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EDITORIAL

FAREWELL

It is with no self-conceit that on leaving the threshold of the Alma Mater we can look back with satisfaction on the activities of the Law Society during the past three years. The Law Society has done much to achieve its primary purpose, that of fostering among law students a lively interest in the studies they have adopted. It has been of the greatest help to them in efficiently organising and distributing notes on the subjects included in the various syllabi at little or no profit. This has been of great benefit to all law students as otherwise many would have been handicapped. The Law Society however derives its existence from the support of its members which was not in all cases given ungrudgingly though a number of moots and debates were held which have been reported in earlier issues of the law journal. It is to be hoped that this interest will increase and that the activities of the Law Society will extend further. One would like to see once more those series of lectures which some years ago started to be delivered by prominent members of the legal profession and which, provided due publicity is given and support is not lacking, might well be revived. The Law Journal has had a healthy existence during this period as witnessed by the varied and learned contributions as well as by its wide circulation. It has also found its way to England, Canada, the U.S.A. and Switzerland.

THE GRADUATION CEREMONY

On Saturday, 1st October, 1949, the Church of the Royal University was the scene of the first Graduation Ceremony since the war to be held with the usual pomp and splendour. It was also the first one to be presided over by our new Chancellor, H.E. Sir Gerald Creasy. The Very Reverend Professor P.P. Saydon celebrated Mass and then Professor A.J. Mamo delivered an oration on Penal Reform, after which the Vice-Chancellor conferred the degrees.

Professor Mamo outlined the evolution of penal policy during the last two hundred years or so, which has moved in

three stages. The principle of deterrence, which was crude and produced ferocious punishments gave way to the principle of retribution. This in its turn, standardising the behaviour of individuals was essentially impersonal and was consequently discarded in view of the advances in the medical and educational sciences. Hence arose the modern principle that punishments ought to be adapted to the criminal and not merely to the crime. This has found much scope in England, but in Malta, though its influence has been felt, there is still room for improvement. This is especially the case with juvenile offenders who may have been the victims of social, economic or educational insufficiency. Professor Mamo quoted the optimistic view of the late Sir Alexander Paterson with regard to the treatment of offenders in these Islands. But the solution of post war problems has not turned out as easy as was anticipated. Finally Professor Mamo made an appeal to the various graduates in Theology, Law, Medicine, Engineering and Architecture to help each in his respective sphere in the prevention of crime, and ended by saying that the ideal of a professional career should be that of the Christian Gentleman possessed of Christian charity.

THE ARCHIVES

Up to a few months ago the older records of our Courts were not to be found in the Archives at Valletta, but they were stored away in Mdina. So, whenever any of these records were required they were brought to the Archives at Valletta, and kept there indefinitely in a disorderly manner. We notice with satisfaction that the position is being remedied and that all the records are being transferred to Valletta. Though the manner in which this is being carried out cannot but result in damage to the greater part of the records we still hope that it is being properly supervised against any loss.

NEW TRIAL

A new trial is the abnormal way of having a judgment revoked or altered since it presupposes a 'res judicata'. For this reason it can only be availed of in a limited number of cases which are specifically laid down by the law. But what is equally abnormal about this procedure is that it is proposed and pro-

ceeded with before the same judge who delivered the previous judgement. It would seem that the provisions regarding recusation of judges do not apply here. In fact the law says at S. 817 "The demand for a new trial shall be made to the Court by which the judgement complained of was given, and the same judges or magistrates may sit". On the other hand S. 735 says "A judge may be challenged or abstain from sitting in a cause if he had previously taken cognisance of the cause as a judge or as an arbitrator."

This conflict would seem to go against the fundamental principle of the right of appeal that justice must not only be done but it must also appear to be done. A party to a suit seeking an alteration of a judgement cannot reasonably be expected to be content with a revision of the judgement by the same judge or panel of judges. This is however the predicament of our law. The position becomes more embarrassing when the grounds for the new trial involve a criticism of the previous judgement. In such a case the judge himself might feel it his duty to abstain from taking cognisance of the case. On the other hand when the grounds of a new trial do not involve a criticism of the previous judgement as in the case of discovery of new documents, though the previous judge would be more adapted to conduct the new trial, for the reasons we have stated the right of recusation should be upheld. Our plea therefore is that the provisions regarding challenge and abstention of judges should also be made to apply to new trials.

THE BACCALAUREATE IN LAW

Students intending to join the course of law are still at a loss as to whether the provisions of the new statute according to which the degree of Bachelor of Laws has been substituted for the degree of Doctor of Laws, will after all remain *in vigore* or will be altered upon a more mature scrutiny of the situation. Various representations, official and otherwise, have been made on this subject but until now they have led to nowhere. Some thirty years ago an attempt was also made to introduce the baccalaureate instead of the doctorate in the course of law. But at that time the persons subjected to the innovation resented it more actively though in by no means a polite manner. By hook or by crook they obtained what they wanted and the position

remained unaltered up to the present amendment. The students affected thereby have now resorted to the polite way of protesting themselves against this innovation by sending a letter to the authorities concerned. It is to be deplored that up to now no answer has yet been received and the position of the students concerned is still in the balance. Mere lapse of time does not solve the difficulty, and the delaying tactics employed make a sad contrast to the favourable issue obtained some years ago by the censurable means adopted.

PROFESSOR J. ANASTASI PACE, B.Sc. (Econ.).

Since our last issue the Royal University has suffered a severe loss through the death of Professor J. Anastasi Pace. As Professor of Political Economy he was quickly marked out by his deep erudition, and his keen sense of humour and friendly disposition soon endeared him to all he came in touch with. Besides his duties at the University he was a prominent civil servant carrying out with increasing efficiency the heavy duties of Secretary to the War Damage Commission. In spite of these varied activities one wonders how he had the opportunity of broadcasting regular talks as well as of giving public lectures in the jovial way so characteristic of Professor Anastasi Pace. The service he has rendered in his brief span of life together with his virtues will surely be an inspiration to all and especially to those who were personally acquainted with him.

Ignorance of the law excuses no man: not that all men know the law, but because 'tis an excuse every man will plead, and no man can tell how to confute him — JOHN SELDEN, **Table-Talk**.