

Memo for the Cabinet
by the Hon. Minister of Justice

(Mortmain Law - Restoration of property
to the Capuchin Friars)

1. In terms of the Mortmain Law any church or other pious or religious institution acquiring lands or tenements situate in 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 Governor, on the recommendation by resolution of the Legislative Assembly, 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 Maltese Province of the Capuchin Friars Minor, by virtue of a deed in the records of Notary Dr George Cassar of the 15th December, 1959, acquired the following property:-

(a) tenement No.9, St Theresa Lane, Cospicua, now demolished and acquired by Government under the Land Acquisition Ordinance by title of Possession and Use;

(b) one-seventh undivided part of tenement No.27, St Sophia Street, Cospicua, now demolished and acquired by Government as above;

(c) the field situate at Cospicua, having access through Blandun Alley, of the approximate capacity of 4 mondelli, bounded on the South by property of Emanuel Galea, on the East and North by Admiralty property;

(d) the utile dominium in perpetuity of one undivided moiety of tenement No.13, formerly No.32, Carmel Street, Pawla.

4. The Father Provincial of the Capuchin Friars, just three days before the expiration of the period of one year laid down by the law for sale or disposal of the property acquired, explained that it had been impossible for him to comply with the law within the prescribed period and he, consequently, made an application the terms whereof imply a request for restoration of the property above referred to.

5. From the above, it emerges that the Capuchin Friars' failure 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.

6. Hon. Ministers are, therefore, requested to state whether they agree that the attached Resolution be moved before the Legislative Assembly for the purpose of the restoration of the above property to the Maltese Province of the Capuchin Friars Minor.

25th January, 1963.

Draft Resolution for submission to the
Legislative Assembly

Whereas in virtue of a public deed in the records of Notary Dr George Cassar of the 15th December, 1959, the Maltese Province of the Capuchin Friars Minor acquired the immovables specified in the Schedule hereto;

Whereas the said Province of the Capuchin Friars Minor unintentionally failed to comply in respect of the immovables aforesaid with the provisions of the Mortmain Law (Chapter 2), but application was made without undue delay for the restoration of the property forfeited by reason of such failure to comply with the aforesaid provisions;

Whereas the following Resolution is requisite to give effect to the provisions of section 9 of the said Mortmain Law, the other conditions precedent whereof have been fulfilled;

Now therefore this Legislative Assembly in terms and for the purposes of section 9 of the Mortmain Law (Chapter 2) resolves to recommend and hereby recommends to the Governor to make an order of restoration of the immovables specified in the Schedule hereto to the Maltese Province of the Capuchin Friars Minor.

Schedule annexed to the Resolution concerning
restoration of immovables to the Maltese
Province of the Capuchin Friars Minor

1. Tenement No.9, St Theresa Lane, Kospikua, now demolished and acquired by Government under the Land Acquisition (Public Purposes) Ordinance by title of Possession and Use.
2. One seventh undivided part of tenement No.27, St. Sophia Street, Kospikua, now demolished and acquired by Government under the Land Acquisition (Public Purposes) Ordinance by title of Possession and Use.
3. The field situate at Kospikua, having access through Blandun Alley, of the approximate capacity of four mondelli, bounded on the South by property of Emanuel Galea, on the East and North by Admiralty property.
4. The utile dominium in perpetuity of one undivided moiety of tenement No.13, formerly No.32, Carmel Street, Pawla.