

All these gentlemen are included in the committee list. In the course of our inquiry the following gentlemen appeared to claim, as they expressed themselves, "the titles which respectively belong to them," viz., Enrico Testaferrata, brother of Lorenzo Cassar Desain's father, and Luigi Testaferrata, brother of the above-named Lorenzo Antonio. The said Emmanuele Testaferrata and his brother Ignazio descend from Enrico Testaferrata, senior, first-born son of Mario, senior. The Barone Dr. Giuseppe Testaferrata is the first-born descendant in the primogenial line of Gilberto, second-born son of Mario, senior. Lorenzo Antonio Testaferrata and Luigi his brother descend from Lorenzo Testaferrata, second-born son of Mario, junior, who was born of the said Gilberto. Lorenzo Cassar Desain, and Enrico Testaferrata, his uncle, derive their descent from Filippo, younger son of the said Mario, junior. Emmanuele is, moreover, the first-born son in the descending line of Enrico, and he would undoubtedly be entitled to the enjoyment of the marquisate if this title legally existed, and if he could not be ousted from it by the paternal testament.

153. With regard to the claims of all the aforesaid gentlemen, we cannot but come to the same conclusion at which we arrived, after having inquired into the claims of Gio Paolo Testaferrata. We only beg to add that if the title subsists, and if it is to be taken to extend to all the contemporary descendants of the original grantee, all the said claimants, like Gio Paolo, would have the right of bearing simultaneously the present title. And under such construction, if all those claimants, most of whom are not the first-born descendants in the direct lines of the grantee, or do not descend from his first-born son, are entitled to the joint possession of the dignity we are considering, many other persons who belong to the same family, and who, as far as we know, have never asserted their claims to this title, would, as a matter of course, have the right of enjoying it. But if, on the contrary, the title lawfully subsists, and it is inheritable by the first-born son only, under the rule of primogeniture, the marchese would be the said Emmanuele Testaferrata, should the disinheritance in Mario's testament be void, but, if valid, the title belongs to the said Dr. Giuseppe Testaferrata.

154. As we have before remarked, all the arguments which have been adduced with respect to G. P. Testaferrata's claim, will apply equally to the claims of the other gentlemen, who, Lorenzo Cassar Desain alone excepted, have not produced in support of their respective claims any other documents but their genealogical tables with several proofs of their descent. Among the documents produced by Lorenzo Cassar Desain, relative to the recognition of the title, we find a copy of the diploma of Victor-Amadeus, another diploma of the Senate of Messina, and a copy of the deed of transaction received by Notary Giammalva. Our remarks on these documents have already been submitted in the foregoing paragraphs of this Report. The said claimant has also produced a genealogical tree showing his descent from Mario Testaferrata. He has likewise exhibited two papers containing several quotations from feudal writers, and an extract from the deed of foundation of the *Primogenitura* Cassar Desain; which last-mentioned document he produced in order to justify the change of his rightful family name *Testaferrata* into that of *Cassar Desain*.

155. Lorenzo Cassar Desain, who is a descendant through a male line of Mario Testaferrata, has, like his deceased father, dropped the surname Testaferrata and assumed that of Cassar Desain, in order to be able to possess the aforesaid *Primogenitura*, which was instituted by Gio. Battista Cassar Desain, in his testament received in the acts of Notary Paolo Vittorio Giammalva, on the 7th April 1781. That testament contains, among other disposition, the following clause: * "I further direct and expressly command that the possessor of the said *Primogenitura* erected, as herein-before stated, by me, shall always bear the surname Cassar Desain, without adding any other family name thereto, and that he shall, at the same time, bear the armorial ensigns of the said family Cassar Desain, under the penalty of forfeiture, upon breach of the said condition, and my will is that, in such case, the said *Primogenitura* shall forthwith go to and be vested in, such person as should have succeeded to it, after the death of such defaulter, and not otherwise."

156. With reference to the foregoing extract, we beg to state that the family of which the said Lorenzo Cassar Desain is bound to bear the surname and armorial ensigns is not in possession of, nor has ever asserted any claim to, any title of nobility.

156a. After having submitted the reasons alleged by the claimant in order to establish the recognition of the present title, we feel it our duty to state, that from the Records of the Government Archives, it appears that in 1749 and 1750, Gilberto Testaferrata, and Mario his son, in 1776 and in 1777 were styled *Marchesi*, when appointed

If the title is to descend to all the contemporary lineal successors of the grantee, all the claimants and many other persons can enjoy it.

If it is inheritable only by the first-born it belongs to Emmanuele or to Dr. Giuseppe Testaferrata, according to the different cases.

Argument adduced with regard to G. P. Testaferrata's claim apply to the other claimants.

Documents produced by Lorenzo Cassar Desain.

Change of surname Testaferrata into that of Cassar Desain accounted for.

Conditions attached to the possession of the *Primogenitura* Cassar Desain.

The Cassar Desain family was never in possession of any title of nobility.

* Translation from the Italian.

Gilberto Testaferrata in 1749 and 1750, and Mario his son in 1776 and 77, styled Marchesi when they were appointed Jurats. Mario only described as nobleman in 1778-79-80 on a similar occasion. Suppression of the title formerly given to Mario accounted for.

Jurats by the Grand Masters. Their appointment is regularly entered in the Minute Book. But any presumption arising from these facts is greatly weakened by the circumstance that, in subsequent acts, Mario was not designated by the title of Marchese by the Grand Masters. He was in fact reappointed Jurat for the years 1778-1779 and 1779-1780, and although on that occasion in the list of the Jurats and in the Records of the *Università* which were not compiled under the authority of the Grand Masters, the title of Marchese appears to have been prefixed to his name, yet in the bull only the designation of nobleman was given to him.

157. We have not been able to discover why in 1749 the title of Marchese was given to Gilberto; this circumstance may be only explained by supposing that the suppression of the title previously given to Mario, who in 1778 and 1779 was in the same condition as Gilberto his father in 1749*, took place in consequence of a careful examination into the terms of the grant, and that the local sovereigns apprehended lest the precedent laid down on that occasion should carry with it the acknowledgment of the title in the person of the descendants who did not belong to the grantee's primogenial line. Our assumption is supported by the circumstance that the title of Marquis was withheld not only in 1778, but also in 1779; nor can its omission in the former year be attributed to an unintentional error on the part of the Grand Master, for in such case Mario would in 1779 have applied for and obtained the re-insertion of this title and the reintegration of his rights. It is moreover to be noticed that in the Bull by which the Grand Master's assent was given to the appointment of the Jurats for 1778-1779, all the titled gentlemen on whom that office was conferred, together with Mario, were properly designated by their respective titles. Thus we find that with the nobleman Mario Testaferrata, Barone Francesco Bonici was appointed Jurat in 1778, and his appointment was confirmed in 1779, and Barone D. Pasquale Scerberras, who had been elected Capitano della Verga in 1775, 1776, and 1777, was reappointed to that office in 1778, and his appointment confirmed in 1779. Nor can it be affirmed that, because Gilberto and his successors possessed the title for a certain space of time, the claimant's right has been established in virtue of prescription, for even admitting their assertion that titles of nobility may be acquired by a possession of 30 years, no prescriptive right may be claimed on this occasion, inasmuch as from 1749, when the designation of Marchese was given to Gilberto, to 1778, when that title was withheld, no uninterrupted possession appears to have been enjoyed for the term of 30 years.

158. Having premised these circumstances we think that the gentlemen who appeared to assert their rights to the present title have failed to show that those under whom they claim were under the government of the Order lawfully recognised as Marchesi by the sovereign authorities of the island.

159. Gio Paolo Testaferrata and Lorenzo Cassar Desain have produced several other documents to prove that the title has been recognised by Her Majesty's Government. It is not our province to express any opinion on the import of the acts by which those claimants have endeavoured to establish a recognition of their title. The Right Honourable the Secretary of State may perhaps form a correct opinion on some of these documents, and on some others the local authorities may furnish his Lordship with full and reliable information.

160. The first of these documents is a warrant of diploma whereby Henry Pigot, Major-General of His Majesty's forces, appointed on the 1st January 1801 the said Enrico Testaferrata, junior, to be captain of the militia. That warrant (of which the following is a translation from the Italian original), runs thus: "By virtue of the authority with which we have been invested we nominate and appoint you, Marchese Giuseppe Testaferrata, captain of the division of the militia in this island of Malta of which Conte Luigi M^o. Gatto is the commanding officer." This warrant is signed thus: "H. Pigot, M^o General," and "by order of his Excellency the Major-General John Dalrymple, A. Adj^t Gen^l."

161. The following are the other documents presented by the claimant Gio Paolo. 1st. A certificate signed by the Chancellor of the Municipal Corporation of the city of Notabile, by which it is attested that in the year 1803, the Noble Marchese Don Pandolfo Testaferrata was appointed first Jurat.

2nd. A diary or almanac of Malta for the year 1805, in which among the several Government employés, Marchese Don Mario Testaferrata is referred to as President of the "Monte di Pietà ed Redenzione," and Marchese Pandolfo Testaferrata as commanding officer of the Veteran's Company.

Claimants failed to establish the recognition of the present title.

Recognition of title presumed to have been effected under the British Government.

Documents produced by G. P. Testaferrata Olivier.

* Gilberto died on the 10th August 1774.

3rd. A copy of the "Times," newspaper of the 13th March 1812, which contains a description of a levée held by H.R.H. the Prince Regent at Carlton House. Among the marquises who are reported to have attended the levée there is "Testaferrato," and among the presentations which took place, that of "Marquis Testaferrata, of the Ancient Princes Capo di Ferro, Chargé d'Affaires Maltese." The Marquis alluded to in that description is not the claimant's ancestor, but Nicola Testaferrata, who at that time repaired to London with a deputation of Maltese gentlemen, in order to obtain some improvements in the system of the local government. The designations given in that issue of the "Times" clearly bespeak their origin.

4th. A passport, signed on the 5th July 1861, by "Wilford Brett, Acting Chief Secretary to Government," and issued in the name of Governor Sir John Gaspard Le Marchant. In this passport there are the following expressions:—"These are to request and require to allow the Marquis Gio Paolo Testaferrata Olivier, Captain Malta Militia."

5th. A letter addressed by Sir Victor Houlton, Chief Secretary to Government, on the 22nd October 1868, to "Marquis G. P. Testaferrata Olivier," in which we read: His Excellency the Governor having considered it necessary "that a person should be appointed for the purpose of perusing the pieces to be performed at the Theatre Manoel, I am desired to inform you that his Excellency has been pleased to appoint you to discharge that duty."

6th. A letter addressed on the 21st July 1863, by Frederic Rogers, Esq., to Marquis Testaferrata Olivier and Commander Walter Strickland, R.N., which is to the following effect:—"I am directed by the Duke of Newcastle to acquaint you that the Lords of the Committee of the Privy Council for Trade have forwarded to this office a letter addressed to that department by yourself and Captain Strickland, enclosing a programme of a proposed Exhibition of Maltese Industry, General Products, and Fine Arts; and I am directed, &c."

7th. A copy of the Malta Government Gazette, containing a list of persons deemed to possess the qualifications required by law in order to vote for the election of members of the Council of Government for the Island of Malta. In this list the claimant is designated as "Testaferrata Olivier, Marquis Gio Paolo." It is proper here to remark that, as in the memorandum by that gentleman it is stated that the prefix of "Marchese" was added to his name in pursuance of a decision, a copy of which was not produced by him, we are inclined to believe that the claimant alludes to some order which may have been given on the subject by the Commissioners charged with conducting the election of Members of the Council of the Government of Malta. But those Commissioners had certainly no power to give a title to a gentleman who had no right to bear it.

8th. Lastly, a printed list of the different schools of the Lyceum of Malta, showing the names of the students to whom prizes had been awarded or who had distinguished themselves at the annual examinations, as well as the names of the teachers of the said schools. In that list we read: "School of History and Geography, under the direction of Marchese G. P. Testaferrata Olivier."

162. But from information obtained in the course of our inquiry, it appears that when on the 9th September 1852, the claimant was appointed Captain of the Militia, he was simply designated as G. P. Testaferrata; and that in official documents concerning public departments he was described with his baptismal and surname only, down to 1870, since which period the title of Marchese has been prefixed to his name.

163. After this detailed examination of the documents exhibited by G. P. Testaferrata Olivier, we now come to inquire into those produced by Lorenzo Cassar Desain, viz.:—

1st. A passport issued on the 19th May 1857, under the administration of Sir William Reid. It runs thus:—"These are to request and require to allow the Marquis Philip James Cassar Desain, of the Royal Malta Fencible Regiment, accompanied"

2nd. Another passport, issued in the name of the head of the Government, on the 17th June 1863, and conceived in the same terms which were used in the one just mentioned.

3rd. Two passports, issued from the Foreign Office on the 19th and 22nd October 1863. They contain the following expressions:—"We, John Earl Russel Her Majesty's Secretary of State for Foreign Affairs request and require in the name of Her Majesty to allow Lieutenant the Marquis Philip James Cassar Desain (British subject), of the Royal Malta Artillery." The gentleman referred to in the above-named passports is the claimant's father.

The said Gio Paolo was not styled Marchese in the Government notices and other official acts down to 1870.

Documents exhibited by Lorenzo Cassar Desain.

