

# JUDGE DEBONO

(By J.M. Ganado, B.A)

PERHAPS out of all the makes which now only constitute appropriate epitaph to the great legal luminaries of the past—perhaps the one most familiar to Law Students is that of Judge Paolo De Bono. His “Storia della Legislazione in Malta” and his “Fallimento nel Diritto Maltese” form part of the curriculum of the legal studies carried out in our University. I need, therefore, make no introduction; his works have ensured, maybe, perennial fame. But can we say that we *know him*? His legal works and his elaborate judgments stand forth in perpetual testimony of his acumen and the heights of legal doctrine to which he did attain. But to know *the man*, we have to review the “ups and downs” of his life, the unostentatious work which he silently and perhaps unremuneratively performed his efforts to tread the path of virtue by giving counsel and assistance to the needful and in general, all the elements which reflect on the inward life, on the Spirit — for the Spirit makes the man.

“The life of a great advocate is a social document, for the impinges in his works on public affairs, commercial affairs and the domestic affairs of all classes of the community”. Walker Smith’s curt statement faithfully reproduces judge DeBono’s career : in its conciseness of style and universality of outlook it portrays the life of a great Judge and barrister, like Judge DeBono’s in its true perspective. In fact Judge DeBono’s kindness of character and his natural tendency to protect the weak make up the best education one can have in the art of good advocacy, nav, in the art of good living itself. Every citizen must be the slave of his duty; let us forget our rights for a moment : let us thing only of our duties, thus making the best we can of this flicker of life that is at our disposal. That is the cry that the elements unfolded in Judge DeBono’s life breathe forth to receptive dispositions.

On the 14<sup>th</sup> July 1852 a humble family of Valletta was numerically increase by one and that “one” was young DeBono. The boy at school gave clear evidence of his intellectual rang; after a few years at the Lyceum he passed the “Esame di Ammissione” of the Faculty of Laws and was later registered with the course of Laws and was later registered with the course of Laws at the University. His affability and nobility of character gained him the friendship and admiration of his Professors and fellow-students; in the academical field the results attained in his examinations decidedly reveal his attainments in the legal science. In the examination of admission to the Faculty of Laws he was “approvato unanimamente”. The following were the theses that fell to his lot during the four academical years :

I Year — “Organizzazzione della Camera Alta e Bassa del Parlamento Inglese” (the 98<sup>th</sup> thesis)—20<sup>th</sup> June, 1871—“approvato unanimamente e con lode”.

II Year — “Furto e spiegazione delle sue qualifiche” (the 99<sup>th</sup> thesis)—19<sup>th</sup> June, 1872—“approvato unanimamente e con lode”.

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**JUDGE PAOLO DE BONO, LL.D.**

*(By courtesy of the Hon. The Rector Royal  
University of Malta.)*

III Year — “Che cosa e il contratto di appalto”—17<sup>th</sup> June, 1873—“approvato unanimamente e con lode”.

IV Year — “Immissione ed Amministrazione dei beni del debitore per salviano” (49<sup>th</sup> thesis)—13<sup>th</sup> June, 1874—“approvato unanimamente e con lode”<sup>(1)</sup>.

He was finally awarded the Government First Scholarship and this is of greater significance, when in his course there was Mr. Giovanni Grech Mifsud, a very capable young man<sup>(2)</sup>.

On the 2<sup>nd</sup> August, 1874 he graduated as Doctor of laws, i.e., when he was only 22 years of age. He then went to Naples to continue his legal studies, and there he met many eminent Professors, who very soon formed golden opinions of the young man’s capabilities and anticipated a brilliant future. He had particular associations with the famous Italian criminals, Enrico Pessina to whom Dr. DeBono donated a copy of the Criminal code of Malta—a donation which evoked the highly favourable comments Pessina makes in regard to our Criminal Laws. His stay in Naples gave the final polishing touch to his profound knowledge of Criminal Law and Jurisprudence, the more so when our Criminal Code is based on the Neopolitan Code. His connexion with criminal legislation in operation as practised in Italy produced in him glowing love for the liberal spirit which ties at the root of our criminal laws, constituting a sound, spiritual background of Justice, Equality and Freedom. However according to his opinion the Criminal Code required revision, as he clearly states in his “Storia della Legislazione:”. As far as I am aware, he never made any concrete suggestions as to the reforms which he visualized, except for the 1900 and 1903 reforms; probably his unexpected departure from amongst the living cut short any intentions he might have had. But, as in the criminal field he was a really accomplished master, his opinion deserves the fullest consideration.

On his return to Malta he was called to the Bar and on the 8<sup>th</sup> November, 1876, he was sworn in before the Court of Appeal.

The rapid growth of his practice was really “phenomenal”. In just over one year he had already established a name that elicited respect amongst all classes of the community. “In 1876”, says the Daily Malta Chronicle (rather dogmatically) in its issue of the 21<sup>st</sup> November, “*he was already the leading barrister* (my italics) in Malta for criminal cases”. “The ‘forum’ which more than all the others throws aspiring young barristers under the mysterious gaze of public opinion for “adjudication” is the Criminal Court and it was exactly in that Court that the young barrister decided to make his real debut, impressing the most unemotional of jurymen with his remarkable eloquence and brilliance of thought. Naturally he had triumphs as well as setbacks but the barrister’s performance or non-performance of his duty must not be judged by such materialistic criteria; it is only the prisoner that looks at things from that angle.

In Dr. Debono’s case triumphs there decidedly were and They’s murder case was the one which unmistakably evinced his skill in handling criminal cases and above all his extra

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1. The members of the Council of the Faculty of Laws were: Dr. Saverio Schembri, Rector; Dr. Giuseppe Randon; Revd. Canon Dr. M.A.Mifsud; Dr. Giuseppe Gasan; Professor Sigismondo Dimech ; Professor Dr. N. Criscimanno.

2. Dr. Grech Mifsud formed a very wide practice at Alexandria, Egypt. He was appointed Judge in the British Division but after some years he resigned from office on account of certain orders issued to the consular authorities by Lord Cromer—orders which were deemed by Dr. Grech Mifsud to be an interference in the judicial proceedings. He then started again practising at he Bar and formed a very extensive practice for the second time.

ordinary power of persuasion that invariable attended his forensic orations. If defect there was, it can only be mentioned to his credit ; his thoughts were too deep : his speech, the messenger of the carefully planned sequence of ideas, was too brilliant a medium for some jurymen who complained that he was too far above them. But, of course, this only referred to the occasional flashes which the great power of the intellect cannot restrain, even when it endeavours to keep itself down on the same intellectual plane of the hearers <sup>(3)</sup>.

Another case worthy of mention was an Infanticide case. On the 30<sup>th</sup> July, 1890, there appeared in Court Maddalena Camilleri and Marianna Bartolo, the latter assisted by the Advocate for the Poor, Dr. Z. Roncali, (later Judge) who on account of ill-health could not be present at the trial and the Court in virtue of the power conferred upon it by law, appointed Dr. DeBono to act as counsel for the defence. As his duty bade him, he readily accepted, although no remuneration was according to Law due to him; he only asked for 24 hours to examine the case. The following day he turned up fully prepared for the fight and no doubt he clearly brought home the trend of circumstances which logically knit together presented sound reasons for excuse. He also urged that Art.233 was applicable to cases of Infanticide, a question which was not free from doubt and which has lately provoked considerable discussion in the Press. But the day had also in store for him a surprise which made him at first blush but which he treasured to his dying day. During the summing-up Judge Dr. Giuseppe Gasan referred several times to counsel's defence in highly eulogistic terms and finally with a clear, strong voice incisively referred to Dr. DeBono as a barrister *di forze veramente gigantesche* — at which Dr DeBono made a gesture denoting that the Judge was burdening him too much. Such an expression, unlike many others, survived its birth and when friends mentions it to Judge DeBono in later years, he happily smiled in silent recollection.

The Commercial Court saw him equally brilliant and incessant research made him a master in the commercial field as much as he was in the criminal one. From his practice in the two courts there unequivocally emerged to the light of day the reason of his success or, rather, more exactly a factor which helped up in the "ladder" of his profession and which later made of him a much-respected and much-feared minister of Justice. He was a remarkably shrewd and swift cross-examiner: on the one hand helpful to well-meaning, God-fearing witnesses, on the other hand he featured as a terrible antagonist to knaves and quibblers, that were made to cringe before the flourishing of his "steel" — that was Paolo DeBono, the barrister and the Judge. He was, however, even-minded of the fact that "the bullying of witnesses apart from the decencies involved has no part in great advocacy; good counsel never find it necessary or desirable to bully a witness.... It is left to inferior counsel to try and mask their own inadequacy by bluster and discourtesy; but it is a device that rarely impresses a Jury and never deceives the Bench"<sup>(4)</sup>.

In 1885 the Chairs of Criminal Law and Commercial Law were vacant. In those days the Royal University was passing through an era of reform. The then Director of Education, Mr. Sigismondo Savona, intended to raise the standard of studies both in the Secondary

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3. The Press was unanimous in eulogizing Dr. DeBono. For instance the "Public Opinion" in its issue of the 28<sup>th</sup> May, 1889, in a foreword to the précis of Dr. DeBono's speech for the defense said: "It is only a skeleton and is no more to be compared to the beautiful oration delivered by Professor DeBono than a living beauty to its fossilised remains". The case was The Queen vs. Attard and Bartolo. The prisoners were two boatmen charged with having murdered a British soldier. DeBono appeared for Bartolo, who was declared "unanimously not guilty".

4. "Lord Reading and his cases", page

Schools and at the University and the means he first adopted was to appoint young and energetic professors. With regard to the above Chairs there were, of course, several “possibles” but the one who stood prominent amongst them was Dr. Paolo DeBono, who was appointed Professor on the 1<sup>st</sup> October, 1885. It appears that amongst the students of the time (now all dead except very few) there was unanimity in that his lectures were really praiseworthy. The “Daily Malta Chronicle: for instance in its issue of the 21<sup>st</sup> November, 1906, said:”...his pupils, some of whom are now prominent members of the Bar, are not yet tired of extolling the splendid lectures on Commercial and Criminal Law delivered to them by the gifted Professor.” And in truth, both branches of the legal science gave Professor DeBono golden opportunities to exploit his immense legal training; the depth and width of his outlook, the quickness of his mind in grasping the nature and intricacies of the difficulties which must have dogged his way, combined with unflagging labour on his part—all strengthened the hopes of his well-wishers and kept the perilous stream of success securely on its regular flow.

He was elected Secretary of the Chamber of Advocates, which office he occupied for many years and the Chamber, already excelling for being very active and undaunted (when at times those virtues were called into play) received greater impulse through the dynamic energy of its new Secretary; he “had the rare and chivalrous courage never to be deterred from the support of a cause or the prosecution of an inquiry, because it was unpopular or because he might suffer by taking it up”<sup>(5)</sup>.

In fact all the communications, reports etc., forwarded by the Chamber of Advocates to the Government or to the Press all bear his signature; amongst others, mention may be made of the Report regarding the reforms in Education proposed by Keenan in 1878—a report that made history. Likewise worthy of mention is the letter forwarded by Dr. DeBono under the direction of the Chamber of Advocates to the Secretary of State for the Colonies refuting the insulting suggestion made by Sir Penrose Julyan in his Report of the 25<sup>th</sup> March, 1879, that the Maltese barristers fomented litigation and making suggestions in regard to judicial proceedings and the Language of the Courts.

While vividly interesting himself in all the various manifestations of man’s inner self, he had particular predisposition towards literature and philosophy. “To hear him talking on classics and philosophy was one of the best of intellectual feasts” exclaims a friend (Mr. S. Flores) who had been in close touch with him for many years. Poetry—the shrine of crystallized thought — looked like some unearthly force that sharpens man’s sense of beauty, that makes his emotions tinkle and gives a profoundly inspiring approach to the realms of Goodness and Beauty. Philosophy, on the other hand, gives a sound substratum to man’s intellectual development, accompanies him through life, interposing its guiding influence in all his dealings ; it helps to give mind its due, that is predominance over the emotions, which are in their turn refined by the sense of beauty instilled by the understanding of the spirit of literature and art. Thus wedded together literature and Philosophy give man his natural outfit for life and, when added to all this, we have an essentially religious education naturally tending to a solid conviction in the unshakeable foundation of the norms of Christian ideology, it could be easily foretold that *much* could be attained.

From his early brilliant entry into public life up to the sudden advent of mortality’s Foe,

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4. S.Flores:”A pen-picture of Judge DeBono”, page

he was all through the typical friend of students. The year 1880 found the young barrister in close contact with the directing elements of Flores' College, ever-ready to give advice and to make suggestions for the advice and to make suggestions for the advancement of education, demonstrating an intimate knowledge of the educational problems of the time. As years rolled on, his love of students constantly grew in intensity in the same way as his understanding of the young mind became more secure, fraught with greater power of discrimination between the needs of one and the requirements of the other. Very often, at times every fortnight, he used to pay visits to Flores's College every time remaining for several hours, asking questions to the pupils generally regarding Latin and Italian Literature. As can be easily understood, these visits, although admittedly very beneficial, were invariably greeted with rather concerned boyish faces, ignoring what the day might have in store and, no doubt, afraid that things might take a bad turn; but, after all was over, smiles of satisfaction generally bedecked their looks, for Judge DeBono always wore a friendly, encouraging expression, giving way to a stern gaze only on infrequent occasions. During these visits the Judge figured as the educationist and he wanted to employ tact not intimidation (which would have killed his purpose) in communicating to them the beauty of literature or rather in developing those faculties by which guise it might have adopted. His attitude as he educationalist stood in strong antithesis with that of the examiner <sup>(6)</sup>.

An anecdote characterizing his attitude to examination may here be narrated. In the later days of his life he was examining the students of Flores' College in Latin Syntax and Literature. Three students got full marks. He proposed that the three students should be submitted to another examination, although the procedure does not appear to have been fully in accord with the normal rules regulating the conduct of examinations. The three students gravely accepted, probably in order not to play the role of cowards. In the second examination all three succeeded in attaining full marks for the second time. In the third examination one of them failed to get full marks, while the other two <sup>(7)</sup> kept up their first places. No fourth paper was set and the contest was thus brought to a close, in order not to prolong the torture any further.

From 1882 onwards he was appointed Examiner at the Royal University in several subjects; Latin and Italian Literature, Law, Philosophy, and Political Economy all formed at different periods subjects with regard to which he was called upon to perform the duties of examiner. With intelligent, studious lads he had the reputation of being a good examiner, very friendly and very "nice"; with the other type of students the position loomed less bright, making of him a dangerous "doubtful". In the written test every question was "fresh, stimulating, going to the heart of things.... Allowing possibilities to the mediocre, while opening splendid opportunities to the most brilliant"<sup>(8)</sup>

In the Oral Examinations, with students lacking the requisite knowledge he was perhaps

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6. He attributed the lowering of the standard of studies to several causes, among which the lack of good teaching and the very uncommendable system regulating the Examinations. Before the Educational Committee of 1897 he mentions two astounding examples: In a Latin-Italian translation a student said that "intestatus" corresponded to "senza testa". In another instance, while lecturing on the Press Laws, Judge DeBono (then Professor) referred to the date "otto Thermidor" . A student enquired : "Signor Professore, otto e nome?" The professor answered : "Si, e Thermidor cognome".

7. E.H. Ganado (now one of His Majesty's Judges), and A.V. Bernard (now retired Chief Government Medical Officer).

8. Flores : op. cit., page

of the nasty sort, unleashing heaven and earth on the trembling victim. He, of course, never unjustly victimizes anyone, for he always limited his questions to what was reasonably permissible, but he never could tolerate the possibility of a student graduating without possessing the knowledge which was logically expected of him. His severity was indeed actuated by his love of the students themselves and of his fatherland.

Education of the young, in short, fascinated him from the early days of his manhood for he always kept in mind, to quote the well-known adage, that “we live for our children”<sup>(9)</sup>. He became the ultimate resort of students insisting for some reform; whether it was a master ignoring Latin syntax and limiting himself to Literature or a Professor of Science of Law explaining theories against those which the Council of Law (maybe undiplomatically) had imposed—Judge DeBono was always ready to help and to see the distracting cause put right. He was a prominent member of the Malta Senate (another word for an autonomous Board of Education having under its control the entire educational system of the island) from 1895 to 1897. i.e., up to the Senate’s abolition. Incidentally it may be stated that he had taken a very active part during those two years, as is clearly evidenced by the Minutes which were boldly, though very irregularly, published by Mr. Sigismondo Savono in the “Public Opinion” and later on published by the Government. The learned Judge also gave evidence before the Committee appointed to report on the advisability or otherwise of retaining the Senate. He opined that the abolition of the Senate was completely uncalled for, because that Body had always functioned in a way that reflected nothing but honour on its name; it had always assisted the Director of Education with the exception of one instance i.e., when the Students of Medicine had been called upon to undergo an examination after having received only 30 minutes notice. The Senate decided that the students were right in protesting. He also mentioned a case when the Students of the Faculty of Laws had been suspended for one month by the Director. He thought that the Director had rightly inflicted the punishment but the majority entertained the opposite opinion. One can easily see the strong, independent fibre, that gave sinew to his personality. The Senate was however later abolished because its policy stood at loggerheads with the educational reforms which the Government had been for an appreciably long time vainly trying to introduce. A year later the Statute of the University was reorganized and a non-autonomous General Council was created. Judge DeBono was ready to help: in fact that same man who had so strenuously opposed the abolition of the old Senate had now a great share in the sectional reconstruction necessitated by the change. He was severely censured for his willingness to collaborate: but now after the fading away of those ephemeral sensation evoked by a spirit undaunted even after defeat, we can fully perceive the nobility of Judge DeBono’s attitude ; by refusing to give a helping hand he would only have harmed those belonging to the younger generation whilst the forum of his conscience kept on reminding him that, as Sisraeli said, “The Youth of a Nation are the trustees of Posterity”. In spite of the fact

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9. In matters relating to education his opinion carried great weight with all and he was considered as one of the leading personalities of the Island in the educational field, as is evidenced by the “Lettera al Dr. Paolo DeBono” regarding the “Istruzione Letteraria in Malta” (kindly lent to me by the Hon. Mr. Justice W. Harding, B.Litt., LL.D.). In the letter the writer said that he admired “il vostro ardore e zelo per il miglior avviamento degli studi leterari in questo isole” and later we find: “... molte. Ben so, inarcherebbero le ciglia per lo stupore a tal mia riflessione, non pero voi, illustre amico, ne altri che a voi pari di scienza ed esperienza e usato a guardare I fatti, massime I piu gravi e di maggiore importanza, d’ogni lato.”

that his opinion had been disregarded he was still in harness for the education of the young and his efforts went on, on their incessant move towards the ideal goal at which he aimed <sup>(10)</sup>.

“Thinking is easy ; action is difficult ; to act in accordance with one’s thoughts is the most difficult thing in the world”. (Goethe) I would not say positively that these words have their specific application in the case of Judge DeBono i.e., in other words, that Judge DeBono invariably, in his public or private life, performed “the most difficult thing in the world”; that would be leading perilously on the verge of senseless, blindfolded adulation, but it can be said that in no occasion of his life, as far as is known, was there ever any suggestion that he had acted against his principles of fair dealing or against his own beliefs. He himself states in his dedication of his book on History of Legislation to Sir Adrian Dingli, that he was happy to be dedicating it to a Chief Justice who was already in retirement in order not to be understood as a sign of sheer adulation “che io tanto aborro”. There could be no brandiloquence in his essentially just and amiable spirit; at times he disregarded his own interests perhaps to a censurable degree and he was always thinking about the ways and means of relieving destitute families. It was a necessity for him to do something : he *had* to do succour the needful and he left no stone unturned in doing it; for instance the “La Valette Societa di Mutuo Soccorso” and other such charitable Societies know him as their founder. A great writer has said and in truth on can here repeat :”Mark that man who seeks good in everyone : there goes a magnificent soul!”

In 1892 he was appointed one of His Majesty’s Judges; he was exceptionally young (only 39), the more so in those days when only barristers who were relatively advanced in age were appointed Judges, because there was no age limit for their retirement from office <sup>(11)</sup>. It appears that Nature decided to accelerate his course through life; but in spite of his comparatively young age it is a fact that not the slightest taint of immaturity was attributed. He had been for 16 years extensively and unremittingly practising at the Bar, devoting himself entirely to his work and taking no active part in politics, but at the same time,

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11. The following is the letter, dated 14<sup>th</sup> March, 1892, forwarded by the Governor of Malta to the Right Honourable Lord Knutsford : My Lord—I have the honour to report that Dr. Lorenzo Xuereb, one of Her majesty’s judges, who is now in his 84<sup>th</sup> year has requested permission to retire from his office and that I have accepted his resignation.

1. For filling up the vacancy caused by Dr. Xuereb’s retirement, I have appointed provisionally and until her Majesty’s pleasure be known , Paolo DeBono Esqr. LL.D., one of the leading Barristers and Professors of Law in the University of the Island.

2. Dr. DeBono, who is 40 years old, obtained his warrant to act as Advocate on the 6<sup>th</sup> November, 1876; and although he is not one of the senior members of the Maltese Bar, his talent and learning coupled with sound judgment and probity have earned for him a very high reputation and as a consequence, an extensive private practice. His appointment as Professor of law, which he will now have to relinquish, was made on 1<sup>st</sup> October, 1885.

3. I beg to solicit that Your Lordship may be pleased to submit this appointment for Her Majesty’s confirmation.



very round-spoken about his political views <sup>(12)</sup>.

He used to begin work just before the peep of dawn at 3.30a.m. and during the day except for a few hours in the evenings he kept company to those incomparable friends—his papers and his books.

His elevation to the Bench found DeBono the same man. His daily routine went on unaltered. "So absorbed, indeed he was wont to be in his studies, that, social though he was, he denied himself all the attractions of Society" <sup>(13)</sup>. He presided over the Commercial and Criminal courts, in which he was as brilliant as when he practised at the Bar. In the civil Court he sat on one occasion for about one year, the Civil Court Judge having taken sick leave; during this period he wrote such elaborate judgments and such masterly expositions of the civil line

For full eight years (1898-1906) he was the regular judge of the Criminal Court, when composed of one Judge and formed part of the same Court when composed of three Judges, together with Sir Joseph Carbone and Judge Luigi Ganado and, on the retirement of the latter, Judge Baron Alessandro Chapelle (afterwards Sir Alessandro). Judge DeBono's name stands inseparably associated with the reminiscences of the Judge's splendid summings-up. He never had the occasion to preside at a murder trial or in a case involving the penalty of over 12 years imprisonment, because the three Judges above referred to were all his seniors but, nevertheless the numerous important cases over which he did preside gave him the amplest opportunity to demonstrate his remarkable clarity of thought and power of exposition, that made captive many a hearer. In fact, DeBono's summing-up was "judged by the legal caste and by public opinion—"that mirror of life", as Thackeray calls it—as real masterpieces of exposition, revealing intensive analysis by an acute and penetrative mind. The strong acumen he put into play in sifting the mass of evidence (often very complicated and of dubious relevance), his impressive skill in linking together the separate parts of the chain overshadowed all-through by circumstantial evidence—all made him the bearer of the much-feared, though much-revered, name that Posterity knows.

A note of severity decidedly predominated in his addresses; when there was some doubt, he pointed out, when there was no real doubt, but only some misleading camouflage, he inevitably unmasked the reality of things, not imposing his opinion, but at the same time not allowing any trick to do its work with some absent-minded (or unintelligent) jurymen. This explains the note of criticism which either occultly or manifestly inspired certain articles in some newspapers. And it appears that unbiased opinion has it that the underlying spirit of severity was only a natural feature of Justice itself. In Judge DeBono Malta had a man with a very generous spirit : his life reveals a tender heart, easily enslaved by Pity's passionate touch, but, while performing his duties, he had sufficient strength to disallow the sense of pity from overcoming him, although it unquestionably made itself felt. This reminds me of what Sir

12. Characteristic of him is the remark which he made while giving evidence before the Committee created to make investigations on the Educational System. Judge DeBono said that he thought that the examinations were not being conducted in the proper way. On being asked by the Crown Advocate (who was one of the members of the Committee) whether he had expressed this view to the Director of Education, judge DeBono replied: "L'ho detto a lui, l'ho detto ad altri, l'ho detto pubblicamente ancora, perche disgraziatamente non so celare quello che penso."

13. Flores: op. cit., page

Edward Marshall Hall during the Seddons' trial said :”Gentlemen, I often think when I look at the great figure of Justice which towers over all our judicial proceedings; when I see the blind figure holding the scales I often think that possibly the bandage over the eyes of justice should not be wrapped by prejudice or undue influence one way or the other; but sometimes I think it is put there so that who gaze should not see the look of infinite pity which must always temper justice in a just man...”

While performing his duty in a way that spoke for itself, he demanded the same intransigent spirit on the part of others; to him, as to all noble-spirited people, there could be no compromise with duty's ordinances. And in consequence of this frame of mind he could not help exacting the performance of the duty of others up to the last jot and tittle : with him there could be no excuse, no ways of escape for people doing things in a happy-go-lucky fashion and he severely reprimanded and even punished any serious transgression, again not without some severity. A remarkable instance was when he condemned a barrister to three days imprisonment for contempt of Court. It appears that the barrister in question had pronounced some serious insults against the Court and Judge DeBono instead of inflicting the less severe forms of punishment of suspension of *multa* decided to employ drastic measures. Incidentally, it may also be stated that he was at times rather irascible, naturally, given an adequate cause and, when very angry, he was perhaps rather inclined to give his reprimands a much too high dose of severity. During sittings, perhaps more than at any other time, it was incumbent upon everyone concerned to concentrate upon what was being done in order to avoid running the risk of being severely reprimanded.

There was hardly any important commission appointed by the Government relating to Law and Education, in which judge DeBono was not a figure. But apart from his civil activities, he was also singled out for his profoundly religious sentiments; in fact he was on several occasions elected Prefect of the Onorati Congregation. On the birth of the 20<sup>th</sup> Century, when a statue of our Redeemer was erected at Rabat, Judge DeBono was invited to deliver an address on the most auspicious occasion. Again in 1904 he was the one whom his brethren chose in order to make and address to celebrate the Golden Jubilee of the Immaculate Conception Dogma. “These discourses were indeed sublime, clear, aspiring—the gentler, sweeter and tender feelings which are the crowning glory of the Christian speaker”<sup>(14)</sup>.

Malta is still deeply indebted to her noble son for the fruits of his labour—fruits whose beneficial effects are still being sensed by the Maltese in general to-day. Primarily we have the numerous additions and alterations in the Criminal Code which were effected in 1900. It is in reality an open secret that all legislation from 1898 to 1906 was in the main inspired by the gifted Judge; but it is not out of place to make particular mention of the 1900 Reforms of the Criminal Code because the then Crown Advocate publicly advised elected members of the Council (Dr. Fortunato Mizzi and Dr. Bonnici) to discuss their objections and doubts with judge DeBono. To him we therefore owe the introduction of the notion of a continued offence (art : 20) with the equitable diminution of punishment it carries with it; the provision dealing with the material concurrence of offences, with the substantial mitigation of punishment suggested by the theory that the addition of punishment does not partake of the nature of a pure mathematical addition; to him we owe important amendments in Art :23 (for First Offenders) a number which carries a meaning even with the most uneducated. Those appealing from the judgments of the Criminal Branch of the Courts of Magistrates of Judicial Police have to be

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14. Flores: op. cit., page

thankful to him for his liberal amendments. All these provisions and countless others are the permanent carriers of the spirit of justice, not unblended of the great Maltese citizen.

Indeed, as Disraeli once said :”life is too short to be little”; to Judge DeBono it was remarkably so, but in his short span of life he did not toil in vain. During his lifetime he geared the wealth of his benevolent spirit with the complicated machinery aiming at social welfare; for the future and for posterity he left two works of fundamental importance<sup>(15)</sup> : one dealing with the History of our legislation, the other with the Law of Bankruptcy. No words of mine could be an adequate evaluation of their merits from they were written ; one feels that one must leave the task of appraisal to every man or woman that may cast his or her eyes on the two books. It suffices here to bring out the spirit stimulating the Judge to adorn our legal literature (which is unfortunately very meager) with his two works : “Aiutare I giovani e dunque il principale mio intento”—that is the immediate cause of his labour and, maybe also the maxim of his life.

The French “Revue de la Jurisprudence Financiare” in its issue of the 10<sup>th</sup> march, 1898 said :”Cet ouvrage, concu dans l’esprit le plus pratique, et avec le sens juridique le plus developpe, precise avec une grande clairte le regles de la jurisprudence en matieres de faillite dans l’ile de Malte. C’est, du reste, le resume des lecons de Droit Commercial que le tres-estime juge au Tribunal de Malte enseignait lorsq ‘il etait professeur a la Faculte de cette ile.

“Nous l’avons parcouru avec le plus grand interet et nousy avons trouve des enseignements et des lecons, que nes magistrates feraint bien de s’apprprier, et don’t l’application, rendrait plus simple et plus pratique notre legislation si arrieree encore sur le faillites.

“Mais le juge DeBono n’est pas, du reste, un inconnu pour nos lectures, qui ont pu, mantes fois, apprecier avec quelle lucidire, il s’est assimile les principes de Drooit Francais en metiere de Finances.”

In his judicial career, as has already been said, he presided over many important trials. Two officials embezzling thousands of pounds from Government funds; an “expert” minting false currency and innumerable other important cases formed the object of his moving addresses to the Jury. But one case, dealt with at the time of his death deserves particular mention.

On the 15<sup>th</sup> November, 1906, Pacifico Vella, Domenico Tonna, and Innocenzo Magro were arraigned before H.M.’s Criminal Court accused of having committed a highway robbery of £845 belonging to Messrs Cassar Torregiani at a place on the Zebbug Road. The trial went on for several days. Just before the beginning of the summing-up, the Foreman of the Jury (Mr. A. German, L.P.) said that he wished to make an important declaration . the Judge beckoned him to go on. Amid profound silence shrouded in an air of expectation he stated that one of the jurymen had communicated with a Police Inspector. Eyes instantly switched in the direction of the Judge, who with an inflamed aspect ruled that the trial would go on and that the question would be dealt later. Two of the accuses (Vella and Magro) were in due course

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15. Equally useful was his short History of Malta translated into English by Professor Fallon and into Maltese by G. Muscat Azzopardi who in dedicating his work to Judge DeBono says:” a kemm Malta jibqalha mqar wiehed bhalek, mhux biss id-dehen kbir li bih zejnek Alla, imma l-qawwa u l-irgulija ta’ dawk il-Maltin li hemm imsemmija fl-Istorja taghna, jibqghu wkoll jitwemmnu.”

declared “not guilty”, one (Tonna) was declared “guilty”. On being asked, the Foreman stated that the communication related to the one who had been declared “guilty”. He was ordered to reveal the Juryman’s name and after several minutes of terrible rating the Judge remitted the case before the Criminal Court composed of three Judges, but in the interval—four days later—he died<sup>(16)</sup>.

On Tuesday, 20<sup>th</sup> November, 1906, in the morning at 9.00 am sitting of the Criminal Court was held. The Judge lunched at about 3.00 p.m., because the jury had some difficulty in arriving at a valid verdict. At about 7.15 p.m. he was at the Casino Maltese in the company of Mr. R. Vadala and Mr. Briffa. He told them that he was feeling unwell and they made him sit down on an armchair. He was given some *cognac* and later he felt better. He told Mr. Briffa that he had smoked a cigarette, which he thought was the cause of it all. After some time he went home<sup>(17)</sup>. At 10.00 p.m., while he was retiring for his night study, he again suddenly felt unwell and a few minutes later he lapsed into a state of unconsciousness—for the last time, never to regain consciousness once more. Dr. G. DeBono and Dr. Said after having examined their unconscious patient declared that it was a very serious case of cerebral congestion. He remained in the same condition all night finally succumbing to the unconquerable Enemy at 11.15 a.m., on Wednesday, 21<sup>st</sup> November, 1906.

The funeral took place on Thursday, 22<sup>nd</sup> November, 1906. Strada Reale (now Kingsway) was thronged with people of all classes and the impressive conflux of people on such an occasion is perhaps the best proof of the esteem in which he was held by all. The following gentleman acted as Pall-Bearers: His Honour Sir Joseph Carbone, G.C.M.G., K.C.V.O., LL.D., Chief Justice; His Honour E.M. Merewether, C.V.O., C.M.G., Lieutenant-Governor and Chief Secretary to Government; Judge Baron Chappelle, LL.D., Senior Judge ; the Hon Professor V. Frendo Azopardi LL.D., Crown Advocate; the Hon. Sir Richard Micallef, G.C.M.G., Comptroller of Charitable Institutions; the Hon. Professor E. Magro, M.D., Rector of the University; Dr. O.Grech Mifsud, C.M.G., President of the Chamber of Advocates and Mr. P. Ellul, Vice-President of the Chamber of Commerce. The Press (of whatever political views) was unanimous in eulogizing the great Judge. In those sad days there was, however, a note that beset many hearts finally finding itself pronounced in the “Risorgimento” of the 26<sup>th</sup> November, 1906 in this very just remark :”E intanto il nostro governo che premia spesso le nullita con decorazioni ed altro, non penso mai a premiare tanta scienza e dottrina con una onorificenza!”

At least, in this case as a sign of gratitude the government proposed that a pecuniary grant be given to Judge DeBono’s family from public funds. The Crown Advocate in addressing the council (which unanimously adopted the proposal)said “... I beg to be permitted to make reference to the sad event which gave occurrence to this motion... On the 21<sup>st</sup> November last we heard that Judge DeBono had been suddenly and unexpectedly removed by death from amongst us. Judge DeBono was a man of uncommon ability. He excelled as a barrister as a professor of Law, as a Judge. He widely contributed to the credit of his native in the cause of education. Apart from the performance of his ordinary duties as Judge he lent

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16. The Criminal court did not specifically deal with the question relating to the verdict’s validity, because it ruled that the trial had to be held again once the presiding Judge had died (with the result that no other Judge could sign the judgment). Finally Tonna was declared “not guilty”.

17. St. Lucia Street, Valletta over the shop of Andrea Bonaci, now demolished.

valuable services to the Government on several important occasions; and this grant which forms the object of my motion of a vote which His Excellency the Governor has been pleased to authorize to be brought before this Council, though it may be, is made as a mark of the esteem in which the Government held the man whose untimely death we have all deeply mourned.....”

There was no period of decline in his life : he was energetic and brilliant up to the very last : he was only 54. His dramatic severance from this world of men was as benumbing as the onrush of Success through life had been. “A faked greatness does not last” (Andre Maurois ) but real greatness does, and, as his remains were mournfully borne away. Malta knew that one of her best sons had departed.