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THE GAVEL



VOLUME VIII - NO. 2

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ENGLISH LEGAL EDUCATION

by
Professor Murad

Editor's Note: Although American Law is to a considerable extent based on English law there are some notable differences between the two. These differences exist not only in the manner by which law students prepare themselves for the law profession but also in the practice of the law itself. Professor Murad of Oxford University and Gray's Inn was good enough to tell us in an interview how the education of lawyers in England is effected.

In England a student completes his public school education at the age of nineteen. This is equivalent to both a high school and a college education in the United States. Thus, when the student in the United States is a freshman in college, the student in England is ready for the study of law. At this point, the English law student has two paths he may follow in order to become a lawyer. One path is to enter the university and study law. If he cannot afford the university education, he may choose the second path, which is to (1) apply to one of the four Inns of Court if he intends to become a Barrister; or (2) apply to the Law Society, if he intends to become a Solicitor.

The law degree at the University takes three years. The student attends lectures at which he is not permitted to ask questions of the lecturer, but he may take notes. He is assigned a tutor and attends tutorials normally once a week, at which he is required to write essays and may ask questions. Here, in the United States, students are permitted to ask questions during the lecture and are taught by the casebook method which does
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WELCOME TO OPEN HOUSE

"THE LITTLE WOMAN"
(St. Louis U. "Bar Rag")

Of all law students who ever have been
The married one is the bravest of men.
At school he has briefs and torts by the
hour
At home it's diapers and re-torts quite
dour.

But hats off to the dames! Take a long
look
At the gal behind the man behind the law
book.
She knows he's busy, but all the same
Must he call the baby "Little what's-
her-name"?!!??

Martha Allred

The Student Congress would like to extend its welcome to all of the wives, husbands, and friends of the "brave men" described above, and also to all of the students who put aside their books in order to be here this evening.

It is easy to see that this is not a regular class night. The atmosphere is different - something new has been added. We probably won't learn much tonight boys, but who wants to go to class on Saturday anyway? Let's live it up! Where's that FREE BEER!!!

* * * * *

FROM PAPER TO POWER

Have you ever had the distinct pleasure of traveling through the historic and picturesque areas of Virginia? The Shenandoah Valley, Bull Run and Richmond no doubt are familiar areas. But, to the law student the little known plot of land called Shockhoe Hill should be a venerated location for there lived the person
(continued on page 4, column 1)



WALLY
THE
WALRUS

"The time has come the Walrus said
To talk of many things:
Of shoes and ships and sealing wax,
Of cabbages and kings."

Well the TV mess continues to stay in the headlines. The best line we've heard concerning the whole mess was that Van Doren should get himself a dog and go back on TV, after all we're a forgiving nation. Doesn't sound like a bad idea - maybe he could call the dear little thing Chess or Backgammon, since the name Checkers has already been used. But seriously (have you ever noticed that when a joke fails a comedian always prefaces his next remark with, "but seriously"), it would seem that 99% of the newscasters and those involved have missed the entire point of the matter. The problem is neither so much that it occurred, nor even what should be done to prevent its immediate recurrence, but rather what caused so very many educated and intelligent people to believe that what they were doing was perfectly proper.

Why pick on one small example of our nation's lack of moral fiber? Wasn't it not long ago that these same sanctimonious congressmen were being accused of rampant nepotism - have they set their houses in such order that now they may hurl their rocks in every direction? What of the newspapers that conveniently forget to report accidents that occur in the stores of the large advertisers? What about plain Joe Doakes with his "Let the other guys do it" attitude, his stream of white lies, his cheating shortcuts, his every drive aimed at beating out his competition - is he any less guilty? Are we pillorying the right people - is it the TV contestant, producers, sponsors, and networks that are guilty, or are they being made the scapegoat for our valueless society? It is so much easier to yell "Hey, everybody look at them," rather than to look at ourselves and see that the fault lies within

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THE GAVEL

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each of us.

What we seem to miss is that within a goal our society has no choice, but to twist itself into tortuous knots. How is a child supposed to develop proper values when he sees his parents continuously taking "shortcuts." The "adults (?) who bet the sport pools, drove at 35 MPH in a 25 MPH zone, fix traffic tickets, put in phoney compensation claims to their insurance companies, and ad infinitum - all illegal, but don't worry son it's okay as long as you don't get caught.

Why should we be surprised then that the youth also begins to play the game. Why should he feel there is anything wrong in copying his friend's homework, playing sick to stay home from school? And slowly this builds - there is nothing wrong with cheating on examinations. Finally there is nothing wrong with doing anything you want to do. And then when it is done, society sits back and wonders how anyone could cheat on a TV quiz show. Yet, even from the ranks of the loudest criers we feel that it is not what has been done, or the damage that it has caused that they are shouting out against. No, they are only angry that they did not have a chance at all that money.

The question is what have we learned from the disclosures, and what are we going to do about them? Passing statutes will not solve anything. The answer lies within all - a self-evaluation coupled with the seeking out and development of individual goals. Then, and only then, can we begin to gradually move forward towards group goals and a salvation of our society. If this seems too trite to you, just stop and think, how many of the moral or legal rules of our society have you broken in the past week? If the

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LEXICON

-- by Peter Roper

Future columns in this space will be devoted to words which law students might find interesting and possibly of some value. The title, we feel, is appropriate.

Lex' i-con -- from the Greek lexis, for "word" is actually used today to mean dictionary.

Lex -- is also "the law" as used in such expressions as lex loci (the law of the place) and lex scripta (the written law.)

* * *

Jus Os'culi -- meaning literally "the right to kiss." It used to be that persons related to the seventh degree could not marry - but apparently had the right to kiss! This evidently is related to the expression "kissin' kin."

May'oralty -- not mayoral'-ity! This is according to Webster's Collegiate Dictionary and Webster's New World Dictionary. There is no common usage departing from this spelling, although there is a tendency toward accenting the second syllable (mayor'alty). However, J. Bergen Evans, in his Dictionary of Common American Usage doesn't even mention it, and H. L. Menken said that mayoral-ity has been used only as intended mispronunciation! So potential candidates, take notice!

* * * * *

WALLY (Continued from page 2, column 2) answer is none, well just forget the whole thing, this was not written for you. If, however, you are just a normal human being like the rest of us, perhaps you had better read this again and think about it for a while. One of the answers is that we are our brother's keepers.

Our present attempts to rectify the situation would be funny if they were not so sad. Does everyone feel that the banning of such movies as "The Lovers," or such books as "Lady Chatterly's Lovers" accomplished anything? One movie, or
(continued next column)

even a number of them, is not going to corrupt anyone's morals - unless they have been previously corrupted or are ripe for corruption. The only result of the bans (which usually are lifted very shortly) is that the vehicles receive exploitation to an extent that they never could have received. "Lady Chatterly's Lover" had been around for a long time before all the commotion and had never been much of a seller - but then, wow - none could wait to read it! If all this time and energy were spent in proper training and upbringing of our youth, there would not be any problem. Then if these pieces were truly obscene and not pure examples of art, no one would read them or go to see them. There would not be a need for vicarious pleasures, for today they must be said to fulfill a need, otherwise how can we explain all the time that is spent on them.

Not too long ago, one of the parents of a large Cleveland suburb complained about the nature of some of the books available to his daughter in the school library. We do not recall the books, but do remember that they were classics. What was he so frightened of? If his daughter had received the proper moral training in the home he shouldn't have been worried. Was he making the assumption that his daughter had developed the same warped ideas that he held? But never mind, let's go out and burn the books - they are a symbol of a once rising culture that has been detoured.

As you have seen by now, we offer no real solution - only the problem. The solution lies with the individual.

Wally's thoughts of the month:

1. Does the "Daily Legal News" appreciate the new front we've given them?
2. Wally would like to congratulate some of the juniors on their initiative. Last year when an article on perpetuities was assigned for real property the volume containing it disappeared from the library in the middle of the course - but this year they've shown improvement. The Equity Hornbook turned up missing two nights before the course started. That's the spirit boys, the public be damned - there's nothing wrong with your moral character, it's everyone else that's wrong.

* * * * *

FROM PAPER TO POWER (continued from page 1, column 2)

who singularly can be given the credit for establishing the magnificent legal strength of the United States of America.

You might be puzzled as to what person could represent such an eminent position and to what extent he enters into the molding of this great nation of ours. You might even doubt if it is valid to give such credit to one person.

You as an aspirant to obtaining the legal method certainly would not accept a bold statement without proof. Hence, it is the purpose of the subsequent articles to bring to the surface those facts that will attempt to prove the greatness of the legal giant John Marshall, our school's namesake. Our authorities in this exploration will include Justice Harold H. Burton, Justice Felix Frankfurter, Chief Justice Joseph Story, the eminent political theorist, Max Lerner, the legal historians, Edward Dumbould and Albert J. Beveridge, and others.

President James A. Garfield fittingly said: "Marshall found the Constitution paper; and he made it a power. He found a skeleton and he clothed it with flesh and blood." This quotation will appear in the next issue along with some other notations which will tend to show the measure of John Marshall's contribution to the legal strength of our nation.

* * * * *

ENGLISH LEGAL EDUCATION (Continued from page 1, column 1)

not obtain in England. The burden on the English student is tremendous in that he is expected to do a great deal of reading on his own.

There is also a difference in the type of examination set. In England the questions are direct and straightforward and a test of knowledge. In the United States questions are in problem form based on the premise that a client never presents a straightforward question.

"As a general practitioner of many years, I have found this argument fallacious and theoretical, and furthermore, since attorneys generally specialize today, this argument no longer has any merit to it. I feel that the problems set in American law school and bar examinations

(continued next column)

are unnecessarily difficult and, as a result, too much time is spent by the student in trying to discover just what the examiner is asking."

Since the degree which the student will get in law at the University is not requisite in the legal profession, he must still pass the bar examination before he can practice as a Barrister, or the Solicitor's examination before he can practice as a Solicitor. But in all other respects he must follow the same course as the student who is unable to attend a university. If he intends to become a barrister, he must apply for admission to one of the four Inns of Court, and if he decides to become a solicitor, he must enter into articles with a firm of solicitors for at least three years.

If a student has not attended a university, and is accepted by one of the four Inns of Court, he will attend lectures provided by the Inns and there read law. A student will be admitted to one of these Inns only after he has been carefully screened as to background, since the prime requisite of a Barrister is that he be a gentleman. After admission to one of the Inns of Court, the student is required to eat a prescribed number of dinners at the Inns sitting in messes of four, at which time the student is expected, in keeping with tradition, to observe all the niceties of the ancient rules of etiquette. These are traditions not usually revealed to outsiders, but include such things as testing the students' ability to order wines and cheeses, etc. At these dinners the student is given an opportunity to meet practicing members of the Bar and his future colleagues. After attending lectures at the Inns of Court, the student is entitled to sit for the Bar Examination. On passing the Bar Examination, the student is then called to the Bar by the Benchers of his Inn, who are the governing body of the Inn of Court, and he receives a certificate entitling him to practice. The Solicitors-to-be do not take the Bar Examination. They have their own examinations set by their own governing body and they are not eligible for admission to the Inns of Court. The Solicitor is similar to the office attorney in this country while the Barrister approximates the trial attorney.

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ENGLISH LEGAL EDUCATION (Continued from page 4, column 2)

"In passing, I would like to say that although on the whole I am of the opinion that the system of legal education in this country is superior to that in England, yet there are demerits. The graduate in this Country, having passed the Bar, is thrown upon the public when he is not fully prepared for the practice of law. This operates to his own disadvantage and is a disservice to the public. This problem is solved in England as follows: If the student is studying to become a Solicitor, during the course of preparation for the Solicitor's examination, and while serving his articles with a firm of Solicitors, he will be required to do the work that a Solicitor usually does, and thereby learns the practical part of his profession. In the same way, if the student is studying to become a Barrister, upon call to the Bar he wouldn't dare practice for at least a year although he is in fact a Barrister and there would be nothing to prevent him from so doing. Instead, he reads in the chambers of a busy barrister for at least a year for which he pays a fee. He will robe and follow the barrister into all the courts and will sit in on conferences, etc., and will thus learn the practical side of his profession."

It is also interesting to note that members of the public are not allowed to communicate directly with Barristers, but must first approach a Solicitor who will select a Barrister, unless the client specifically insists upon another. The Solicitor will then communicate with the Barrister through the Barrister's clerk. The Barrister never discussed fees with the Solicitor, as this is done by the clerk. Furthermore, no Barrister is allowed to interview his witnesses. This is done by the Solicitor.

The young Barrister also obtains work through a system of deviling. In England there are no serious backlogs in the courts because adjournments and postponements are not liberally granted due to the system of deviling. If a Barrister finds that he is to be at three courts on the same day, and knowing that it is hardly likely that he will be able to get a postponement of two of the cases, he will devil out those cases to

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other Barristers who will then get a share of the fee. Not only does this give the young Barrister a chance to become known to the public and the Solicitors, but it also prevents monopolization of the practice by two or three top men. Of course, difficult cases would not be deviled out to very junior Barristers.

"I am naturally in favor of this method of launching a young man on his career. Brilliant law students who have passed the Bar will be given an opportunity of earning a living and utilizing their capabilities to the benefit of the public instead of being lost to their former humdrum jobs because of a lack of a proper connection with an outstanding firm of attorneys. I also believe that a placement system should be introduced into every law school in this country so that brilliant students may be placed with attorneys to the benefit of the young graduates, the attorneys, and the public in particular."

STUDENT CONGRESS REPORT

by

Karl Seuthe

Student Congress President

We come to the time of the year when the ever-feared finals appear. These are times when the student feels like crawling into a shell and remaining incommunicado for sufficient time to master the subjects that he is taking. (It could be said sometimes that the subject masters the students.) Notwithstanding each student's work load, the Student Congress has been very busy preparing for the annual Open House. A great effort has been made this year to have the Open House sufficiently early, avoiding conflict with inclement weather or final exams.

The Student Congress has before it numerous other projects. The faculty has charged the Student Congress with the duty of investigating and advising on the methods of eliminating cribbing during exams. This problem has been reported in various of the classes. This subject has been one which has been in the past kicked back and forth like a football between the faculty and the

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STUDENT CONGRESS REPORT (Continued from page 5, column 2)

Student Congress. It is our intention that this year something definite should be done about it. The problem itself is a difficult one, and its existence reflects on the integrity of the school and all the students. There will be those people who claim that they have never witnessed any cheating during examinations and will feel that there is really no such problem, but numerous reports have been turned in to both the faculty and to the Student Congress representatives that cheating exists, and these must be dealt with. If you have any thoughts concerning this subject please communicate them to your Student Congress representative in that these thoughts might be better used in discussing the matter at the Student Congress meeting. The Student Congress meeting is open to all students and any of you who might wish to express an opinion to the Congress are welcome to attend. The subject will be discussed on the first official Student Congress meeting after the Open House.

Work is being done on the formation of a Wives Club. These women want to know what makes their husbands so mean when they get home in the evening. This might best be done with the formation of a Wives Club with classes covering subjects studied by hubby.

If you have any ideas concerning the welfare of the School, please communicate them to your Student Congress representative instead of just "sitting" on it.

FRATERNITY NEWS

by
Don Harrington

The members and alumni of Delta Theta Phi were honored in having Lou Groza, place-kicking specialist for the Cleveland Browns, as guest speaker at our last social, October 19th. There was a good turnout of members and alumni, and I'm sure everyone enjoyed the festivities. Lou explained some of the strategy of running various plays, such as the trap play and others, designed to keep the opposing team off balance. After Lou pointed out several things a fan should watch for, I'm certain everyone in attendance gained something that will contribute to his spectator enjoyment of the pro-games.

Fred Lick, membership chairman, scheduled our first smoker of the year on November 6, 1959. The smoker and rush party took place at the County Square Restaurant. Guest speakers for the evening were Judge Arthur H. Day, Judge Roy McMahon and Attorney Elmer Meyers, Dean of the alumni senate.

On Friday, November 20th, a short business meeting and pledge night was held to enable the members to meet the new pledges. On the following day, November 21st, the formal initiation ceremonies took place in Judge Skeel's chambers in the Court of Appeals at the Court House on Lakeside Avenue.

Preceding the formal initiation ceremonies at the Court House, there was a luncheon for pledges and members at the University Club. 35 pledges were initiated at the ceremonies at which Judge Day was the speaker.

Pete Roper, co-chairman of the Social Committee reports that plans for a dinner-dance are under way. The tentative date is sometime in February and alumni brother, Governor DiSalle will probably be the guest speaker.