

## ILLICIT EXCAVATION: THE TRIAL OF ALESSANDRO PALMA DI CESNOLA IN CYPRUS IN 1878

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*The prosecution in Cyprus of an Italian citizen for illicit excavation in 1878 is a very early case in modern cultural heritage law. In taking over from the Ottoman empire the administration of Cyprus in June 1878, Britain inherited the Ottoman legal system, including its 1874 law on antiquities. Four months later, the British arrested Alessandro Palma di Cesnola for flouting a newly announced ban on excavation. The evidence of official, confidential records reveals the steps leading to the Italian's arrest, trial and conviction in court. His trial followed Ottoman legal procedures, but the verdict was decided by the district commissioner, a British military officer unfamiliar with local law and languages. Alessandro Palma di Cesnola's claims of American citizenship and a diplomatic status are shown to have been invalid. A closing review suggests that the British Museum was influential in prompting the ban on excavation and that moral and financial pressures led Alessandro Palma di Cesnola to ignore it.*

### INTRODUCTION

The name of Luigi Palma di Cesnola (1832–1904) is associated with the island of Cyprus and with The Metropolitan Museum of Art, in New York. Arriving in Cyprus in 1865 as the American consul, he amassed a huge collection of antiquities by purchasing casual finds and paying villagers to dig at archaeological sites. In the face of mounting criticism, he wrote that his excavations had been systematic, while conceding ‘That they were perhaps not conducted in all their details according to the usual manner adopted and advocated by most archaeologists, I am unwilling to dispute’.<sup>1</sup> In 1872 he sold a large proportion of his collection (at least 30,000 items, packed into 275 crates) to The Metropolitan Museum, which had opened two years earlier in New York. After another spell of collecting antiquities in Cyprus, in 1877 he negotiated a position as the museum's secretary and, in 1879, became its first director, a post he held until his death.<sup>2</sup>

Luigi Palma di Cesnola's antiquities, and his own lively account of how he acquired them, have been extensively studied.<sup>3</sup> His possible motivations, other than avowedly commercial, have also been analysed.<sup>4</sup>

His younger brother, Alessandro Palma di Cesnola (1839–1914), has received much less attention. He first visited Cyprus in 1873 at Luigi's invitation to help him with his

1. Cesnola, L P di 1877, vii–viii.

2. Karageorghis *et al* 2000, 7.

3. Cesnola, L P di 1877; McFadden 1971; Olivier Masson, in Dubois 1997, 12–13; Karageorghis *et al* 2000; Marangou 2000.

4. Wright 1991/2; Balm 2016, 43–58.

excavations. Drawing on this experience, Alessandro assembled his own collection of antiquities in 1876–8 while Luigi remained at The Metropolitan Museum. But the younger brother's digging career is important for other reasons, stemming from the event that brought it to a halt: the British occupation of Cyprus in 1878, which led to his arrest for illicit excavation.

His arrest and subsequent trial have a political and legal significance. The political interest is due to Great Britain having recently assumed the administration of part of the Ottoman empire. The case is significant within cultural heritage law for its very early date. The trial took place within three months of the first British high commissioner's arrival on the island; the defendant was a foreign national whose claim to a diplomatic status led to an international *démarche*; the verdict was delivered by a British military officer unfamiliar with local law and language; and the offence – illicit excavation – had rarely been the subject of proceedings in a law court anywhere.<sup>5</sup> For these reasons, the case of *Regina v. Cesnola* (1878) merits attention.

In his magisterial history of Cyprus, Sir George Hill cited as a source for the trial a volume of confidential letters exchanged among members of the British administration in Cyprus and with the Foreign Secretary, the Marquis of Salisbury, in London.<sup>6</sup> The Foreign Office volume is a rare one and the pertinent documents are listed as missing in the comprehensive State Archives of the Government of Cyprus.<sup>7</sup>

Here, the author first identifies the Ottoman law under which Alessandro Palma di Cesnola (often abbreviated hereafter as 'Alessandro') was charged in October 1878. The evidence of trial witnesses reveals the circumstances of his excavations and his arrest. After detention overnight, he was released without penalty, save for confiscation of the excavated antiquities. A day later he contested vehemently the legality of his arrest and lodged a complaint with the American consul in Beirut, thereby provoking the British to summon him formally for trial. He was found guilty of breaking the antiquities law. Four months later, in February 1879, he left Cyprus for good.

In concluding, two questions are considered here: why, with much more urgent tasks of administration before him, did the high commissioner proclaim a ban on excavations within a month of his arrival, and why did Alessandro Palma di Cesnola ignore explicit instructions to observe this prohibition?

#### THE LAW UNDER WHICH ALESSANDRO PALMA DI CESNOLA WAS CHARGED

Under the terms of the Convention of Defensive Alliance (4 June 1878), Great Britain provisionally took over from Turkey the 'occupation and administration' of the island of Cyprus. An oversight in the Convention's text was rectified when, on 14 August 1878, the Supplementary Agreement transferred 'to Her Majesty the Queen' the powers to make laws and conventions. An order of 14 September 1878 then established a legislative council and empowered the high commissioner to enact laws.<sup>8</sup> The inaugural high commissioner, Sir Garnet Wolseley (1833–1913), had arrived at the port of Larnaca on 23 July that year.

5. See, for example, Prott and O'Keefe 1984.

6. Hill 1952, 607–8, n 2, where he mistakenly conflated the two brothers as a single 'Cesnola'; FO Corr. 1878–9.

7. SAO2/433/1878, etc.

8. Orr 1918, 38, 95; Hill 1952, 302, 403–15; Georghallides 1979, 10.

Renowned for his military career, he was a household name in Britain after his campaign in the third Anglo–Ashanti war in the Gold Coast, for which he was knighted. He brought with him Sir Adrian Dingli (1817–1900), the Crown Advocate of Malta, to advise him on immediate legal issues. Like other colonial administrators, Wolseley initially planned to treat his new territory as an extension of Britain and to anglicise its institutions and inhabitants, but he soon came to appreciate the sound basis of the Ottoman legal code, based as it was on the Code Napoléon.<sup>9</sup> His eventual reform of the court system in Cyprus post-dates the events described here and is not considered (that is, The High Court of Justice Ordinance of 1878 and The Cyprus Courts of Justice Order, 1882).<sup>10</sup>

At the time, the current Ottoman law on antiquities was the *Règlement sur les antiquités (le 20 Séfer 1291 – 24 Mars 1874)*.<sup>11</sup> Foreign scholars and amateurs wishing to search for antiquities had to obtain an annual *firman* (permit) issued by the Sublime Porte in Constantinople. Their country's diplomatic legation in the city could facilitate their applications. The terms of a *firman* were generous in allowing excavated finds to be exported. But, in the late 1860s, a change of policy coincided with the development of the Imperial Ottoman Museum in Constantinople and a growing national interest in antiquities. The core of the museum's holdings was the sultan's private collection of arms and military equipment. In 1869, in order to build up an antiquities collection, the minister of public education, Safvet Pasha, issued a decree forbidding the export of finds (other than coins) from excavations.<sup>12</sup> The decree came as a shock to excavators. Work at Ephesus, sponsored for eleven years by the British Museum, was suspended in spring 1874 over difficulties in renewing the annual *firman*.<sup>13</sup> Independent excavators, such as Heinrich Schliemann at Troy and Luigi Palma di Cesnola in Cyprus, had to resort to various stratagems to circumvent the new regulations.<sup>14</sup> Diplomatic intervention could still obtain a *firman* in case of difficulties. For instance, George Henry Boker (1823–90), minister to the American legation in Constantinople, obtained a *firman* for Luigi Palma di Cesnola's digging in Cyprus and helped him export his finds. The latter gratefully gave Boker gold trinkets from his collection and invited him and his wife for a vacation on the island.<sup>15</sup> Luigi Palma di Cesnola was not alone in excavating there: Robert Lang, manager of the Imperial Ottoman Bank at Larnaca, spent eleven years amassing an antiquities collection without bothering with a *firman*, and other foreign consuls also indulged.<sup>16</sup> But it was Luigi Palma di Cesnola's mass export of antiquities that provoked Constantinople by directly challenging the 1869 decree.<sup>17</sup>

New, more detailed rules followed. The law of 1874 extended considerably the decree of 1869, its thirty-six articles replacing the seven of 1869. Article 7 forbade:

the carrying-out of all excavation undertaken especially for finding antiquities and treasures, without official authorisation and without the consent of the landowner.

9. BL Add. mss. 41324, Wolseley to Salisbury, 5 Aug 1878; Dixon 1879, 170–4.

10. Hook 2009, 133–6, and 2015.

11. Text translated in Stanley-Price 2001, Appendix B; Shaw 2003, 89–91.

12. Text translated in Stanley-Price 2001, Appendix A; Shaw 2003, 83–8; Donkow 2004.

13. Donkow 2004.

14. Allen 1999, 118, 133–4; Marangou 2000, 208–9; Stanley-Price 2001, 268.

15. Allen 1999, 168 and 326, n 43.

16. Lang 1878; Goring 1988, 7–15.

17. Allen 1999, 167, n 38.

The antiquities found by those who contravene this ban will be seized in their entirety, and they will themselves be condemned to a fine of from one to five Turkish pounds, or to imprisonment for from three days to one week.

Of the finds made during authorised excavations, Article 3 stated that:

one-third will belong to the Government, another third to the finder and the remainder to the owner of the land where the antiquities were found. If the finder found the antiquities on his own land, two-thirds will go to him and one-third to the Government.

The enterprising excavator purchased or leased the land to be explored so as to retain two-thirds while sending, in principle, only one-third to the museum in Constantinople. Crucially, the 1874 law allowed the excavator to export his share unless the Imperial Museum particularly requested any object (Art. 32). This loophole was blocked by a new Ottoman law of 1884, which strictly forbade all export of antiquities except 'duplicates'.<sup>18</sup> But the 1884 law was not applied in Cyprus because it was introduced after the British occupation.<sup>19</sup>

With the 1874 law in force in Cyprus, the high commissioner, within a month of his arrival, issued a proclamation banning all excavations.<sup>20</sup> According to Perrot, Wolseley announced the ban in August 1878 following orders received from England. British visitors' memoirs confirm its enforcement.<sup>21</sup> It was this ban that Alessandro Palma di Cesnola decided to ignore.

#### ALESSANDRO PALMA DI CESNOLA'S ILLICIT EXCAVATIONS

Alessandro Palma di Cesnola was born the youngest of seven children in Rivarolo Canavese in the Piedmont region of northern Italy (fig 1).<sup>22</sup> Like his elder brother Luigi, Alessandro combined a military career with extensive travel that brought him to the New World.<sup>23</sup> In April 1873, he travelled from South America to New York, where Luigi was on leave working on his collection in The Metropolitan Museum. Three months later, the two of them left for Cyprus, where Luigi resumed control of the digs that had continued in his absence. He instructed his brother in his methods and how to manage workmen and local Turkish officials. For undisclosed reasons, Alessandro Palma di Cesnola left Cyprus against his will in either late 1874 or late 1875, returning only in July 1876.<sup>24</sup> The intervening

18. Shaw 2003, 110–3.

19. Stanley-Price 2001, 268.

20. Possibly part of the proclamation planned by Wolseley on changes to the Ottoman Law; BL Add. MSS. 41324, Wolseley to Salisbury, 5 Aug 1878.

21. Baker 1879, 145; Perrot 1879, 604; Brassey 1880, 259; Scott-Stevenson 1880, 208.

22. Hetherington 2000, 368.

23. Cesnola, A P di 1884, xxi–xxiii.

24. Ibid, xi and xxiv. One of several inconsistencies in the two prefaces to *Salamina*, his stay in London lasted either eighteen months (Preface, 1st edn, 1882) or about six months (Preface, 2nd edn, 1884). The 2nd edn reprinted almost verbatim the 1st edn preface; all page references here are to the 2nd edn. Evidence is slim of Alessandro Palma di Cesnola's presence in Cyprus in 1875.



Fig 1. Alessandro Palma di Cesnola. *Photograph*: Giacomo Brogi, Florence; courtesy of Dartmouth College Library.

months he spent at the British Museum studying the Oriental collections. In London he found a wealthy stockbroker and collector, Edwin H Lawrence FSA (1819–91), to sponsor him, and he returned to Cyprus to acquire antiquities for him.

Adopting his brother's strategies, Alessandro purchased antiquities and organised excavations.<sup>25</sup> In November 1877, after one of his workmen brought him some promising finds, he re-directed all his workforce to the ancient site of the city of Salamis (fig 2).<sup>26</sup> His excavations there produced the greater part of the future Lawrence–Cesnola collection.

Alessandro Palma di Cesnola voluntarily identified himself (his brother Luigi's reputation had preceded him, of course) by going to the British headquarters camp at Nicosia.

25. Cesnola 1884, xv–xvii; Masson 1989, Masson 1990, Masson 1996.

26. Karageorghis 1969.



Fig 2. Cyprus, with places mentioned in the text. Drawn by Pier Matteo Barone.

A Mr Cesnola called upon me some six weeks or two months ago and requested permission to dig. I did not see him myself but the Secretary to the Government, Colonel Greaves, did & told him that all excavating at present was positively forbidden and that anyone breaking the law on this point would be punished according to law.<sup>27</sup>

A date of 'six weeks or two months ago' (that is, the second half of August 1878) suggests that Alessandro had heard of the excavation ban and had hurried to Nicosia to request a permit. He decided to ignore the ban, just as earlier he had worked without a *firman*. 'I had indeed applied to Constantinople for a firman but I never received a positive answer so I continued digging without it'.<sup>28</sup>

The duration, though not the locations, of Alessandro's recent work at or near Salamis can be reconstructed from the testimony of his workmen. Three men (Christophi Andrea, Constantini Hadji Tochi and Christodoulo/Christobulo Georgi) from the village of Ninkomi (Enkomi) near the ancient site were sent to Larnaca to make sworn depositions. Two of them (Christophi and Christobulo) also testified at the trial, as did a third Enkomi villager, Johannes Kyriaki.<sup>29</sup> Two residents of Scala (the port area of Larnaca) also gave sworn depositions. One of them, Alessandro Koukomo, had worked previously for the Cesnola brothers at Larnaca and Enkomi. Re-engaged by Alessandro Palma di Cesnola about six months ago, he dug for him at Enkomi until two months ago and was then employed to fill up excavation pits (a common practice to avoid paying compensation to the

27. BL Add. mss. 41324, Wolseley to Lord Salisbury, 16 Oct 1878.

28. Cesnola 1884, xviii.

29. FO Corr. 1878-9, 177-8, 183-4.

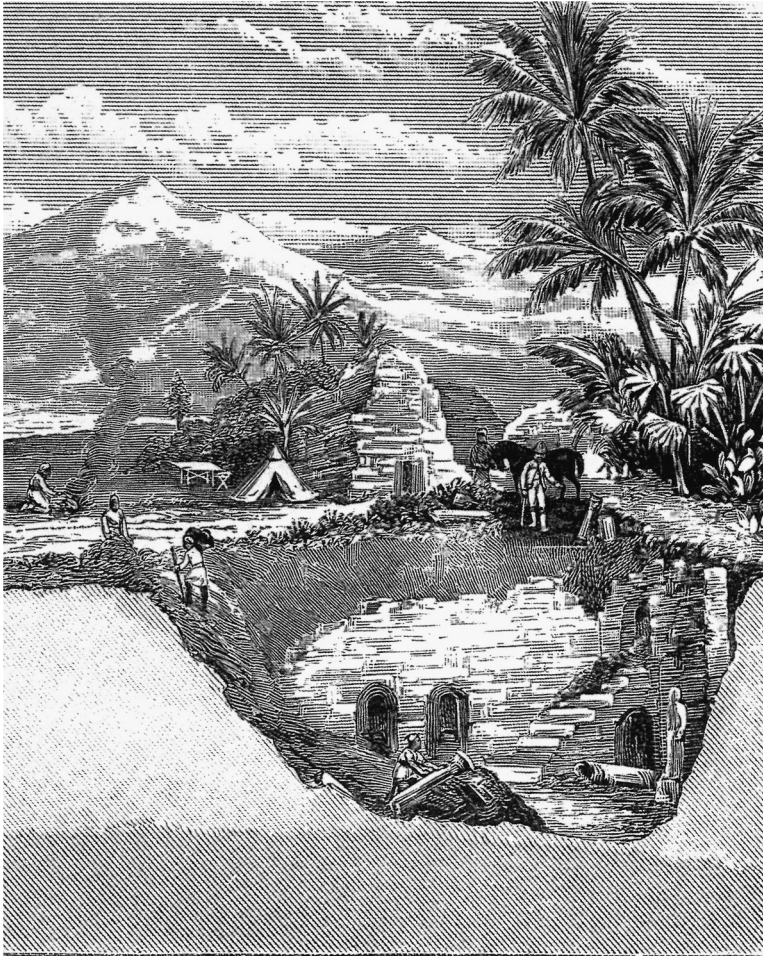


Fig 3. Alessandro Palma di Cesnola visiting excavations near Salamis. *Source:* Cesnola A P di 1884, opp. p xiv, detail.

landowner). The other Larnaca man, Georgi Zoneno, also had been engaged six months ago and worked until the previous Wednesday (that is, 2 October 1878).

The Enkomi workmen confirmed this date. All five gave consistent statements about working for some six months (initially, there were about sixty men digging). All were employed by Lazaris Philippi, the servant of Alessandro Palma di Cesnola, and it was he, Lazaris, who stopped the excavations on 2 October. The ‘American’ (that is, Alessandro) visited the site several times, his last visit having been two months previously (that is, early August 1878) (fig 3).<sup>30</sup> Lazaris stored the finds in a ruined house in Enkomi to which Panagia Hadji Cristofi lent him the keys.

Alessandro divided his time between Larnaca and a summer-house in Ormidia, near the coast, a few hours’ ride to the north-east (see fig 2). Thanks to the onshore breezes, this small village became the preferred summer resort for merchants of the English Levant

30. FO Corr. 1878–9, 183–4.



Fig 4. The Ormidia house (an American flag is visible). Source: Cesnola A P di 1884, p xi.

Company based in Larnaca.<sup>31</sup> The tradition continued among the foreign consuls, including Luigi Palma di Cesnola, when American consul, who rented a house there in 1873 and used it regularly with his family. Alessandro took over the lease on his brother's departure.<sup>32</sup> The house was a stout building in stone and mudbrick of two floors, with a large internal courtyard and garden (fig 4).<sup>33</sup> It belonged to Nicolaos Vondiziano, member of a leading Cypriot family mainly resident in Ormidia. Marked on the Cadastral Survey maps of the island (1922) as 'Cesnola's Summer Residence', it was demolished around 1970.<sup>34</sup>

Achilleus Vondiziano (1845–98), the eldest of three sons of Nicolaos Vondiziano<sup>35</sup> and resident in Ormidia, attested at Alessandro's trial that he was familiar with the house and the servant Lazaris.<sup>36</sup> It was he who first informed the authorities about the Italian's work at Salamis/Enkomi. On 2 October 1878, he reported to a police captain that, about a fortnight previously, Alessandro had been excavating at Enkomi and that he, Vondiziano, had 'tried to induce the workmen to discontinue the excavations, saying to them that it was prohibited'. Vondiziano must have known of the high commissioner's recent ban and visited the excavations to urge that they be stopped. The villagers of Ormidia told a policeman (*zaptieh*) that the work at Enkomi was continuing, and that the finds were stored in the house of Panagia. The commissioner in Larnaca, Colonel Henry G White, forwarded the two reports to the government chief secretary in Nicosia, Colonel George Greaves, and asked what action to take.<sup>37</sup>

31. Jeffery 1918, 195–7.

32. Cesnola L P di 1877, 179; Cesnola, A P di 1884, xii.

33. Dixon 1879, 95–102.

34. Hadjicosti 2001, 54, 56–7 and figs 5.25, 5.26.

35. Koudounaris 1972, 29.

36. FO Corr. 1878–9, 178, 181 where his name appears as 'Archilia'.

37. FO Corr. 1878–9, 181, White to Greaves, 2 Oct 1878.



Greaves ordered the local commandant of police in Larnaca, Lieutenant E Spencer, to proceed with three policemen to Enkomi. If Alessandro Palma di Cesnola was or had recently been excavating, he should be charged under the Turkish antiquities law and the finds brought to Larnaca. The following day (4 October 1878) Spencer went first to Ormidia to ask a former servant of Alessandro's to accompany him to Enkomi so as to be sure of finding the site. At a cemetery, with most of the emptied tombs already backfilled, the workmen at Enkomi admitted that they were working for Lazaris. Convinced of Alessandro's culpability, Spencer sent to Larnaca some of the men to give sworn depositions, and he seized the pottery and glass objects that he found in Panagia's house.<sup>38</sup>

#### ARREST OF ALESSANDRO PALMA DI CESNOLA AND HIS REACTION

After one night at Enkomi, on his return to Larnaca, Spencer submitted his report to Commissioner White, who immediately forwarded it to Greaves in Nicosia. His cover note, timed 10pm, observed that Alessandro Palma di Cesnola, while 'not caught in the act', had undoubtedly directed researches up to the past few days and, under Article 7 of the antiquities law, was liable to punishment. Would Greaves authorise his summary arrest?

Greaves replied for the high commissioner that White should inform the Italian that he had broken the law and contravened the orders of the high commissioner. 'Should he again be guilty of such conduct, his Excellency will have him imprisoned as the law directs.' White should seize all the excavated objects.<sup>39</sup> Before this reply reached him, White telegraphed (a method used sparingly because of the cost) that the Italian had surrendered himself in Larnaca, had offered bail and was being detained in a large room at the *konak* (a building that housed the courts, the district offices and the jail).

Leniency was the high commissioner's preferred policy. He wished to avoid bringing Alessandro Palma di Cesnola to trial, but he was extremely irritated to find that 'a man calling himself Major Cesnola, brother to the man who called himself General Cesnola', had been excavating despite being told distinctly not to. 'Infernal Italian!'<sup>40</sup> The matter might have ended there had not Alessandro, after a day's reflection, decided to contest vehemently the legality of his arrest.

Alessandro first protested when presenting himself at the house of Commissioner White, around midday on Sunday 6 October. He had arrived from Ormidia, accompanied by Lieutenant Richard L Hippisley (1853–1936) of the Royal Engineers. The lieutenant had landed at Larnaca by ship from Alexandria on the night of 29–30 September, together with his fellow lieutenant H H Kitchener (1850–1916), to undertake for the government a trigonometrical survey of Cyprus.<sup>41</sup> Other passengers on the ship included the writer and traveller William Hepworth Dixon (1821–79), who was writing a book about Cyprus, and Esmé Scott-Stevenson, whose husband Andrew (1847–92) was shortly to be appointed assistant commissioner in Kyrenia.<sup>42</sup>

38. FO Corr. 1878–9, 182, Spencer to White, 5 Oct 1878.

39. FO Corr. 1878–9, 183, Greaves to White, 6 Oct 1878.

40. FO Corr. 1878–9, 223, Wolseley to Salisbury, 1 Dec 1878; Wolseley diary, 4 Oct 1878, in Cavendish 1990, 100.

41. Shirley 2001, 15–16.

42. Scott-Stevenson 1880, 1.

Dixon knew Cyprus well, having first visited fifteen years previously; he also knew Alessandro Palma di Cesnola. Soon after Dixon's arrival from Alexandria, he was invited by his friend to stay in the Cesnola country house at Ormidia.<sup>43</sup> He was at the house with Alessandro when Spencer stopped there on his way back from Enkomi in order to seal a room containing antiquities. He is said on that occasion to have 'interfered with Lieutenant Spencer by words generally'.<sup>44</sup> Had he not fallen from his mule and broken his collar-bone while they were riding together to Ormidia,<sup>45</sup> Dixon would probably have gone with Alessandro to the commissioner's house the following day. Since he was incapacitated, he apparently asked his fellow-passenger from the ship, Lieutenant Hippisley, to accompany his Italian friend instead. Within a few days, however, Dixon was to intervene more actively.

After his formal arrest at White's house, with bail refused,<sup>46</sup> Alessandro Palma di Cesnola walked freely to the *konak* building, where he stayed overnight in a large room prepared for him in the offices (not in the jail) and provided with various comforts, for which he repeatedly and warmly thanked White.<sup>47</sup> No charges had been preferred, but the antiquities in the room sealed by Spencer would be confiscated. Wanting 'to save the danger of breakage', the detainee offered to bring in the antiquities himself (they numbered about thirty-six, he claimed) rather than a police officer having to go there. Giving his word of honour, he requested a permit to break the seal. A few hours later the permit was returned to White. On the same day, Alessandro Palma di Cesnola submitted a complaint to the American consul in Beirut as follows:<sup>48</sup>

Dear Sir,

I have to inform you, for your guidance as protector of American citizens in this island, that I have been unlawfully arrested, in a manner involving great personal indemnity locked up in the *konak*, the common Turkish prison of this place, refused enlargement on bail and interview with any person whatever, even my own legal adviser. The charge alleged against me, and which I entirely deny, is a civil charge, that of having continued to carry on the series of excavations, so long conducted by my brother and myself, in this island. Without a word of apology, I am simply allowed to leave the *konak*; but the seals are still on my door, and I am given to understand that my property is sequestered. I venture to pray for your prompt assistance in procuring justice and redress.

I am, &c

(Signed) A.P. DI CESNOLA

Late Vice-Consul at Papho, and Acting Consul in Cyprus  
for the United States

43. Dixon 1878 and 1879, 81–102.

44. FO Corr. 1878–9, 182, White to Greaves, 5 Oct 1878.

45. Dixon 1879, 88–9, 113–4.

46. Hill 1952, 607 n 2.

47. FO Corr. 1878–9, 184–5, White to Greaves, 9 Oct 1878.

48. FO Corr. 1878–9, 186, A P di Cesnola to consul of the United States of America, Beyrout, 8 Oct 1878.

The hand of William Hepworth Dixon, a qualified barrister who never practised,<sup>49</sup> can be discerned in the legal phrasing composed for an Italian friend whose English was poor. Wolseley was sure that it was Dixon, in his view a ‘pompous ass’ and a ‘busybody’, who persuaded his friend that he had been disgracefully treated, advising him to break his promise to bring in the antiquities and instead to complain to Beirut.<sup>50</sup>

This challenge to the British authorities, who hitherto had treated Alessandro leniently, provoked them into summoning him for trial. Remarkably, it was Chief Secretary Greaves who seems to have taken the decision:

Referring to the case of M. Cesnola, accused of having excavated for antiquities in violation of the Turkish law, and *in spite of the refusal of his Excellency the High Commissioner to sanction the proceeding* [emphasis added], be so good as to proceed against this gentleman in strict accordance with Turkish law. Have him summoned to appear before the Medjliss Davi court in Larnaca; but before any sentence passed upon him, if found to be guilty, is carried out, refer the matter to me for his Excellency’s orders.<sup>51</sup>

#### THE TRIAL OF ALESSANDRO PALMA DI CESNOLA

##### Court procedure and verdict

The ‘Medjliss Davi’ (or *Mejlis i-Daavi*) was a district court in Larnaca.<sup>52</sup> The order of 14 September 1878 establishing the legislative council confirmed that the Ottoman court system would continue in the six administrative districts of the island. Alessandro Palma di Cesnola was principally a resident of Larnaca, although Ormidia and Enkomi were in the Famagusta district. The jurisdiction of the *Daavi* courts was limited to penalties of either 1,000 or 5,000 piastres (10 or 50 Turkish lira; sources differ on the upper limit) in civil cases, and three months’ imprisonment in criminal cases (that is, higher than the penalties for illicit excavation established by the 1874 antiquities law). In Ottoman Cyprus, a *kadi* (judge) presided over a *Daavi* court with the assistance of four members, two Muslim and two Christian, who were elected by their communities. The significant change introduced by the British was the figure of an assessor, usually the British commissioner or assistant commissioner of the district. Lieutenant Seager, sitting in a Nicosia court, described how it functioned, with no role for counsel for prosecution or defence. He, as assessor, heard the pleas, sifted the evidence and signed the judgment if convinced that the law had been fairly applied. ‘In practice, Lieutenant Seager is the court.’<sup>53</sup>

The condescending anecdotal accounts by Britons of these *Daavi* courts in 1878–9 make entertaining reading. The barrister Dixon and the wife of Kyrenia’s assistant commissioner both described how hearings proceeded, stressing the influential role played by

49. Kent 2004.

50. Wolseley diary, 4 Oct 1878, in Cavendish 1990, 100; BL Add. mss. 41324, Wolseley to Salisbury 16 Oct 1878. For Wolseley’s view of Dixon, see also Varnava 2012, 116.

51. FO Corr. 1878–9, 187, Greaves to White, 12 Oct 1878.

52. Orr 1918, 114–5; Hill 1952, 208.

53. Dixon 1879, 183–4.

interpreters switching between different languages and the associated (in their view) rampant bribery.<sup>54</sup> But they fail to acknowledge the lack of qualification, legal or linguistic, of the military officers who were administering Cyprus and who acted as assessors. Looking back to 1878, when he first arrived, Falkland Warren wrote: 'We who came to assist in the Government were to a man ignorant of the laws, languages, and customs of the people'.<sup>55</sup> 'No officers understood either the language, or laws, of the people they had to govern; they were for the most part specially educated for the military profession'.<sup>56</sup> Lieutenant Kitchener's first impressions were similar, writing to his sister about the absurd laws that the British make that they then have to counter-order: 'All is in fact chaos'.<sup>57</sup>

Wolseley's policy of appointing military officers rather than civil servants, while replacing local officials, was already controversial at the time.<sup>58</sup> He had brought to Cyprus several members of the 'Wolseley Ring', military officers who had served with him in Ashanti or elsewhere and whom he trusted. Chief Secretary Colonel George Greaves (1831–1922) was one of the Ring, as was Lieutenant-Colonel Henry Brackenbury (1837–1914) of the Royal Artillery. Wolseley appointed Brackenbury, whom he considered the cleverest man in the British army, Chief Commandant of Military Police and Inspector of Prisons.<sup>59</sup> Among the military officials, Lieutenant M B Seager, sitting as Assessor in Nicosia, was unusual – perhaps unique – in being trained in the law (albeit English law), having been called to the bar in England.<sup>60</sup> The lack of British legal expertise was remedied in late August with the arrival of Charles Alfred Cookson, appointed Chief Justice and Attorney-General. In December, Cookson recommended retaining the Ottoman civil law code.<sup>61</sup>

For Alessandro Palma di Cesnola to receive a fair trial without access to counsel, he had to understand the proceedings. The British had expected to conduct official business in English, but found their language little used in Cyprus. Ottoman government business was conducted in Turkish; Cypriot Greek (Kypriaka) was the language of a majority of the population, but knowledge of both Turkish and Greek (in their spoken, colloquial forms, not the written languages) was widespread among Cypriots.<sup>62</sup> The British brought in interpreters from Turkey and Malta. Wolseley's successor estimated that in 1878 fewer than ten resident Cypriots understood English,<sup>63</sup> but this assertion is hard to credit, given that other interpreters were recruited from the local Turkish Cypriot, Greek Cypriot and Armenian communities. In the court at Larnaca, a town of cosmopolitan population, interpreters translated among languages that might include Turkish, Greek, Italian, French, English and Arabic. Their long experience of court business also enabled them to correct the *kadi* or the assessor when points of law were in doubt or legal precedents needed.<sup>64</sup>

54. *Ibid.*, 3–6, 171–4, 182–93; Scott-Stevenson 1880, 119–25.

55. Quoted in Hook 2009, 20.

56. Baker 1879, 399; see also Vizetelly 1901, 32.

57. Shirley 2001, 16, citing a letter dated 2 Oct 1878.

58. Varnava 2012, 115; Hook 2009, 119–20.

59. Hook 2009, 108–10.

60. Dixon 1879, 183.

61. BL Add. mss. 41324, Wolseley to Salisbury, 20 Aug and 2 Dec 1878.

62. Bryant 2004, 34–7; Hook 2009, 121–3.

63. Hook 2009, 122.

64. Lang 1878, 273–4.

Alessandro Palma di Cesnola's native language was Italian, widely spoken as a *lingua franca* in the East Mediterranean until its replacement in the 1860s by French.<sup>65</sup> Consuls in Cyprus during the late Ottoman period usually wrote in Italian, sometimes in French,<sup>66</sup> in fact, several consuls and merchants were of Italian descent. Alessandro learnt French during his childhood in the Italian Piedmont (his mother was fluent in it) and picked up some English during his three months in New York and his longer stay in London in 1875–6. Nevertheless, at the trial his spoken English was so poor that he asked for the trial to be conducted in Italian.<sup>67</sup> He was fortunate to have as his interpreter Claude Delaval Cobham, the assistant commissioner of Larnaca. Cobham (1842–1915) had been an unusual appointment, a civilian with no military background and holding a legal qualification, a Bachelor of Civil Law from Oxford University. Augustus Hare met him at Oxford when Cobham was preparing to be ordained and later recommended him to Wolseley as an astonishing polyglot who, like the renowned Cardinal Mezzofanti, acquired a new language in a few weeks.<sup>68</sup> Promoted to commissioner at Larnaca in 1879, Cobham retained this post until retirement, by then one of the great scholars of Cyprus.<sup>69</sup>

The assessor at the trial was Commissioner White, but Cobham's interpreting was crucial in enabling Alessandro to defend himself. It was Cobham who, as assistant commissioner, had translated into English the sworn depositions from Alessandro's workmen and who formally summoned the Italian to appear before the Civil Court of Larnaca.<sup>70</sup>

Fundamental to the case was the previous refusal of Alessandro Palma di Cesnola's request for permission to excavate. Wolseley therefore sent Brackenbury, the police commandant, to attend the court not as a witness but as prosecutor.<sup>71</sup> Opening proceedings at the trial, Brackenbury referred to the 1874 antiquities law and the charge of conducting unauthorised excavations. He then called seven witnesses: the three workmen from Enkomi, who confirmed that excavations were supervised by Lazaris on the defendant's behalf; Panagia Hadji Cristofi, as the owner of the house there; Achilleus Vondiziano of Ormidia, who identified in court Alessandro Palma di Cesnola and his servant Lazaris; Lieutenant Spencer, who described his investigations at Enkomi and Ormidia; and, finally, Lazaris Philippi, who maintained that he had not engaged workmen – they had come of their own accord. The presiding *kadi* asked him why so much was spent excavating on lands that were rented (that is, not purchased): Lazaris confirmed only that he rented the lands and his employer reimbursed him the costs. Brackenbury summarised the case for the prosecution and asked that the penalties stipulated in the 1874 law be applied if the accused could not show the necessary *firman*.

In his defence, Alessandro did not deny having conducted excavations, claimed to have suspended them once the English arrived, and acknowledged his request for a permit. But the main thrust of his defence, 'as an American and a man', was a protest against the competence of the court to hear the case. It was not a Turkish court nor yet an English one. He protested against being arrested illegally in his house (at Ormidia – Spencer had already

65. Mansel 2010, 145.

66. Luke 1921, 4.

67. FO Corr. 1878–9, 223; BL Add. mss. 41324, Wolseley to Salisbury, 1 Dec 1878; Wolseley diary, 23 Oct 1878, in Cavendish 1990, 116.

68. Hare 1896, 152–3; HCL, Hare to Wolseley, 21 Aug 1878; Vizetelly 1901, 26.

69. For example, Cobham 1908.

70. FO Corr. 1878–9, 180; Cobham to Local Commandant of Police, 21 Oct 1878.

71. FO Corr. 1878–9, 177–80. The report on file there is a summary of the trial proceedings, not a verbatim record.

testified that he had warned him there, but did not arrest him) and having possessions sequestered. Moreover, in nearly every house in Larnaca there were antiquities owned and for sale and he was one among many, including Commissioner White himself, who purchased them. He reserved the right to protest the proceedings and decision of the court.

The assessor found Alessandro Palma di Cesnola guilty and sentenced him, under the 1874 law, to a fine of four liras (which Wolseley immediately remitted) and the confiscation of the antiquities seized at Enkomi and Ormidia.<sup>72</sup>

#### ALESSANDRO PALMA DI CESNOLA'S DEFENCE

##### The Capitulations and diplomatic status

Alessandro's protest stressed his status as a foreigner, specifically an American, and his right to diplomatic titles. On neither basis were his claims justified.

Under Ottoman law, a foreigner accused of a crime by a Cypriot was entitled to have his consul present in court. If foreign nationals alone were involved, the Ottoman Capitulations enabled them to be tried according to the laws of their own countries in special consular courts. The terms of the Cyprus Convention of 1878 did not invalidate the Capitulations, but the Supplementary Agreement of 14 August had transferred all substantive powers from the Sultan to Queen Victoria, 'including the regulation of its commercial and consular relations and affairs free from the Porte's control'. The Capitulations had, therefore, ceased to be effective.<sup>73</sup>

Wolseley certainly thought so. The foreign consuls at Larnaca wrote to him officially, but he replied to them as private individuals: they were accredited to the Porte, not to England.<sup>74</sup> To settle the matter, on 11 October he issued a proclamation that consular jurisdiction under Sublime Porte regulations no longer had any effect in Cyprus.<sup>75</sup> It cannot be coincidence that Wolseley had the very same day received a letter from Alessandro Palma di Cesnola, using diplomatic titles, announcing his appeal to the American consul in Beirut. The next day, Greaves ordered the Italian to be brought to trial.

Alessandro signed his appeal to Beirut as 'Late Vice-Consul at Papho, and Acting Consul in Cyprus for the United States'. Most published accounts refer to him as the American vice-consul in Paphos, but this is incorrect. In New York, in July 1873, his brother Luigi, still the American consul in Cyprus, had asked the State Department to appoint Alessandro the United States consular agent at Paphos. The request was approved within two days.<sup>76</sup> The position of consular agent was of low rank, often held by a foreign national in a place that lacked a consular service. In US State Department records, the staff list for Cyprus for 1873 has Alessandro Palma di Cesnola's name as consular agent in Paphos but, it notes, without as yet an *exequatur* (that is, a formal document issued by the Turks recognising his status).<sup>77</sup> Consular staff lists for the following years mention neither his name nor a US consular agency at Paphos (only at Larnaca and Limassol). Since at least

72. FO Corr. 1878-9, 180; Wolseley diary, 23 Oct 1878, in Cavendish 1990, 116.

73. Hill 1952, 407; Georghallides 1979, 10.

74. BL Add. mss. 41324; Wolseley to Salisbury, 3 Sep, 29 Sep and 23 Oct 1878.

75. Hill 1952, 406.

76. NARA T.463, L P di Cesnola to W Hunter, 14 July 1863; Marangou 2000, 239-40.

77. NARA T.463, L P di Cesnola to State Department, 2 Jan 1874.

1870, the US State Department had been thinking of abolishing the consulate on Cyprus and in 1876 it did so, for financial reasons, along with a number of other missions abroad. Luigi, the consul, had already left for another period of leave in New York when the news came through, so Alessandro, whom Luigi had hoped could deputise for him, had the dispiriting task of lowering the American flag on the consulate building.<sup>78</sup> His offer of honorary services for the US State Department was declined. The ‘diplomatic status’ that had never been granted him was, from 1876, definitively excluded, as Alessandro later admitted.<sup>79</sup>

Was ‘the American’ even an American citizen? In his request to the US State Department, Luigi wrote that Alessandro ‘has declared his intention to become an American citizen; is learning very fast the English language’. The following month the brothers left the United States of America for Europe.<sup>80</sup> When first arrested in Cyprus, Alessandro did not claim American citizenship. But after his release, in casual conversation with Commissioner White the following evening, he mentioned that his claim to US citizenship was due not to taking out naturalisation papers, but to having been in the United States of America on a certain date, which ‘gave him and all others in the country their citizen’s rights’.<sup>81</sup> To the improbability of this claim there were soon added further doubts. In December, the captain of an American man-of-war that called at Larnaca suggested that Alessandro Palma di Cesnola’s papers claiming US citizenship should be examined. He was not acting for the United States of America in Cyprus and had never been vice-consul at Paphos.<sup>82</sup> Alessandro’s complaint to Beirut as an American citizen was forwarded to the US minister in Constantinople, Horace Maynard, and thence to the State Department. It also went to the British ambassador, A H Layard, who sent it to the Marquis of Salisbury in London.<sup>83</sup> Diplomatic exchanges on this case soon ceased. Three months later, in the House of Commons, Sir Charles Dilke denounced the treatment of Alessandro, referring to him as an American citizen.<sup>84</sup> But it was never proven: Alessandro Palma di Cesnola’s claims of American citizenship and diplomatic titles were wishful thinking.

#### DISPOSAL OF ALESSANDRO PALMA DI CESNOLA’S ANTIQUITIES

The number of antiquities purchased or excavated by Alessandro Palma di Cesnola is unknown. When he first moved his team to Salamis in late 1877 or early 1878, his collection was ‘not a third of what it afterwards became, in consequence of this discovery in Salamis’.<sup>85</sup> The relatively small quantity (‘four big baskets, one small, and one pair of panniers’) seized from the Enkomi house by Lieutenant Spencer was perhaps only what had been found since the ban was imposed. The Ormidia house, in contrast, contained large quantities of antiquities. In the corners of the courtyard were ‘some thousands of broken terra-cottas; vases

78. NARA T.463, A P di Cesnola to John S Cadwalader, US Consulate at Cyprus, Larnaca, 3 Oct 1876.

79. Cesnola, A P di 1884, xxiv.

80. Marangou 2000, 245.

81. FO Corr. 1878–9, 185, White to Greaves, 9 Oct 1878.

82. BL Add. mss. 41324, Wolseley to Lord Salisbury, 10 Dec 1878.

83. FO Corr. 1878–9, 157–8, 251.

84. Hansard, HC Deb 24 Mar 1879 vol 244 cci509–93.

85. Cesnola, A P di 1884, xviii.

and lamps of ancient workmanship'.<sup>86</sup> Spencer, on his second visit there on 11 October, opened the sealed upstairs room and removed six basketsful of antiquities, but found another room downstairs full of pottery and other finds. After the trial, while the Italian was absent, the police removed from the house over 1,500 items, which they listed by type. On his return (from a visit to Beirut), Alessandro objected that his brother, not he, had excavated them fourteen years previously.<sup>87</sup> This claim, together with that of 'about thirty-six' finds that he had offered to surrender to the commissioner, suggest attempts to minimise the number of finds subject to confiscation.

In the second edition of *Salamina* (but not the first), Alessandro reported that in three years of purchases and digging he had found 14,000 objects, comprising the collection sent to Lawrence in London. The first shipment ('six large cases') left in the winter of 1876–7 and a second one at an unknown date.<sup>88</sup> That date is likely to have been before the ban on excavation announced in August 1878, after which Alessandro's activities were progressively circumscribed: he applied unsuccessfully for an excavation permit; his excavations at Salamis continued, but he no longer visited them; and the finds, rather than being taken to Ormidia, were stored in Panagia's house at Enkomi. Two months later these and whatever antiquities remained in store at the Ormidia house were seized by the British. The finds from Salamis that trebled (as he claimed) the size of his collection must already have been shipped to England. As he himself wrote later, his success in 'gleaning the Lawrence–Cesnola collection from Cyprus' was due to the kindness of Turkish officials to whom he was most obliged, whereas with the arrival of the British his excavations ceased.<sup>89</sup> Whether, as seems likely, the second shipment had preceded the British occupation or whether it was a precautionary measure that Alessandro took in mid-1878 in view of the unexpected change of government is not known.

An album with sixty-two plates illustrated a selection of objects from the Lawrence–Cesnola collection and was immediately reprinted.<sup>90</sup> But the British Museum and the Victoria and Albert Museum showed little interest, these antiquities comparing poorly with those exhibited in London by Luigi Palma di Cesnola ten years earlier. Lawrence decided to send his collection to auction. The four sales, held between 1883 and 1892, totalled 3,463 lots; the first sale alone saw 3,000 objects sold at modest prices.<sup>91</sup> How many objects (from Salamis and other sites) Alessandro shipped to London is unknown – some of Lawrence's collection had been bought from Luigi Palma di Cesnola. Alessandro claimed never to have sold antiquities, but to have made gifts to visitors. He certainly donated some to the Società Piemontese di Archeologia e Belle Arti and to members of his family in Italy.<sup>92</sup>

The seized antiquities stored in Commissioner White's house became a visitor attraction.<sup>93</sup> In 1882 they could have gone to the new Cyprus Museum in Nicosia,<sup>94</sup> but ten years later they were still in Cobham's house in Larnaca.<sup>95</sup> Eventually, some of them went to the museum.<sup>96</sup>

86. Dixon 1879, 99.

87. FO Corr. 1878–9, 186, 224.

88. Cesnola, A P di 1880, 1882, xv and xvii–xviii, 1884, xxiv.

89. Cesnola, A P di 1882, xvii–xviii.

90. Cesnola, A P di 1880. On the Lawrence collection's disposal, see Hetherington 2000 and British Museum 2017.

91. Petch 2012.

92. Cesnola, A P di 1884, xix; Vagnetti 2004.

93. Brassey 1880, 281–2; Scott-Stevenson 1880, 280.

94. Stanley-Price 2001, 270–1.

95. SAI/702/1889. The author owes this reference to Michael Given.

96. Myres and Ohnefalsch-Richter 1899, 11.



After Wolseley's ban had lapsed, the museum in principle received one-third of the finds from the many licensed digs conducted by private individuals, a scene of intense competition and disputes that landed even the government chief secretary in court.<sup>97</sup> A year after this episode, a new high commissioner, dismayed at the commercial goals of private excavations, decided to grant permits only to foreign museums or similar institutions, still on the favourable terms that excavators enjoyed. These terms were abolished by a new antiquities law approved in 1896 under which only 'duplicates' could be exported, but, following opposition from the British Museum (see further below), the law was disallowed by the Crown 'to the astonishment and regret of all Cypriots'.<sup>98</sup> A liberal market climate therefore prevailed, and accidental discoveries and illicit excavations led to outstanding objects leaving the island. The first Lambousa silver treasure was illegally exported, with the British Museum acquiring a significant part of it.<sup>99</sup> When the second Lambousa treasure was accidentally found in 1902, most of it too was smuggled out of Cyprus. The small part of it seized by the authorities prompted an appeal against their right of confiscation under the 1874 antiquities law.<sup>100</sup> Finally, a new law in 1905 declared all antiquities the property of the government; none could be exported without permission.

#### REVIEW: THE 1878 BAN ON EXCAVATIONS

There remain two questions: why did Wolseley, a military man of no known antiquarian interests, announce a ban on excavation in August 1878, and why did Alessandro Palma di Cesnola deliberately flout this ban?

The answer to the first question owes much, apparently, to the British Museum. In July, with the news of Britain's occupation of Cyprus still fresh, C T Newton, Keeper of Greek and Roman antiquities at the British Museum, sent a report to the trustees about the archaeological potential of the island. The government might reserve the right to explore all ancient sites, just as Greece had done after the end of Ottoman rule. It was preferable to have government control of archaeology, and it was cheaper to excavate than to buy antiquities. His remarks were conveyed to the Foreign Office, which passed them on to Wolseley.<sup>101</sup> In August, Wolseley issued his proclamation (which Perrot stated was made on orders from England). Two months later, he wrote of wanting to give priority to British researchers, hoping that the British Museum would send a qualified man to direct excavations.<sup>102</sup>

In May 1880, still smarting from the trial and confiscation of his antiquities, Alessandro Palma di Cesnola applied to Newton to direct excavations in Cyprus for the British Museum. Reporting to the trustees, Newton was sympathetic to Alessandro's version that he had been badly treated, but strongly doubted whether the Foreign Office would overlook his previous arrest. In the end, the museum declined the Italian's offer, less because of his record than for the elevated salary that he sought.<sup>103</sup> Instead, starting in 1880, it helped to

97. Given 2001.

98. Hill 1952, 610–1; Stanley-Price 2001, 269; Markides 2014, 160–1.

99. Merrillees 2009.

100. Supreme Court of Cyprus 1905. A significant part of the treasure is in The Metropolitan Museum of Art.

101. Tatton-Brown 2001, 183; Kiely 2010, 241.

102. BL Add. mss. 41324, Wolseley to Lord Salisbury, 16 Oct 1878; Tatton-Brown 2001, 183.

103. Kiely 2010, 243.

fund work by the German antiquarian, Max Ohnefalsch-Richter, and later, in the 1890s, sponsored a series of excavations that greatly enriched its collections, to the dismay of Cypriots.<sup>104</sup> Despite being rebuffed, Alessandro continued to enjoy support from the museum's curators. Samuel Birch, Keeper of Oriental Antiquities at the British Museum, had helped him in his earlier studies in London. Birch wrote a note for the album of 1880<sup>105</sup> and a flattering introduction to *Salamina*, and he joined Newton in successfully nominating Alessandro for election as a Fellow of the Society of Antiquaries.<sup>106</sup>

Alessandro's situation had been more tenuous on his return to Cyprus in 1876. With the American consulate abolished, he could not expect even a small income from diplomatic service, such as his brother Luigi had had. He depended on Edwin Lawrence's funding to search for antiquities for him, and one of Lawrence's principal interests was stone sculpture. The Salamis tombs produced abundant pottery, glass, metal and small stone finds, but, Alessandro admitted, his lack of a *firman* made it risky to retrieve, transport and export large objects. He was, therefore, unable to fulfil all his sponsor's wishes.<sup>107</sup> His acquisition of the 'Larnaca *tympanum*', a sculpture of dubious antiquity and provenance, also suggests a certain gullibility, if not desperation, on the part of Alessandro to come up with a 'treasure' for his sponsor.<sup>108</sup> Under moral and financial pressure, he could not afford to respect the ban and so decided to continue digging. He maintained a low profile by keeping the finds at Enkomi and by not himself visiting the site, but the rumour of him continuing with illicit excavations was bound to spread via Ormidia to Larnaca and led inevitably to his demise.

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#### ABBREVIATIONS AND BIBLIOGRAPHY

##### Abbreviations

BL	British Library, London	NARA	National Archives and Records Administration, Maryland, USA
FO	Foreign Office, London	SA	State Archives, Nicosia, Cyprus
HCL	Hove Central Library, Sussex, UK		

104. Tatton-Brown 2001; Marangou 2000, 352–6.

105. Cesnola, A P di 1880.

106. Candidature dated 10 Nov 1880 (copy provided by Heather Rowland, Head of Library and Collections at the Society of Antiquaries of London).

107. Cesnola, A P di 1884, xviii.

108. Hetherington 2000. Six months after returning to London, Alessandro married Augusta, the younger of Lawrence's daughters. If, as Hetherington suggests, this was already a prospect while Alessandro was in Cyprus, he would have been more than usually anxious about meeting his sponsor's requirements.

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