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British Power in the Mediterranean: Sea Protests and Notarial Practice in Nineteenth-century Malta

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ABSTRACT

This article investigates British presence in nineteenth-century Malta through the examination of 'sea protests': notarised documents that were produced when a ship reached port, which protected ship masters from liability for damages to ship or cargo that occurred at sea. These documents reveal some of the workings of the British Empire showing the complexity of the relationships between the Maltese and British, and the hurdles faced by the British in implementing colonial rule. This article focuses on what sea protests reveal about how the British organised legal frameworks in their colonies. It demonstrates that in Malta the British moulded local legal systems with English Common Law to suit their own ends. It further argues that the British lacked a clear vision for colonial rule in Malta beyond prioritising their military and commercial concerns, and adopted pragmatic solutions to complex issues of law, creating in the process a highly disordered legal system that was open to challenge and dispute.

KEYWORDS

Malta; British Empire; sea protests; general average; civil law; English law

Introduction

Laying at the centre of the Mediterranean, the small island archipelago of Malta became an essential naval base for the British Empire during the nineteenth century. The British had gained power of Malta in 1800, using it to further the commercial, diplomatic, and political activities of the growing British Empire.[1] Like Gibraltar, Cyprus, Hong Kong, and Singapore, Malta was one of the British commercial and military bases that 'encircled the world': a commercial entrepôt that facilitated the economic viability of Britain's global exchanges. Given the long history of Malta as a commercial entrepôt, and the strength of its civil law tradition, analysis of British activities in Malta can shed new light on the variety of legal frameworks underpinning the nineteenth-century British Empire. This article investigates 'sea protests', documents

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related to General Average (GA): a legal instrument, built on classical principles, that supported maritime trade by redistributing extraordinary costs across all parties engaged in maritime ventures.[2] It will focus on documentation ranging from 1812 to 1878, found in the papers of the British notaries William Stevens Senior (practising 1806–1854) and Junior (1831–1878), which are preserved in the Notarial Archives in Valletta.[3] Sea protests – the ship masters' original report on losses that occurred at sea and which were deposited on arrival at port – were an essential element of GA legal procedure, and mirrored the continental *testimoniali*.[4] These documents provide a wide range of information on maritime trade and its risks, and will be contextualised here through the colonial correspondence preserved in The National Archives in London and associated press materials from newspapers published in England and Malta. Against the background of the British commercial presence in nineteenth-century Malta, this article explores the clash of two legal systems: English Common Law and Maltese Civil Law. By revealing how the British Empire framed and constructed its own legal order in Malta, this article contributes to Lauren Benton argument that, in order to accommodate pre-existing local regimes, the British unwillingly produced a legal system of 'great disorder' in their imperial possessions.[5] The British rulers desire for order was objectively limited in Malta by the need to strategically balance their multiple and often conflicting interests: on the one hand their political and economic working relationships with the Maltese, and on the other their support for the commercial relationships of English traders and lawyers active there.

This article aims at providing an overview of the context for how sea protests can be used to elucidate highly complex political and commercial issues. It also aims at highlighting the value of sea protests as historical evidence, as they have, to date, been largely overlooked by historians. However, Sea protests can provide important insights into the workings of the British Empire and nineteenth-century global trade, the goods that were exchanged and their value, the challenges of maritime trade and the climatic conditions, the life and health of people at sea, and the operations of the global insurance system.[6]

This article explores legal matters and disputes in the Maltese context, examining the complexities of the clash of English and Maltese legal systems, and how they played out in respect to sea protest documentation. As a whole, this analysis will show that the examination of the legal underpinning of British rule in Malta allow us a better understanding of the wider British attitudes to the exercise of law in its colonial dominions, and the extent to which considerations of legal practice in the British Empire were governed by a wish to maintain local arrangements to avoid destabilisation of power.[7]

Malta, British Rule, and the Sea Protests

It is well established that the Maltese archipelago of Malta, Gozo, and Comino played a strategic role in the early nineteenth-century British Empire, which at

this time has been described as 'a rag-bag of territorial bits and pieces'; in other words, a collection of territories that was not governed in a systematic or organised way.[8] The early British Empire was, indeed, one that existed more in the minds of the British than strictly on the map.[9] While the British acquisition of Malta from Napoleon in 1800, and the subsequent recognition of Malta as a British colony following the Treaty of Paris in 1814, was seen as a great addition for the British, for the Maltese the situation was a lot more complex. Malta had experienced centuries of foreign rule. In the medieval period, it was part of the Kingdom of Sicily and was repeatedly bought and resold by many feudal lords. In 1428, it was redeemed from an Aragonese feudal lord and began to enjoy some form of autonomous rule, although as part of the Aragonese Crown. This situation continued until 1530 when the Knights of St John assumed power after the archipelago was donated to them as a free fief by the Emperor Charles V. The Knights Hospitaller of St John would rule the island until 1798, when Napoleon took control of the island on his way to Egypt. In 1800 a joint effort by British and Maltese forces ousted the French, ushering in more than a hundred years of British occupation.

At the start of British occupation, the Maltese contested their position within Britain's Empire. The local elite argued that the British had not occupied the island, but that it had been voluntarily ceded to oust the French occupiers. At least until the first governor was appointed in 1813, there was some debate regarding Malta's legal colonial status. Those who stated that Malta had been 'conquered' argued that British forces had been instrumental in defeating the French, whereas those who took a 'cession' stance claimed that cooperation with the Maltese had been crucial. Ultimately the Maltese accepted British rule as a temporary solution, being given assurances by the British that they would be allowed to maintain their laws and institutions.[10]

Initially it was unclear how the British intended to rule the island in practice. There was often a distinction between agreed principles and operational realities. For example, although the British had agreed to honour existing laws and customs when assuming power of Malta, from 1813 they incrementally began to promulgate new laws and weaken municipal autonomy.[11] Nevertheless, sections of the population benefited from collaboration, especially thanks to the increase in trade, which brought employment and new opportunities for social advancement. Despite this, the Maltese people, perhaps due to their historical experience of enduring shifting ruling powers, clung to their traditional values and protected their customs, conceding to their foreign rulers, but by never fully yielding.[12] The local elites, in particular, opposed British rule owing to significant mistrust and because the British denied them any role in the country's government. As a consequence, the local elites sheltered in their Italianate culture and country houses, and kept alive a parallel political system with its own identity simmering under the surface, waiting to reassert

itself.[13] Malta thus became a place torn – with traditions pitted against innovations and change – while the new rulers went about turning the island into a hub of international encounters, placing it at the centre of global trading networks.

This article examines the legal dynamics of the British Empire through the legal frameworks in operation in nineteenth-century Malta. For its source base it focuses on evidence from Maltese sea protest documentation produced by British notaries. This evidence offers an in-depth portrait of British trade in a crucial transitional time in the evolution of imperial power in Malta. Sea protests exemplify the workings of the empire in the island by showing the commercial relationship that existed between the locals and the British, and the hurdles faced by the colonial establishment in effectively implementing their rule.

Sea protests were original descriptive documents prepared by ship masters and deposited when a ship reached port. Bu detailing problems, and accidents that had occurred at sea, they protected masters from liability for damages to ship or cargo. Their most common use was as the basis to calculate 'averages'.[14] The term *average*, commonly known as 'arithmetic mean', originated from its maritime usage where it referred to damage or loss of a ship or cargo at sea. 'General average' (GA) was distinguished from 'particular average', the former were voluntary, while the latter was involuntary. GA was understood as a calculated sacrifice – like the jettison of part of the cargo, damage to hull and rigging, or even ransom payments – which were made for the common benefit in order to avoid major damage or loss of the ship or cargo. Ultimately, the whole process entailed trusting the master's depositions of accounting for events that occurred whilst at sea. This declaration was made by the master in the first port of refuge after the event. It was drawn up in writing, attested before a local authority – in some places a specific court of justice, in others a consul or a notary public – and it had to be legally valid in the home port of the ship where the actual payments were processed.[15] By the nineteenth century, the statement was usually based on the log book. If the log book was lost, the masters' account was declared on oath; in both cases the report was further corroborated by witnesses – crew or passengers – and cross-examined with experts' reports on the actual damages.[16] The master essentially controlled the information provided, and it was in his best interest to prove that he was not culpable. To avoid any abuse, the practice of GA also saw the parallel growing use of insurance premiums, paid by the owners and shippers to the underwriters, to address the unpredictable risks of maritime ventures and avoid fraudulent claims. Indeed, since its creation in the fourteenth centuries, insurance also played an increasingly important role in maritime risk management, but it was (and is) a different instrument which provides a wider protection. Above all else, the underwriters needed to be convinced that losses were due to 'acts of God' or perils of the sea, rather than human error or negligence.[17] Sea protests

provided information not just on the 'event', but also on the nationality of the vessel, master, crew, nature and value of the cargo, as well as its ports of origin and route followed. The protests – in relation to the incidents described – also included details about weather conditions, sometimes being so precise as to feature daily reports on the direction of winds. Reports on the mental and physical health of the master or crew members were also commonly featured.[18]

As a legal instrument, sea protests, or *testimoniali,* were regularly used across Europe from the medieval period. Between states there were, however, important procedural differences in the way protests were written and legalised. One of the first codifications of practice concerning the recording of sea protests was Justinian's *Digest*.[19] Clear definitions of GA only appeared in the early modern period, like in the *Tractatus de Avariis* of the Zeelander Quentin Weytsen published in 1617.[20] From the Middle Ages, rules about GA were incorporated into the municipal laws of port towns in many states, but no uniform international rules were established in relation to the matter until 1906, when the York-Antwerp rules were first introduced to try and uniform proceedings.

In the early eighteenth century, English maritime and commercial laws began to diverge from the continental, to enable them to be adapted to England's distinct mercantile operations.[21] Despite many similarities with systems in place on the European continent, due their similar origin from Roman and Germanic law, English definitions of average differed slightly from the continental, in defining it as 'an act when any extraordinary sacrifice or expenditure is intentionally and reasonably made or incurred for the common safety for the purpose of preserving from peril the property involved in a common maritime adventure'.[22] Average in England, then, was defined as either a contribution to a general loss or a specific partial loss. This definition was intended to offset the dangers of fraud being committed by the master, or the crew against the owner or master of a ship.[23] It was assumed that if there was a loss at sea, and this was not imputable to the master, freight on the goods saved must be paid in proportion by the person responsible for ship or cargo in the part of the voyage where losses had been experienced. Ship masters were therefore not liable for damage caused at sea by events out of their control, but they were liable for damage caused for their own fault or the fault of their servants.

English, Continental, and Civil Maltese laws all agreed that losses sustained at sea to be apportioned through GA had to be justified as voluntary and necessary for the safety of the common venture. However, there was divergence regarding the meaning of 'common benefit', as well as the master's liability, between these legal systems.[24] According to English law, the common benefit was the preservation of the property transported. Consequently, when the property was safe in a port of refuge, GA services would no longer be necessary. In Maltese Civil Law, and across most of Europe, GA also covered the expenses

for continuing the journey, seen as a common benefit as much as saving cargo and ship.[25] Another difference between the two legal systems concerned the master's liability.[26] The Maltese commercial code stated that sea protests should find in favour of masters and crew, until contrary evidence was provided. English law held an opposing standpoint, stating that masters and their crew were responsible for any loss until evidence proved otherwise.[27] A further issue was the role given to the notary public, who played a significantly different role within the two legal systems. In the Maltese civil system, the notary was a public officer authenticating legal public transactions who could also act as a lawyer. Within the English Common Law system, the notary was a legal professional with a very marginal – and not well defined – role within the legal system.[28]

In Malta the British thus faced a conflicting set of laws and rules on maritime procedures which had the potential to hinder commercial dealings. Debate lasted throughout the nineteenth century about which system should be adopted. As General Averages were generally covered by insurance by this period, agents from Lloyds London ended up being involved in these discussions. In the dispatches of the British Colonial Office, a lively debate over sea protests spanned thirty years, from the 1850s to the 1880s, involving British notaries and colonial governors, Crown advocates, and Lloyds' insurers. Yet, the issue of how to draft these deeds had existed from the beginning of British rule, due to the practice being different in English and Maltese legislations. These notarial deeds, and the associated debate, are emblematic of the confused position of Malta within the British Empire, but also of the difficulties in finding common ground between local population and imperial power due to cultural barriers and shared mistrust. The question of protests highlight aspects of the (mis)workings of colonialism, as this debate continued beyond the nineteenth century.[29]

Analysis of the debate concerning the sea protests in Malta uncovers a pragmatic attitude on the part of the British that aimed to protect their interests and impose a system that better served their commercial needs. Arguably the case of Malta fits well within the idea of a British 'informal empire', or an empire 'on the cheap', where there was no central and systematic planning in setting up governance mechanisms and institutions.[30] Due to the limited resources at hand, and perhaps unwillingness to engage in the colonial reforms suggested by the ideologies they officially espoused (to enable commerce, 'civilisation', and Christianity to advance together), the British ruled their possessions through the local institutions with which their subjects were already familiar, although they ultimately often deferred to British procedures and laws.[31] In Malta, like in most of their other possessions, and like the Knights had done before them, the British collaborated with groups wielding local influence, and co-opted indigenous merchants and traders into Britain's commercial activities.[32]

Across the Empire there was no systematic bureaucracy to administer legal affairs – with perhaps the exception of India controlled by the East India Company until 1858 – as the case of the Maltese sea protests highlights. The British did not implement a complete overhaul of local legal systems, due to lack of resources or perhaps even the intention to understand local traditions and customs.[33] Legal change in colonial settings was far from a priority for the British, as long as their direct commercial plans were unhindered. A further reason behind maintaining the local legal order was to create an impression of autonomy and respect for the locals in line with the promises they had made in assuming rule of not altering, in any major way, its legal framework.[34] Throughout the nineteenth century the British thus clung to a fine line between balancing different aspects of their own interests – maintaining a position in Malta, and a working relationship with the locals – and having to deal with the complexities of a disordered legal system. The Maltese, for their part, had to negotiate how far they submitted to colonial rule, and the impositions its law placed on their own legal practice, while avoiding sacrificing their own commercial interest.

Malta's Economic Growth and Decline, 1800–1890

In Malta the British prioritised commerce over politics. In the early nineteenth century, when Napoleon was descending south, waves of British merchants left their stations in Sicily and Naples and moved to Malta, determined to continue the existing grain trade between the Mediterranean and Britain.[35] Malta was a useful base given its traditional commercial relationships with Spain and Italy. However, beyond strictly commercial interests, the strategic importance of the island was realised by European powers during the continental blockade. In 1806 Napoleon put in place the continental system that aimed to block British trade in Europe, this remained in place until 1814, and although British imports to the continent slightly declined, smuggling thrived. Through Spanish, Portuguese, and Russian ports, British imperial goods made their way to the continent.[36] For British vessels, Malta offered unique opportunities as a gateway to continental markets, and soon became a safe haven for shipping. The result was that Valletta was transformed into a regional financial hub and centre for contraband and between 1808 and 1812 was handling up to 80 per cent of British goods destined for Europe.[37] Foodstuffs, textiles, wood, glass, carpets, wines, and naval merchandise were all exchanged there, as well as ammunition and opium. The increase in trade led to a soaring demand for all types of commercial premises and residences.[38] As Sarah Watkinson noted, unusually large amounts of money and goods started changing hands. Fortunes were made, benefiting the British as well as the Maltese merchants and traders. With expanding trade and the influx of

merchants, business became more sophisticated, local banks were created, and insurance companies flourished.[39]

Throughout the 1820s, lucrative business opportunities emerged for local merchants and entrepreneurs for the development of the Maltese infrastructure, especially the harbour and facilities for British troops and personnel stationed in the island. All these needs and provisions were put to tender and benefitted various local merchants and entrepreneurs, based all across the Maltese archipelago. The writing of deeds setting-up these tenders dominated notarial activity in these years.[40]

From the extant documentary evidence, a comparable increase in legal activity can also be identified. Most of this related to the appointment of legal representatives in Britain, mostly in England but also in Scotland, with new agents appointed and partnerships being created.[41] Consultation of all the relevant registers of English notaries acting in Malta, shows that the vast majority of business opportunities were now directly connected to the growing presence of the Royal Navy.[42] Trade and shipping facilities offered employment, and the harbour became bustling with seafarers, shipbuilders, merchants, retailers, and shopkeepers.[43] Colonial civil servants formed a new bourgeois class, while English started to be used as the main language of communication.[44] In the 1810s, the overall economy began to grow. It only slowed down shortly in 1813 due to the plague, which forced the imposition of quarantine and trade restrictions. Despite this temporary slump, business recovered, flourishing in the late 1830s and 1840s, with exchanges spanning not only Europe and North Africa, but also the Levant and the Black Sea. It was truly a golden age of maritime expansion.[45]

Malta attracted trade through low tariffs, and an efficient medical service. By the 1850s, Valletta had also substantially grown in importance as a military base, particularly evident when the Royal Navy engaged in the Crimean War's hostilities (1853–1856). In the 1860s, Malta had become an essential port within the empire, and its importance further grew after the Suez Canal opened in 1869. Britain had found its most pivotal post in the Mediterranean, profiting from its proximity to the Levant where it was possible to coordinate exchanges between Odessa, Constantinople, Bombay, the Aegean Islands, Sicily, Trieste, and Alexandria. They traded grain to Leith, Cork, Falmouth, London, and shipping back coal or brimstones from Cardiff, Dublin, Belfast, Glasgow, and Liverpool.[46] In return, Mediterranean wheat, oil, currants, and sulphur found their way back to Britain and Ireland which by this point absorbed four-fifths of Maltese re-exports.[47] Malta had become a well-placed cog in the imperial machine, with its people able to capitalise on its newfound wealth.

After the 1870s, the strategic position of Malta in the empire began to decline, with negative effects on its economic prosperity. The French had already gained control of Algeria and would soon control Tunisia; therefore,

due of their British allegiance, the Maltese found it increasingly difficult to access the Maghreb, and began struggling to access markets now controlled by Britain's rival power.[48] Malta's crisis was also due to its failure to keep up with new maritime technology and problematic sanitary conditions.[49] Its port facilities had failed to be updated to keep up with the requirements of the age of steam. As the tonnage of steamers increased, the small harbour of Valletta, with its narrowness and limited storage facilities, became impractical.[50] Furthermore, with the plague threat receding from the Levant and North Africa, quarantine facilities were no longer in demand. The Crimean War and the opening of the Suez Canal had confirmed Malta's strategic importance as a naval base and coaling station, but improvements in technology meant that, by the end of the century, new steam vessels could endure longer journeys without a need to stop there at all. Moreover, in the 1890s, Europe turned to America for grain imports causing exchanges from the Black Sea to diminish in importance.[51]

The Complexities of Law and Trade in Malta

The British presence in Malta was a mixed blessing for the Maltese. The relationship between them was unusually 'close but also incredibly quarrelsome'.[52] From the initial period of colonial rule, positive economic development occurred, but the price to pay had been too high in the eyes of some of the locals not directly involved in trading activities. As previously discussed, commerce was booming, but with it came change in the island, particularly in its legal framework. .[53] Indeed, throughout this period, the British attempted to find some compromises between Maltese Civil Law and English Common law, but largely failed. This section interrogates the reasons for this failure.

When the British arrived in Malta the existing legislation was the Code de Rohan (1784): a set of civil and criminal codification named after the grandmaster that had ruled the island from 1775 to 1797.[54] The Code integrated the previous Vilhena Code (1723), and was the most accomplished and systematic codification of laws promulgated under the Knights. In the eyes of the British, it was not suited for their interests because only a few pages addressed trade, and did not easily complement the commercial contract arrangements formulated in English Common Law.[55] A further issue was that Italian was the law's official language. The British therefore decided that more adequate legal provisions were required. In 1815 the 'General Constitution of all Superior Courts of the Island' was established; a set of laws more suited to British interests.

This set of changes did not bring an overhaul of existing activity. Among the local courts of justice, the changes that received the most attention were those relating to the *Consolato del Mar*; the court where trade related disputes were dealt with. Up until 1697 mercantile matters were governed according to the

Consolato del Mare of Messina. However, with time these laws were no longer able to meet the needs of the island which promulgated its own code in 1697: the *Consolato del Mare di Malta*. Since then, the court had therefore operated according to its own set of maritime and commercial laws.[56] Originally, it was formed by a judge and four consuls – usually merchants chosen by the grandmaster – on a three-month rotation. Given the small size of the island and of its mercantile class, to reduce conflicts of interest, grandmasters often selected foreign merchants to act as consuls.[57] In 1724, the Vilhena Code had increased the power of the *Consolato* to enable it to cover issues related to maritime trade, including losses at sea, jettisons, damage to merchandise, and various other contractual obligations. The new British rulers, arriving in 1800, thus found most of their business interests invested in this court.

In 1815 the British introduced reforms of the *Consolato* and this was transformed in the Commercial Court.[58] This new court operated with four consuls (either Maltese or English), who rotated every three months and assisted the judge. The island's commercial laws contained in the *Consolato* were still to guide the new court. The most significant change brought in related to the language of the proceedings: for the first three years, court proceedings were to be conducted in Italian, after which time English was to be adopted as the official language. A new system of payment for the judge and his assistants was also introduced, based on a salary rather than fees to avoid any bias towards the richest party.[59] The law of the court remained centred on local Maltese legislation. The first British governor of the Island, Thomas Maitland (1813–1824) aimed at establishing the Commercial Court was to expedite commercial proceedings 'with the mild maxims of British jurisprudence', while also trying to find a compromise beneficial to both the English and the locals.[60]

These new rules were difficult to implement given the profound differences between local Civil Law and English Common Law. English was also incomprehensible to the majority of the local population. Indeed, Malta already had two language systems in place at the time of the arrival of the British. While Maltese was the most commonly spoken language, official communication was written in Italian, the language which was predominant among the educated elite. At the beginning of the English rule, legislation was promulgated in both English and Italian, and the option of using 'either language' was not insignificant to the Maltese.[61] English was spoken mainly in Valletta where many trading activities were conducted, but the rest of the country had very little knowledge of it. This meant that appointing Maltese judges, lawyers, or registrars was extremely difficult, with the added risk that any selection might have been based upon language skills rather than their abilities as legal professionals.[62] This was a problem as legal practitioners needed to have robust knowledge of the laws, which were often unintelligible to some of the population.[63] When engaging with English-speaking men of law, any Maltese wanting to seek justice would have found themselves at the mercy of their

representatives due to the linguistic barriers that left them unable to comprehend the new laws of their country. On the other side, the British found it difficult to implement reforms because local civil servants were often unable to speak English, although some British officials knew Italian (as some of the Stevens' letters attest).[64] In addition, the language change meant that local elites were also unable to have a say in proceedings. Implementing a legislative system foreign to the learned, and obscure to the rest of the population, was therefore a risk.

An initial solution was to work with interpreters, waiting for the time when the Maltese had reached a level of English education satisfactory for the new roles. To solve this problem the colonial government sought to introduce a new education system, but any positive change in English language knowledge would have taken a generation to be fully implemented.[65] In Malta, as in the wider empire, the education system was part of the colonial government structure. English was the language of authority, upward mobility and civil administration, and education was seen as an essential element of the civilising mission. However, the British were never systematic Anglicisers as they feared that tampering with native traditions might undermine their authority.[66] Indeed, in Malta, the value of English language teaching was constantly debated throughout the nineteenth century, and initially it was taught alongside Italian and Arabic (as the Maltese itself was a Latinesed version of an Arabic dialect). Both of these languages were considered essential for maintaining the close links that the island had with its neighbours, in terms of commerce and immigration.[67]

The confusion of the legal commercial system is evident in the surviving notarial evidence, and the Stevens' archive offers an excellent body of evidence for a case study. William Stevens Senior arrived on the island in 1803, possibly in the service of the Royal Navy. He was part of the first wave of British settlers that during the Napoleonic campaigns left continental ports – particularly Sicily and Naples – as they escaped the French and strove to continue their involvement in the grain trade. Stevens initially worked for the Vice Admiralty Court as deputy registrar.[68] Stevens was also the consular agent for the United States, Holland, and Denmark, and acted as an Average adjuster for Lloyds London and Liverpool.[69] At the beginning of the nineteenth century, the profession of adjuster was in its infancy and was only formally regulated in the late 1860s.[70] In addition to working for the court, in 1806 Stevens was granted the licence of notary by the Archbishop of Canterbury.[71] In the 1830s William Stevens Junior joined his father in his notary and legal practice.

The function of notaries within English Common Law was, and is, rather marginal. Their status was profoundly different from that enjoyed by men of a similar profession under Maltese Civil Law. In England, notaries were not officers of the state, but just independent legal professionals. Accordingly, their acts were not considered 'public' as they were concerned with private

matters. Nonetheless, they had important functions in both the ecclesiastical and Admiralty courts. At the beginning of the nineteenth century, however, they lost most of their power when the entire business of those courts was transferred to the common law courts. They were left with a very marginal role; their only strength being their knowledge of foreign languages and foreign legal cultures. Consequently, their services were only required for witnessing documents for use abroad, such as shipping protests or protests of bills of exchange.[72]

In Malta, Stevens, who was literate in Italian, would draft sea protests – developed according to English Common Law rules – for British use. There is scant documentation for his first years of work, which is not surprising because until 1818 there was no regular book-keeping and the legal practice was negligent.[73] As Watkinson states, the first few years of British rule in Malta were notorious for 'confusion, lack of experience and negligence'. For example, she writes that:

> when public letters were received, if no answer was required they were thrown on the floor of the writing room … If any answer was scribbled out, in the rough, it was merely on the back of an old letter or any piece of paper nearest at hand … Nothing had been copied into the books for months … the letters and corresponding documents parted company the moment they were read – they were all thrown into a vortex.[74]

Stevens practiced mainly in English and according to English law, rather than in the required Italian under Maltese laws. Equally, when drafting sea protests, he rarely consulted the *Consolato* commercial tribunal as was legally required.[75] According to local legislation, Maltese notaries were not allowed to draft sea protests; a point which remained contested for decades to come.[76] Stevens also set up a partnership with Charles Curry (practising from 1812 to 1862), something which was not permitted to Maltese notaries, thus openly defying local legislation on the matter.[77]

Disputes Over Changing Legal Procedure and the Sea Protests

When considering the role of notaries in Malta, in the first decade of British rule there were no major changes implemented aside from some attempts to revise some notarial fees in 1801. Until 1814 no further legislation was implemented. In that year it was decreed that the Governor, as head of the local British government, would appoint notaries in Malta as had been the practice under the Knights of St John. The practice of depositing notarial deeds in the archives kept on being enforced so to preserve them for future reference.[78] In 1835, it was laid out that a new notary would only be appointed after the death of two others, thereby reducing their numbers. The British argued there were too many notaries on the island and not enough work to warrant licensing so many. The most consistent regulation 'to amend and consolidate the laws

respecting notaries and notarial acts' was the Ordinance V of 1855, masterminded by the Crown Advocate, Sir Adrian Dingli (1854–1880).[79] This was designed to introduce coherence and possibly to align the Maltese civil legal system to the English common law one.[80] This document decreed that in Malta, both British and Maltese notaries were to be appointed by the head of the civil government, thereby limiting the power of the Archbishop of Canterbury to appoint British notaries in the island. Fending off criticism, the governor remarked that only 10 notaries were appointed by the Archbishop of Canterbury from England in over 50 years of British rule, and that this practice never affected the Maltese in accessing their notarial offices.[81] Governor Reid stated: 'It will be desirable that the power of the Archbishop of granting these licenses will still be sparingly used, if at all for the future'.[82]

This was possibly the most controversial aspect of British notaries coming to practice in the island, although only a few working in Malta had been actually appointed by the Archbishop's authority.[83] In fact, there were only four British notaries practicing in the island until the 1880s: Stevens Senior and Junior, Charles Curry, Henry John Fletcher and William Page.[84] Another controversial element was the difference in the role of the notary between civil and common law.[85] Under Maltese law, a notary was a legal professional able to authenticate public acts, and act as a lawyer, but he was unable to put people under oath; a faculty that only a judge was allowed to perform. On the other hand, according to British law, a notary was a private legal professional able to question witnesses under oath (i.e. draw up sea protests) but could not act as a solicitor.[86] On this crucial point – on whether notaries were legally allowed to notarise sea protests – no agreement was reached until the end of the nineteenth century.

The 1855 Ordinance kept all requirements regarding notaries as they were stated in the Code de Rohan, such as being born from 'honest parents', being of twenty-five years of age, having properties, and having practised with another notary for at least five years. The Ordinance only tried to amend and consolidate notarial practice, and streamline a system deemed potentially corrupt and nepotistic. It was a significant step towards the change of Maltese laws where the role of the notary was important in all private transactions. In an attempt to prevent conflicts of interest by having a notary acting also as a lawyer for his clients in court, legislation was implemented stating that a notary could not be a solicitor (legal procurator). The Notarial Office also became public, with notaries being selected through examination. The proclamation that one notary was to be appointed after the death of two was reinstated, and their numbers were capped. This was to avoid a situation where the island could end up with up to 130 notaries (the number of practicing lawyers on the islands), which was considered excessive for such a small population. It was also stressed that notaries should not draft deeds concerning their family members and they should deposit all notarial acts to archives in Valletta. The archivists were appointed

by the head of the civil government (act 62 ordinance), and the fees were to be kept low, especially for 'out of office' cases.[87]

Regarding the practice of registering sea protests, the new rules stated these should be deposited in the Commercial Court and drafted in Italian. This was a decision that British notaries clearly did not respect, as they continued working privately and in English. Besides British disobedience, this new set of reforms triggered the protest of the so-called *stipulanti*, or notarial clerks. In the general ordinance dispositions the office of *stipulanti* had been abolished to curb numbers, with the exception of those who had already been appointed as notaries before the ordinance. Being in effect notaries in-waiting, the *stipulanti* had more at stake than the notaries themselves, and found themselves in a rather precarious position. With this reform they would have been effectively prevented from accessing the profession. It is unclear whether or not the notaries supported them in their protest.

Nevertheless, in August 1855, twenty-four *stipulanti* complained to the Secretary of State, Lord John Russel, through Governor William Reid (1851–1858). The *stipulanti* contested the new rules as 'humiliating'; placing doubt on their qualifications, and casting shade on their customs. Among the *stipulanti* there was agreement around the new disposition not to appoint notaries from England by the Archbishop of Canterbury. What they objected to was that the Maltese notarial office was now effectively controlled by the British government. They argued that it was disrespectful because the profession would be subject to the 'capricious' will of the new administration.[88] The *stipulanti* also challenged the introduction of formal examinations, and the prohibition of acting as both notary and lawyer (solicitor). This rule had been introduced to avoid conflicts of interest between notaries acting as legal procurators in cases connected with acts presented by them. They believed that no-one in Malta could be better employed than the notary who extended this particular act.[89]

The *stipulanti* also objected to being forced to deposit their acts in the Valletta's Notarial Archive, which they argued would have resulted in betraying client confidentiality, as it would make the acts publicly available. They argued that a notary had the exclusive right of guarding and preserving such documents, and that no one else should dispose of them. Regarding the prohibitions concerning using family members as witnesses, they proposed that this could be seen as being nepotistic and corrupt, but that in reality it was about survival of practice due to the numbers of literates in the islands being small. Indeed, at this time members of the clergy, military, government and women were all debarred from acting as witnesses. This change would have left the notaries with a witness base consisting only of poor illiterate clients, often barely able to sign their names. Another issue concerned the lowering the 'out of office' fees. This stipulation by the British showed a lack of understanding of the Maltese context, where the transport system was basically inexistent.

Even travel across a few miles on the island was time consuming, and the rocky terrain and distribution of the population across several islands did not help. For instance, to go from the island of Gozo to the 'mainland' of Malta was impossible when the weather was stormy. That meant that a notary could be out of the office for days at once in respect to one piece of work. Out of office fees were thus essential to ensuring that engaging in this work was sustainable.[90] This new legislation was clearly met with resentment by the Maltese legal classes, in no small part because the British appeared unable to understand the practical needs behind traditional practices due to the island's social structure and physical infrastructure.

Interestingly, the *stipulanti*'s complaint contained no mention of sea protests. This perhaps suggests a growing acceptance of British practice in this area. In the petitions to the Colonial Office this issue was also overlooked, perhaps suggesting that Maltese notaries were prepared to accept British procedure as long as their other privileges were preserved. Sea protests seem to have chiefly been considered 'British business'. Attesting to this, the first complaint made about the 1855 Ordinance in respect to sea protests was made by the British notary Charles Curry. He claimed that, after being appointed by the Archbishop of Canterbury, he had been practicing as notary in Malta since 1811 but this new ordinance undermined and damaged his practice.[91] If the registering sea protests was to go to the Commercial Court (as *testimoniali* had been registered in the court under the previous regime), he argued he would lose his emoluments. In particular, he objected to the new requirement that even British vessels had to go through the Commercial Court. He argued that no court in England could legalise sea protests, as this practice was held in the hands of notaries in England and across the empire. By forcing the sea protests to be legalised by the Commercial Court, Curry suggested that the colonial regime was effectively granting a monopoly to it; favouring local judges, registrars, and lawyers, and disrespecting the rights of British notaries. He argued that attending the Commercial Court would lead to useless expenses and delays.[92]

In 1857, the British press became aware of these legal disputes concerning sea protests in Malta as English ship masters started complaining of being forced to present sea protests at the Commercial Court in Italian instead of in English. In April of that year an article in the *The Morning Post* denounced this was unjust as there were only two English notaries on the island, Stevens Junior, and Curry.[93] The paper mentioned how practice in England and all her possessions (with the exception of Malta) was to draft these documents before a notary, being matters of extra judicial nature, yet in Malta the monopoly of a local court was supported against British interest. The article concluded saying: 'the justice of England is laughed at when used in this way'.[94]

It was possibly this media attention that prompted the Crown Advocate Sir Adrian Dingli to directly address the issue. In April 1858, he stated that Curry's

petition about the loss of emoluments was incorrect, as since the Vilhena Code of 1723 there had been no change regarding the practice of sea protests in Malta.[95] He stated that, according to Maltese law, master and crew were to be trusted about any losses incurred, until contrary evidence could be provided before the judge in the Commercial Court. He argued that British colonial authorities did not know since when this procedure had been in place, but that this was in line with continental usage. Indeed, this had been the case at least since the Justinian's *Digest,* and in Malta this was sanctioned by Code Vilhena, re-enacted by the Code de Rohan in 1784. Furthermore, in 1855 it was stated that masters should have deposited sea protests in the Court within twenty-four hours of their arrival in the harbour. British masters' depositions could be submitted in English, without any regard for office hours, Sundays, or holidays. A judge was also to attend personally when sea protests were presented, and the ship master was to be believed on his word given in the sea protest in the absence of evidence to the contrary. The new legislation, Dingli proposed, was implemented in order to modernise the judicial system.

Dingli noted that he was aware that British notaries had been disregarding these laws and procedures since the beginning of their rule in Malta. British notaries had been drafting the protests whenever British interests were involved, whilst Maltese notaries were denied similar rights. Dingli added that the only potential change regarding the matter was to introduce English law regarding sea protests. The Colonial Office, however, decided to leave in place Maltese legal practice, stating the difficulty to overcoming the issue of the master's liability, which fundamentally differed between the two systems.[96] Maltese sea protests practice favoured masters and crew, whilst English law stated that they were to be responsible for any loss, until evidence proved otherwise. The devil was in the details. To overcome this impasse an agreement was reached to appoint an English interpreter to enable sea protests in English to be considered under the jurisdiction of the Commercial Court. Dingli concluded that Curry's complaints were therefore wholly unfounded as he had never been stopped from drafting sea protests since his arrival in Malta in 1811.[97]

In December 1880, the *Malta Times* published an article titled 'Illegal Sea Protest' which explored the problems of creating legal and valid documents acceptable for both the British and Maltese systems.[98] It had been almost 80 years since the British had started to discuss the matter, no meaningful compromise had yet been reached and the issue was now discussed in the press. The article claimed that, as a document, the protest was a legal tool designed to protect trade and master's aims to deliver goods safely. It was understood in Malta that, 'as the perils of the sea were many', masters would not be held responsible should events occur that were out of their control. In addition, it was noted that in Malta sea protests were drawn in the presence of the judge of the Commercial Court and any witnesses were required to be questioned

separately, but that British notaries extended their own jurisdiction to the drawing up of sea protests – disregarding local law – and to date no one had effectively managed to tackle the issue. It was pointed out that according to Maltese legislation, a sworn deposition could only be done before a judge as a local notary could give authenticity to the deeds, but had no power of putting people under oath. Therefore, the main issue faced by British seafarers was that Maltese practices of drawing sea protests were time consuming and inconvenient. At the Commercial Court a judge was not always available, and there were tales of clerks having to search for the judges needed all over the island (no easy task, remembering the lack of travel infrastructure and topographical challenges mentioned previously). It was thus easier and quicker to see a British notary who could extend a sea protest in a few hours, with the added advantage that this notary was able to speak English, removing any need for an interpreter. For these reasons, in 1855 it was proposed that British masters be allowed to register sea protests in court in English, without having to rely on local court officials.[99]

This article prompted a reply from some Lloyds agents who two weeks later addressed a letter to the newspaper editor, asking him 'to ascertain the facts before passing judgement upon it'.[100] They declared that in England sea protests had always been drawn up by a notary, and in Malta British merchants had adopted this usage since the early 1800s, but solely in the case of British shipping. Non-British masters could take matters to the court if they wished not to acknowledge English law. They further argued that in 1855 there had been an attempt to impose the law of Malta upon British interest, but the problem was complex due to so many linguistic and cultural barriers. These Lloyds agents argued that the British system was superior, as it gave the opportunity to cross-examine masters' claims by matching them with the depositions of the crews and logbooks records so as to minimise fraud. They acknowledged the language barrier, and argued that court officials in Malta should understand English to adopt their practice, but this was hard to implement in an island with a strong Italian legal and linguistic traditions. The Lloyds agents further argued that being required to go through the courts was inconvenient, as sea protests were intended to be resolved rapidly to allow ships to resume their journeys. They highlighted that the main issue with English law was that sea protests were used 'as evidence *against* the master, until he could conclusively prove the truth of the circumstances recorded in the log book (this was very convenient for the underwriters and the merchants), whereas the law of Malta was *in favour* of the masters 'unless the contrary be proved'. They asked if the latter provision constituted 'an equitable law'. They also asked what stopped masters and crew from lying to cover up neglect or replacing depleted stores at the expenses of the underwriters, themselves not being able to prove that their statements are false if suspicious.[101]

This public exchange in the press exemplifies the value of sea protests for understanding British colonial rule. These exchanges show two legal systems colliding, but more importantly also show the distinct characteristics of the two legal and political cultures. The lengthy debates show how British colonial rule largely preferred to ignore these problems, trying to accommodate local customs. In 1881 the debate was still ongoing between colonial officials and Lloyds agents, as were questions as to whether sea protests should be registered in the Commercial Court, and written in English or Italian. But from this time, the local court was used only when non-British or local interests were concerned, and British masters continued to use British notaries. In essence, legal disorder in Malta prevailed over attempts to introduce a coherent legal system, and half-hearted efforts by the British to resolve some of the thornier issues only seem to have added to the confusion.

Concluding Thoughts

To better understand the workings of the British imperial enterprise, it is necessary to give more attention to its experience in the Mediterranean. The region was a platform for British commercial and industrial development from at least the sixteenth century, and one of the first areas where English merchants and seafarers engaged in commercial expansion, and it was to become a training ground and blueprint for the subsequent British presence in the Indian and Atlantic Oceans.[102] The Mediterranean was also the first arena where the British refined their commercial and military strategies, especially through interactions with other nations seeking to defend their privileges and protect trade. When their engagement with the area shifted from purely commercial to imperial, the British seem to have been unable, or perhaps unwilling, to accommodate local cultures and their dynamics, even when they realised that local support was necessary to their rule.[103] Ultimately, the British failed to impose a proper sovereign presence in the Mediterranean, although they strove to maintain footholds in the area due to its vibrant commerce and strategic position.

Malta occupied a central position in the Mediterranean that was viewed to be of strategic importance, primarily for the development of sea trade between Europe, the Levant and North Africa, but also from the naval perspective, as it provided a site for docking and refuelling on the way to the East.[104] Carmel Vassallo argued that in economic terms, Malta was never an asset in and of itself, and in fact required subsidies from the metropole to support it. Rather, Malta's importance rested on its functions as a naval base from where powers, such as the British in the nineteenth-century, could assert influence across the whole Mediterranean. Although the British were successful in acquiring rule over Malta in 1800, the island is also an excellent example of the (mis)workings of that power, particularly in commercial and legal terms.[105]

Analysis of British activity in Malta has offered a lens through which to examine the clash of two distinct European cultures – Italianate and British – within a political system that was at best confused, negligent, and incoherent, and at worst, dysfunctional.[106]

We have seen how the first years of British rule in Malta were muddled from a jurisdictional point of view.[107] The Peace of Amiens in 1802 stated Malta should return to the Knights, but the British violated the treaty, governing the island as a possession; a situation that was subsequently ratified by the Treaty of Paris in 1814, and the Congress of Vienna in 1815. Indeed, in the first decade, Malta's status within the empire was not well defined, as it was contested whether it had been 'conquered' or 'ceded', with the argument hinging on the extent to which the British forces had contributed to defeat the French, or whether this achievement was actually a joint effort between British and Maltese.[108] The latter argued that they should have been rewarded for their help, or at least delivered what was promised to protect their institutions – especially given how valuable Malta was in allowing the British to strengthen their foothold in the Mediterranean. As a result, those local notables who could have ensured the implementation of policies frequently refused to cooperate with the British.[109] The first British governor of Malta, Thomas Maitland was appointed in 1813. Initially, he seemed to deliver the freedoms promised, to respect the status of 'offered' land; however, as time progressed, his rule became despotic. In his view the island was poor, overpopulated, and the local administration of justice was inefficient. One of his aims was to eradicate local government. In 1818, Maitland moved to suspend the National Council, known as the *Universitá*, effectively leaving the island without a legislative body. However, this decision was short-sighted as, beyond political representation the relevance of this institution lied in the power to distribute public funds and fixing the price of grain. Indeed, since medieval times, Malta had enjoyed duty-free concessions on grain and victuals. This was a privilege that the Order of St John had capitalised on in order to spend their treasury's funds on the islands' defence. Furthermore, the Knights had recognised that by keeping people fed they were likely to prevent any rebellion which could be organised by the nobility they displaced. If there was a rebellion, this mechanism – the control of the grain supplies – would enable it to be suppressed. By opening up the grain trade, the British potentially created a context for 'agitation' while also removing the backstop through which it might be controlled. The liberalisation of the grain market was supported by the mercantile class, possibly the only local group who offered consistent support for the new colonial power. Yet, the rest of the population found themselves financially overburdened by the fluctuating and increasing prices, and significant numbers of poor families who faced starvation began to seek livelihoods elsewhere. Unsurprisingly his measures brewed significant resentment against Britain, and, over time, hostile sentiment grew into political activism. In 1832, George Mitrovich

(1795–1885) a patriot and politician petitioned the British government to re-establish in Malta a National Council that had been abolished in 1818 allowing the Maltese upper classes to elect members to approve new legislation. His petition to the colonial government was built around the first years of British rule when crucial reforms such as on religious institutions or marriage had passed without approval of the Maltese and insisting that through these changes the Maltese had been taken advantage of. There was no long-term vision of what to make of the possession. Any possibility to have a more modern and liberal society was curtailed as even Malta's only printing press was controlled by the British, hindering the expression of grievances. Mitrovich ultimately argued that the British governors did not act for the island's people, a population of 120,000 who lacked their own laws, magistrates, and representatives. In 1835, the British responded by granting Malta a new constitution and a council, albeit with the governor retaining ultimate power of jurisdiction. In the 1830s, throughout the empire the ideology of free trade slowly began to replace mercantilism and in the 1840s, British colonial authorities began to consider self-governing institutions in their possessions.[110] Advocates of free trade believed that granting colonies free government would forge effective relationships, enabling them to maintain Britain's overseas interests. Indeed, until then, British dependencies were mostly Crown colonies, presided over by a governor, who traditionally had a military background, and was very often a veteran of the Napoleonic wars. In 1848, when liberal movements swept across Europe, in Britain's principal Mediterranean dependencies – Malta and the Ionian Islands – there was an unavoidable overspill from the European revolutions of the time. In both places, British governors sought to quell radical opposition through extending the powers of the legislature and lifting press censorship. In 1849, the Maltese were able to conduct their first elections, and the political and intellectual elites were finally able to exercise a voice. Their focus was on fighting perceived injustices in the way the British had betrayed their initial 'pact'.[111]

The Catholic Church, too, remained distant from the new rulers as it was wary of the prospect of the implementation of religious reforms. One source of religious tension related to the efforts the British made to abolish the right of sanctuary exemption. This exemption allowed religious figures to avoid lay jurisdiction and the requirement to give evidence in lay courts. In regard to ecclesiastical appointments, the British negotiated with Rome to accommodate the population's religious sensibilities. The colonial office did not have a clear vision on the matter and tried to maintain good diplomatic relations with the Vatican by agreeing on Rome appointing bishops, but allowing the colonial office to veto them, if needed. In Malta they acknowledged the important role the Catholic Church played in the island, both as an institution but also culturally, and they recognised that life on the island was very much structured according to Catholic rituals and beliefs. The British therefore allowed the

Maltese to practice their religion and respected their Church. The colonial authorities knew that encouraging Anglicanism might have been imprudent. Religious change was ultimately dependent on the will of local people, and the British were aware that recreating the Church of England in Malta would likely be impossible.

The new colonial government, however, was much more focused in furthering its economic goals and ultimately maintained the island's status as a bulwark of Christianity against Muslim neighbours.[112] The British preferred to respect local traditions to maintain the fragile relations they held with the locals, and this meant that they left the Catholic authorities alone.[113] Many subsequent governors confronted the same challenges, and although over time the government grew less despotic, it ultimately failed to build a constructive dialogue with the local powers.

Lauren Benton has argued that legal disorder was allowed to prevail in Britain's Empire to provide workable solutions to dealing with legal matters when local and English Common Law butted-up against each other.[114] Through the study of sea protests and their use in nineteenth-century Malta, this article has provided a detailed account of how and why such legal disorder continued. It has also shown how in Malta legal disorder was not wholly an accident, but instead the result of a sensible decision that was made in respect to several competing, and conflicting, commercial and political concerns on the part of the British and the local population.

British colonial authorities in Malta desired legal coherence, but they struggled with identifying the aims and objectives of deciding and implementing legal change due to multiple competing pressures of rule, commercial engagement, and managing the interests of the different actors involved, from ship masters through to British and local notaries and their associates.[115] The case of sea protests examined here has highlighted how the imperial agents failed to find meaningful compromises between different legal systems and diverging procedures. In many ways this desirable coherence was sacrificed over the needs of maintaining rule in Malta, which throughout the nineteenth century was essential to British presence in the Mediterranean. Without Malta, a strategic naval and military base, they would have struggled to coordinate war operations in Africa and Asia, and to take care of their troops.[116]

Both Britain and Malta reaped economic benefits from their fraught and contested relationship, and the hybrid legal system underpinning it. British imperial power was concerned in pursuing its commercial interests but was unwilling to force the English common law system whole heartedly to appease the local Maltese. The Maltese, on the other hand, variously collaborated and opposed changes implemented by the British. Indeed, while merchants and entrepreneurs largely cooperated with the British, as they were profiting from the new regime, local elites were more interested in protecting traditional rights and strove for a meaningful political role. This served to

divide the Maltese and reduce their power with regard to creating a coherent strategy to combating changes that were produced by British rule. As a consequence, no party produced a coherent strategy with regard to legal changes and no agreement was reached in over 80 years of British rule in Malta. In the end the situation largely resolved itself. By the end of the nineteenth century, the British lost interest in pursuing the matter as steamers on their way to India no longer needed to stop in Malta for victuals or coals. The declining strategic role of the island within the empire coincided with the death of Stevens Junior in 1878, leaving only one British notary, William Page, practising in the island, by that time one British notary could easily handle the dwindling number of British boats still coming into port in Valletta.[117]

Notes

1. On the British Empire see (selection) Peers, "Britain and Empire". Cannadine, "The Empire Strikes Back". Stockwell, *The British Empire*. Levine, *The British Empire, Sunrise to Sunset*. On Malta see Abela, *Hospitaller Malta and the Mediterranean Economy*. Stein, "The Mediterranean in the English Empire of Trade, 1660–1748". Hilda and Lee, *A Study in Constitutional*. Holland, *Blue Water Empire*. Bayly, *Imperial Meridian*. Montgomery, *History of the British Possessions in the Mediterranean*.
2. For a synthesis of the multifaceted developments of Averages in Europe across the medieval and early modern period see Fusaro et al., *General Average and Risk Management in Medieval*.
3. There are two notarial depositaries in Valletta, one is the Office of the Chief Notary to Government and holds the original version of the deeds and the other holds true copies of these together with a variety of other legal documents including sea protests.
4. Addobbati, *Commercio, Rischio, Guerra*, 224.
5. Benton and Ford, *Rage for Order, The British Empire*, 180–97.
6. A further output of the project that funded this research will be a database of GA data which will shed further light into the operations of nineteenth-century global trade and the impact of environmental factors, particularly the weather, on trading ventures. Material for other regions and previous centuries is already available at: https://humanities-research.exeter.ac.uk/avetransrisk, The Maltese data is currently being inserted and will be made available to the public in the Summer of 2022.
7. Dorsett, "Procedural Reform in the Nineteenth Century British Empire". This work shows how legal reforms in the empire were complex. A situation of legal 'pastiche' was not unique to Malta, and indeed common across the British Empire European outposts.
8. Cannadine, "The Empire Strikes Back," 183.
9. Ibid.
10. Davis and Hough, "The British Claim to Rule Malta 1800–1813".
11. Abela, *Hospitaller Malta*, 18–64.
12. "The Claims of the Maltese Founded Upon the Principle of Justice," by George Mitrovich, London, July 31, 1835 in Frendo, *Maltese Political Developments*, 66–70.
13. "The Claims of the Maltese Founded Upon the Principle of Justice," 66–70. Chircop, *Colonial Encounters*. Hugh and Harding, *Maltese Legal History*. Vassallo, "The Limits of Collaboration".

14. Addobbati, *Principi e Sviluppi dell'Avaria Generale*. [se qui ti riferisci al saggio di Andrea nel volume forthcoming con Palgrave il titolo è]: "Principles and Developments of General Average: Statutory and Contractual Loss Allowances from the *Lex Rhodia* to the Early Modern Mediterranean"; Rose, *General Average*.
15. M. Fusaro, "Sharing Risks: on Averages and Why they Matter," in Fusaro et al., eds. *General Average and Risk Management*.
16. Holdsworth, *A History of English Law*, 524–41.
17. Campbell, and Mariner, "A Marine Note of Protest". Holdsworth, *A History of English Law*, 524–41.
18. Notarial Archives Valletta, *Sea Protests of Notary Stevens* (uncatalogued). Ports of origin were mainly British or from the Black and Azov Sea, such as Russians, Ukrainian and Romanian ports. Rarely, there were instances from across the Atlantic, with North or South American ports such as Boston or Rio de Janeiro.
19. Rose, *General Average*, 1. On this also D. Penna, "General Average in Byzantium," in Fusaro et al. eds., … .
20. Dreijer and Vervaart, "Een tractaet van avarien – 1617".
21. Holdsworth, *A History of English Law*, 524–41.
22. Cumming, "The English High Court of Admiralty". Quote on page 253.
23. On Barratry see Rossi, "The Barratry of the Shipmaster in Early Modern Law". Holdsworth, *A History of English Law*, 533.
24. Rose, *General Average*, 1–14.
25. Ibid., 8–9.
26. Rossi, "The Liability of the Shipmaster in Early Modern Law".
27. National Library of Valletta, *Malta Times*, "Sea Protests," 18 Dec 1880.
28. Refalo, *The Maltese Nineteenth Century Notary*. For a study of English Notaries see Brooks et al., eds., *Notaries Public in England Since the Reformation*.
29. The debate is available in the Colonial Office National Archives, Kew: Colonial Office, Dispatches.
30. Peers, "Britain and Empire". Quote on page 64.
31. Ibid., 75.
32. Chircop, *Colonial Encounters*. Mifsud, "The Maritime Trade of Malta," 1–37.
33. Bentonand Ford, *Rage for Order*, 180–97.
34. Harding, *Maltese Legal History*. Evans, "A World Empire, Sea-Girt".
35. D'Angelo, *Mercanti Inglesi a Malta*; D'Angelo, M., *Mercanti Inglesi in Sicilia, 1806–1815*. Dawes, *British Merchants*.
36. Mifsud, "The Maritime Trade of Malta," 1–37. Caruana Galizia, *The Economy of Modern Malta*, 127–223.
37. Ibid.
38. Watkinson, "William Stevens," 28. The islands' towns experienced an increase in shop rental prices. The building of barracks, canteen, taverns, and expansion of hospitals was also undertaken to take care of the troops. These facilities required cleaning, furnishing, and provisioning. Some of these materials and services were locally sourced, while others were imported ad hoc. The consumption and import of meat, wine and grain, and oil also increased.
39. Ibid., 29.
40. Valletta Notarial Archives, Register 450.3 and R.450.4.
41. VNA, R.450.8.
42. The British notaries practicing in the island until the 1880s were Stevens Senior and Junior, Charles Curry, Henry John Fletcher and William Page. The material consulted for this work belongs to the Stevens, whose papers are not yet part of the catalogue.

43. Caruana Galizia, *The Economy of Modern Malta*, 127–223.
44. Watkinson, "William Stevens," 29–30.
45. Vassallo, "The Maltese Merchant Fleet".
46. Valletta, *Sea protests of Notary Stevens* (uncatalogued).
47. Caruana Galizia, *The Economy of Modern Malta.*
48. Vassallo, "The Maltese Merchant Fleet". Milward and Saul, eds. *The Development of the Economies of Continental Europe*. Mallia-Milanes, *The British Colonial Experience, 1800–1964*. Fischer and Nordvik, eds., *Shipping and Trade, 1750–1950*.
49. Vassallo, "The Maltese Merchant Fleet," 36.
50. Ibid., 34–36.
51. Ibid.
52. Frendo, *Maltese Political Developments*, 70–88.
53. Caruana Galizia, *The Economy of Modern Malta*. Grain was imported from the Black Sea and Egypt, rather than from Sicily. From Malta up to ninety-one per cent of the imported grain, would find its way to Britain. In 1846 Britain repealed its divisive Corn Laws and needed cheap food supplies to tackle the Irish famine.
54. Vella, "The Consolato del Mare di Malta".
55. Harding, *Maltese Legal History*, 51.
56. Vella, "The Consolato del Mare di Malta". Harding, *Maltese Legal History*. Vella, "The Bureaucracy of the Consolato del Mare in Malta".
57. Vella, "The Consolato del Mare di Malta," 71.
58. Vassallo, "The Establishment of the Malta Chamber of Commerce," 127–34. In 1848, the British introduced a chamber of commerce that would take some of the functions of the commercial court.
59. Harding, *Maltese Legal History*, 106.
60. Ibid., 134–35.
61. Ibid., 320–24. On similar problems encountered by the British in the Ionian Islands in the same period see Fusaro, "Representation in Practice".
62. Ibid., 321–22.
63. Vella, "The Bureaucracy of the Consolato del Mare in Malta," 69–82.
64. NAV, *Sea Protests of Notary Stevens*.
65. Harding, *Maltese Legal History*, 134–35.
66. Bayly, "The Evolution of Colonial Cultures," 447–69.
67. Formosa, "The 1836 Austin and Lewis Commission". Caruana Galizia, "Education," 128–32.
68. Watkinson, "William Stevens," 51.
69. Aglietti et al., eds., *Los Cónsules de Extranjeros en la Edad Moderna y a Principios de la Edad Contemporánea*. Watkinson, "William Stevens," 44. On page 84, she defines the role of a consul, to not confuse with ambassador. The consul was in charge of the business relations between two countries, supporting businesspersons, enforcing treaty regulations and protecting their country's interests. On the general lack of effectiveness of Vice-Admiralties across the British Empire in this period see: Marten, "Constitutional Irregularities".
70. Cornah, "Historical Notes on the Founding of the Association".
71. In 1533, Henry VIII had transferred the power to appoint notaries to the Archbishop of Canterbury and their license was usually limited to England.
72. Shaw, "Notaries in England and Wales".
73. Watkinson, "William Stevens," 24.
74. Ibid., 25.
75. In Stevens' records only a handful of sea protests were drafted in the tribunal.

76. The subsequent debate has been reconstructed through the sources available in the Colonial Office National Archives, Kew: Colonial Office, Dispatches.
77. Consolato del Mare Archive, Mdina C.D.M. *Avarie-Perizie-Calcoli* vol.1, 1699–1706; vol.3 1747–49 and 1749–52; vol.4 1753–62; vol.5 1768–70 and 1764–67. C.D.M. *Testimoniali Semplici*, 1808–10, 1811–14. Valletta, Notarial Archives, *Sea Protests of Notary Stevens* (uncatalogued box Curry & Stevens).
78. Refalo, *The Maltese Nineteenth Century Notary and his Archives*; Vella, *The Notary Public in Malta*; Brooks, ed., *Notaries Public in England Since the Reformation*.
79. The National Archives (TNA), Colonial Office (CO) 158/176 Dispatches, Ordinance of Notaries Sir Adrian Dingli. H. W. Harding, "Law," 205–18 free access through the University of Malta https://www.um.edu.mt/library/. The Maltese Adrian Dingli as Crown Advocate drafted a civil code that with some amendments is still in force today in the island.
80. Refalo, *The Maltese Nineteenth Century Notary*, 29–80.
81. NAM, Vol Gov 2/1/52, Letter of 22/9/1855.
82. TNA, CO 158/176, letter of Dec 11, 1855 and Dec 3, 1855.
83. Refalo, *The Maltese Nineteenth Century Notary*, 51.
84. Watkinson, "William Stevens," VIII.
85. Refalo, *The Maltese Nineteenth Century Notary*, 29–80.
86. National Library of Valletta, *Malta Times*, "Illegal Sea Protests," 4 Dec 1880.
87. The National Archives (TNA), Colonial Office (CO) 158/176 Dispatches, Ordinance of Notaries Sir Adrian Dingli.
88. National Archives of Malta (NAM), Gov 1/3/8, Vol. 22, *Petitions* 5151 to 5400, *Stipulanti*'s Petition n. 5247.
89. NAM, Gov 2/1/52, Letter sent to Her Majesty Queen Victoria, on 1/8/55.
90. Ibid.
91. TNA, CO158/184 Crown Advocate, 27 April 1858 About Curry's Petition to the Secretary of State.
92. Ibid.
93. Stevens senior had died in 1854.
94. The British Library, *The Morning Post, April 7, 1857*.
95. Vella, *The Notary Public in Malta*.
96. TNA, CO158/184 Crown Advocate, 27 April 1858, "About Curry's Petition to the Secretary of State".
97. Ibid.
98. National Library of Valletta, *Malta Times*, "Illegal Sea Protests," 4 Dec 1880.
99. Watkinson, "William Stevens," 72. Since 1858 an English interpreter had been employed by the court. The act could have only been made legal before a judge as a representative of the legal authority and in the interest of justice.
100. National Library of Valletta, *Malta Times*, "Sea Protests," 18 Dec 1880.
101. Ibid.
102. Stein, "The Mediterranean in the English Empire of Trade". Fusaro, *Political Economies of Empire*. Davis, "England and the Mediterranean". D'Angelo, *Mercanti Inglesi a Malta*. D'Angelo et al., eds. *Making Waves in the Mediterranean*. D'Angelo, "In the 'English' Mediterranean (1511–1815)". Vassallo and Harlaftis, eds. *New Directions in Mediterranean Maritime History*. Rapp, "The Unmaking of the Mediterranean Trade Hegemony".
103. Paschalidi, "Constructing Ionian Identities". Fusaro, "Representation in Practice". Gallant, *Experiencing Dominion Culture Identity*, 1–14.

104. Mifsud, "The Maritime Trade of Malta," 1–37; Caruana Galizia, *The Economy of Modern Malta*, 127–223.
105. Hough and Howard, "The Wicked Machinery of Government Malta". Hugh and Harding, *Maltese Legal History*.
106. As it was the case in the Ionian Islands: Fusaro, "Representation in Practice". It can be argued that it was thanks to the support of a section of the local bourgeois class that the British were able to capitalise on the geopolitical value of Malta.
107. Watkinson, "William Stevens, an English Notary". Mifsud, "The Maritime Trade of Malta," 1–37. Paschalidi, "Constructing Ionian Identities," 74–109. Burroughs, "Imperial Institutions," 170–97. Zammit Gabarretta, "Sir Thomas Maitland and Mgr. Ferdinando Mattei". Hugh, *Maltese Legal History*.

    "*Maltesi miei cari compatrioti*," 1835 Address by Mitrovich to his fellow Maltese', London, Nov 20, 1835 in Frendo, *Maltese Political Developments*, 70–88. "The Claims of the Maltese Founded Upon the Principles of Justice," in Frendo, *Maltese Political Developments*, 69. Sharp, "Malta and the Nineteenth Century Grain Trade". Abela, *Hospitaller Malta*, 61.

    On grain trade in Europe see Gunnar Persson, *Grain Markets in Europe, 1500–1900, Integration*. On English Corn Laws see Grove Barnes, *A History of English Corn Laws*. Since the 1760s, the growth of cities and a series of bad harvests affected exports of British grain. In order to meet the growing internal demand, importation of grain became free in 1815. The liberalisation was supported by the manufacturing and trading interests that with lower food prices would better compete in the continental markets. Frendo, *Maltese Political Developments*, 70–88. *"Maltesi miei cari compatrioti":* '1835 Address by Mitrovich to his fellow Maltese', London, Nov 20, 1835.
108. The argument of many nationalists was that in contrast to their weighty human sacrifice, the only contribution made by the British was to have blocked Valletta's harbour.
109. Ibid., 70–88. What could not be ignored was that in 1800, in the common fight against the French, the Maltese had lost 20,000 men.
110. Taylor, "The 1848 Revolutions and the British Empire". As Richard More O' Ferrall, the governor of Malta, proposed in Nov 1848: 'the events of the last year have advanced the world a half century […] I would wish to make Malta a model for all surrounding states in the freedom of her government and the administration of her institutions'.

    Lynn, "British Policy, Trade, and Informal Empire". In the 1830s, the rebellions in British Canada were instrumental in a restructuring of imperial governance.
111. Frendo, *Maltese Political Developments*, 70–88.
112. On Religion and Empire see Carey, *God's Empire, Religion and Colonialism*. Porter, *Religion versus Empire? British Protestant Missionaries*. Armitage and Braddick, eds. *The British Atlantic World*. Armitage, *The Ideological Origins of the British Empire*. Wilson, "Introduction: Histories, Empires, Modernities". Porter, *The Oxford History of the British Empire*. Bayly, "The Evolution of Colonial Cultures," 447–69. British imperial agents were largely ambivalent about religion. In non-European dependencies, the missionary ethos was part of their 'civilising mission'. Lee, "British Policy Towards the Religion Ancient Laws".
113. Porter, "Religion, Missionary Enthusiasm, and Empire," 222–46.
114. Benton and Ford, *Rage for Order*, 180–97.
115. Marten in 'Constitutional Irregularities' provides an insightful analysis on the complexities of legal reforms in the empire. It further corroborates Benton's argument on legal change in the imperial possessions.
116. D'Angelo, "English Mediterranean".

117. "A Marine Note of Protest," 46. Notarial Archives Valletta, Sea protest, 1868 (uncatalogued).

It is also hoped that future scholars will use the sea protests to critically examine the enormous cost of human lives at sea and the deprivations sailors faced, for which there is little other evidence; a situation which enabled the historical experiences of these men – often from very poor backgrounds – to be ignored. Empire was an ugly project for people on all sides, and I believe it is important to remember all dimensions of the human cost of imperial expansion. This article is dedicated to all the men that died and suffered at sea, from those who were rehabilitated from diseases or accidents, to those who faced 'disordered innervation caused by mental excitement' or signs of 'mental derangement'. In particular, I would like to dedicate this piece to the memory of Master Peter Robert Emanuel Yungmann and his sorrowful parents. In 1868, Yungmann suffered from *Phthisis Pulmonalis*, tuberculosis, while travelling from Taganrog to England. It was noted in the sea protest taken by William Stevens: 'Notwithstanding the best possible treatment adopted, the patient died [in Malta] on September 24, 1868'. On 3 September 1868, his parents wrote to William Stevens:

> you will excuse the liberty I take in writing to you […] you inform me of the illness of my son, Captain Yungmann of the ship Victoria […] on account of this sad misfortune permit me to place before you my most earnest request […] give him all possible help and care that is necessary for his recovery […] and when he is in a proper condition to enable him to come home, then I beg you to look for the best opportunity to send him […] by fulfilling this request of sorrowing parents who are so far off and who are in fear of losing their son […] I beg again for the fulfilment of my whole request.

On 9 October, after hearing the news of his passing, the father wrote again to Stevens:

> of the sad news of the decease of my only beloved son. So very heavy now is this loss […] it was well to have […] an account of the last moments of our son […] he was well looked after during his illness […] this is a great consolation to us in our heavy sorrow […] to all the love and attention you paid him in his sickroom […] our loving God will remunerate you all you did to the destitute […] so kind to provide a tombstone […] will you now be so kind and let the following dedication be engraved on it and then to let it be taken to his last resting place.

Here Lies the Sea Captain Master Peter Robert Emanuel Yungmann
born 3 Oct 1840 at Wornemunde,
died 24 Sept 1868 at Sliema, Malta. (see note 117)

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