

'JEW B'XEJN, JEW XEJN'



In the second part of this feature Gerald Fenech takes a close look at the Church-State agreement of 1991 in which the property held by the Church which had fallen into its hands by prescription and which was not used directly for ecclesiastical purposes was transferred to the state

THE Church Schools issue took a slight back burner in the late 1980's just after the 1985 agreement between the Holy See and the Maltese state. However this does not mean that the issue of property went away overnight, as the burning question still remained. Was the Church entitled to keep receiving the substan-

tial income from the property and land which fell into its possession by prescription? On the other hand, could this income be used to fund Church school operations without having to rely on tuition fees and/or donations from wealthy individuals? These were thorny issues which needed to be ironed out but which were put aside in the wake of the highly charged political atmosphere which preceded the 1987 General Election which was won by the Nationalist Party.

Church-State relations were however put on a sounder footing immediately after the election result with the government dropping the appeal instigated by the Labour government in 1985 where the original judgement had declared the Church property devolution act as null and void. In the opening of Parliament which took place on 9th July 1987, the Speech from the Throne had indicated that a solution had to be found on the Church schools and property issue. After a commission was appointed to look into the various issues an amicable settlement was reached and an agreement was signed between the Vatican and the Maltese government on 28 November 1991.

THE 1991 COMPACT

After Eddie Fenech Adami's election as Prime Minister in 1987, the Church-State agreement was again placed on the agenda. Intense negotiations were entered into and after a four year period, the 1991 Church-State agreement was hammered out, which amongst others provided for the following:

Church schools are to provide fee-free tuition. This was to be made possible as teaching and non-teaching staff salaries are provided for jointly by Church and State, while other expenses are to be met by Church collections and other forms of fund raising activities.

As to the teaching and non-teaching staff salaries, the Church bound herself to use part of her income accruing from the transfer of her property to the State, that is about half a million Maltese liri (Lm500,000 or €1,165,000) annually. The Church agreed to also contribute through the services of her religious and priests in these schools who would receive a much-reduced salary from that which they are entitled to and which they would have earned as lay employees.

Along with such contributions, the Church would now also be responsible for the maintenance of her schools. The Church-State Agreement stated that the Church is to collect the necessary funds to be able to meet these financial burdens. These include free donations from parents and others; an annual collection in the Archdiocese of Malta and the Diocese of Gozo; and any other source of income. The sum of Lm28,067,000 was paid by government and out of this, two sums of Lm4,865,200 and Lm2,351,412 were put into a special fund for the administration of Church Schools.

Almost twenty years ago, the one time payment of around Lm28 million (which was passed to the Church through the form of government bonds and which represented 95% of the total payment agreement) might have seemed a lot of money for all the property which was eventually devolved over to government. However with the explosion of property prices over the past few years, it is quite clear that the Church might have got several millions more for its property if it perhaps held out a bit more. The substantial costs for the payment of teacher salaries, which would now be borne partly by the government, should also however be taken into the equation.

In the view of former editor of the now defunct newspaper 'Il-Hajja' and former Public Relations Officer of the Curia Charles Buttigieg the Church was principally motivated by the desire to promote the common good of society.

"The 1991 Church-State Agree-

ment on the transfer to the State of the immovable ecclesiastical property that was not required for pastoral purposes should be considered in the light of the principles declared by the Second Ecumenical Vatican Council and enforced by the Code of Canon Law concerning the use of temporal goods belonging to ecclesiastical entities; the particular circumstances that characterised the pastoral decisions of the Church in Malta; the needs resulting from the commitment to evangelisation and charity, also with reference to the criteria approved in 1973 for the administrative reform in the Ecclesiastical Province of Malta; the exigencies of the common good of Maltese society, above all with regard to major social expectations," Buttigieg explains.

TRANSFER OF PROPERTY

The first article of the agreement, which is deemed to be the most important, stated clearly that "all the immovable property belonging to ecclesiastical entities in Malta and Gozo is transferred to the State," with various exceptions.

In the second article it is explicitly stated that the government shall use the property transferred to it by virtue of the present agreement to promote the safeguarding of the environment and the development of agriculture, and to meet the country's most pressing social requirements, such as social housing and public utilities, as well as for humanitarian, educational and cultural purposes. It also called for a definite exclusion of "the aims and activities



of political parties and of entities directly or indirectly connected with them" which were not, however, to be considered among such purposes in the interpretation of this article.

Additionally, it is stated that this same property "shall not be transferred, directly or indirectly, to persons or entities whose nature, aims and activities are not in conformity with the moral teachings of the Church."

Interestingly, Article 11 states that "in the drawing up of plans for an area designated for residential housing, the Government, after reaching agreement with the diocesan Bishop concerned, shall allocate an adequate and suitable area for the Church's pastoral allocate services" (such as, for example, a church, rectory, religious house, buildings and open spaces for religious, catechetical, charitable, socio-cultural activities). In a way, the Church was seeing to it that if new communities were established on what had been its land, the spirit of the Catholic faith would continue to be propagated. This was seen in practice in the considerable expansion of Pembroke, Swatar and to a lesser extent Mtarfa, although the Church had land there too but not on the scale of the other two localities which practically grew out of nothing.

THE 'LOT' SYSTEM - A JUST AND EQUITABLE SOLUTION?

Faced with a radical rethink on how to admit pupils to Church Schools, the ecclesiastical authorities were faced with a quandary. Since they would now have to ad-

mit students at least theoretically for free, the authorities would now have to open the floodgates to all those who wished their children to be educated in Church schools so a system to control the influx had to be found. After some thought, the 'lot' system was introduced whereby the Curia would publish the list of vacancies available in all of its schools and a system of lots would be used to determine which of those children would be the lucky ones to garner a place.

Exceptions would be made for those coming from Church homes, underprivileged backgrounds, the disabled and also those who had

siblings who already attended the schools. Whilst this may seem to be the best solution, some accuse it of not separating the wheat from the chaff and thus bringing up the issue of class separation yet again. Some may argue that the prestige and reputation which used to form part of these schools has disappeared ever since anyone can actually land a place at a Church school.

Next week: The mushrooming of private independent schools and the expansion of Church schools in Malta

TIMELINE

9 May 1987: The Nationalist Party wins the General Election with 51% of the vote. Eddie Fenech Adami becomes Prime Minister.

15 May 1987: Government withdraws appeal against Constitutional Court's judgment declaring Church Property Devolution Act null and void.

9 July 1987: Speech from the Throne mentions the Church-State dispute on Church schools and the need to find a just and equitable solution in the not too distant future.

January 1988: Commission on Church School reform founded. Education Act of 1988 passed in Parliament. This act puts all schools, be it state, Church and independent on equal footing.

26 September 1988: Faculty of Theology re-incorporated into the University of Malta.

September 1989: 'Lot' system in Church Schools begins. System prevails to this day.

28 November 1991: Agreement between government and Holy See signed for the devolution of Church property to passed on to the state. Government passes bonds worth Lm28,067,000 to the Church representing 95% of the value of property in question. A special fund for the administration of Church Schools is created with an initial deposit of Lm4,865,200 and a further Lm2,351,412 from other sources.

1992: Independent private schools begin proliferating on a larger scale with San Anton and St Martin's typical examples.

18 February 1993: Change in the documentation for the ratification of the Church-State agreement signed by President Censu Tabone and Pope John Paul II.

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