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EDITORIAL

THE VICE-CHANCELLOR AND RECTOR MAGNIFICUS

THE main feature of the Graduation Ceremony held on 4th October, was the installation of Prof. J. Manchè, B.Sc., M.D., as Vice-Chancellor and Rector Magnificus of the Royal University. The event was marked by a large attendance of old and new students who enthusiastically applauded the appointment of the new Rector Magnificus, which was read by the Secretary of the Royal University. On taking his chair on the dais, the Rector Magnificus delivered an address expressing his deep sense of the onerous duties ahead of him and his wish that under his guidance the University will bring forth men of character, conscious of the efforts that society demands of them. We feel that the noble words of the Rector Magnificus are a kindly light which will lead us on through the University with success and indeed even in our future careers. The address had a deeper significance especially for us members of the Law Society who are not acquainted with the genial ways of Professor Manchè in the lecture-room; it was an introduction which made us aware that we had gained a friend. The ceremony over, students and members of the Academic Body proceeded to the University where the Rector Magnificus was met by a large gathering of his new sons and daughters and amid loud cheers he was carried shoulder high to his office. We avail ourselves of this opportunity to assure the Rector Magnificus that the University Students' Law Society will earnestly endeavour to help him achieve his high hopes and aspirations and we offer our sincerest congratulations.

A WELCOME TO NEW STUDENTS

We extend a word of welcome to the new students who intend taking up the study of law. Earnestness and assiduity are the keynotes of success in law and the basis upon which the legal prestige of a country is based. "The advancement of legal

studies in a country", says Lord Wright, "must depend, not on machinery, or as I have heard it called 'educational plant', but on the quality of the men who make that advancement the object of their life-work and of their ambition". Elsewhere Lord Wright urges the law student to use his University days to master the subject becoming thoroughly conversant with the settled and established rules. "The method of applying these rules in practice you will learn by studying the selected cases put before you by your teachers, and also by the moots which have become so valuable a part of the lawyer's training". We wish the new students to become acquainted with the Law Society which in its turn will as usual afford them in due course with every opportunity of taking part in moots and debates as well as of reading their papers or publishing their articles in this journal. For the study of law, as Lord Wright adds, does not consist in mere accumulations of learning which are little more than a dead weight but in acquiring the legal aptitude, the habit of mind which makes one instinctively know what is the legal way of approaching the problem, of selecting the relevant facts, of appreciating the true lines of inquiry, and of knowing in what part of one's library one is to turn for the guidance of authority. The intricacies of the law have indeed taxed the best brains the world has produced, but the earnest worker must not be daunted. He must rather remember the words of Judge Donovan that the study of law to a beginner is like entering a dark tunnel — the start is always the darkest. Gradually light breaks in, and soon it seems like daylight.

THE NEW STATUTE

The Rector Magnificus has, we realise, the hard task of putting into practice the new Statute of the Royal University. Though this Statute embodies various and far-reaching improvements we cannot fail to submit that the solution given to some questions is far from what in our opinion would constitute the correct one. It is with no peevish spirit that we point out certain undesireable provisions but, on the contrary, with full faith that our suggestions will not fall on barren ground. Of course the first provision we find fault with is that a student after receiving a thorough training in law extending over a period of five years and having annual examinations qualifies merely for

a bachelorship, whereas previously the same curriculum of studies led to a doctorate. This is a provision which is not warranted either by common sense or authority. The degree of Bachelor of Laws does nowhere include a comprehensive and detailed study of the various branches of law. It is generally obtained after sitting for two examinations in certain branches of the law only which the student is, up to a certain extent, at liberty to choose. The whole course normally extends over three years. From a comparison of the two systems the prejudice which the new arrangements entail is blatant. But it does not stop there. The discrimination between the Course of Law and the Course of Medicine adds insult to injury. Without effecting any substantial changes in the curricula of the two courses the same period of study in the one leads simply to a baccalaureate whereas in the other to a doctorate. Though we feel that the system for granting a doctorate under the old statute could have been improved upon no alterations should have been attempted if a discrimination between the courses would have to be made.

We turn now to another issue. The new Statute provides that graduates of the University may be admitted to the degree of Doctor of Laws not less than five years after having qualified for the degree of Bachelor of Laws. This means that at least five years must elapse before a thesis can be submitted to obtain a doctorate. We note that this restriction is not in line with what foreign Universities require which, we submit, take the more correct view of the matter. For writing a thesis, rather than practical experience in the Law Courts, one requires a thorough grounding in law which a University curriculum should amply offer. We must here add that without research work one cannot delve deeply into the subject of one's thesis and so tackle the problem by reaching at the roots of things. As the Rev. Professor P.P. Saydon said in the address which he delivered during the Foundation Day Celebrations, 1947, "Research is an easy word to say and write on paper, but not so easy to translate into action..... Moreover, research demands a constant use of fully equipped libraries and up-to-date laboratories. All that means money and money in large amounts which cannot possibly be obtained from the students' fees. Without adequate financial help no research is possible, and without research a University has no reason to exist". We submit that a complete and up-

to-date edition of the Law Reports is an essential clement for such research. But, as we have already pointed out in previous issues of the Law Journal, the student of law has not at his disposal a complete copy of the Law Reports, and the last reported judgements date to the year 1935 which is anything but up-to-date.

Lectures in Maltese Legal Terminology seem to acquire greater importance with the passage of time. We fail to realise any practical value in extending these lectures for a whole period of four years, and then strangely enough we come to the sanction that there shall not be any examination for those students who have attended regularly the lectures on the subject. The other students will have to sit for an examination. It is beyond us to gauge for what reasons such a measure of a mixed nature has been taken when the Statute offers various disciplinary actions.

Finally we would like to suggest an amendment to the provisions regarding the selection of subjects for the Matriculation examination. As things stand a candidate can obtain his Matriculation Certificate without sitting for the Latin and Italian examinations. The Statute however provides that candidates who do not select Latin as one of their subjects in the Matriculation examination or equivalent examination shall at the same session or at any other session take Latin as an additional subject before taking up the studies leading to admission in the Coure of Laws and certain other Courses. This is quite justified, but it is not complete, because a similar provision requiring prospective law-students to sit for the Italian examination is essential. Local documents relating to legal and judicial matters have up to recent times been drawn up or published mainly, if not exclusively, in Italian. It is true that recent reforms have up to a certain extent altered the position. We think however, and it cannot be gainsaid, that a good knowledge of Italian is essential for the study of law both in order to consult local authorities, preeminently the Law Reports, as well as in referring to continental authorities, whether judgements or text-books, which form the basis of the greater part of our law and which continually provide the means for solving intricate problems. We are aware on the other hand, that recent amendments have, contrary to what was previously the case, given candidates intending to join a Course of Law the option to choose Italian as one of their

subjects. This is however, far from sufficient, and we trust that as our suggestion contained in The Law Journal, Vol. I, No. 3, has up to a certain extent been acted upon our present views on the matter will be given due consideration.

A PROPOSED AMENDMENT OF THE CRIMINAL CODE

A Bill purporting to amend s. 382 of the Criminal Code and to extend the competence of the Court of Judicial Police has been read a first time in the Legislative Assembly. In spite of the criticisms which lately have been levelled against this Bill we think that it would constitute a beneficial innovation in our Criminal Law. In the first case it aims at extending the jurisdiction of the Court of Judicial Police in that crimes liable to imprisonment or hard labour for a term up to twelve months can be tried by the said Court, whereas previously only those crimes punishable with three months imprisonment or hard labour could be so tried. But the provision which has caused some concern is that the Attorney General may, if he thinks it expedient so to do, send subject to the consent of the accused, any person charged with an offence punishable with imprisonment or hard labour for a term exceeding twelve months but not exceeding three years, to be tried and dealt with by the said Court: provided that if the accused pleads guilty to or is found guilty of the offence charged, such Court may not, saving any lower minimum prescribed by law and without prejudice to the application of sections 23 and 23a, sentence him to any punishment exceeding its ordinary jurisdiction. It is not quite true to say that this is an innovation because as the law stands the Attorney General may send for trial by the Police Court any person charged with a crime punishable with imprisonment or hard labour for a term which does not exceed six months although it exceeds three months, which is the limit of the normal jurisdiction of the Police Court, if there is no objection on the part of such person. So that the Bill does not propose to introduce a measure which is totally unknown to our Criminal Law, but it aims at extending the competence of Police Courts on well-defined lines and with a greater degree of certainty than the present laws afford. Thus whereas s. 382 (3a) merely says that the Attorney General may send for trial before the Police Courts any person charged with a crime pun-

ishable with imprisonment or hard labour for a term exceeding three months but not exceeding six months, the Bill clearly lays down the rules and conditions when this can take place. The Attorney General must decide as to the expediency of availing himself of the measure having regard to the character and antecedents of the accused, the nature of the offence, the absence of circumstances which would render the offence one of a grave or a serious character and all the other circumstances of the case, including the adequacy of the punishment which the Police Court would have power to inflict. These guiding factors and indeed the whole Bill are taken from the Criminal Justice Act of 1925. Like its model the Bill provides that the accused shall be asked whether he desires to be tried by a jury or consents to the case being dealt with summarily. It is therefore no unwarranted encroachment upon the right to be tried by a jury as the accused is in all cases given the option and a reasonable time to make up his mind. Moreover if the Court deems it necessary the accused is given an explanation of the meaning of the case being dealt with summarily. Such explanation is not contemplated by the present laws. We trust that if the Bill becomes law the honest advice of advocates and legal procurators will contribute to its successful application in practice.

It is not to be forgotten, on the other hand, that in England by the Summary Jurisdiction Act, 1879, the accused in the graver of the *non-indictable* offences has the right to claim to be tried by a jury. A moderate extension of summary jurisdiction is, however, very beneficial both in the interests of the accused and in the interests of the administration of justice. In fact the accused is saved much time and expense and is relieved from the stigma which a trial by jury may give rise to. In the interests of the community justice is more speedily administered. Professor Kenny says that the tendency of modern legislation is towards giving enhanced importance to these courts of summary jurisdiction. An American writer Pendleton Howard in his book Criminal Justice in England has referred to the system of extending the competence of Courts of summary jurisdiction as the most important development in the administration of English criminal justice during the last half century. Professor Kenny however warns us that this may bring about a tendency

of ignoring the more serious elements of crime and of dealing with cases on a less serious basis, e.g. house-breaking is treated as larceny. High Court Judges have pointed out that the practice of dealing summarily with indictable offences of a serious nature was becoming far too common. The power should only be exercised, Professor Kenny continues, when there is an absence of circumstances rendering the offence of a grave or a serious character. The same learned writer says that the system possesses certain anomalies which are pointed out by those who advocate the extension of summary jurisdiction. Thus a man who steals jewellery worth a hundred pounds from an open house may be tried summarily while a man who opens a closed door and steals a packet of cigarettes may not.

As we have stated the Bill is a transplanting of the Criminal Justice Act, 1925. But there is a substantial difference between our law and English law. English law first of all distinguishes between three classes of offenders: children (i.e. those under fourteen years of age); young persons (i.e. those who are over fourteen but under seventeen years of age), and adults (i.e. those who in the opinion of the Court have attained their seventeenth year of age). According to the Children and Young Persons Act, 1933, a Court of summary jurisdiction may deal with any indictable offence other than homicide committed by a child. By the Summary Jurisdiction Acts, 1879, 1899, any indictable offence except homicide committed by a young person may be dealt with summarily subject to certain conditions of expediency. The Criminal Justice Act, 1925, (S. 24 and Second Schedule), however, specifically lays down a comprehensive list of crimes for which an adult may under certain circumstances similar to those outlined in our Bill, be tried summarily. The Bill before the Legislative Assembly in this respect departs from its model as it is of a general character.

We submit that on the whole the Bill is a step in the right direction. In so far, however, as it does not distinguish between adults and minors we think that it could be improved upon by limiting its effects to adults and introducing another Bill on the lines of the Children and Young Persons Act, 1933. As things stand the appearance of children in the Criminal Court to stand trial by jury falls short of the modern methods of treating juventile delinquency.

PROFESSOR G.E. DEGIORGIO, LL.D.

With heartfelt regret we heard of the death of Professor Degiorgio which occurred in London last August, through a road accident while he was attending the Conference of the Universities of the Commonwealth. Professor Degiorgio was a very prominent personality in the various aspects of civil life. His activities in the political sphere constituted his outstanding characteristics. In 1921 he was elected to the Legislative Assembly for the Seventh Electoral Division and later in 1924 he held the post of Deputy Speaker and Chairman of Committees. His continuous and lively interest in active politics achieved greater successes in 1932 during the last Nationalist administration when he was elected Speaker. Professor G.E. Degiorgio's political career was crowned when he was elected Vice-President of the recent National Assembly and published a draft constitution. His aptitude for politics was shown in the prominent part he took in the meetings of the Assembly and by his cool judgement and calm exposition of facts which solved many heated discussions during the hectic sittings of the Assembly.

At the time of his death he was Professor of History of Legislation and Acting Professor of Constitutional Law. His widespread activities did not hinder him from executing his duties as professor and both students and the Law Society have lost in him a ready helper and a very willing adviser.

THE HON. PROFESSOR C. MIFSUD BONNICI. LL.D.

Another prominent personality the news of whose death came to us last August is Professor Mifsud Bonnici. At the time of his death he was for some time in forced retirement owing to ill health. Professor Mifsud Bonnici was also a very popular figure both in law and in politics. As a lawyer he excelled in Criminal Law, and his brilliant oratory contributed greatly to his success in trials before the Criminal Court. He played an active part in politics during the last self-government as a member of the Nationalist Party. He was also a Minister for the Treasury during the Nationalist administration. Apart from his legal and political activity he had also a keen interest in literature and he wrote poems first in Italian and then in Maltese.