

MALTA.

COPIES OR EXTRACTS

OF

CORRESPONDENCE

WITH REFERENCE TO THE

MALTESE NOBILITY.

(*In continuation of [C.—3812], August 1883.*)

Presented to the House of Lords by Command of Her Majesty.
May 1886.



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1886.

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M A L T A.

C O R R E S P O N D E N C E

RESPECTING THE

M A L T E S E N O B I L I T Y .

(*In continuation of [C.—3812], August 1883.*)

No. 1.

GOVERNOR SIR J. L. SIMMONS, G.C.B., to the RIGHT HON. THE EARL OF
DERBY, K.G. (Received November 3, 1884.)

MY LORD,

Palace, Valletta, October 28, 1884.

I HAVE the honour to forward three petitions which have been entrusted to me by the Committee of Privileges of the Maltese Nobility for submission to your Lordship.

2. The first of these petitions relates to the question of precedence; in the second the Committee pray that the decisions of the Committee with regard to questions of nobility may not be subject to revision by the local courts, but only by the Committee of Privileges of the House of Lords; and in the third the Committee ask that in all documents emanating from Government the title "the most noble" may be allowed to every *Titolato* or *Titolata*.

3. With regard to the last petition, I may observe that the custom to which the Committee refer, as having been "latterly" discontinued, of addressing members of the Maltese nobility as "most noble" or "most illustrious" does not seem to have survived the practice of writing official letters in Italian. It is the Italian custom, as your Lordship is probably aware, to prefix an adjective in the superlative degree to the addresses of all letters directed even to persons who in England would only consider themselves entitled to the title "Esquire." The adjective varies according to the rank or calling of the person addressed. The ordinary form is "*stimatissimo*" or "*gentilissimo*," and in persons of higher rank the form would be "*illustrissimo*" or "*nobilissimo*." The discontinuance of the use of the Italian language in letters emanating from Government has probably led to the disuse of the two latter adjectives in addressing the *Titolati*.

4. As regards the second petition, it would be beyond my province to make any recommendation other than to say that any measure likely to lead to the diminution of litigation in Malta is by all means to be desired. The decisions of the local Committee of Privileges do not affect succession to property, and might, I think, be withdrawn with advantage from the jurisdiction of the local courts, whether the appeal now asked for be granted or not.

5. With reference to the petition on the subject of precedence, I have to report that as the president and members of the Committee of Privileges referred to the decision of the Secretary of State of 12th October 1877* as being contrary to the law of Malta, the Committee were requested to point out the law to which they referred. I beg to enclose their reply, which fully explains their views on the subject.

6. Your Lordship will observe that it is argued in the petition that there has been a departure from the guarantee given by the British Government to maintain the privileges of the inhabitants of these islands by altering the precedence of the nobles.

* Not printed.

7. As the privileges of the nobility, so far as they are now recognised by Government, are limited to the actual holders of certain specified titles whose claims to these titles have been fully established, I would suggest for consideration whether, without disturbing the precedence of present holders of office, future appointments to the office of puisne Judge might not be made subject to their taking precedence after the Titolati.

8. The other question raised in this petition, that of the relative precedence of wives of Titolati and of wives of officials who, in virtue of their official position, have precedence of Titolati, is based upon the dictum quoted in the petition, namely, that the official precedence of the husband is not communicable to the wife.

9. In most of the British dependencies this principle is, I believe, not recognised; but in Malta the converse of the principle, namely, that a lady having rank of her own, as the daughter of a British peer, shall take the precedence of her own rank and not the (lower) official precedence of her husband, has been recognised and acted on for a series of years. Apart from the argument that the privilege of a wife of a Titolato to take her husband's precedence to the exclusion of the wives of officials is a privilege which existed in 1813 and ought, therefore, to be restored, the Committee consider that the Government, having discarded the principle that the wife of an official shall take her husband's official precedence in favour of a lady who had no connexion with Malta, ought not in justice to insist on the principle to the detriment of ladies who belong to Malta—the titles and social rank of their husbands being now formally acknowledged by Government, and the Maltese nobility being, to all intents and purposes, a recognised portion of the social polity of Malta.

10. The Committee express their willingness that the wife of the Lieut.-Governor should take her husband's official precedence; and I assume that they would not object that the wives of the Naval Commander-in-Chief, and of the General Commanding the Infantry Brigade and of the present Chief Justice, all of whom take precedence of the Lieut.-Governor's wife, should also take the official precedence of their husbands.

11. The demand, then, narrows itself to this—supposing the Titolati to be granted precedence over the puisne Judges—that the wives of the Titolati should take precedence over the wives of members of Council.

12. And here we are met with the difficulty that eight out of the seventeen members of Council are elected members. Should your Lordship, after considering the arguments advanced by the Committee, be of opinion that they have made out a claim in the matter of the precedence of the wives of the Titolati, and give a decision in favour of that claim, I have no doubt that the official members of Council would loyally accept your Lordship's ruling. The elected members may probably take a different view.

13. I have only to add, in submitting these petitions to your Lordship, that I think the Maltese nobility, as a body, have claims to your Lordship's favourable consideration. The unfavourable verdict passed on them by Sir G. Cornwall Lewis, and by others since his time, may be deserved by some of them; but there are amongst them men of education, enlightenment, and intelligence, who deserve to be countenanced and encouraged. These gentlemen are not less interested than their brother Titolati in obtaining the recognition and maintenance of their privileges. Although the boons they ask may, viewed from a distance, appear of small importance, in this small community they are not so regarded; and should your Lordship find yourself able to meet the wishes of the Titolati, you will have earned the lasting gratitude of a body of good and loyal citizens.

I have, &c.,
(Signed) J. L. A. SIMMONS,
Governor.

The Right Hon. the Earl of Derby,
&c. &c. &c.

Enclosure 1 in No. 1.

To the Right Hon. the EARL OF DERBY, Her Majesty's Principal Secretary of State
for the Colonies, &c. &c. &c.

The Petition of the President and Members of the Committee of Privileges of the
Maltese Nobility.

SH EWETH,

THAT the Earl of Carnarvon, then Secretary of State for the Colonies, by his despatch of the 12th October 1877, ruled contrary to the ancient usage and custom of the Island, that the Titolati, or titled heads of families, should rank "next after Her Majesty's Judges in Malta and before the Chamber of Commerce," and "that in all cases the precedence of ladies is to follow that of their husbands."

That the nobles protested and have ever been protesting against this decision, being contrary to the ancient custom and law of the country, and to the well-known maxim that "the official precedence of the husband is no way communicable to the wife."

That whilst the wives of Titolati are only allowed the precedence of their husbands, the daughters of English peers are allowed here precedence above the wives of even the members of the Council of Government.

Wherefore, the undersigned President and Members of the Committee of Privileges of the Maltese Nobility pray that Her Majesty may be graciously pleased to rule that the Titolati should rank next after the members of the Council of Government and before Her Majesty's puisne Judges, and that, even as regards members of Council, the official precedence of the husband should not be communicable to the wife, excepting in the case of the Governor and Lieut.-Governor.

And your Lordship's petitioners, as in duty bound, will ever pray.

Valetta, Malta, 18th June 1884.

CIANTAR PALEOLOGO, President.

APAP BOLOGNA.

DE PIRO.

MANDUCA P. M. CASSIA.

DELICATA, LL.D.

Enclosure 2 in No. 1.

To the Right Hon. the EARL OF DERBY, Her Majesty's Principal Secretary of State for
the Colonies, &c. &c. &c.

The Petition of the President and Members of the Committee of Privileges of the
Maltese Nobility.

SH EWETH,

THAT the Earl of Kimberly, then Secretary of State for the Colonies, by his despatch of the 16th August 1882, granted to the Body of the Titolati in this Island, a "Committee of Privileges" with functions analogous to those of the "Committee of Privileges" in the House of Lords, including the right of laying matters concerning their rights, claims, or privileges at the foot of the Throne.

2. That the above-named despatch also lays down that any decision by a competent Court of Law would over-ride the decisions of the Committee.

3. That this Committee was evidently constituted as a Board with certain judicial attributes, for the very object of avoiding the decision of questions of nobility by the local courts.

Wherefore, the President and Members of the Malta Committee of Privileges humbly pray that Her Majesty the Queen may be graciously pleased to order that the only competent Court to over-ride the decisions of this Committee is the "Committee of Privileges in the House of Lords."

And your petitioners, as in duty bound, will ever pray.

Valetta, Malta, 18th June 1884.

CIANTAR PALEOLOGO, President.

APAP BOLOGNA.

DE PIRO.

MANDUCA P. M. CASSIA.

DELICATA, LL.D.

Enclosure 3 in No. 1.

To the Right Hon. the EARL OF DERBY, Her Majesty's Principal Secretary of State
for the Colonies, &c. &c. &c.

The Petition of the President and Members of the Committee of Privileges of the
Maltese Nobility.

SHEWETH,

THAT during the Government of the Order of St. John each and every Titolato
in Malta was allowed the style and title of "Most Noble," or "Most Illustrious"
(enclosure A).

That this practice has been kept up to this day, but latterly has been omitted from
all documents emanating from the Government.

Wherefore, the President and Members of the Committee of Privileges of the
Maltese Nobility humbly pray that Her Majesty the Queen may be pleased to order
that the style and title of "the Most Noble" be allowed to each and every Titolato or
Titolata in all documents emanating from Government.

And your Lordship's petitioners, as in duty bound, will ever pray.

CIANTAR PALEOLOGO, President.
APAP BOLOGNA.
DE PIRO.
MANDUCA P. M. CASSIA.
DELICATA, LL.D.

Valetta, Malta, 18th June 1884.

Sub-Enclosure in Enclosure No. 3.

A.

ESTRATTO dal suo Originale, dal Volume Bandi e Prammatiche dell' anno 1725, al
fol. 105, esistente conservato nella Corte Criminale di Sua Maestà, per l' isola di
Malta e sue Dipendenze.

Per li Titoli.

PRAMMATICA.

S. A. Serēnia Padrone in virtù della presente Prammatica, perpetuo valitura,
volendo rimediare agli abusi, et inconvenienti da qualche tempo a questa parte
introdotti in materia di Titoli, ordina e comanda che da oggi in avanti nessun
Avvocato, Notaro, et Attuario di questo nostro dominio, ardisca dare il Titolo di
Illustrissimo, nè di Nobile, nelle scritture, contratti, ed atti pubblici, a veruno dei nostri
Vassalli, eccettuato il Capitano della Verga pro tempore, e li due Magistrati delle
nostre Città Notabile e Valletta, et il Milite Barone Marc Antonio Inguanez nostro
Feudatario, con la Baronessa Inguanez sua consorte, e loro discendenti, sotto pena,
in caso di contravvenzione, in quant' alli Avvocati di sospensione, ed in quanto alli
Notari et Attuarj della prescrizione dell' officio, et altre pene arbitrarie a detta
A. Serēnia.

Die XXX., mensis Aprilis 1725, data et pubta. fuit, et ego pñs Prammatica in locis
publicis, solitis et consuetis, Has Civitates Vallette Victoriose Sengle et Burmule
sono Tubi, Populi parte congregata audiente, et intelligente, Actuario Hujus Mag.
Cur Castelle legente, et Jose Vella Precone, alta et intelligibile voce preconizante,
unde:—

S. A. Serēnia Padrone, ordina e comanda che nella suddetta Prammatica s'intendono
pure eccettuati il Barone di Cicciano, D. Fabrizio Testaferrata e la Baronessa del
Gomerino D. Beatrice Cassia Testaferrata sua madre, e tutti li suoi figli maschi e
femmine, con loro mariti e legittimi discendenti. Oggi li 11 Maggio 1725. Ita
referent.

" F. N. NALVANUS DE VAJUS, AUD."

S. A. Serēnia Padrone ordina e comanda che nella suddetta Prammatica s'intenda
eccettuato il Marchese di San Vincenzo Ferreri Don Mario Testaferrata, e li suoi
discendenti. Oggi il di 9 Luglio 1725. Ita referent.

" F. N. NALVANUS DE VAJUS, AUD."

S. A. Serñia Padrone ordina e comanda che nella suddetta Prammatica s' intendono eccettuati Carlo Falzon, et Donna Eleonora Testaferrata, giugali, con li loro figli et discendenti, et anche Salvatore Dorell e Teresa Falzon, giugali, con li loro figli e discendenti. Oggi li 13 Giugno 1726. Ita referent.

" F. N. NALVANUS DE VAJUS, AUD."

S. A. Serñia Padrone ordina e comanda che nella suddetta Prammatica s' intenda eccettuati il Barone di San Marciano D. Diego Galea Ferriolo, con li suoi discendenti. Oggi li 2 Settembre 1726. Ita referent.

" F. N. NALVANUS DE VAJUS, AUD."

S. A. Serñia Padrone ordina e comanda che nella presente Prammatica s' intendono eccettuati il Barone Gio Pio de Piro, e li suoi discendenti. Oggi li 19 Marzo 1727. Ita referent.

" F. N. NALVANUS DE VAJUS, AUD."

S. A. Serñia Padrone ordina e comanda che nella presente Prammatica s' intendono eccettuati il Can^{co} D. Giuseppe di Costanzo, D. Rosa vedova di Gio Battista di Costanzo et i loro figli e discendenti, per essere la detta famiglia di Costanzo nobile aggregata al seggio di Porta della Città di Puzzolo. Oggi li 24 Maggio 1729. Ita referent.

" F. N. NALVANUS DE VAJUS, AUD."

S. A. Serñia Padrone ordina e comanda che nella presente Prammatica s' intenda eccettuato il Barone Isidoro Viani, e suoi discendenti. Oggi li 27 Giugno 1730. Ita referent.

" F. N. NALVANUS DE VAJUS, AUD."

S. A. Serñia ordina e comanda che nella presente Prammatica s' intendono eccettuati D. Vincenzo Platamone, et Antonio Bonnici, e tutti i loro discendenti. Ita referent.

" F. N. NALVANUS DE VAJUS, AUD."

S. A. Serñia Padrone ordina e comanda che nella presente Prammatica s' intende eccettuato Baldassare Bonnici, e tutti i suoi discendenti. Oggi li 13 Gennaro 1732. Ita referent.

" F. N. NALVANUS DE VAJUS, AUD."

S. A. Serñia Padrone ordina e comanda che nella presente Prammatica s' intendono eccettuati Calcerano Mompalao, e suoi figli, e discendenti, ed anco Giuseppe Cuschieri, e Catarina, giugali, con li loro figli e discendenti. Oggi li 6 Marzo 1732. Ita referent.

" F. N. NALVANUS DE VAJUS, AUD."

S. A. Serñia Padrone ordina e comanda che nella presente Prammatica s' intenda eccettuato il Barone Saverio Gatt, e sua famiglia, cioè consorte e discendenti. Oggi li 23 Agosto 1737. Ita referent.

" A. CARBONE, F. AUD."

S. A. Serñia Padrone ha ordinato e comandato che si desse il titolo di Illustrissimo al Signor Ludovico Bianchi, e suoi discendenti in qualunque scrittura. Oggi li 25 Ottobre 1741. Ita referent.

" TOE. MARDESIUS FISCI, AUD."

Visto il 5 Settembre 1794. E' stato accordato il titolo d' Illustrissimo al Dr. Ugolino Bonnici, come si era fatto pochi anni prima col Dr. Saverio Crispo.

(Vedi il Vol. de' Bandi in detta data.)

Vera copia,

NOT. M. LA ROSA,
Registratore.

Enclosure 4 in No. 1.

Valletta, September 8, 1884.

SIR,

I HAVE communicated your letter of the 20th June requesting me to indicate the law which has regulated precedence, and which is referred to in the petition of the Committee of Privileges to the President of the same Committee, and I am desired to submit to you the following information.

The question of precedence has in every country always been regulated by assuming that the nobility is the body which immediately follows sovereignty, and consequently it has, from time immemorial, been recognised in possession of the first place of honour, not always in force of a positive law, but certainly by general consent. In England, where this principle has ever been most strictly observed, previous to statute 31 of Henry VIII., no written law existed on the subject; yet the nobility enjoyed always their precedence.

In countries where alterations have been attempted, the first hints indicating the desired deviation were framed in a manner sufficiently implying the anterior recognition of the principle, and the words *cedant arma togae* are sufficiently indicative of the contrary prior state existing.

A similar practice has prevailed in Malta, and the petition itself by which the President of the Court of Appeal and the Judges have lately obtained precedence over the nobility confirms this assertion.

That petition does not quote any law or custom existing either in Malta or in any other country in favour of petitioners, but it simply contains a request that his Excellency should take into consideration their position on the subject of precedence as President and Her Majesty's Judges in these Islands. This request, though it does not explicitly ask for the repeal of a law, still it tacitly implies, as an ultimate result, the introduction of a new principle, and the repeal of a contrary custom; and it is painful to remark, previous correspondence is sufficiently replete with disparaging allusions to the nobility and of insinuations which must have contributed to a great extent in bringing about this innovation.

Tracing the process of legislative enactments applicable to these Islands, we find that the supremacy of the nobility is constantly recognised. Certainly previous to the advent of the knights of St. John, we cannot trace any record of local legislation without reference to the Aragonese laws or the Jus Siculum. This law continued to prevail in Malta (a fief of the Sicilian Sovereignty) even during the rule of the knights of St. John, with the occasional introduction, when necessary, of some enactments of the Grand Masters, called *Prammatiche* or *Chirografi Magistrali*.

In the Jus Siculum, Garsia Mastrill is considered the best authority on the subject of precedence, and has the most immediate bearing on practice in Malta. In his book, *De Magistratibus*, Lib. IV., Cap. XIV., N. 7, he begins the category of precedence from the sovereign, and proceeds with immediate sequence through princes, dukes, marquises, counts, and viscounts, down to all the barons.

The same principle strictly obtained in Malta, and the nobility has always had the first place.

Tracing our history from the earliest records, we find that all high places were invariably occupied by nobles. The Nava family were in possession of the Castel St. Angelo. The family Inguanez had the right to place their coat-of-arms on the gate of the town. In the procession of the Grand Master, on his taking solemn possession of the town after his election, the nobles figured in the highest places. The standard-bearer was a nobleman, and the Grand Master's carriage was guarded by noblemen. The feudal lords had a seat in the Consiglio by their own rights without the necessity of being summoned.

From the above-stated facts the high rank of the nobility is inferred.

Following more closely the question, I submit to your consideration other pertinent facts having a more direct bearing on the subject.

Grand Master Despuig, in his *Chirografo Magistrale* of the 16th of September 1739,* establishes explicitly a precedence which is evidently inspired by the principles of Garsia Mastrill, and which confirms our views on the subject. In this *Chirografo*, in order to avoid any question of precedence, he fixes the qualifications which establish the successive claims in the following order.

He gives the first preference to any person who has been "*Capitano di Verga della Città Notabile e nostra Isola di Malta.*" Then follow the *Titolati*, the male descendants of the *Capitano di Verga*, those of the *Titolati*, persons who have been

* For an English translation of this Instrument, see pages 12 and 13 of this paper.

Primi Guirati of Notabile or of Valletta, the Senior Guirato of the University to which he belongs, and after all the above-mentioned any person who has been a Judge of Appeal, Criminal Judge, or Civil Judge of the Gran Corte della Castellania Capitana e Governatoriale; and then the Doctors of Law or Medicine.

I think that the sequence adopted in this enactment indicates sufficiently the prevalence of the idea that nobility is the qualification most effective in entitling to precedence, and the intention of the legislator with reference to the difficulty proposed by you.

Nor can it be objected that this order of honours may be attributed to chance or supposed to have been introduced at random. The object of this law was purely to regulate precedence:—"Per togliere differenze di precedenza," and the decision was in conformity with the custom of Sicily, and I may say of all Europe.

Again, Grand Master Rohan, in his Chirografo Magistrale of the 17th March 1795,* dwelling on the subject, declares it to be his intention fully to confirm his predecessor's enactment in the following words:—

"Nel concorso di ugual data secondo la graduazione stabilita nel Chirografo Magistrale del nostro predecessore Gran Maestro Despuig di gl. Mems., dei 16 Settembre 1739, quale, in quelle parti che non contradicono la presente nostra disposizione intendiamo di pienamente conservare."

But here we cannot omit to invite the attention of the Government to the fact that during the time of the Revolution, all the documents and diplomas having reference to nobility were burnt by order of the Government of the French Republic. It is probable that many documents having reference to the subject in question have been destroyed. Besides as the collection of Prammatiche existing in the criminal courts begins only from the year 1722, the present question has been probably deprived of a multiplicity of documents which must have had a direct bearing on it.

Persons of advanced age are under the impression of having known a Prammatica by Grand Master De Redin regulating precedence. But as this prammatica is anterior to the above-mentioned date at which the collection existing in the criminal courts begins, I have not been able to trace it. The difficulty of a similar search is rendered still greater by the fact that the Libri Conciliorum Status and the Libri Bullarum preserved in the Office of the Public Registry do not contain an index; and the matter is classified by date; so that in looking for a document, unless its date be known, all the volumes have to be perused, and the document is rather found by chance than by any methodical research. And in some cases, it is strange enough, a document is quoted as existing in the same book with its date specified, which is not to be found in any volume.

Besides the foregoing information which I have followed by documentary evidence in the Archives of the Grand Masters, I proceed to submit that the practice constantly followed in Malta by the British Government since the happy event of the occupation has always been confirmatory of the above-mentioned custom adopted by the previous Government. The first event since the commencement of the British rule, which has brought about the question of precedence, was the funeral of Sir Alexander Ball. On that occasion the place of honour was given to Baron Pasquale Sceberras and Baron P. P. Testaferrata. When Her Majesty Queen Adelaide honoured this Island with a visit, at the Drawing Room reception held by her precedence was given to the Nobility; and at the dinner which Her Majesty gave, the Marquis De Piro, C.M.G., had the honour of being selected to occupy the first place. When his Excellency Sir Henry K. Storks returned to Malta after a temporary absence, all the classes and corporations of Malta desired to present to him an address of congratulation. A question of precedence having arisen, his Excellency ruled that the address of the nobility should be read *immediately after that of the Legislative Council*.

This decision was afterwards confirmed by the Right Honourable the Earl of Carnarvon in his despatch to the Governor of these Islands, dated 23rd December 1876.

But all these facts were followed by the above-quoted petition of the President and Judges, to which the Secretary of State gave a favourable answer, and in this manner derogating the ancient usage and custom of the Island.

Yet I must remark that the case submitted in the petition of the Committee of Privileges differs essentially from that of the petition of the Judges, in so far as in the present instance precedence is only solicited on behalf of the Titolati, and not of the "Cadetti," and only above the puisne Judges, recognising the place assigned to the Chief Justice who has now replaced the President of the Court of Appeal.

* For an English translation of this Instrument, see page 13 of this paper.

p^{mo} chirografo in d^o anno 1654 sono state ordinate diverse altre leggi particolari, unendole, e riformandole secondo il bisogno assieme con d^o chirografo, in virtù del p^{nte}, q^{te} vogliamo che sia da tutti inviolabil^{te} sempre osservato. Ordiniamo che da oggi in avanti in tutti i sudⁱ Consigli Popolari, congregandosi, ci preseda il Veñ n^o Siniscalco, o chi sarà in suo luogo da Noi noñ^{te} godendo le solite e costumate onorevolezze di tutti gl' altri Consulenti, si faccino poi due ale, e votino secondo l' ordine prescritto qui sotto.

Adunati dunque che saranno tutti i Consulenti Vogliamo che p^{ma} di cominciar a votare s' habbia ad intendere la Relat^{te} delli Portieri, o offi ch' haveran hav^{to} l' ordine d' intimarli, per il giorno, ed hora che doveranno intervenire alla convocat^{te}, e se ne faccia nota dal M^{ro} Not^o, perche costì, che siano stati legittim^{te} notificati. Aggiungendo che li Feudatarij, e coloro che sono stati Capⁿⁱ della Verga, Giurati, ed ambasciatori possono intervenire nei Consigli d' Ambedue le Università senza obbligo e necessità di essere citati.

* * * * *

Et finalm^{te} che il p^{nte} Chirografo doppo registrato in Cancell^a si registri pure negli atti dell' Una e dell' Altra Università e si pubblici ogni volta che si congreghi a Consiglio Popolare all' effetto sud^o. Dat. in Palatio die Prima Junii 1708.—Perellos.

NOT. J. S. CAMILLERI,
Archivist.

(SEAL.)

Sub-Enclosure No. 2 in Enclosure No. 4.

(LETTER from the late BARON DE PIRO to the CHIEF SECRETARY to the GOVERNMENT of MALTA, dated Valetta, December 24, 1866.)

"MY DEAR SIR VICTOR, &c."

(For full text, see Enclosure 4 in No. 1 of papers presented by command, C.—2122, August 1878, page 7.)

Sub-Enclosure No. 3 in Enclosure No. 4.

(Letter from the BARON GAUCI BONICI to GOVERNOR SIR HENRY STORKS, dated the 24th of December, 1886.)

"EXCELLENZA ONORABILISSIMA, &c."

(For full text, see same paper, p. 8.)

Sub-Enclosure No. 4 in Enclosure No. 4.

(REPLY from the CHIEF SECRETARY to the late BARON DE PIRO, dated Secretary's Office, December 24.)

"MY DEAR BARON, &c."

(For full text, see same paper, p. 8.)

Sub-Enclosure No. 5 in Enclosure No. 4.

(LETTER of PROTEST from the JUDGES of MALTA relative to their precedence, dated Valletta, March 22, 1877.)

(For text, see same paper, page 20.)

Sub-Enclosure No. 6 in Enclosure No. 4.

(DECREE in ITALIAN of GRAND MASTER DESPUIG, dated the 16th of September 1739, not printed, as an English translation will be found *post* at pp. 12 and 13 of this paper.)

Sub-Enclosure No. 7 in Enclosure No. 4.

(DECREE in ITALIAN of GRAND MASTER DE ROHAN, dated the 17th March 1795, not printed, as an English translation will be found *post* at p. 13 of this paper.)

The RIGHT HON. THE EARL OF DERBY, K.G., to GOVERNOR SIR J. L. SIMMONS, G.C.B.

SIR,

Downing Street, January 20, 1885.

I HAVE had under my consideration the three petitions from the Committee of Privileges of the Maltese Nobility, which were enclosed in your despatch of the 28th of October last.*

2. With regard to the first petition, I request that you will inform the Committee that I regret to state that I do not feel myself justified in reversing the decision arrived at by the Earl of Carnarvon, and confirmed by Sir Michael Hicks-Beach, as to the precedence which should be assigned to the nobles in Malta. I may observe, however, that the place assigned to them next after the judges is the same as that recently assigned in Canada by Her Majesty to the Baron and Baroness de Longueuil, to whose case the attention of the Committee of the Maltese Nobility has, I believe, been directed. I am further unable to advise the Queen to direct that the wife of any person permanently resident in the Island shall have precedence different from that assigned to her husband.

3. With regard to the second petition, I have to request that you will explain to the Committee that I have no power to deprive the local courts of any jurisdiction which they may possess by law, and that Her Majesty's representative must, of course, recognise the decision of the Courts, even if they should conflict with those of the Committee of Privileges of the Maltese Nobility. I may point out that in their protest of the 27th of August 1878, the Committee protested against the then recent extra-judicial action taken on behalf of the Crown in regard to certain titles and surnames because "the sacred rights of property cannot be disposed of except by due course of law."

4. You will also have the goodness to state to the Committee that Her Majesty cannot confer on the Committee of Privileges of the House of Lords any jurisdiction in questions affecting claims to titles to nobility in Malta.

5. With regard to the third petition, you explain that the custom of addressing the nobility as "Most Noble" and "Most Illustrious" does not seem to have survived the practice of writing official letters in Italian. In that language such superlative phrases are used in addressing letters to persons of various degrees, and they have lost their full literal significance by this conventional use, or rather abuse, as is the case with certain phrases and expressions in all languages. The particular phrases in question have, however, not lost their literal significance in English, and I cannot authorise their use in official documents written in the English language, as I consider that they would be not quite appropriate nor in harmony with English modes of expression. The phrase "illustrious" is, I may observe, used in this country to designate Princes of the Blood Royal.

I have to request that you will convey an expression of my views to the Committee of the Nobility in answering their two other petitions.

Sir J. L. Simmons.

I have, &c.,
(Signed) DERBY.

No. 3.

The MARQUIS CASSAR DESAIN to COLONIAL OFFICE.

Marlborough Club, Pall Mall, S.W.,
July 31, 1885.

SIR,

I HAVE the honour to enclose a "Memorandum on the precedence of the Maltese Nobility," from which you will observe that the nobles occupied the highest place in local precedence till one of your predecessors in office deprived them of it, and that they now only ask for the restitution of what, until then, they had enjoyed under every dynasty.

As to the vexed question of the precedence of ladies, I submit that there should be no hesitation whatever in disallowing that of the wives of officials, especially as, up to a very late period, female precedence was totally unknown in Malta, owing to the peculiar constitution of the Order of St. John, who governed the Island till 1798. For 76 years of British rule the noble ladies enjoyed the place of honour, and it ought,

* No. 1.

in common justice, to be restored to them, particularly as Her Majesty the Queen has recently been pleased to command that the wife of a Maltese nobleman, on presentation at Her Majesty's Drawing Room, should be received in all respects as an English lady of noble rank is received. I need hardly remind you that, in England, it is an invariable rule that no office gives rank to the wife of the person holding it, and that even the wives of the great officers of State have no rank or precedence whatever.

The example of other Colonies and British possessions has often been quoted, or rather misquoted, as a precedent; but it seems to have been forgotten that in Colonies like those of Australia, America, and Africa, there was, and is, no native nobility, and certainly no officials before their colonisation. Those Colonies grew out of nothing, and it was but natural that the wives of officials there should be given rank over the wives of men who had no inherited or recognised social dignity. The case of Malta is widely different, for there existed a nobility for centuries before the English took possession of the Island. Malta had its hereditary Senate even before the Roman dominion.

The solemn engagements entered into by Great Britain in 1800 and 1814, should, I think, be borne in mind in considering the present question.

In determining questions of this nature, it is necessary to distinguish carefully between the points which are absolutely settled by law or by established custom, proved by decisions or precedents emanating from a competent authority, and those which are matters of mere opinion and have been allowed only for a limited period. Points of the second class cannot be considered as settled so as to become matter of right, and must be within the discretion of the officers of the Crown. Until decided by the authority of the Crown they remain matters of opinion and not of right.

The precedence allowed to the puisne Judges in Malta must be classed in the latter category, and I firmly and confidently trust that you will not hesitate to have it altered. It is evident that the Judges had no case from the letter which is published in the memorandum.

I hope that you will take an early opportunity of doing justice to the Maltese Nobility, and so finally set at rest, by a satisfactory solution, this long vexed question. The claim of the nobles is so reasonable and so moderate that I cannot see why it should not be granted.

To the Right Hon. the
Secretary of State for the Colonies,
&c. &c. &c.

I have, &c.,
(Signed) CASSAR DESAIN,
Hon. Secretary to the
Committee of Privileges.

Enclosure in No. 3.

MEMORANDUM on the PRECEDENCE of the MALTESE NOBILITY, presented to the Right Hon. the Secretary of State for the Colonies by the Secretary to the Committee of Privileges of the Maltese Nobility.

The Island of Malta has had a nobility from the remotest times, and even such well-known authors as Livy (1) and Cicero (2) have mentioned it in their works.

The nobility, as at present constituted, was founded by Count Roger the Norman, A.D. 1090, who, after expelling the Saracens, classified the population into barons, nobles, knights, citizens, burgesses, and rustics, and conferred several fiefs on the most distinguished amongst his followers (3).

Malta from that date continued to form part of the Sicilian monarchy, and the Aragonese Kings of Sicily augmented the nobility by no less than thirty new creations (4), some of which are now extinct or revived in favour of descendants in the female line. It was only in 1530 that the Emperor Charles V. granted the Island to the Knights of St. John of Jerusalem, after their loss of Rhodes.

The history of the nobility of Malta from 1090 to 1530, 440 years, was that of the nobility of Sicily. Nay, I may go further, and say that even up to 1798, when the Island was conquered by the French, the nobility of Malta and Sicily were identical, as the Grand Master of the Order of St. John held the Island only in fief from the Sovereign of Sicily.

(1) Lib. XXI, c. 52.

(2) Lib. XIII, epist. 52. M. T. Cic. Regi and In Verrem.

(3) Sanfilippo. "Storia di Sicilia," Cap. 11, No. 16.

(4) Abela, "Malta Illustrata."

We have but to refer to the history of the Sicilian nobility, and to its many privileges and prerogatives, to find out the status held by the Maltese nobility in their own Island.

Any ordinary reader of Sicilian history can tell how the nobility were supreme in everything; how they were the only councillors of State; and how they were the paramount arbitrators of their country's destiny.

In Malta, not only the Governorship of the Island, before the advent of the Knights, was almost hereditary in the family of Inguanez, Barons of Bucana and Diar-el-Bniet, and the keepership of the castle of St. Angelo strictly hereditary in that of Nava, Barons of Marsa; but the Governor of Gozo, the Vice-Admiral, the Segreto, or administrator of Government property, the Jurats (Municipal Senators) (5), the commanders of the various regiments, &c., were all noblemen who kept both horse and foot soldiers and several war-galleys at their own expense. They were, moreover, invested with the chief military commands, together with all executive and judicial authority, and had an hereditary right to sit in the Consiglio Popolare or local Parliament (6).

When Grand Master L'Isle Adam took possession of the Island in November 1530, the nobles received him on horse-back at the gates of the city, and he swore to preserve the rights and privileges of the Maltese (7). His successors repeated the same ceremony every time they were elected to the supreme rule of the Order and the Island, and they augmented the ranks of the nobility by several new creations. All the chief offices were in their hands, and no question as to their status was ever raised (8).

In 1739, Grand Master Despuig regulated the precedence of the nobles and other officials among themselves by the following enactment, which I reproduce in the original Italian, accompanied by an English translation:—

TRANSLATION.

“The Master of the Hospital at Jerusalem and of the Holy Sepulchre.

“To remove differences about precedency among the persons who will be appointed to the Juratships of the Universities of Notabile and Valletta, it is our will and pleasure, and we ordain and command, that they shall *all be preceded by the under-mentioned* (che tutti siano preceduti dagl' infrascritti), and that among the latter the precedency be regulated in the following order, namely:—

“First. Any person who was Capitano della Verga of the said city Notabile and of our Island of Malta.

“Second. The Titolato having a title founded on a fief really existing here, though he may not be in possession of it.

“Third. The Titolato who has not a title founded upon a fief really existing in our dominions, on the registration of the title in the Chancery of our Religion, and in the High Court of our Castellania, and the payment, for the respective registrations, of 116 scudi of our money, to be divided in equal shares between the said Chancery and Castellania.

“Fourth. A descendant in the male line from any person who was Capitano della Verga, if he lives on rents of his own property, and if his intermediate ancestors lived also on rents of their own property.

“Fifth. A descendant in the male line from a Titolato, with title founded on a fief really existing here, if he lives on rent of his own property, and if his intermediate ancestors lived also on such rent.

(5) Previously to the advent of the Order, the Capitano di Verga was the Governor of the Island, and when the Grand Masters assumed power he was the Lieutenant-Governor, and thus enjoyed precedence above everyone, including the Balis and Grand Crosses of the Order. When the Grand Master was seated on the throne, he stood on the right hand. He was the Commandant-in-Chief of the Country Districts, and was invested with both criminal and civil jurisdiction, having a Court of Justice of his own, and even power to exile any person from the Island without referring the matter to the Grand Master. He also presided over the local Parliament, or *Consiglio Popolare*. Vide “*Leggi e Costituzioni Prammaticali del Gran Maestro Vilhena*,” published in 1724. Also Abela and Ciantar, “*Malta Illustrata*,” and Desain, “*Genealogia della Famiglia Testaferrata*,” page 122. The Giurati were not only the Municipal Authorities and Senators, but also the Privy Councillors of the Grand Masters.

(6) Abela and Ciantar, “*Malta Illustrata*.” Vasallo, “*Storia di Malta*.”

(7) Bosio, “*Storia dell' Ordine Gerosolimitano*.”

(8) Ciantar, “*Malta Illustrata*,” and Archives of the Order of St. John.

"Sixth. Any person who was first Jurat of Notabile.

"Seventh. Any person who was first Jurat of Valletta.

"Eighth. The Senior Jurat of the University to which he belongs.

"Ninth. Any person who was Judge of Appeal, Criminal Judge, or Civil Judge of the Court of Castellania, or of the Courts Capitanale and Governatoriale.

"Tenth. A Doctor of Law, or a Doctor of Medicine. We declare that, among persons of the same rank, the antiquity of the original title must be attended to, and that a person who was a Jurat, if he be appointed Console di Mare, shall have precedence over other Consoli, and among the latter the precedence shall be regulated by the date of appointment.

"Given at the Palace, the 16th September 1739.

"(Signed) DESPUIG."

And Grand Master de Rohan, in 1795, finally fixed the precedence of the nobles among themselves by the following other decree :—(9)

TRANSLATION.

"The Master of the Hospital at Jerusalem, of the Holy Sepulchre, and of the Order of St. Anthony of Vienna.

"It being a principle universally acknowledged that the greater lustre of nobility principally depends on its greater antiquity, nothing is more just and reasonable than that the older noble should have precedence over the more recent. We have, therefore, determined to ordain that, in regulating the precedence among the nobles of this our dominion, whether first-born or cadets indiscriminately, regard should only be had to the greater or less antiquity of the title by which their family was ennobled, whether that title had been granted by ourselves or our predecessors, or by foreign princes; provided, however, it was registered in our Chancery, and in the High Court of the Castellania. In cases, however, of grants bearing the same date, the person possessing two or more titles shall have precedence over another who has less titles, according to the rule established by the magisterial decree of our lamented predecessor, Grand Master Despuig, of the 16th September 1739, which, in any part not inconsistent with our present enactment, we intend hereby fully to confirm.

"Given at the Palace, the 17th March 1795.

"(Signed) ROHAN."

When England took possession of the Island, not by conquest, but at the special request of the Maltese, who were the conquerors of the French invaders (10), both Sir Alexander Ball and Commissioner Cameron, in the name of King George III. and his successors, promised that the "laws, rights, privileges, and religion" of the Maltese should be maintained (11).

The British Government is, therefore, bound by special engagements, as well as by international law, not to alter, but to preserve, the precedence of the nobles.

In fact, there never was a question as to their rank and position till 1876. They invariably were granted precedence over all the officials of the Island, and most of the principal situations under Government were occupied by nobles without emolument. When Sir Thomas Maitland abolished the Capitano di Verga and the Jurats, he established by proclamation of the 5th June 1815, in lieu thereof, several Lord-Lieutenancies, to be entirely recruited from the nobility (12), and, when the Order of St. Michael and St. George was founded by the King as a reward for distinguished services in the Ionian Islands and Malta, several Maltese noblemen were decorated

(9) The Maltese nobility is limited to 28, and has the peculiar feature of not being able to increase, as there have been no creations since 1796. On the contrary, very often two titles are merged into one. *Vide* list in Appendix No. 2.

(10) Miège, "*Histoire de Malte*." The following words are inscribed under the Royal Arms in the principal square of Valletta :—

MAGNE ET INVICTÆ BRITANNIÆ
MELITENSIS AMOR ET EUROPE VOX
HAS INSULAS CONFIRMAT
A.D. MDCCCXIV.

(11) *Vide* Sir Alex. J. Ball's Despatch to Mr. Wyndham, then Secretary of State, of the 28th February 1807; Mr. Cameron's proclamation of July 15, 1801; and other documents quoted in Appendix No. 3.

with the Cross of the Order. And, as the Order originated in Malta and the Ionian Islands, a certain number of Maltese nobles are always made members of the same.

On all official occasions, such as investitures of the said Order, funerals of Governors, &c., the nobles were always allotted their proper place, not excluding the Drawing-room held by Queen Adelaide on the occasion of her visit to the Island in 1838. The nobles were on that occasion ushered before any of the Judges (13).

It was only on the 23rd March 1877 that the Maltese Puisne Judges, without assigning any reason or quoting any precedent, claimed precedence through the following characteristic letter:—

Valletta, 23rd March 1877.

(For the text of the letter here quoted in the pamphlet, *see* p. 20 of C.—2122 Parliamentary paper, presented by command, August 1878.)

Strangely enough, their claim was allowed by Lord Carnarvon, then Secretary of State for the Colonies, in his despatch of the 12th October 1877, by ruling that the nobles "are to rank next after Her Majesty's Puisne Judges in Malta, and before the Chamber of Commerce."

He even went further, and in violation of the principle laid down in England and elsewhere, that "official rank does *not* extend to the wife," established "that in all cases the precedence of ladies will follow that of their husbands."

This was a distinct breach of the existing laws and privileges which England was bound to preserve, and particularly of the *prammatica* of Grand Master Despuig quoted above.

The nobles have protested continuously against this violation of their rights and privileges, and it was only the other day that a debate took place in the House of Lords on the subject, which will be found in the Appendix to this Memorandum.

Since then, a Maltese nobleman, the Marquis Cassar Desain, and his wife were presented at the Levée of the 11th and the Drawing-room of the 18th May 1885, and they were not only received as such, but the Queen, whose royal pleasure was specially signified in the matter, was graciously pleased to command that the Marchioness should be received in the fashion of an English Peeress (14).

It seems to me now the following questions raise themselves:—

1. Why should not the Maltese nobles be reinstated forthwith to their former place of precedence,—*videlicet*, before the Puisne Judges?
2. Why should official rank in Malta extend to the wives, and what reasons are there for not repealing Lord Carnarvon's despatch?
3. And why, if the wife of a Maltese noble is received in the English Court just as if she had been a peeress, on going back to Malta she should not hold that very same rank that an English Peeress holds when in Malta? (15).

(13) *Vide* Malta Government Gazette, No. 1463, 19th December 1838, page 530, and Lord Sidmouth's speech in the Appendix. The order of precedence observed on that occasion was the following:—(1), Members of Council; (2), a Member of H.M.'s Privy Council; (3), the Nobility; (4), the Judges; (5), Heads of Departments not Members of Council; (6), the Queen's Counsel; (7), Magistrates; (8), Dean and Chapter of the Cathedral; (9), Clergy, secular and regular; (10), Lawyers and Physicians; (11), Foreign Consuls; (12), Minor Officials.

(14)

Lord Chamberlain's Office,
St. James's Palace, S.W.,
May 11, 1885.

SIR,

THE Lord Chamberlain has taken the Queen's pleasure as to the ceremonial to be observed at the presentation of the Marquise Cassar Desain at the Drawing-room, and has been commanded to inform you that the Marquise will be permitted the privilege of kissing the Queen (instead of kissing Her Majesty's hand), according to the custom of English Peeresses.

The Marquis Cassar Desain.

I am, &c.,
(Signed) S. PONSONBY FANE.

(15) The Dowager Countess of Donoughmore, in the winter of 1884-5, was given precedence over all the wives of officials, and when Lady Hornby, wife of the Vice-Admiral Commanding-in-Chief of the Mediterranean Station, claimed precedence over Lady Louisa Feilding, daughter of the late Marquis of Bath, and over Lady Margaret Crichton (now Crichton Maitland), daughter of the Earl of Radnor, and the question was referred to the Home Authorities, it was ruled that Lady Hornby, though the wife of the Vice-Admiral of the Station, could not claim precedence over the daughters of English Peers. Now, if the daughters of peers rank in Malta above all the wives of officials, why should not the wife of a Maltese nobleman have the same privilege? Is it because the one is English and the other Maltese?

Addendum to note 15.—Another anomaly brought about by the despatch of the 12th October 1877 is, that the *wives* of the *elected* members of Council take rank *before* the wives of the nobles; or, to illustrate it by a practical example, it is the same as if the wife of an M.P. had precedence over a Scotch or Irish Peeress.

