

MIXED MARRIAGES IN THE EARLY BRITISH PERIOD

Giovanni Bonello

Three marital episodes that occurred in Malta during the early part of the British connection are far more emblematic of the significant tensions underlying the new colonial domination than the minor events in themselves would at first suggest. These refer to the imprisonment for adultery of a Maltese woman said to have cheated on her English husband, the court battles to prevent a Scotsman married to a Maltese lady from taking their children to the UK to turn them Protestant, and the popular riot that followed the marriage of a Maltese Catholic and an English Protestant. These stories tell us more about the attitudes and the mores of the times than any analytical assessment of official sources would.

In 1840 the *Codice Municipale* published by Grand Master Emanuel de Rohan in 1784 still regulated criminal and civil law. Though not the most illiberal of European codes at the time of its promulgation, the De Rohan code still reflected the pre-French Revolution ethos of privilege, class distinction and paternalism. It was manifestly male-oriented, patrimony protective, unabashedly class-conscious and conferred unfettered discretion on a despotic, reactionary sovereign.

It would take many years and much pressure from Maltese patriots to convince the British rulers of the imperative necessity to substitute the Code of the autocratic Order of St John by laws more in keeping with enlightened post-revolutionary and democratic thought. The British were not at all unhappy with the status quo - the ultimate say in anything rested with the sovereign, and what more could a colonial power dream of? One of the earliest Maltese discontents, Giorgio Mitrovich, included in the number of recurrent complaints he pestered London with, the British failure to repeal and substitute the Code de Rohan with 'modern' codes of law. The British rulers were reluctant to do so – they are on record with praise for that code

and only damning the ways the Maltese judiciary applied it. Personally, I believe they were wrong on both counts.

By today's standards parts of that code of laws appear anachronistic and arbitrary. Keeping in mind the sanctity of the family unit as one of the higher values the state had to safeguard, it made adultery a criminal offence, but then immediately went on to distinguish between the adultery of the husband and that of the wife, between that committed by the 'lower classes' and that committed by the 'upper classes' (the Code's words). Adultery could not be prosecuted by the state, but only at the instance of the aggrieved spouse.

The adulterous husband got off pretty lightly, though the penalty varied depending on his social condition: a fine of ten *oncie* if of low class and of fifty *oncie* if he belonged to the upper classes. That, for a first conviction. For a second one, the cash penalty doubled. The punishment only became more threatening if the husband persevered in being found guilty of adultery by the courts, the incorrigible relapser. The Court would then, for a third conviction, condemn the serial adulterer to work for free in community labour schemes for three years, like joining the gangs that repaired the bastions, etc. No distinction between social classes seems to be applicable to penalties from the third conviction onwards.

The destination of the pecuniary penalties recovered from convicted adulterers also mirrors the social and moral proclivities of the times: five *oncie* went in favour of the police officer who had come up with the evidence of adultery in flagrante, the rest to be shared equally between the prosecuting office (the *fisco*) and the *casa degli invalidi* – the hospice for invalids.

The situation changes drastically when it was the wife who the court found guilty of marital infidelity – though in this case too criminal prosecution could only start at the initiative of the husband. In these proceedings the wife, if found guilty, suffered indefinite reclusion in a *Conservatorio*, where the errant spouse was to remain incarcerated for as long as the aggrieved husband paid the state for her maintenance – in theory, for life. The choice of detention in a religious *Conservatorio* had a special function: in it the fallen woman would be led to embark systematically on spiritual penance and contemplation, for the chastisement of her body but, more importantly, for the healing of her soul.

To all intents and purposes, in those pre-human rights days, it was the victim of the offence who determined the extent and severity of the penalty, not an independent and impartial court. The *Conservatorio* was a nuns' convent run and sponsored by the Order of St John, like that of the Magdalene *Ripentite* at the north end of Merchants Street or the one in Floriana.

This was the criminal punishment. The civil penalties inflicted on the adulterous wife included the loss of the dowry she had brought to the marriage, the forfeiture of her share in the community of acquests and of the *dotarium*. The law also relieved the husband from any liability to pay the costs incurred during her last illness and for her burial. The unfaithful wife's repudiation pursued the fallen woman to death and then beyond.

The code however exempted the wife from any guilt or penalty if the adultery was committed with the knowledge and consent of her husband, or if the husband, becoming aware of his wife's infidelity, continued to cohabit with her¹ - a graceful concession not to damage the business interests of the many husbands who then pimped their wives. The bottom line however remains that women risked imprisonment for the crime of adultery, and men did not.

This manifestly discriminatory regime that treated the husband far more favourably than the wife appears widespread in most, if not all, European codes. Jurists did not justify these inequalities in treatment by resorting to any higher privileges males were allegedly entitled to. No, they relied on the objective differences between the consequences of the infidelity of the wife and that of the husband. The husband's adultery threatened the stability of the family far less than that of the wife, both from the social and familial standpoint and on the patrimonial plane.

The husband's adultery did not insert his illegitimate offspring inside the family home, while that of the wife, did. A wife's pregnancy following adultery brought uncertainty and suspicion as to the child's paternity, and this in turn caused major problems in the partition of the husband's inheritance. This objective difference, the old legal theorists held, justified treating the wife's adultery far more seriously than the husband's.

On April 19, 1829, Margaret Semini, daughter of Giovanna and the late Antonio, of St Paul's parish, Valletta, still a minor, married George Dalzel, an English bachelor from Whitechapel, London. Being still under age, she needed her parents' consent, which her widowed mother gave. The marriage was celebrated both in the Catholic and the Anglican protestant rites – in St Paul's parish church and in the temporary Protestant chapel on the ground floor of the Governor's Palace, the former "buttery or scullery of the Palace"² (where the Commission against Corruption now sits).

George Dalzel, the husband, came from an English family that had settled in Malta sometime after the beginning of the British connection. The Dalzels soon established themselves as part of the dominant British commercial community and of the civil administration of the island, two becoming Magistrates and another a leading auctioneer, later teaming up with the Gingell dynasty to form the Dalzel & Gingell ship brokerage and public auctioneering firm which seems to have had a thriving business in Malta for a good part of the nineteenth century.

Of the Seminis very little is known, except that they look like having been among the early anglophile families, who realized the benefits of sucking up to Malta's new colonial owners. To call a girl Margaret and not Margherita in the 1810s and to "allow" her to marry into an English Protestant family were sure signs they had a good idea which side they hoped their bread would be buttered.

The British connection did not work grandly for this particular marriage, which at some point must have soured tragically. We know next to nothing about the circumstances that led George Dalzel to take the extreme step of reporting his wife to the police for infidelity and to request that she be criminally prosecuted for adultery, realizing full well that, if found guilty by the court, she could be locked up, even for life, at his discretion – an obvious case of objective justice morphing into private vendetta with the full blessing of the law.

When the trial started, the court (sitting with or without a jury?) ordered the proceedings to be held in camera, and none of the newspapers reported or even mentioned the case or the sentence. The official file of the criminal trial, which might throw some light on the Dalzel tragedy, has still not been traced. The court delivered judgement on February 24, 1840, found the accused guilty and sentenced her to the mandatory penalty established by the Code

de Rohan – to be imprisoned in a *Conservatorio* during her husband's pleasure. Margaret née Semini, not yet 30, could now look forward to spend the rest of a wretched life behind bars.

Were it not for an eloquent letter in a newspaper after the judgement, this sad case would have disappeared under a shroud of total oblivion. The *Portafoglio Maltese*, in its issue of March 9, 1840, published a long appeal, cryptically signed "G.O." which raised many questions relating to this trial. I will not try to guess who the author was, but very likely a person conversant with the law, quite possibly a friend of the Semini family or of the defence lawyer, and a politically alert citizen.

The author first put in doubt how well established by the prosecution Mrs Dalzell's adultery had been – she had faced a criminal charge and it fell on the prosecution to prove the facts beyond a reasonable doubt. In his view, he said, the judges had based their judgement on conjectures, even if strong, deriving from two witnesses who, in such delicate matters, could not be given full credit (the accused person was not then allowed to give evidence in his or her own defence).

Another source suggests that Margaret's conduct could have been "nothing more than imprudent levity attributable to the inexperience of her age".³ G.O. criticized as "very damnable" the judges' decision to hold the trial behind closed doors – suspicions that the courts were favouring a British complainant with this lack of transparency made the judicial process appear tainted and deliberately shielded from proper public scrutiny.

Though the author does not say so expressly, his letter hints that the outcome might have been different had the victim of the alleged offence not been an Englishman. Some Maltese judges and magistrates were notorious for bending double backwards to please the colonial master and to ingratiate themselves with what was then and later known as the Palace clique. They could think of few better ways to advance their career.

Sometimes the judicial lackeys overdid their fawning so badly that they obtained the opposite result. One case in point was that of the seaman Thomas Maxfield, accused of riding his horse at full speed on a public road. The Governor had witnessed the reckless gallop and had personally reported the culprit to the police.

The presiding Magistrate, foolishly thinking it would please the Governor, fined Maxfield five pounds, instead of the usual 2s.6d. Far from earning the applause he was after, the British (Palace-inspired) papers ridiculed the Magistrate for his “official toadyism”, and requested the Governor to remit the outrageous penalty.⁴

The letter-writer had several concerns, all relevant. One related to the hotly political grievance that, 40 years into the British connection, criminal law in Malta was still regulated by the Code de Rohan: and when, pray, would the Maltese be rid of it? The law the judges applied ‘is hard, makes you shudder, we should see it deleted ... a barbarian law’.

The law assumed that a wife found guilty of adultery should be locked up indefinitely in a government-sponsored nunnery (a *Conservatorio*). When de Rohan enacted that law, besides the regular monasteries, there were other pious institutions which served various social and philanthropic purposes and where, if the need arose, convicted women could be placed. But at the time the sentence was passed, none of these *Conservatori* had survived, except for one which depended on the bishop.

In a *Conservatorio* convicted women, though not allowed to leave the precincts, lived in full personal freedom; they received visits at any time of the day from outsiders, held conversations and enjoyed those comforts that helped keep despair away. In these nunneries the regulations and the discipline were laid down by a person in charge of a humane and pious institution, not by a faceless police force.

The last of these *Conservatori* was in Floriana, but the authorities had closed it down time before the Dalzel prosecution – so no place of detention as expressly required by law was now available.

While the trial was still on, two tiny narrow cells had been identified in the Floriana *Ospizio*, and these were prepared to house Mrs Dalzel. The windows of these cells had then been blocked with iron bars, and as if to embitter the poor victim even further, the woodwork was painted on the very day she was transferred there – with depressing effects on the spirit of *quella infelice*.

Over and above, the executive police had expressly employed a prison warden, directly under its orders, with instructions to treat the prisoner with the utmost severity, a regime

similar to that in force in the criminal prisons. She was not allowed to communicate with anyone, except for her brothers, but even that only rarely and very briefly and always in the presence of the warden.

What the law prescribed should have been mere detention, had turned into solitary confinement. To the innate harshness of the Code de Rohan the authorities had added a greater harshness in its application. "The prisoner cannot survive such suffering nor can she understand it". In a former case, due to the absence of a *Conservatorio*, the authorities had decided not to detain the convicted adulteress at all.

Why so much cruelty against her? Why, in her case, exceed the limits of a law already recognized by all to be barbarian? Perhaps the gravity of her crime is measured by ... (unsaid: the nationality of the victim?). When the last *Conservatorio* had closed down, the government freed all the women convicts, recognizing that, in the absence of the place of detention expressly provided for by law, it could not arbitrarily substitute another place, without first enacting a new law to that effect.⁵

What G.O. had failed to remark was that the law wanted a convicted adulteress placed in a *Conservatorio* run by nuns, primarily to set in motion a process of religious penance and moral regeneration; a purpose totally defeated by locking up a convict in a criminal prison, where she would mostly be in the company of other criminals.

A fortnight later, the conservative and moderately pro-British *Portafoglio* commented editorially: it had checked the facts independently, and found that G.O. had not exaggerated one bit: the situation had turned out to be exactly as he had described it. The paper lamented that a sad episode, a matter entirely personal and private, had been turned into a partisan political issue – so what's new. The execution of a criminal sentence in a way that offends the public good caused the newspaper to condemn the conduct of the government as "an abuse of power" which set a dangerous precedent, and no one should overlook that.

The law made it clear that a convicted adulteress could only be detained in a *Conservatorio*, and in the absence of one, the authorities had seen no option but to set a previous prisoner free. At most, the alternative to a *Conservatorio* would have to be a place in all similar to one. Mrs Dalzel was, instead, being held in what to all effects amounted to an

unofficial jail, whose harshness was even intensified through the orders given to a prison warden employed specifically for that purpose. Editorially, the paper described this as “a conduct worthy of contempt that might give rise to further abuse”.⁶

This public outcry did obtain some beneficial effect. With refined colonial duplicity, the Governor, Sir Henry Bouverie, exercised his prerogative of mercy, and ordered that ... that the iron bars recently inserted in the windows of the cells, be removed.⁷ You could almost call it window dressing, I guess. But he was genuinely worried.

Unknown to most, Mrs Dalzel’s imprisonment proved to be the catalyst for an attempted reform in the laws of adultery. When Andrew Jameson, the Scottish jurist, was shortly later instructed to review the criminal laws of Malta, Governor Bouverie made it clear to him that the criminal laws on adultery “were his main concern”. Chastised by the Dalzel debacle, the Governor very acutely remarked:

“I do not see why adultery should be treated criminally at all, the civil penalty appearing to me to be a sufficient check, at least as far as there can be a check at all, and I am very averse to punishing the woman criminally unless the accomplice be punished also in the same manner. Neither am I in favour of creating a new prison by law for this crime ... it will be best in my opinion to leave adultery out of the code altogether”.⁸

We do not know how long George Dalzel paid for his wife to remain in prison. If his was a vindictive disregard of money, he could have left her there for her whole lifetime. His career with the government progressed, eventually being appointed official vendue master, an obsolete job-description for auctioneer. He passed away on July 1, 1852, only 48 years old. During the latter part of his stay in Malta he lived at No 2, Strada Alessandro, Valletta, and his remains were buried at Ta’ Braxia Protestant cemetery, Pieta.

In Malta, Parliament decriminalized adultery in 1972, a good 130 years after Governor Bouverie had so warmly proposed this measure. In Michigan, USA, marital infidelity can still carry a penalty of life imprisonment.

The Maltese Semini family made their own rather substantial contribution to criminology. The misadventures of the wretched Margaret underlined the necessity to discard the criminal precepts of the Code de Rohan and almost certainly added impetus to the national

movement for law reform. The first Maltese researcher to have taken an interest in criminology was Detective Inspector Joseph A. Semini (born 1884) who in 1926 printed his *"Some Points on Criminology"* – one of the first Maltese law books ever to be published in English. He based himself massively on current Italian criminology, but never refers to his sources – he obviously (and reasonably) feared that being suspected of associating with anything Italian might prejudice his career.

Tragically, another Semini became instrumental in bringing about a milestone change in British case law. In 1948 a Staffordshire jury convicted a 24-year-old Maltese worker George Semini of the murder by stabbing of Joseph Gibbons "for insulting his girlfriend" in Newcastle-under-Lyme. In his case, on appeal, the "malevolent, maverick and calamitous" Lord Goddard CJ for the first time ruled that the defence of "chance medley" (sudden fight) which downsized murder into manslaughter, could not be pleaded under British law, and Semini was hanged on January 27, 1949. Semini's case remains the leading textbook doctrine in manslaughter defences in the UK and other common-law countries.⁹

This brings us to the second case. On October 10, 1842, the 26-year-old Giovanna Zimelli, from the parish of St Domenic, Valletta, married a wealthy British merchant, almost twenty years her senior. Simon Rose, born in Dornoch, not far from Inverness, Scotland, on June 1, 1797, had settled in Malta around the 1820s. The couple celebrated their marriage in both the Roman Catholic and the Anglican rites. At the time of marriage, Mr Rose solemnly undertook in the records of the bishop's court to raise any offspring in the Catholic faith.

Sadly for Giovanna Zimelli, now Mrs Jane Rose, her husband was a staunch Presbyterian, an active supporter of St Andrews's Scots church in Valletta. When, in 1855, the new place of worship was built, Simon Rose topped the list of subscribers with a personal contribution of £125. For this, and for his loyal and unflagging faith, he was appointed deacon of that church.

Giovanna was a daughter of Ettore, or Hector, Zimelli who lived in No 152, Strait Street, a government clerk earning £50 a year, but also the consul in Malta for the King of Sweden and Norway. Ettore had somehow introduced the historian Fortunato Panzavecchia to Marshal Auguste Marmont, one of Napoleon's most distinguished generals, when he stopped in Malta on

his way to Egypt.¹⁰ Another of Ettore's daughters, Teresa Giuseppina, had also married an English Protestant, Ensign John Wardle, in 1829.

Giovanna was almost certainly a sister of Hector Zimelli, Superintendent of Public Works when she died. He designed the new Valletta market, revolutionary for Malta in its cast iron frame, and later became Commissioner of Police from 1858 to 1869.

By the time marital troubles started, the couple had three children: Hector, John and Maryanne, all Roman Catholics by baptism and education. In 1849 Simon Rose made clear his intention of relocating the family to Liverpool, claiming his business interests required his presence there.

His wife proved most unwilling to follow him. She claimed that her husband wanted to take the children out of Malta to England in order to force them to change their religion, in breach of the solemn undertaking made to her and to the Catholic curia before the wedding. Panicking, she obtained a warrant of impediment of departure against him and the children.

At the husband's request, the court revoked the impediment of departure in so far as it restrained him, but left it in place for the children.

The court proceedings which followed after that turned most acrimonious, no holds barred. Both parties retained leading lawyers: the wife had Dr Paolo Sciortino, the husband Dr GioBatta Mifsud and Dr Ignatio Scembri, who battled each other right royally.

The British Press, publishers and printers, considered the case pivotal enough to merit publication on its own in a pamphlet that contains the main pleadings and judgements, translated from the original Italian into English.¹¹ The lawyers had a field day, driving their points home with a rhetoric that today sounds slightly dated and pompous, and often couched in less than elegant invective "how rash and imprudent is the step foolishly taken by the plaintiff" "the defendant cannot observe but with horror ... that it should be lawful for a wife not to follow her husband. Was ever anything heard more unchristian or uncivilized than such a pretension?"

The wife's lawyer countered by observing that these "are things of such and so great futility as not to merit any consideration, if they did not serve to show that he who has recourse to such silly remarks gives the best proof of the want, on his part, of solid and just reasons". Much more in this vein.

The husband then had the law all in his favour, and the very concept of equality between the spouses appeared like a sinful aberration. The law crowned the husband the head of the family. The wife had a legal obligation to obey him. He was the sole arbiter of where the family was to reside. *If the wife refused to obey or to follow her husband, she forfeited all her rights, few as they were.* The law made children subject to his paternal and parental authority alone. Mr Rose had it all his way, and then some more.

Simon Rose could not really deny he had announced his intention to renege on his obligation to bring up the children as Catholics once he left Malta – he could hardly do that. He had, not too cunningly, declared to witness William John Stevens Jr, that he believed abiding by his promise to raise his children as Catholics would be a greater sin than breaking it. So his lawyers resorted to quibbling: a manifest intention to break an obligation has no legal effects – it is only the actual breach that would be legally relevant. Also, that promise was made in the ecclesiastical court. So it was only binding there, not in the civil tribunals.

Mrs Rose made a big thing about how grateful (?) she was to her good husband, how conscious she was of her duty to obey him in everything and to follow him wherever he ordered. But she stressed that the promise to bring the children up in the Catholic religion had been determining in her deciding to marry him. No way would she have entered matrimony with him had she not first obtained that reassurance from him.

On December 28, the Civil court, presided over by Judge Pasquale Grungo, decided in the husband's favour and lifted the impediment of departure which had restrained the children from leaving Malta. Mrs Rose appealed. Her dismayed husband just could not hide how appalled he was that a woman had the temerity to appeal, he simply could not believe that a mere female would be "applying to tribunal after tribunal - against her own husband!" Even if it were true that the husband had said he wanted to relocate to England to be able to raise his children as Protestants, would this be any reason at all for the wife to refuse to follow her husband, or for the children to be held from him?

When its turn came, the Court of Appeal delivered a highly solomonic decision. Judges Ignazio Gavino Bonavita, Francesco Chapelle and Paolo Dingli on April 22, 1850 revoked the children's impediment of departure, but imposed on the husband a condition to bind himself in

the records of the court that, wherever the common children would be conveyed “he will do nothing contrary to their being educated in the Roman Catholic Religion”.

The Court of Appeal failed to explain how this condition would be enforced by Protestant judges in the Protestant courts of the Protestant United Kingdom. Judgements in England were delivered in the name of the Queen, head of the Anglican Church. Fat chance the courts would find that Popish condition enforceable. The husband went ahead and signed this bond, as requested by the appeals court – if the first undertaking was a scrap of paper, why should the second one be anything but?

One could also sympathise with the Court of Appeal, torn apart between applying a law that was heavily weighted in favour of the male and a devout deference to the British overlord, on the one hand, and a traditional support for the religion of the Maltese nation on the other. The conflict between these three concerns ended in a compromise that, in practice, safeguarded the interests of the British husband and waved goodbye to those of the Maltese wife.

The published story ends here, but there is a twist to it. Mrs Rose eventually followed her husband to England (did she really have a choice? He could have starved her, law-book in hand, had he chosen to). The couple later returned to Malta, where they had other children. She died aged 42, probably following childbirth, on August 13, 1857. Her infant daughter, unnamed, died nine days later.

And Giovanna Rose, born Zimelli, was buried in the Protestant Imsida Bastions cemetery – an indication that, after all that much ado about everything, she had turned Presbyterian herself.

Her husband passed away, just short of his 82nd birthday, on March 2, 1879, and lies buried next to his wife. I rather think he has the more dominant grave.

Margaret Semini's was one mixed marriage gone abysmally wrong; Jane Zimelli's mixed marriage more or less avoided shipwreck. But others, in different ways, equally flash some bright light on the mores and on the politics of the times.

A serious incident that happened in October 1856 highlights the full palette of all the colonial tensions, the bigotry, the blurred, even misguided sense of nationhood prevalent in nineteenth century Malta. To some extent the facts speak for themselves, though the social,

religious and cultural issues raised by mixed marriages will need to be eased into a proper historical perspective if we are to understand this tragicomic event at all.

We know quite a few details of the episode as at least five newspapers gave this unsavoury happening some prominence.¹² The morning of Wednesday, October 1, had been scheduled for the wedding in Queen Adelaide's Protestant church (St Paul's Anglican Cathedral) between the Englishman Robert Turner and a Maltese native, Maria Carmela Borg, maiden surname Mamo. This low-profile event somehow gave rise to popular rioting and to grievous breaches of the peace.

The groom, Mr Turner, worked as a mechanic "in Mr Jackson's new steam bakery". This almost certainly refers to Henry Lord Jackson (1824 – 1906) who in 1851 had built the large Malta Steam Flour Mill in Marsa and had another flour mill where the Valletta lift now stands.¹³ Turner's chosen bride, a Maltese widow, rather advanced in age and "of the lower classes", kept a "slop shop" in Strada San Paolo, Valletta. The term slop shop, now no longer in use, referred to a commercial outlet which sold cheap ready-made clothes, mostly sailors' or other military uniforms, but also second hand garments.

On their way to the church for the nuptial ceremony ("to the hymeneal altar" as one pompous journalist could not resist putting it), or on their way out (the newspapers disagree), the spouses were met by a reception they never expected would crown such a happy event. A hostile crowd, at first made up of a few individuals but which eventually swelled to about 300 irate hoodlums, surrounded the couple on their way and "mobbed and insulted the bridal party by hooting and screeching" according to one source, and "chased and hounded them among shouting, cat-calls, brawling, whistling and loud laughter" according to another.

This unworthy popular protest almost certainly erupted as a spontaneous outburst by the *canaille*, though the *Mediterraneo*, pro-Italian exiles and anti-Jesuit, alleges that the crowd had been "incited by persons whose civil and religious duties should instead have driven them to teach peace and tolerance" – an obvious dig at the Catholic clergy. In truth, none of the other printed media, pro-English or not, anti-clerical or otherwise, take up this rather implausible 'incitement' claim.

The different papers variously described the throng: an immense mob of scoundrels, ragamuffins, a crowd of vagabonds, rowdy demonstrators, a mob consisting of two or three hundred people of the lowest rabble, a gang that never stopped insulting the couple, a very large number of market boys (probably those hangers-on who, for a small tip, carried the shopping home from the food market).

This happened to be neither the first, nor the last mixed marriage to take place in Malta. So what appeared so special about it to trigger a widespread popular commotion, not recorded on other similar occasions? A number of destabilizing elements concurred: most were 'nationalistic' in origin, but another one profiled a more social dimension. Those very angry people saw Maria Carmela Borg as publicly and serially betraying her Malteseness – she was marrying an Englishman, she was marrying a Protestant in a Protestant church, and to add the final insolence, she was wearing English fashions. All three represented highly treasonable affronts to her fellow Maltese. Separately, each of these anti-Maltese blows would have disturbed and irked her compatriots. Together, they sparked off a popular riot that turned nasty and could have turned nastier still.

The newspapers disagree on minor detail, but then concur in identifying the most provocative element of them all: the bride's choice of English fashion as the spark that set the Maltese crowd on fire. Except for some upper-crust locals who sucked-up to their colonial overlord, the British residents and the Maltese community dressed very differently, as if to underline their separate identities and to hold on in a highly visible manner to their cultural disparity. Nationality may have simmered somewhere in the genes – but it had to be dress-coded, too: no way could the ruled wear the same clothes as the rulers.

Actually, the snobbish British *Malta Times* sneers at Mrs Borg - not for sporting English styles, but because what the upstart wore was "only an imitation of an English costume" – a low native who had settled for a clumsy, approximate fake - the genuine thing only graced the genuine owners of the country.

What offended the mob above anything else: a Maltese woman actually having the temerity to wear an English bonnet! That, in native patriotic eyes, constituted the epitome of colonial subservience, a base betrayal of her national soul. *L'Ordine* decried the outrage that the

widow Borg actually “wore a hat” on her way to church, the unspeakable horror; *Il Portafoglio Maltese* attributed the irresistible provocation to the fact that she flaunted clothes “in the new fashion”, including a hat, in an alien style described dismissively by the lower classes, as *a la Ingliza*. Maria Carmela Borg found herself to be a loser on both fronts: a laughable parvenu for the British, a shameless renegade for the Maltese.

Not at all surprisingly, a pinch of social envy compounded the patriotic affront. The widow Borg had hitherto lived in straightened circumstances, and now, because she had hitched up with an English mechanic working in a flour mill, there she was, flashing clothes *tal-puliti*. What, one who always hid under a *faldetta*, now showing off in a bonnet? “The lady was dressed out rather showily, wore an *English* bonnet (emphasis in the original) and carried a French parasol – this attracted the attention of a lot of market boys who had known her in seedy days when her modesty was covered by the *faldetta*”. Just the right dose of class resentment useful to kick-start a revolt of the ragged.

That uncouth mob could forgive many things, but at trying to improve oneself and climb the social ladder the rabble drew the line – the politics of envy flourished then no less than they do now. If you belonged to the disadvantaged classes, you had to make sure you were seen to behave like one, and no overstepping of boundaries, please, or you faced a proper punishment. Mrs Borg, the unwitting revolutionary, broke all the taboos – religious, political, patriotic and social, in one go, not because she fancied re-enacting Joan of Arc, but in an attempt to make a misguided fashion statement on her wedding day.

The poor middle-aged bride must have agonized for ever and ever over what clothes to wear on her nuptial day, and when she finally opted for faux English fineries (picked from her second-hand slop shop?) she had no doubt she would be making a big hit with the neighbours. She sure did, even if for all the wrong reasons. Her friends might have been jealous – they had not worn an English bonnet in all their lives and quite likely never would - but the exotic choice only ended in exposing Maria Carmela Borg to strident ridicule and contempt – almost to a lynching, had it not been for massive police intervention.

This rejection of British fashion by Maltese working class women persisted at least till the 1920s, perhaps later. For a woman to be seen in public wearing a hat instead of the traditional

faldetta, was considered a defiance of common decency – a *ksuħata*. No self-respecting Maltese woman of the working classes would do it: “The simplest kind of girl never owns a hat. The *faldetta*, you see, is sufficient head-covering except for the most progressive. ‘Why, she wears a hat, that Stella’ said my house-maid, giving the final touch of modernity to her description of an up-to-date friend of whom she sincerely disapproved”.¹⁴

This wedding-gone-wrong was hardly a solitary, isolated incident of religious bigotry, intolerance and misguided patriotic outrage - these often went hand in hand then. History records many others. Like the funeral of a Maltese character known as the Abbé Segond, who had reneged on his Catholic baptism and converted to the Methodist creed in the early British period – the cortege caused an ugly popular commotion that ended with his coffin being outraged and in considerable violence. Let Governor Hastings say it in diplomatic language.

“Through the management of that mischievous missionary Mr (John) Keeling, a funeral (of this Maltese Methodist) was prepared that was to pass through the principal streets of Valletta. The populace thought this a studied triumph over their religion, obstructed the passage of the corpse and attempted to tear the coffin from the hearse. This happened so near to the Main Guard that the Captain commanding detailed a small party to prevent the outrage being carried further, and the procession moved on to the burying ground. The soldiers however of the 85th regiment were assaulted with stones and one of them was considerably hurt. The speedy arrival of a strong detachment of the Malta Fencibles put an end to the assault of the troops, who would otherwise have been obliged to fire in their own defence”.¹⁵ A minor riot to protest against what the man in the street saw as a hurtful betrayal of Malteseness.

During the British rule, the intricate legal complexities of mixed marriages bedevilled the Maltese political, religious and legal scene at least up to the end of the 19th century. This dispute turned into one of the more intractable hot potatoes the civil and religious authorities had to deal with. By definition a mixed marriage referred to a marital union between a Maltese Catholic and a non-Catholic, mostly foreign but exceptionally also Maltese. By what rites were these marriages to be celebrated? Should Maltese law recognize as valid mixed marriages not concluded according to Catholic rites?

It is ironic to realize that, to a certain extent, the Colonial authorities had compounded the Catholic marriage issue by enacting a piece of legislation they must later have sorely regretted. Wanting to stamp out the current abuse of clandestine marriages (usually shot-gun weddings or those opposed by the family of the spouses, celebrated secretly, overlooking the formalities of the publication of banns and other requisites imposed by the Council of Trent), in 1831 Governor Fredrick Cavendish Ponsonby issued a thunderous Proclamation: anyone in Malta contracting, or attempting to contract marriage without complying with all the requirements of Canon law, would be guilty of a criminal offence punishable with imprisonment from one to two years, and with a fine of 1000 scudi.¹⁶ A crippling, intimidating penalty.

Problems already tortuous were further entangled by the fact that many in Malta claimed that the only marriages valid at law were those celebrated according to Catholic rites - and that consequently even marriages between two non-Catholics were not to be recognized as valid. But we will not venture there. Let us try to navigate as safely as possible the minefield of mixed marriages between a Maltese Catholic and a non-Catholic.

The church in Malta, quite obviously, hung on to its privileged position of “owning” marriage in the islands. But in truth, the Maltese political class too generally favoured the church’s stand: not so much on religious grounds, as on purely political ones. In so far as Catholic marriage interfaced closely with traditional Maltese culture and was deemed to be one of the determining ingredients of Maltese national identity, it had to be upheld and defended at all costs against any form of imperialist encroachment. The national politicians were well aware that their only strength in standing up to the might of colonial dominance lay in their identifying with some powerful non-British cultural force – in the Maltese case, with an ancient, proud Latin, Roman Catholic, European sense of being. Protected by that bastion of home-grown tradition and culture, they felt better able to resist the imposed Anglicization of Malta.

Up to 1975, when Parliament enacted the Marriage Act, matrimony in Malta was regulated not by Maltese law, but by Canon Law – or rather, Canon Law formed part and parcel of the laws of Malta in so far as marriage was concerned. At that time the state acknowledged that in marriage, the contract and the sacrament were inextricably linked and wanted its

marriage discipline to be governed by the joint sacramental and contractual constituents, both as to capacity to marry, validity, form, substance and effects.

Before the British connection, this Canon law monopoly had raised few if any legal or political problems at all – Malta was then ‘governed’ by three church authorities: the Grand Master, the Bishop and the Inquisitor. It was only with the massive presence of British forces in Malta, mostly Anglican or those professing other Protestant denominations, that things changed drastically.

The inherent contradictions between the old Catholic tradition and the new Protestant supremacy acquired sharper relief - and why it had to be Catholic law that should regulate the mixed marriage of a Protestant began being questioned. Many Maltese (almost all of them women) were asked in marriage by British Protestant suitors. The draconian law then left no room for doubt: unless the couple married before a Catholic priest, their marriage was deemed null and void.

The British authorities and residents were not amused. What, in a British Crown Colony, British laws were disregarded and the hated popish superstition held sway – even over Protestant Englishmen? All in all, the Maltese judiciary did not budge, with the courts enforcing Catholic Canon law on British Protestants, and for long a position of hostile stalemate prevailed – another cause of political friction.

It had to be a massive diplomatic drive, spearheaded by a former British Governor of Malta, Sir John Lintorn Simmons, that finally led to the Simmons-Rampolla agreement between Britain and the Vatican in 1890: the only UK – Vatican ‘concordat’ in history. By virtue of this exchange, the poisoned mixed-marriage questions (and several other contentious issues) were more or less laid to rest. The UK agreed that Canon law should apply under pain of nullity to any marriage celebrated in Malta in which one or both parties were Roman Catholics.

This agreement, which also regulated other outstanding differences about the appointment of bishops and the teaching of English to seminarians, was met with unbounded discontent both by intransigent Catholics in Malta and by equally intransigent Protestants in the UK. The Archbishop of Canterbury, Dr Edward Benson, did not hide Anglican indignation at those

British concessions to the Vatican that, in his words “fix the yoke of the Canon Law and the decrees of the Council of Trent together on marriage for the first time”.¹⁷

Quite coincidentally, the Archbishop’s youngest son, Robert Hugh Benson, later became a leading Roman Catholic priest and a highly successful novelist too – still popular in my Lyceum days. I have a vague impression, but could not confirm it, that Fr Benson might have been one of the speakers at the International Eucharistic Congress held in Malta in 1913.

Following the agreement, in 1890 Pope Leo XIII formally decreed that marriages contracted in Malta in which one or both parties were Roman Catholic would be invalid if not celebrated according to the rites of the Council of Trent. That meant that a marriage of a Maltese Catholic and a British Protestant in a Protestant church or in a civil registry was, in Malta, to be discarded as a piece of illegal junk. On his part, the Anglican Archbishop of Canterbury Dr Benson wanted the issue referred to the Judicial Committee of the Privy Council. Not too surprisingly, the Protestant Lords found for the validity of any marriage in Malta, mixed or even between Catholics, celebrated by a non-Catholic minister.¹⁸

Despite the formal Simmons-Rampolla agreement just concluded, in 1892 the Westminster Parliament passed the Foreign Marriage Act which reopened all the old issues of the legality of mixed marriages, by declaring valid the marriage of any person of British nationality abroad if the marriage would have been validly contracted according to British law. The Simmons-Rampolla concordat – more scraps of paper.

And what an insolent act of defiance against the spiritual authority of the Holy Father in Rome! Four years later, with the Privy Council judgement under his belt, Governor Fremantle informed the Bishop of Malta Pietro Pace that legislation would soon be introduced locally to make that British act of Parliament applicable to the island. “Malta was ablaze”.

Inflammatory, monster mass meetings were held on three successive Sundays in March 1896 on the Floriana *fosos* to protest against what was deemed to be a breach of trust and of the ancient prerogatives of the Maltese. “The British began to fear that the agitation would endanger public peace and the matter was allowed to drop”.¹⁹ Honeyed assurances from London defused a truly incendiary situation. One of the very few times when the Colonial authorities acknowledged Maltese popular sentiment, however misguided it might appear

today, and backed down. In truth, popular sentiment did not count much, but the security of the British hold over the fortress colony did.

The mixed-marriage dilemmas were never completely solved. Up to relatively recently, the Maltese courts still refused to recognize the validity of a marriage contracted by a Maltese Catholic anywhere in the world, unless he or she had tied the knot according to Catholic rites. Many Maltese, validly married in the United Kingdom (or in other lands of traditional Maltese emigration) according to the laws of the country, could obtain a fast-track declaration of nullity of their marriage from the Maltese Courts, by simply affirming under oath that they had been baptized as Catholics and that they had failed to get married according to the Catholic rites prescribed by Canon Law – and, hey presto, their marriage obligingly disappeared. Marriage? What marriage?

That loophole saw many bogus Maltese nouveau-Catholics (mostly men) slithering out of the marriage bonds, denouncing maintenance and other marital obligations, on discovering, quite belatedly, that they must have been, after all, true-blue Catholics all along. All they had to do was to unearth and dust, at the right moment, a long-forgotten Catholic baptism certificate that, but this is quite incidental, enabled them to behave as the most un-Christian should.

The Maltese courts were on their side, though some judges found the guts to voice their disgust at being used and misused by scoundrels who had at the most convenient moment recovered an itching nostalgia for the Catholic faith, but whose only faith was in their ability to evade their legal responsibilities.

And their fiscal ones too. The scam included remembering your Catholic baptism when this served to save on income tax. In furtherance of tax avoidance, the court granted a declaration of nullity of a marriage validly contracted in London according to UK law by a Maltese sort-of Catholic and his (wealthy) Protestant wife, still happily living together. The presiding judge observed that “This court is well aware that the plaintiff is taking advantage of the religion which he claims to profess ... for economic purposes, but this, in itself, does not negate the juridical interest required by law to exercise the present action”.²⁰ This arrant misuse of religious faith to favour the most undeserving, fully supported by the most compliant, only came to an end, and none too early either, in 1975.

Up to 1891 at least 700 mixed marriages had already been recorded in Malta: almost without exception of British men with Maltese women, and virtually never the other way round. Not a single one involved a Gozitan woman (very few British ships or troops were stationed in Gozo). Many mixed-religion couples opted to go through both a Catholic and a Protestant wedding ceremony, to make really sure, you never know, just in case. It seems that Maria Carmela Borg was not interested in double insurance and only intended to get married in the Protestant church.

Providentially, when the mob's behaviour started getting more and more dangerously threatening to the newly-weds, someone finally had the good sense to call the police in. By this time the groom had escaped, abandoning his terrified bride to the rather unsubtle attentions of the rabble. As *The Malta Times* put it facetiously, the police arrived "not before a temporary divorce had been effected between the bridegroom and his newly-made bride who were forced to betake themselves to flight and seek for safety by fleeing in different directions". Same version from the *Portafoglio*: the groom, in a confused daze, upped and fled, leaving the bride to face the disorderly hoodlums on her own.

The police intervened and arrested eleven of the most unruly. The following day the accused were hauled before Magistrate Salvatore Ceci (on the bench since January 1, 1829), and charged with creating a public disturbance. He acquitted one of the market boys for lack of evidence and found the other ten guilty, fining them ten shillings each, which they all paid on the spot.

The press applauded the conviction of the mischievous rowdies: "exceedingly well condemned" exclaimed one newspaper, but some other observers felt the scoundrels had been let off too lightly "a general impression prevails that the prisoners ought to have been more harshly dealt with"; another said: "in our view the penalty was too lenient, in so far that it will not serve to prevent, in the future, such dishonourable and repulsive scenes". Being critical of court penalties seen to be too light, was not a community pastime invented yesterday.

The conservative, anti-exiles *L'Ordine* wrapped up its reportage with a sentiment I suppose we could all share: "Let us hope never to have to witness again scenes as unpleasant as

this and that the police will be alert to prevent any repetition". Few would have disagreed with that, whatever salt Maria Carmela Borg may have rubbed in the patriotic ego.

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¹ *Del Diritto Municipale di Malta*, Malta, 1784, Lib. V, Capo Settimo, Art. XIV and XV, pp. 183 – 184.

² Dispatch from General Sir John Stuart to Major-General Hildebrand Oakes from Messina, Sicily, January 9, 1810.

³ <http://website.lineone.net/~remosliema/residents.4htm>

⁴ *Ibid.*

⁵ *Il Portafoglio Maltese*, March 9, 1840. pp. 809 – 810.

⁶ *Il Portafoglio Maltese*, March 23, 1840, p. 825.

⁷ Same website.

⁸ D.H.F. Gourlay, "Andrew Jameson, a prophet without honour" in *The Juridical Review*, Part 1, 2011, pp. 22 – 23.

⁹ R. v. Semini [1949] 1KB 405 33 Cr App R 57, CCA.

¹⁰ Fortunato Panzavecchia, *L'ultimo periodo della storia di Malta sotto il governo dell' Ordine*, Malta, 1835, p. 427.

¹¹ *Cause – Jane wife of Simon Rose versus the said Simon Rose*, Malta, 1850, 32 pages.

¹² The five newspapers are: *Il Portafoglio Maltese*, October 4, 1856; *The Malta Mail* and *The Malta Times*, October 7, 1856; *Il Mediterraneo*, October 8, 1856; *L'Ordine*, October 10, 1856.

¹³ Clifford Vella, *L-Imtiehen tat-Thin tal-Qamh*, Malta, 2011, p. 18.

¹⁴ Gladys Peto, *Malta and Cyprus*, London, 1928, p. 55 -56.

¹⁵ www.website.lineone.net/~stephaniebidmead/

¹⁶ Proclamation VII of 1831, Malta Government Gazette, September 7, 1831.

¹⁷ Henry Frendo, *Party Politics in a Fortress Colony*, Malta, 1979, p. 71.

¹⁸ *Ibid.*, p. 81.

¹⁹ Joseph Bezzina, "Church and State in an Island Colony" in (ed.) Victor Mallia-Milanes, *The British Colonial Experience*, Malta, 1988, pp. 55 – 56.

²⁰ G. Testaferrata Abela v. Ruth Perry, P.A. 1972.