

EDITORIAL

It was with unbounded enthusiasm but with a vaguely felt awareness of difficulties that a handful of law students set out to revive a defunct Law Society and to issue a Law Journal worthy of its predecessors.

It must be admitted that of all the proposed functions of the Society, the issue of the journal has been the main preoccupation of most of the members of the Committee, and it is to a large extent thanks to them that this publication has been made possible.

Encouragement has been forthcoming from many quarters. Professors, lecturers and general practitioners of law have welcomed the reissue of the journal. Most of the material help has however been, to my disappointment, only of a financial nature. Not that such help has been refused, but it had been my original idea to include in the first issue a number of articles on specialised topics by the persons who have the necessary experience and practical approach. Our efforts to obtain contributions from lecturers and lawyers alike met with no success and it was eventually decided to make the first issue an exclusively student affair.

That the necessity of a law journal exists is undisputed. Law being essentially dynamic, (a trite phrase, but like most trite phrases, a true one) continuous progress is being made in most branches. It is through the appearance of new conditions which create new contingencies that law develops. It is up to Parliament, which, ideally, should represent the pulse of the nation, to amend or lay down the law and to bring it into line with new developments. This will, in many cases, not be as easy as it sounds. Academical discussion about the advantages and disadvantages of proposed legislation can help immensely towards a clear exposition of the legislation in issue. The benefit of expertise may be gained, the likely reaction to any legislative measure can be gauged through an informative article.

Maltese law in particular, is at present in need of detailed consideration. Much has, for instance, been written on the layman's point of view as regards the retention of capital punishment. A clear, concise, legal exposition would be of great help. While on the field of criminal law, an interesting article could consider the significance of a recent trial by jury where the principle was upheld that the fact whether the accused is insane at the time of the commission of the offence is a matter of fact to be decided exclusively by the jury. In the case in point, the jury disregarded expert medical evidence which considered that the accused was perfectly sane at the material time.

Complaints are heard daily about the unfairness of the legislation about lease. The 1939 Ordinance was introduced to protect the tenant

and to avoid lack of accomodation. Nowadays the position has been pushed to an illogical extreme and the tenant is so well protected that there is no incentive for any property-owner to lease his property. The 1959 Decontrol Ordinance purported to remedy this situation, but since it only applies to property built after 1959 or to property which had been vacant or owner-occupied in 1959, it does not, in reality, go a long way towards remedying matters.

It is, one must admit, not an easy decision to balance the interests of the entrepreneur in the building industry with the necessary hardship accruing to the tenant.

A general reform of the laws of Civil Procedure has been attempted from time to time and the general consensus of opinion among lawyers is that in most matters a more modern approach should be adopted. This will work in favour of a more practical and speedy execution of justice.

In the sphere of Private International Law, important topics touching the status of spouses in mixed marriages and several aspects of transfer of property as well as the evergreen problem of domicile need clear exposition.

These are just a few of the problems which can form interesting articles and invaluable contributions. It is hoped that contributions from experts in the particular lines will make the Law Journal a living organ of the law in our nation; a method of development of our legal system.

Our thanks go to all those who have helped to make this publication possible. Special mention must be made of Professor F. Cremona whose encouragement and particularly handsome financial contribution have proved invaluable to this venture.

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