

It happened in May

The Malta Constitution of 1849

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A milestone in Malta's constitutional history is the Constitution granted by the British government in 1849.

This Constitution was not a truly liberal one, especially when one recalls the 1848-49 European movements for political liberty such that 1848 has remained known as 'The Year of Revolutions'. But this new Maltese Constitution did include one very important element: part of the proposed Council of Government was henceforth to be made up of a number of elected members. Therefore, for the very first time under British rule, the Maltese (or rather, some of them) were given the right to vote.

It is true that the franchise was very restricted, but the fact remains that this 'concession' was a constitutional first in the Maltese islands' history under the British. The Constitution was enacted by Letters Patent dated May 11, 1849, and published in the *Malta Government Gazette* of June 23, 1849. Between 1847 and 1851, Malta was governed by the Irishman Richard More O'Ferrall, the islands' first Civil Governor and the only one who was a Catholic.

Between 1835 and 1849, the Governor of Malta was "advised and assisted" by a nominated Council of Government which, for the first time under British rule, included a few Maltese thus breaking with the so-called "no Maltese participation" tradition. Initially the council was to also



Camillo Sceberas was a candidate in the 1849 elections but failed to be elected.

include the Bishop of Malta; however, he gave up his seat because of the wording of the oath of office and the fact that the Council was dominated by Protestants.

In 1849, the new Constitution went a couple of steps further. First of all, the new Council of Government was to have legislative powers and was not a mere advisory council as had hitherto been the case. It is true that the 1835 Council did shackle the Governor to some extent but, at least in theory, he was not really bound to follow the Council's advice.

The position of the 1849 Council was to be much stronger: it was enabled to enact all necessary legislation. On the other hand, the Council's composition was such that the elected members were to be in a minority. Out of a Council of 18 persons, 10 were to be official members. These included the Governor, the Senior Officer in Command of the Land Forces in Malta, the Chief Secretary to Government, the Auditor of Accounts, the Collector of Customs, the Crown Advocate, the Collector of Land Revenue, the Cashier of the Treasury, the Purveyor of Charities and Comptroller of Contracts, and the Superintendent of Quarantine.

The other eight members were to be chosen by an election, seven to represent Malta and one member for



Governor Sir William Reid wisely allowed the Council a great freedom of debate and voting. PHOTO: NATIONAL ARCHIVES OF MALTA

Gozo. Five of the official members were to be Maltese and this gave Maltese nationals a majority in the Council. It is pertinent to point out that a Maltese majority in an eventual Council had been recommended by Governor Sir Frederick Cavendish Ponsonby in 1834 and the principle of election had been advised by the members of the 1836 Royal Commission of Inquiry.

"Out of a population of about 123,000 people, the Maltese electorate consisted of only 3,486 electors in Malta and 281 voters in Gozo"

Changes were later made to this Constitution. Letters Patent of 1857 prohibited judges and ecclesiastics from contesting election but changes in 1870 allowed the election of a maximum of two clergymen. Each member had one vote but the Governor was allowed both an original and a casting vote in the Council.

The legislative powers of the 1849 Council were somewhat checked by a reservation of the British government to legislate through orders in Council but, on the other hand, the committees of the new Council of

Government were vested with some quite important powers. They could investigate the accounts and enforce the rules of public establishments; they could hear complaints, report abuses and recommend improvements to the executive authority.

Each committee had to submit an annual report on the state of the departments under its charge. Moreover, the Council could address the Crown for the reduction of salaries and the dismissal of public servants. Part of the islands' revenue was under its supervision.

Each Council was expected to last five years. Their two main limitations were the following: religious problems could not be discussed without prior consent of the Governor; and discussions were to be limited to matters of local interest.

Of course, the crucial point was how the Governor of the day would use the official majority. If it were to be used as a bloc for voting purposes, the new Constitution would be, in effect, a scant improvement on the 1835 Council. It is to the credit of Governor More O'Ferrall, under whom the Constitution came into being, that he did not use the official majority to enforce policy. Rather, it seems he allowed a great freedom of debate and vote, a policy followed by his successor, Governor Sir William Reid (1851-58), but which was discontinued by later Governors. In 1881, an Executive Council composed of nominated members was introduced.



The two sides of a €2 silver coin issued in 2011 by the Central Bank of Malta to commemorate the 1849 Constitution. The obverse is designed by the late Ganni Bonnici and the reverse by Luc Luyckx.



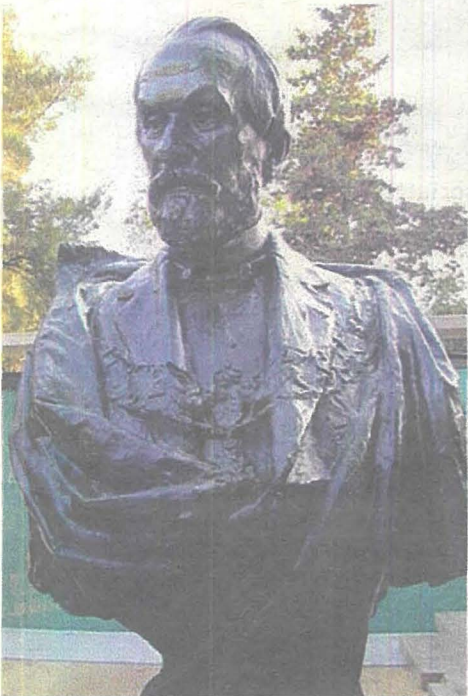
Sir George Cornwall Lewis, a member of the 1836 Royal Commission that had advised in favour of the introduction of elections. PHOTO: PARLIAMENTARY ART COLLECTION



Bishop Mgr Francesco Saverio Caruana, who gave up his seat on the 1835 Council of Government. The Holy See objected to the wording of the oath of office and to the fact that the Council was dominated by Protestants. PHOTO: NICK GEORGE, WIKIMEDIA.ORG



Governor Sir Richard More O'Ferrall (1847-51), Malta's first Civil Governor and the only Catholic one.



Sir Adriano Dingli was elected in 1849 to represent Gozo. This bust, by Antonio Sciortino, is part of his commemorative monument at the Mall garden, Floriana.



The Tapestry Chamber in the Presidential (formerly the Governor's) Palace, Valletta, where Council of Government meetings were held.

In accordance with a proposal made by Governor More O'Ferrall in December 1848, the right to vote was based on the qualification of jurors, as had come into effect in October 1829, but with some additions. Franchise was, therefore, extended to all men aged over 21, versed in either Italian or English, who either owned land or property of an annual value of 100 scudi (c. £8.5) or occupied, as a tenant, a dwelling valued at 50 scudi (c. £4.25) yearly or was a partner, in a mercantile firm, with a person who had the necessary qualifications.

This meant that, out of a population of about 123,000 people, the Maltese electorate consisted of only 3,486 electors in Malta and 281 voters in Gozo. In 1883, the property clause was lowered to £6 (c. 72 scudi in the old currency which had by

then been superseded) annually, and the number of voters rose to 10,637 out of a population of about 152,000 people.

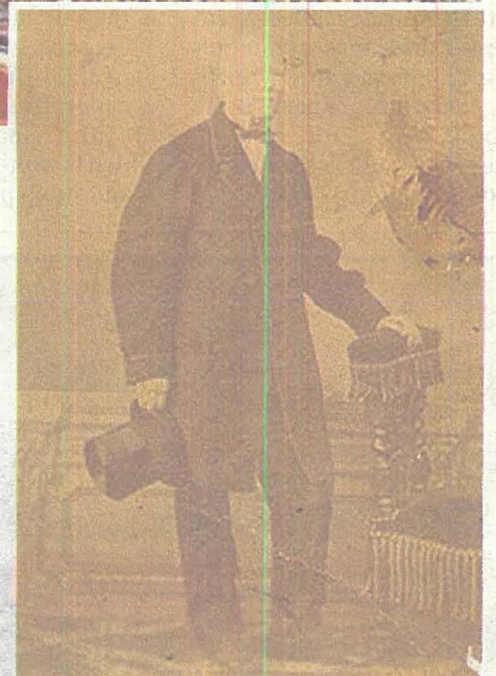
A list of voters was published on July 13, 1849, and, by July 23, the election commissioners had been chosen. An amended and final voting list was published on July 31 and the list of collectors of votes was made out by August 10.

Voting took place between August 10 and 14. In Malta, each elector could vote for up to four candidates on his ballot paper, while in Gozo, each elector could vote for one candidate only. No candidate could be elected unless he obtained a minimum of 100 votes. A tie was to be decided by another partial election. A total of 88 per cent of the electors voted - 3,056 electors in Malta and 259 in Gozo.

The first elected members were: Giuseppe Pulis Montebello, Rev. Dr Filippo Amato, Michelangelo Scerri, Mgr Annetto Casolani, Rev. Mgr Leopoldo Fiteni, Dr Arcangelo Pullicino, Giovanni Battista Vella, and Dr Adriano Dingli (for Gozo). Among the unsuccessful candidates were the well-known patriots Camillo Sceberras and Giorgio Mitrovich.

The Council was formally assembled for the first time on January 8, 1850. Its meeting place was the Tapestry Chamber in the Governor's (now the Presidential) Palace, Valletta.

The 1849 Constitution endured till the promulgation of what is known as the Knutsford Constitution in December 1887. During this 38-year period, there were a further seven elections, in 1854, 1860, 1865, 1870, 1875, 1880 and 1883.



Giorgio Mitrovich in his old age. He failed to be elected in the 1849 elections but was a member of the Council of Government from 1855 to 1856. PHOTO: NATIONAL ARCHIVES OF MALTA