

Memo for the Cabinet
by the Hon. Minister of Justice

(Mortmain Law-Restoration of property to the "Good Shepherd" Institute of Balzan, "St Joseph's Institute" of Hamrun, "Fra Diego" Institute of Hamrun, "Adelaide Cini" Institute of Hamrun and "Nazzarene" Institute of Zejtun).

1. In terms of the Mortmain Law any church or other pious or religious institution acquiring lands or tenements situate in the these Islands is obliged to sell or to dispose of such property, definitely and absolutely, within one year of the acquisition. Failure of compliance with such obligation involves ipso facto forfeiture of the property to the Government.

2. Section 9 of the said law, however, mitigates the strict terms above referred to by providing that, where non-compliance with the obligation to sell or dispose within one year of acquisition was unintentional and no undue delay occurs in making an application for the restoration of the property forfeited by reason of such non-compliance, it shall be lawful for the Prime Minister, on the recommendation by resolution of the House of Representatives, to order the restoration of the property to the Church or Institution, in which case the obligation to sell shall run from the date of the restoration.

3. The late Carmelo Sammut, who died on the 26th May, 1938, by virtue of a secret will of the 15th April 1936 published by the Honourable Notary Doctor Giorgio Borg Olivier on the 8th June, 1938, bequeathed by title of legacy to the five Institutes mentioned above the immovable property listed and described in the attached Draft Resolution for submission to the House of Representatives.

4. The usufruct of the said immovable property was by the said Carmelo Sammut bequeathed for the period of her lifetime to Mrs. Mary wife of Alfredo

Curai, who is still alive, with the exemption from making an inventory and from giving security.

5. The Reverend Father Maurice Grech, in his capacity of Administrator of the Diocesan Orphanages has, on the 21st October, 1964, addressed a petition to the Hon. the Prime Minister in which he stated that the Institutes above referred to had ignored that the said immovable property had been bequeathed to them because the said usufructuary had never informed them about the bequest and, consequently, the said property was not disposed of within one year of acquisition, namely before the 26th May, 1939, as required by the Mortmain Law. The Reverend Grech has, therefore, petitioned the Hon. the Prime Minister in order that the "nuda proprietas" of the immovable listed and described on the attached Draft Resolution be restored to the said Charitable Institutions and that they be dispensed from selling the said immovables until one year from the death of the usufructuary Mrs. Mary Curai.

6. From the above it emerges that the failure on the part of the said Institutes to sell or dispose of the said property within the legal period was unintentional and also that no undue delay occurred in the making of the requisite application for restoration.

7. According to section 9 of the Mortmain Law, referred to in paragraph 2 of this Memorandum, restoration in the terms applied for by the Revd. Grech, namely in such a way as to allow the property in question to be retained by the said Institutes until one year after the death of the usufructuary, cannot be made, but the property may be restored either as absolutely exempt from the obligation to sell or without such exemption, in which latter case the restored property must be sold within one year of restoration.

8. Hon. Ministers are, therefore, requested to state whether they agree that the attached Resolution be moved before the House of Representatives for the

purpose of the restoration of the property therein listed and described with the implied obligation to sell within one year of restoration.

10th May, 1965.

Abbozz ta' Risoluzzjoni biex jigi
pressaq quddiem il-Kamra tad-Deputati

Billi bis-sahha ta' testament sigriet tal-15 ta' April 1936 miftuh u ippublikat mill-Onorevoli Nutar Dottor Giorgio Borg Olivier fit-8 ta' Gunju, 1938, Carmelo Samut halla b-titolu ta' legat lill-Istitut Buon Pastore ta' Hal-Balzan, lill-Istitut San Gusepp vulgo Bonnici tal-Hamrun, lill-Istitut San Francesco vulgo Fra Diego tal-Hamru, lill-Istitut Adelaide Cini tal-Hamrun u lill-Istitut Gesu' Nazzareno taz-Zejtun, il-propjeta immobilari hawn taht deskritta, bhala soggetta pero' ghall-usufrutt matul hajjitha ta' Mary mart Alfredo Curai, jififieri:-

a) L-utili domingu perpetwu tal-fondi li qghedin ir-Rabat tal-Mdina, cioe' id-dar numru disa ta' Saint Augustine Avenue, u d-dar zghira retrostanta, fi Sqag numru wiehed ta' Strada Carri, bhala soggetta ghač-čens perpetwu ta' lira u tnax il-xelin fis-sena;

b) L-utili domingu perpetwu tad-dar tal-vileggjatura numri 19 u 20 Strada Torre illum numri 21 u 22 Tower Street, San Pawl il-Bahar, soggetta ghač-čens anwu perpetwu ta' sitt liri;

c) L-utili domingu perpetwu tal-lok ta' djar b-terran tahtu f'San Pawl il-Bahar, Strada San Publio, numri 11 u 12, illum numri 17 u 16 Saint Publius Street, soggett ghall-annwu perpetwu čens ta' sittax il-xelin;

d) Id-dirgħt domingu perpetwu, proprjeta u annwu čens perpetwu komplessiv ta' 324.11.8., gravanti li stabili cretti fuq l-ghalqa imsejha "Is-Salib ta' Deima" f'Hal-Barzien, Strada Santa Maria u Via Kospikwa u Zabbar, fuq liema art illum jinsabu nibnija il-fondi numri 1 sa 19 inkusivament u suččessivament, Zabbar Road, Tarxien, u min-numri 89 sa 95 inkusivament u suččessivament u l-fond numru 95A, Saint Mary Street, Tarxien, liema ghalqa kienet għet mghotija in enfiteusi perpetwa lil persuni, bič-

onus u persezz tal-kuntratti ndikati taht l-artiklu 5 tat-testment segriet fuq imsemmi;

Billi l-imsemmi Carmelo jansut wiet fis-26 ta' Mejju, 1938, u l-imsemmijin Istituti minghajr ma riedu naqas li jseggwixxu dwar il-propjeta fuq imsemmija d-disposizzjoni tal-Ligi dwar l-Manumorta (Kapitlu 2), izda sar rikors minghajr dewmien ghar-radd lura ta' lis-stess propjeta konfiskata minhabba dan in-nuqqas ta' tharis tad-disposizzjonijiet fuq imsemmija;

Billi r-Risoluzzjoni li gejja hija mehtiega biex taghti sehha ghad-disposizzjonijiet ta' l-artiklu 9 ta' l-imsemmija Ligi dwar il-Manumorta, il-kondizzjonijiet l-ohra preordinati ghaliha gew imwettqa;

Issa ghalhekk dina l-Kamra tad-Deputati skond u ghal-finijiet tal-artiklu 9 tal-Ligi dwar il-Manumorta (Kapitlu 2) tirrizolvi li tirrakkomanda u qiegħda b'din tirrakkomanda lill-Prim Ministru biex jgħamel ordni ta' radd lura tal-propjeta immobiljari hawn fuq deskritta, kif soggetta għall-usufrutt fuq imsemmi, lill-Istitut tal-Buon Pastore ta' Mal-Balzan, lill-Istitut ta' San Gusepp vulgo Bonnici tal-Hamru, lill-Istitut San Francesco vulgo Fra Diego tal-Hamrun, lill-Istitut Adelaide Cini tal-Hamrun u l-Istitut Gesu' Nazzareno teg-Lojtun.