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EDITORIAL

IT is with a keen appreciation of the vision and spirited activity of the law students of previous courses who started the Law Society and strove to fulfil its aims that we take over the management of the Law Journal. Varied activities in the form of lectures, debates and reading of papers on legal topics particularly marked the first flush of life of our society. This year two very interesting lectures were delivered under the auspices of the Law Society. Prof. W. Buhagiar, who for about the last three years has been Federal Counsel at the Attorney General's office in far-away Malaya, recorded his personal impressions of life in the Federated States against a background of that country's history and constitutional development. Another lecture on "The Privy Council, Criminal Appeals", was delivered by Prof. A. Mamo, who in his usual lucid way of self-expression gave an account of the constitution, purpose and working of the highest court of appeal in the British Commonwealth. Prof. Mamò had a good opportunity of getting a first-hand knowledge of the subject he treated during his visit to the Privy Council in connection with the now famous Connell Case (1944). We have to deplore, however, the poor attendance at these lectures, not only on the part of members of the Law Society but also of members of the legal profession. Former students of law could sensibly help the University Students' Law Society by subscribing to the Law Journal. An increased circulation of our Journal amongst them would help us meet the very heavy printing expenses for which the University yearly grant is altogether insufficient.

MALTESE IN TRANSLATION

The right use of Maltese in translation raised the pitch of parliamentary verbal duels when some members of the former Legislative Assembly moved amendments to substitute certain words adopted in the Maltese text of "The Diplomatic Privileges (Extension) Bill. To forge out of the latent possibilities of our language a serviceable medium, at once pliable and trustworthy enough to convey the nicety and clearness required in legal procedure and documents has been the aim of all those who hailed

with enthusiasm the official adoption of Maltese as the language of the Courts in 1934. The Maltese language has withstood the trial of sixteen years experience marked by the smooth administration of justice. But among certain individuals there still lingers an unjustifiable fad which would shun or reduce to a minimum legal words and expressions of foreign origin. In an effort to substitute the undesirable aliens by other words of native origin, clarity and simplicity are sometimes needlessly sacrificed. All languages have their own set of rules. Words of native origin which make sense when used in their proper context will prove to be objectionable if used out of their usual setting. We might remark, with Swift, that "Proper words in proper places make the true definition of style".

We will mention some words amended in the Maltese text of the said Bill. The word "tmiem" in our language can only mean "the end" of a book, a speech, a thing and it does never convey the meaning of "purpose, view, aim or design", which import the translator forced it to carry in the phrase "għat-tmiem ta' dan l-att" (for the purpose of this act). In this case, the proper word is the one amended, namely "skop". Another example of bad taste in the choice of words is the translation of "compile a list" which can be rendered simply by "tagħmel lista", by "ihejji werrej". We would like to stress, however, that our criticism is not an ill-natured picking of holes in the mass of good translation from English into Maltese ably carried out by the translators. It is rather a counsel of perfection to ward off in time the barbed darts of spiteful criticism.

DISENTAILMENT BILL:

The lively exchange of views in the Press following the introduction of a Bill in Parliament, providing for the abolition of entail is an index of the great importance attached by all to this bold step of the Government. Without fail, the Disentailment Bill is the most drastic measure affecting the domain of legal institutions that the Labour Government passed during its term of office. No other judicial system in our islands had put up such a determined fight for survival as the time-honoured institution of fideicommissum. Its history is not without interest. In Malta its origin dates back to the Middle Ages but the creation and evolution of entail took place far back in Roman times. Under Roman Law landed property, mainly agri-

cultural, could be enjoyed by the person to whom it was bequeathed though he could not dispose of it. On his death it passed on to his heirs, remaining within the family circle. The inevitable result of such a system whereby property was quite shut out from the general circulation of wealth, caused its abolition as being anti-economical. Indivisible entail developed later than divisible entail as a result of property being bequeathed to the first born of the family, usually enjoying a title of nobility to help him maintain the rank and status of the family name.

In Malta, the Code de Rohan abolished indivisible entail and limited divisible entail till the fourth generation. By a law which came in force in 1865, the creation of new entails was prohibited. Since 1919, seven attempts to free land held in tail, competently estimated to amount to about 1/15 of the whole landed property in Malta, have foundered in the face of adverse circumstances, strong opposition and delaying tactics. In 1922 a Disentailment Bill after having passed the second reading came to nought owing to the prorogation of parliament. The latest Bill survived the fall of the Labour Government by a few months and became law last May.

In spite of all the arguments and reasons that can be brought forward in favour of the retention of entail, we believe that the complete freedom of the disposal of wealth is demanded by the spirit of modern economic theory. We do not share the view that entail should be retained in our legal system as a part of national heritage on account of its great antiquity and widespread diffusion amongst all classes of the population. An argument which deserves greater consideration is that which admits no derogation, on principle, to the inviolability of the will of the testator in disposing of his property as he likes. In reply to that line of argument it is important to note, however, that in practice our Courts themselves have rarely refused to accede to the requests of those interested parties, who wishing to dispose, sell or grant in emphyteusis the entailed property, have applied for the necessary authorization to do so. The practical effect of the Disentailment Law is that of embodying with the binding force of written law a usage which has long been honoured by the decisions of our Courts of Law.

CONTRIBUTIONS TO LEGAL STUDIES:

One thing the University Students' Law Journal can pride itself upon is that it provides the proper and only medium in our Island for the contribution of useful studies on legal matters. The various articles that have appeared in the issues of our journal prove how large and diverse are the possibilities offered by the field of research work and study to students of Maltese Law. Probably no other field of study in Malta is so rich and so little unexplored as that of law. There may be reasons to account for the paucity of solid contributions to the knowledge of law here in Malta. One reason is that professors in Malta, unlike their colleagues in England and other foreign countries, cannot possibly abandon the daily tiresome work in the Law Courts owing to the insufficient remuneration which they receive for their lectureship. Another stumbling block is the scant encouragement and certain financial loss that would harass any person venturing to write on technical subjects, such as law. Likewise, in Malta, we have never heard of grants or scholarships bequeathed by government or munificent members of society to render possible research work contributing to the study of Law.

Judge Debono's "Storia della Legislazione di Malta", and "Sul Fallimento nel Diritto Maltese", and Judge Cremona's commentary on every article in our Criminal Law stand out as the three great landmarks of the legal contributions, few and far between, of the Maltese Bar and Bench. Future law-students who will have to submit a thesis to obtain a doctorate according to the radical reform carried out in University studies last year, can be confidently expected to enlarge the bounds of legal studies. If this much-criticized reform will bring practical results in the shape of an increased knowledge and research works in matters of legal character, it will have been justified. This does not necessarily mean that we approve of the five years interval which has to elapse between the graduation of the law-student and the time when he may submit his thesis.

The Public Library should take steps to have the most important manuscripts of research value photographed to guard against any loss. A mass of inherited material bearing on law and kindred subjects is jealously guarded in private collections whose owners, generally speaking, are loath to give oppor-

tunities to research workers to make use of it. Would it be too dictatorial were the government to photograph these manuscripts and have them placed in the Public Library? A wealth of untapped legal material lies in the archives of Imdina Cathedral but it is difficult of access.

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NEWS AND VIEWS

The Malta Bar and Bench was represented at the International Congress of Comparative Law held recently in London by Judge Professor E. Ganado, C.B.E., LL.D. At the Congress which was attended by jurists from all over the world, Judge Ganado read a report touching on Maltese Law and the legal duties of executors and administrators. We extend to him our congratulations for the signal honour done to our Island by his presence at this Congress of Jurists and particularly at his being chosen President of its Civil Law Section.

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Mr. George Montanaro Mifsud, Rhodes Scholar for 1950, has left for England, where he intends reading for a Degree in History. We wish him full success in this subject as we remember only too well the great interest he showed in History all the time he was in the University.

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The Society would likewise like to congratulate Mr. G. Gouder, LL.D., who some months back was appointed Magistrate in the Gozo Courts of Law and has since been transferred to the Law Courts in Malta.

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Mr. J. Ganado, B.A., LL.D., and Mr. J.J. Cremona, B.A., D.Litt., LL.D., will shortly take up their duties at the Royal University as lecturers in Roman Law and Constitutional Law respectively. All students and colleagues heartily wish them success in their lectureship.

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ACKNOWLEDGEMENTS

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