended the Chief Secretary, Sir Frederick Hankey, as the man best fitted to carry out the mission (17). None knew better than Hankey the necessity for the abolition of the ecclesiastical privileges and the difficulties which might be encountered at Rome, yet it is surprising that a man so hated in Malta for his brusque manner and militaristic excution of orders should have proved himself, on this occasion, an expert diplomat at the Vatican. He was entirely successful not only in accomplishing the particular task with which he was commissioned but also in forging a link of cordial relationship between the Malta government and the Papal authorities.

Cardinal Somaglia, Secretary of State to Leo XII, expressed to Hankey his pleasure at making his acquaintance, he found the Chief Secretary possessed of

> "all those qualities which favourably engage and win over the good will of others even at first sight" (18).

A little of this courtesy was due to the appreciation felt by the Vatican for the "delicate and decorous manner" adopted by Britain in initiating the mission (19). Although reluctant to concede on the points at issue, the Papal authorities had no desire to render the position of the Maltese difficult. They were, no doubt, influenced also by the fact that what Britain was asking had already been granted to other States, and with the important question of Catholic Emancipation in the air there was every reason for maintaining good relations with Britain. An Indulto was issued on 10 February 1828 suspending the Bulls which would have obstructed the execution of the Government Re-

(16) See Hay's Minute on Richardson to Hay. 19.6.1827. CO. 158/58.
(17) Ponsonby to Bathurst. 12. 4. 1827. Confidential. CO. 158/55.
(18) Somaglia to Hankey 15. 11. 1827. Enclosure 6. in Hankey to Huskisson 13. 12. 1827. CO. 158/56.
(19) Hankey to Ponsonby 20. 11. 1827. Enclosure 3. in Hankey to Huskisson 13. 12. 1827. CO. 158/56.

gulations by which eclesiastical privileges were abolished (20). According to custom this dispensation was limited to three years, but its renewal was a matter of course; the same procedure had been adopted for Austria (21).

With the Indulto in Malta, Ponsonby was able to carry into effect the measures proposed. On the 10th April 1828 the Regulations were promulgated and the Governor reported:

> "I do not find that they have created any strong sensation whatever, indeed it has been stated to me that this material change has been favourably received by the population at large." (22)

The law reserving the decision of spiritual causes to the Ecclesiastical Courts and subjecting all classes of H.M.'s subjects, in temporal matters, to the jurisdiction of the lay courts, brought also for the first time under the cognizance of these courts all members of the Army and Navy in Malta.

One of the consequences of the reform was that the Roman Catholic Church in Malta was left with inadequate means for the prevention of illegal marriages. These increased between 1828 and 1831 to an extent "injurious to the welfare of Society", and at the request of the Archbishop a law was proclaimed on 7 September 1831 "for the more effectual restraint of clandestine marriages"; by it, offenders became liable in the Criminal Court (23).

Having initiated these reforms the Colonial Secretary was satisfied that sufficient had been done. He was not prepared to look kindly on any further reforms particularly when enacted by a Governor without reference to the Colonial Office; reforms which moreover produced great discontent in Malta and violent attacks against the British Government.

Such circumstances did arise in Malta in 1845. The basic cause of the disturbance was the presence in Malta of a Governor who made very obvious his personal prejudices against the Roman Catholic Church. Stuart was a firm adherent of the Church of Scotland and looked with some disgust on the faith as organized and practised in Malta. He had succeeded on 21st April 1845 in passing through his Council an Ordinance for regulating the administration of certain pious foundations. The law would have invested the Civil Courts, in respect of the particular charities of the island with an authority for auditing the Accounts of the administration of them; an approximate authority is held by the Master in Chancery in England. In Malta, however, the property composing the pious foundations was bequeathed by Roman Catholics for Catholics, for the saying of Mass, for marriage portions, for the care of the sick and poor and for the celebration of certain Church festivals. The administration of this property was vested by ancient law and usage in the Archbishop, and although the duty of supervision was not always performed rigorously, the Governor acted beyond his authority in imposing lay control.

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(20) Somaglia to Archbishop Mattei. 10 Feb. 1828. Copy. Encl. 5. in Ponsonby to Huskisson 12. Mar. 1828. CO. 158/59. For further correspondence between Vatican and Bishop of Malta 24. 7. 1827 - 25. 5. 1828 see Malta Archiepiscopal Archives XLII pp. 530-560.

(21) Hankey to Ponsonby, 1. 3. 1828. Enclosure 1 in Ponsonby to Huskisson 12. 3. 1828.

(22) Ponsonby to Huskisson 17. 4. 1828. No. 36. CO. 158/59.
CO. 158/59.

(23) Hankey to Hay. 8. 9. 1831. No. 55. CO. 158/69.

The first intimation which the Colonial Office received of the Governor's action was from his despatch, nearly a month later, transmitting twenty memorials and petitions including one from the Archbishop against the enactment of the Ordinance (24). Stuart justified his action by maintaining that it was indispensably necessary to correct the abuses and disorder which existed and which had resulted from the non-observance and inefficiency of the laws governing the administration of the pious foundations.

In the Colonial Office, James Stephen was impressed not so much by the law itself, but by the great excitement it had aroused in Malta, and by the revelation that the Governor had acted on his own authority and that his explanation for doing so was inadequate. He wrote that the Secretary of State would offer no opinion on the Ordinance until further reports on the policy, structure and probable effects of it were received from the Governor. Stuart was to inform the petitioners that "if confirmed by H.M. at all" the Ordinance would not be enforced without giving them the "amplest opportunity" to urge their objections (25).

Stephen was annoyed at the Governor's unauthorized action which brought discredit to Britain in the colony. Before arousing such opposition he considered it wise to reflect whether the Governor's policy could be justified, particularly in the House of Commons. There were many reasons for this growth of responsibility in the Colonial Office in respect of policy, and not the least was that Parliamentary censure which had earlier brought about the resignation of Glenelg. (26) In this light the Ordinance of Stuart's was half-way to being disallowed.

That in fact it should be disallowed was the advice given to the Colonial Office by the Chief Secretary, Sir Hector Grieg. He proposed in its place the establishment of a Mixed Commission of 2 laymen and 5 ecclesiastics nominated by the Governor and the Archbishop respectively. The Commission was to examine the accounts of all procurators who were to be prosecuted in the Civil Court if found in default (27).

This proposal was transmitted to Stuart but was rejected; a tussle between the Governor and the Colonial Office was avoided unsuspectingly by the Archbishop. In order to prevent interference by the local government he had promulgated the reform himself. A mixed Commission, very similar to that proposed by Grieg, had been nominated by him to supervise the administration of pious trusts. Stuart had "very faint hopes" that the Commission would achieve anything, but, with the consent of his Council, had resolved to give it twelve months trial (28). Perhaps the knowledge of the fait accompli in Malta had prompted the rejection of Grieg's proposal; Stuart would have recourse to any measure however false to justify his position to the Colonial Secretary, particularly as he recognized that he was losing his confidence; and

(24) Stuart to Stanley. 12 May. 1845. No. 37. CO. 158/131.
(25) See Stephen's Minute on Stuart to Stanley. 12. 5. 1845. No. 37; and his draft answer to Stuart. 7. 6. 1845. CO. 158/131.
(26) See the attack on Colonial policy made by Sir W. Molesworth in the House of Commons. 6. March. 1838. Hansard. 3rd series. XLI 476.
(27) Memorandum of Sir H. Grieg. (London) 28. 8. 1854. CO. 158/131.
(28) Stuart to Gladstone 9. 7. 1846. No. 47. CO. 158/134.

to be forced eventually to accept the proposal of his Chief Secretary would not enhance his reputation either at home or in Malta. The recognition of the Archbishop's Commission provided a less ignominious retreat. The Secretary of State was relieved of the duty of disallowing the Ordinance, for it was decided that any decision on it should be suspended; the Ordinance in fact was buried in the files of the Colonial Office.

The greatest problem which faced both Church and State during this period was that of the Right of Presentation to the Malta Bishopric. At the period of the grant of the Islands to the Order of St. John of Jerusalem, the Emperor Charles V had established that whenever the See became vacant the Grand Master was to nominate three ecclesiastics of the Order, one of whom was then to be elected by the Sovereign on the Pope's final approbation. The Colonial Office maintained that the rights of the Grand Master and of the Emperor were invested in the Crown of Great Britain and, on the death of Mgr. Mattei, Ponsonby recommended the nomination of Archdeacon Francesco Saverio Caruana. This ecclesiastic had led a group of the Maltese insurgents against the French in 1800, and the Governor reported that his appointment would be "most acceptable to the Maltese": moreover he was fitted for the situation by reason of "his respectibility, his integrity and his firm attachment to the English government" (29).

Britain's position, however, was not as simple as this. Severe penalties could be imposed by virtue of the Elizabethan Statute abolishing Ecclesiastical Jurisdiction on all who acknowledged Papal supremacy in any part of the British Dominions. The Law Officers of the Crown were of the opinion in 1826 that the operation of this Statute would prevent the nomination of a Roman Catholic Bishop in Quebec (30). For these reasons the Colonial Secretary disapproved Ponsonby's action when on the death of Mattei he had written officially to Cardinal Somaglia that

> "the presentation to the Bishopric of Malta belonging to the King my Master as Sovereign of these possesions, subjects to the approbation of the Holy See, I shall not lose a moment in submitting for that approbation the name of the individual whom His Majesty might think proper to select as successor to the deceased Bishop (31).

But the official despatch from the Colonial Secretary was not to be understood as conveying any censure of Ponsonby's policy, Sir G. Murray informed the Governor privately that it served.

> "only as an official recognition of the inflexible rule of law laid down in the Statute of Queen Elizabeth." (32)

There could be no official recognition of the authority of the Pope to confirm the appointment of the Bishop of Malta. Caruana was to be informed

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(29) Ponsonby to Murray 14. 7. 1829 No. 42 CO. 158/64.
(30) See Murray to Ponsonby 7. 8. 1829. Priv. & Confidential CO. 159/10.
(31) Ponsonby to Somaglia 14. 7. 1829. Enclosure 4 in Ponsonby to Murray 14. 7. 1829. Conf. C. 158/64.
(32) Murray to Ponsonby 7. 8. 1829. Private and Confidential. CO. 159/10.

privately that Britain would not object to his assumption of the dignity of Bishop, but it was doubtful whether His Majesty would appoint him directly to the See. Caruana was to obtain the necessary Bulls from Rome which were not to be communicated officially to Ponsonby, — but when they were received in Malta, the Governor would recognise Caruana as Bishop in the customary manner. If, by a Papal Bull, any other person was appointed, Ponsonby was to prevent him from "entering into the receipt of any of the temporal advantages or powers belonging to the Episcopal office" (33).

It was not from the Pope, however, that difficulties arose but from the King of the Two Sicilies. The first intimation of the claims preferred by Naples came to the Colonial Office in a private letter from Hankey (34).

He considered it his duty to remind the Colonial Office of the details of the appointment of Mattei in 1807-8. On that occasion the King of Naples had assumed the right to nominate three ecclesiastics to the See of Malta, which was subject to the Metropolitan of Palermo, it being understood that the Pope would select the first named. The Chief Secretary hinted that, despite the changed political circumstances of 1829, Naples would again assume the right of presentation. Hankey was correct, for within a few days of the receipt of his letter, Count Ludolf, the Sicilian Minister in London, presented a formal claim to the Foreign Secretary of his Sovereign's right to nominate to the vacant See (35). It is doubtful whether the Neapolitans really supposed that they had any chance of success in this policy. They were clinging to the remnants of a power hoping that by an official renunciation of it they could purchase something of greater value to themselves. The Bishopric of Malta included certain lands in Sicily which the King of the Two Sicilies desired for the endowment of a new See. Maitland's proposal in 1823 that these lands might be exchanged for certain property in Malta belonging to the Benedictines to Catania had been refused (36). It was more profitable for Naples to bargain for the Sicilian lands on the basis of yielding an untenable claim. Ferdinand was particularly successful in influencing the Pope on this matter, for he had obtained promises from him immediately on the death of Mattei, not to proceed with any appointment until the right of presentation had been settled between Britain and Naples. Cardinal Albani, the Papal Secretary of State, frankly acknowledged that the right of presentation was exclusively Britain's and that Caruana would be appointed, but it was impossible to proceed in opposition to the promises made (37).

As soon as these complications had developed, Hankey had offered his services to negotiate at Naples as well as at Rome (38), but at first the Colonial Office was content to rely on the Foreign Office and the diplomatic assistance of Lord Burgersh, the ambassador at Florence. When this proved of no avail it was decided to send Hankey to Rome (39). On this second mission Sir

(33) Murray to Ponsonby 7. 8. 1829. Private and Confidential CO. 159/10.
(34) Hankey to Hay. (Paris) 6. 8. 1829. CO. 158/64.
(35) Backhouse (F.O.) to Hay. 24. 8. 1829. CO 158/65.
(36) See J. Planta to Wilmot Horton 12.4.1823 and Enclosures CO 158/34.
(37) Hankey to Hay 31. 10. 1829. Private CO. 158/64.
(38) Hankey to Hay. (Paris) 6. 8. 1829. CO. 158/64.
(39) Murray to Hankey 11. 8. 1829 CO. 159/10.

Frederick Hankey was not immediately successful; after three interviews with Cardinal Albani he was satisfied that within a short while Caruana would be constituted as Bishop, but the deadlock was at Naples not at Rome. On his return to Malta, Hankey convinced Ponsonby as he had done the Colonial Office that the real reason for the Neopolitan intransigence was their hope

> "to tease the British Government into a consent to the spoliation of the Maltese Church." (40)

The British Government was emphatic against adopting directly or indirectly any measure wich would tend to despoil the Church of Malta (41). Diplomatic action had again to be undertaken by the Foreign Office, and the Minister at Naples was instructed to prevail upon the Government there, to relinquish their claim (42).

The Foreign Secretary was more disposed to yield on the question of the temporalities than Sir G. Murray, who maintained that Britain should obtain some "solid return" in any exchange. Aberdeen informed the ambassador at Naples that although it was impossible to assent to the declaration formulated by Ludolf by which Naples offered to surrender all rights of suzerainty over Malta in exchange for Britain's right to the Revenues in Sicily granted to the Bishop of Malta, nevertheless Britain would not insist upon the continued enjoyment of the Sicilian temporalities by the Archbishop provided the Neapolitan Government obtained Papal sanction for the new arrangement (43).

These negotiations with Naples continued from December 1829 until March 1833, although in November, 1830, Gregory XVI acknowledged Caruana as Archbishop. For sixteen months Malta had been without a Bishop and during this time the Local Government had collected the revenues of the vacant See. Although the money was used for charitable purposes the Government's action added to the growing discontent of the Maltese. They blamed Britain for the inconveniences which arose in the island due to the absence of a properly constituted Bishop. The Governor himself considered it "disreputable" for the island to be so long without its Bishop (44).

The Papal decision was partly the result of a third Hankey mission to Rome in November 1830. In the opinion of the Chief Secretary the time had come for strong language, in fact the Papal authorities should be told.....

> "that we have been treated in a most improper manner, that no further application will ever be made at Rome on the subject and that we are indifferent whether they send the Bull or not and that we shall keep Caruana at the Head of the Church here as Vicario Capitolare and will not receive any person in the island but him as Bishop" (54).

Hankey in fact wished he could act as the Consul did at Tripoli — and strike

(40) Ponsonby to Murray 24. 11. 1829. Most confidential CO. 158/64.
(41) Murray to Ponsonby 8. 10. 1829. No. 75 CO. 159/10.
(42) Douglas (F.O.) to Hay 5. 12. 1829. CO. 158/65.
(43) See Douglas (F.O.) to Hay 19. 1. 1830. CO. 158/67.
(44) Ponsonby to Hay 1. 7. 1830. Private CO. 158/66. See also Ponsonby to Goderich 6. 1. 1831. Separate & Confidential CO. 158/68.
(45) Hankey to Hay. 18. 10. 1830. Private CO. 158/66.

the British flag! These are the words of Hankey as a character more generally known; there is no evidence that he used such phrases at the Vatican but his mission was successful. By a letter dated 26th November, 1830, Cardinal Albani signified the Papal decision to recognize Caruana (46) and in May 1831 the Pope formally acknowledged him as Archbishop of Rhodes and Bishop of Malta (47). Moreover the Pope conceded further to British requests by decreeing that the See of Malta should be separated from Palermo and become directly dependent on Rome (48).

The negotiations concerning the temporalities dragged on, but finally the Colonial Office policy succeeded. The Neapolitan Government consented to the exchange of the Sicilian temporalities of the See of Malta for the Maltese temporalities of the Benedictines of Catania (49). The main reason for the prolonged delay in reaching an agreement was the Neapolitan dependence upon Metternich and his general dissatisfaction with British foreign policy at this period. Unfortunately Malta, dependent on Sicily for so many things, had borne the brunt of this retaliation (50). That an agreement was eventually reached was due again to the diplomacy of Hankey in Naples in December 1832—March 1833 (51). It is no wonder that for his services, the Colonial Secretary recommended him for the honour of the First Class of the Order of St. Michael and St. George (52).

As yet there was no disagreement between the British Government and the Vatican on the question of the fitness of any nominee recommended by Britain. When this occured the whole question of the validity and operation of Papal Bulls in a part of the British dominions became a serious problem. A deadlock was bound to ensue for both parties based their position on legal form. Such a dispute arose on the nomination to a Canonry of the Cathedral of Malta. According to custom, decision for such an appointment was held by the Pope for eight months of the year and allowed to the Bishop of Malta for the remaining four months; but on every occasion it had been usual to consider first the recommendation of the local Government. When in 1836 a Canonry fell vacant, the Governor recommended a certain Don Francesco Debono; the Pope appointed Don Francesco Schembri. Little is known of either of the ecclesiastics but the Governor considered Schembri unfit for the appointment on the grounds that he would be "politically troublesome." (53)

Bouverie strongly criticised the Pope's action as a departure from long established custom; unless the Government controlled the patronage of the Church.

(46) Albani to Ponsonby 26. 11. 1830 in Ponsonby to Goderich. 6. 1. 1831. Separate and Confidential CO. 158/68.
(47) See Ponsonby to Goderich 9. 4. 1931. No. 26 CO. 158/68.
(48) See Warburton to Goderich 25. 8. 1831. No. 50 CO. 158/69.
(49) Goderich to Ponsonby 22. 3. 1833. CO 159/12. See also Ponsonby to Archbishop. Bishop of Malta 11. 4. 1833. Malta Arch. Archives. XLVI p. 273.
(50) See Memo. by Hay 22. 9. 1832. (filed in Nov.) CO. 158/73.
(51) See Hankey to Hay 23. 2. 1833. Private, and Hankey to Hay 16. 3. 1833. CO. 158/75 and Hankey to Archb. of Malta. 30. 4. 1833. Archives XLVI p. 278.
(52) Stanley to Ponsonby 2. 5. 1833. CO. 159/12.
(53) Bouverie to Glenelg. 18. 8. 1837. No. 112. CO. 158/96.

"the moral effect on the character and power of the Government would be hurtful in the extreme." (54)

Bouverie was hopeful that by being firm in opposition, the Pope would be induced to reconsider his nomination. In this policy the Governor received the fullest support and approbation of the Secretary of State (55).

The Colonial Office was surprised that the Vatican should have evoked a controversy. Glenelg maintained that good relations with Rome in respect of Malta depended on the tacit recognition of each other's privileges. The Colonial Secrtary had allowed the operation of a Papal Bull as the ultimate act of confirmation of Caruana as Bishop and he expected Rome to acquiesce "as tacitly" in the exercise by him of a right of patronage; this was felt to be the only possible compromise in.

"adjusting the spiritual pretentions of the Pope with the rights and obligations of the British Crown." (56)

It was hoped that it would be possible to avoid resorting to any measure of positive opposition to the Papacy, but in June 1837 the Secretary of State directed Bouverie to adopt, if necessary, a procedure invalidating any appointment to an Ecclesiastical Office or benefice by a Foreign Power which was made without his approbation (57). An Ordinance to this effect was passed by Bouverie in Council on 13th January 1838. The Governor acted immediately on the arrival in Malta of Schembri with the Bulls of nomination. It was the first time that the problem had been brought under the notice of the Council, Bouverie had withheld it for he had no wish to initiate a debate which might have proved troublesome (58). He reported that the Ordinance had been "far from creating dissatisfaction in the public mind" (59), but since this statement was based on an assumption made earlier by Bouverie, that in Malta there did not exist, except in very few instances, "the smallest reverence for the See of Rome" (60), it is open to great doubt, for his assumption was incorrect.

The deadlock of January 1838 thus rested on two accomplished facts, the Bull appointing Schembri and the Ordinance by which it was rendered invalid; an unfortunate position, for it could encompass no compromise without the suspension of one of the acts. The Foreign Office and Colonial Office blamed the Papal authorities for the impasse, for they argued that had the Pope given more attention to the explicit warnings of Britain of the action which would be taken on the issue of the Bull, he would have become sensible of his "error" in "pretending too much" (61). The Pope considered it an essential right and necessary for the integrity of the Church that he should have the final decision on the appointment to ecclesiastical office; to acknow-

(54) Bouverie to Glenelg. 15. 4. 1837. Confidential CO. 158/96.
(55) Glenelg to Bouverie. 1. 6. 1837. Private CO. 159/14.
(56) Glenelg to Bouverie 17. 6. 1837. No. 100 CO. 159/14.
(57) Ibid
(58) Bouverie to Glenelg. 28. 8. 1837. No. 112 CO. 158/97.
(59) Bouverie to Glenelg. 20. 1. 1838. No. 16 CO. 158/100.
(60) Bouverie to Glenelg. 28. 8. 1837. No 112 CO. 158/97.
(61) Aubin to Bouverie 3. 2. 1838 in Fox-Strangways. (F.O.) to Stephen. 19. 2. 1838. CO. 158/103.

ledge the Ordinance of January 1838 would be an act destructive of that basis upon which the Church founded her independence. A Papal Bull bore an authority complete in itself, it did not require the sanction of the temporal power to render it effective. Rome made a tender to reopen negotiations but it was rejected by Glenelg (62); the Ordinance was to remain in force, the Pope would have to submit. This dictatorial attitude secured some apparent success for on 22nd March 1838 Rome instructed the Bishop of Malta to suspend the Schembri Bull (63).

The Colonial Office had secured what they desired, but it brought no solution to the difficulties facing the Governor in Malta. For four months after the suspension of the Schembri Bull, Caruana conducted a policy of passive resistance to the government; all other Papal Bulls conferring ecclesiastical appointments remained dormant for the Bishop refused to apply for the sanction of the temporal authorities for them. Glenelg, the Secretary of State, maintained that the British policy constituted in no way a breach of faith of the undertaking to tolerate Roman Catholicism in Malta (64), but the Maltese looked upon the Ordinance of January 1838 as a deliberate attempt against their religion. The discontent grew steadily as thousands were deprived of the services of their parish priests despite the fact that Bulls of appointment had been received at the Curia (65).

Bouverie recommended reopening negotiations with the Vatican (66), but neither the mission of Sir Hector Grieg and Archdeacon Lanzon to Rome in July 1838, nor the unofficial visit of Mgr. Cappaccini to Malta in February 1839, produced a satisfactory solution. It is impossible to judge without the relevant documents the extent to which Cappaccini exceeded his Instructions, but exceed them he did, for his understanding with the Malta Government was repudiated immediately on his return to Rome (67). This is not surprising for Bouverie was left under the impression that the Papacy had abandoned its "pretensions", for the Archbishop was instructed to act under the provisions of the Ordinance. Rome's repudiation was a great blow to the Governor and productive of some bitterness for when the Vatican proposed, what in fact was to become the only solution, that agreement on a candidate should precede the issue of a Bull, Bouverie was fierce in rejection (68).

As the relations with Rome had become less and less amicable as a result of the Schembri dispute, Bouverie had, at one point, advised yielding on that issue for a more important one loomed ahead (69). Caruana's health was declining and the question arose of the nomination of a successor. Of the three possible candidates for the Bishopric, Bouverie favoured Canon Emmanuele Rosignaud as the most suitable by reason of his considerable talent and acquirements and in respect also of his age, for he was only 55 years. This

(62) Glenelg. to Bouverie 24. 3. 1838. No. 224 CO. 159/17.
(63) See Bouverie to Glenelg. 11. 5. 1838. Separate & Conf. CO. 158/101.
(64) Glenelg. to Bouverie 17. 6. 1837. No. 100 CO. 159/14.
(65) Bouverie to Glenelg. 11. 5. 1838. Separate & Conf. CO. 158/101.
(66) Bouverie to Glenelg. 11. 5. 1838. Separate & Conf. CO. 158/101.
(67) See Bouverie to Normanby 11. 5. 1839. CO. 158/106.
(68) Ibid.
(69) Bouverie to Glenelg. 28. 8. 1837. No. 112 CO. 158/97.

last factor was the main reason why Archdeacon Lanzon had been superseded, for although he still held first place in the affections of the Local Government and had been recommended by Bouverie in 1837 (70), yet in February 1838 he was considered disqualified as being too old (71). Perhaps the Governor felt, among other things, that if a struggle with Rome was to follow, it would be wise to arrange that a recurrence of the difficulty was made as far distant as possible. The third candidate, Bishop Sant, a Canon of the Cathedral and Titular Bishop of Larada, enjoyed the friendship and support of Ponsonby, but was looked upon by Bouverie as altogether unfit for the office. He spoke of Sant as being in bad health and of the most retired ascetic habits and of being a "narrow minded concientious bigot" (72); this remark to be fully understood must be taken with Bouverie's comments on Lanzon, where freedom from bigotry is synonymous with firm friendship to the Government (73). Sant would prove to be an independent Bishop.

No reference was made to Rome until 1843 when it became known that the Pope intended to appoint a Coadjutor to Caruana. Lord Holland, ambassador at Florence, was instructed to inform the Vatican that Britain would not depart in any way from the principles which had been laid down, although the Papal Government.

> "may rest assured that a person will be chosen whose selection when submitted for the concurrence of the Government of Rome cannot fail to be acceptable to them.'" (74)

But Britain's position was now untenable for Rosignaud had been dismissed as Rector of the University on the grounds of incompetence. It was extremely unlikely that this would be considered by the Papacy as a recommendation for a Bishop, meanwhile they were entertaining the suggestion initiated by Stanley to appoint an English ecclesiastic (75).

British policy at this moment, with reference to what the whole of Malta considered a crucial question, was lacking in foresight, consistency and the regular attention of the Colonial Office. James Stephen asserted the principle of policy that the Queen in possession of the Sovereign rights of Malta was entitled to the deference of the Papal Court in respect of any appointment to ecclesiastical office (76). Yet in practice Britain was placing herself in an impossible position by backing what was so obviously the wrong horse. This position was even more unfortunate for the Papacy was disposed in May 1843 to act within reason in concert with the British Government in making such ecclesiastical provisions as were necessary (77). There were limits however, the Papal government continued to object to the nomination

(70) See Glenelg to Bouverie 31. 3. 1837. Private & Conf. CO. 159/17.
(71) Bouverie to Glenelg. 28. 2. 1838. Private & Conf. CO. 158/100.
(72) Bouverie to Glenelg. 28. 2. 1838. Private & Conf. CO. 158/100.
(73) Ibid.
(74) Aberdeen to Holland 14. 3. 1843. Enclosure I in Canning to Stephen. 14. 3. 1843. CO. 158/127.
(75) See enclosures in Canning to Stephen 15. 5. 1843. CO. 158/127.
(76) Minute on Bouverie to Normanby 11. 5. 1839. CO. 158/106.
(77) See Enclosures in Canning to Stephen 15. 5. 1843. CO. 158/127.

of Rosignaud, while favouring Sant (78). The Colonial Office refused to entertain this proposal, placing authoritative confidence in the expression of Bouverie that Sant was "wholly unfit" (79). Consequently the deadlock continued and for another three years Malta was left without a Coadjutor when the Archbishop himself was in no physical condition to supervise the ecclesiastical affairs of the island.

By July 1846 several new factors rendered a solution possible. Russell was ready to obtain closer official relations with the Vatican and despatched Lord Minto to Rome in the Autumn of 1847. The change of Ministry had brought Earl Grey to the Colonial Office (80). There was a keenness and interest in Colonial affairs, and a determination to settle the many long outstanding problems, not only those of major significance in the greater colonies, but. Grey had the capacity for a general appreciation of the whole Colonial Empire including the crown colonies. Maltese internal affairs which usually came under the cognizance of the Colonial Secretary some months after his appointment, were dealt with immediately by Grey. A despatch from Stuart in which he revived the question of the necessity of appointing a Coadjutor was followed up promptly by Grey (81). Stuart was called to a personal conference with him at the Colonial Office (82). James Stephen was also beginning to think it necessary to reconsider the position of Britain in relation to the Vatican on this question. Not that he would ever admit the need to change a point of policy established for so many years in the Office, but it might be as well to reconsider the position in the light of new circumstances; he adds in his advice to Hawes:

> "But though we live in the 19th century a quarrel with the Pope is still a serious affair and the motives for plunging into it should be both strong and clear." (83)

The importance of the question was fully realized by the Parliamentary Under Secretary, Hawes (84). The growth in number and power of Irish members in the House of Commons, and their readiness to espouse any cause akin to their own, more particularly in relation to Catholicism, produced a watchful interest from them in the policy towards Malta. There were few occasions when the despotism of the Colonial Office towards the island was limited or its policy conditioned by the attitude of Parliament, or rather by a minority of radicals or Irish in Parliament, but on these occasions the "conditioned" policy was most satisfactory to the Maltese.

The circumstance which had prompted Stuart to revive the question was the accession of Pope Pius IX. Stuart thought the moment opportune for

(78) Gordon to Aberdeen 14. 10. 1843. in Canning to Stephen 24. 10. 1843. CO. 158/127.
(79) See draft by G.W. Hope for Aberdeen to Stuart 6. 1. 1844. filed after Stuart to Stanley. 27. 12. 1843. Separate. CO. 158/126. The business was passed to the F.O. because Stanley was "out of town."
(80) See *The Later Correspondence of Lord John Russell* 1840-78. E.. G. P. Gooch London 1925. Vol. I. pp. XXVI XXIX.
(81) Stuart to Grey. (London) 29 July 1846. CO. 158/135.
(82) Ibid. See Minutes on despatch.
(83) Minute on Stuart to Grey. 29. 7. 1846. CO. 158/135.
(84) See his minute on Stuart to Grey. 29. 7. 1846. CO. 158/135.

resuming unofficial tenders in favour of Rosignaud. Pius IX was certainly anxious to settle the issue, and had enlisted the diplomatic support of Richard More O'Ferrall, Member of Parliament for Kildare (85). He was requested by the Cardinal Secretary of State to communicate with the Colonial Office on the subject of a Coadjutor. More O'Ferrall emphasized that the selection by the Pope of a fit person for the Bishopric would be made.

"with the anxious desire to render it acceptable to His Majesty's Government." (86)

All the conditions for an agreement were present; there was no valid reason why the Colonial Office should persist any longer in its support of Rosignaud. That it had persisted so long was due to a loyalty to an unwritten understanding made by the Governor to Rosignaud. Bouverie had requested his resignation as Rector of the University promising him eventual provision by the Government, most probably by nomination to the Bishopric (87). When Stuart himself revealed a disposition to give up this point, it was readily accepted by Grey (88). On the withdrawal of objections to his nomination, Monsignor Publio Maria Sant was appointed Coadjutor and on the death of Caruana in the November of 1847 succeeded as Archbishop of Rhodes and Bishop (89).

For the future, though no provision was formally made, it was likely that the right of nomination would pass finally to the Papacy although the Colonial Office would always reserve the right to veto a nomination. Moreover it had proved a wise procedure to seek agreement first by conducting negotiations in a private and unofficial manner. It was only by this diplomacy that good relations between Britain and the Vatican with regard to ecclesiastical appointments in Malta were possible.

Index to references.

CO. . . . Colonial Office records in the Public Records Office, London.
WO. . . . War Office records in the Public Records Office, London.
Malta Archiepiscopal Archives. . . Archives of the Curia, Valletta.

(85) More O'Ferrall was a friend of Daniel O'Connell, and was at the time Secretary to the Admiralty. He was later appointed Governor of Malta.
(86) More O'Ferrall to Grey. 7. 8. 1846. CO. 159/136.
(87) See Stuart to Grey 11. 3. 1847. CO. 158/137 and O'Ferrall to Grey 7. 1. 1850 CO.
(88) Stuart to Grey. 31. 10. 1846. Private. CO. 158/135.
(89) M. Fane to Grey. 25. 11. 1847. CO. 158/138.