FOREWORD (PUBLIC LAW)

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The three undergraduate essays on public law in this issue are on very different subjects: the rationale of the law of torts, the propriety of using secret information in judicial proceedings and the justification for the use of force against a foreign government on humanitarian grounds. They demonstrate, on the part of their respective authors, a familiarity with legal reasoning and an ability to deploy it on a wide range of issues.

Is there anything which distinguishes legal reasoning from other forms of discourse? And is it something for which it is necessary to have a degree in law? It is only since 1870 that it has been possible to obtain an honours degree at Oxford by reading law. But there were great lawyers before then and Oxford has also produced great lawyers since then who did not read law. What advantage, then, does reading law at Oxford confer? The dons, of course, are a different matter. They not only teach undergraduates but play their own important part in the development of the law itself. Indeed, the current system of public funding for universities seems based on the premise that publication is their only useful function.

Some might say that you should read law if you want to be a lawyer. That might be true on the Continent but it is barely a half truth in England. It is a fallacy, often propagated by school teachers, that law at university is a technical training which equips one for a legal career. The profession is undemanding of

knowledge by entrants of the details of the law. Even in very recent times, careers at the Bar have been founded on qualifications such as a degree at an art school and a year's conversion course. Contrariwise, most lawyers in actual practice would say that they have never had any use for most of the substantive legal knowledge - the law of offer and acceptance, of mutual mistake, of the Settled Land Act - which they acquired for their performance in the Examination Schools. So it would be a mistake to deprive students with a passion for history or English literature from the pleasure of reading those subjects at university only because they also contemplate a career in the law.

But the training which a law degree does offer, and which is exemplified by these three essays, is in clarity of thought. There are subjects in which seminal observations of great significance can be concealed in a fair amount of obscurity. Anyone who has read Kant or Schopenhauer or Wittgenstein will understand what I mean. Not so the law. The first requirement of an advocate making a submission or a solicitor drafting a contract is to be clear. Hart and Dworkin may be philosophers but they write with shining clarity. Again, I do not suggest that reading law is the only way one can acquire the mental discipline to make oneself clear. But if one is trying to identify what reading law at Oxford has to offer, I think this is it. The evidence in support of this proposition will be found in this undergraduate publication.

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