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ENGLISH LAW AND AMERICAN ENACTMENTS

A British View of Criminal Procedure in the U. S. Crippled by Laws So Multiplied That Law Itself is Cheap

(By Sir A. Maurice Low, Correspondent in Washington of The London Morning Post.)

Now that the Chief Justice of the United States has said that "the administration of criminal law in the United States is a disgrace to civilization," one will not be accused of being guilty of that easy concession of foreigners, of which Americans have so often complained, if the British and American administration of the law is contrasted, and I cautiously venture to point out to my American friends why in the whole of England and Wales in 1921 there were only sixty-three murders, while in the City of New York, in the same period, 260 men and women were slain.

In America laws are too common and law is too cheap. To an Englishman a law passed by Parliament is something to which sanctity is attached and to be respected, even if he complains of the folly of lawmakers. But that is the privilege of the free-born Englishman. His right to criticize perhaps was guaranteed by Magna Charta, I don't know, but, at any rate, it is his and no one can deny him the exercise of that inherent right. Grouse as much as he may, it never occurs to him to show his contempt for the law by deliberately breaking it.

Laws are too common in America. There are too many of them. Excluding the regular supply bills, the output of a session of Parliament is perhaps not more than a score of measures. I have not the precise figures at hand, but the number is very small. Compare that with the twenty thousand or more bills and resolutions introduced in Congress every two years, and then add the thousands of bills in the State legislatures, not forgetting the tens of thousands of ordinances and rules and regulations, the product of the ingenuity of City Councils, Boards of Aldermen, Mayors, Commissioners and city managers. Americans are crushed under laws from the cradle to the grave and wander through life in a maze of statutes. They are fortunate if they are born legally or die lawfully. As for living in the fear of the law, I am convinced no American attempts it. It would be a hopeless endeavor.

Whenever anything becomes common it ceases to have value. One annual increase of laws is so small and is attended with so much difficulty that to Englishmen a law is not only something mysterious but the work of the expert. The average Englishman would not more glibly talk about drafting a law than he would about performing a major surgical operation. No member of the House of Commons may as a right introduce a bill as members of the House of Representatives can. He must ask and secure permission; hence at its inception an English bill is taken seriously and must have merit behind it; but that does not stand in the way of the enactment of legislation demanded by the country. That is the duty of the Government and the Government must either satisfy public sentiment or is turned out. In England we have no bills introduced "by request" because an influential or persistent constituent puts pressure upon an indifferent or timid Congressman, and we have no bills offered by members of Parliament to purchase a little cheap notoriety. In England the business of lawmaking is a grave affair, and men do not take their responsibilities lightly.

An English act is framed carefully and drafted by men trained in that work. We do not pass an act about whose constitutionality there is question and leave it to the courts to decide whether it is a valid statute or so much waste paper. Of course there is the difference in the constitutional systems of the two countries. England, having no written Constitution, whatever is the latest enactment of Parliament is the last amendment to the Constitution, as a great English lawyer said; but even with that latitude opportunities are given for Parliament to do unconstitutional things, and the courts protect the rights and liberties of the subject against the encroachment of Parliament. And, of course, there is the difference in temperament and the restraining influence of tradition and national custom. The Englishman is opposed to slapdash methods. He likes to feel himself on a solid foundation. When an act of Parliament leaves his hands he wants to be certain it is as sound and reliable a piece of work as the vessel that goes down the Clyde way is seaworthy and up to specifications.

In America you have not only made laws too common and thereby brought them into contempt, but you have cheapened the law and made it not the means by which justice is done, but turned it into a game by which the trickster, playing within the rules, wins. If this is too harsh a criticism and after the denunciation of the Chief Justice nothing, it seems to me, can be too harsh—let me illustrate.

In London a few years ago I strolled into the law courts and by chance went into one of the criminal courts. A homicide case was on trial, and a woman, of the charwoman class, was in the witness box. The prosecuting barrister asked her whether on the night of the homicide she was drunk, which she denied. He then asked her what she had been drinking. She said beer, whereupon he pounced upon her. At the Crown's request she had testified to drinking ale, now what did she mean by saying she had been drinking beer?

At this stage the Judge interrupted. Turning to the witness, he asked her quietly whether she or any of the others in the room were drunk on that night, and she replied they had been drinking, but none of them were intoxicated. The Judge then asked her what they had been drinking, had they been drinking whiskey or gin or spirits of any kind, or beer. She said none of them had drunk spirits, only beer or ale. Turning to the counsel, the Judge said: "The witness has testified they were drinking, but none of them were drunk; they had no spirits, only beer. Now, what difference does it make whether it was ale or beer? You may go on."

I think this trivial incident in the day's work in an English court of law marks the difference between British and American judicial methods, and the difference is fundamental. In America the idea seems to be that the Judge is simply a referee, who sits unless appealed to. In England we proceed on the theory that the Judge is an umpire, whose duty is not only to keep the game and see that no foul blows are struck, but who must disqualify a player if he attempts to

resort to any trick that, in its application, violates the spirit if not the actual letter of the rules.

In an American court the prosecuting attorney would have made much of this alleged discrepancy in the testimony of the witness, possibly taken an exception and secured a new trial; at any rate, befogged the jury and convinced it the woman was a liar, and there would have been another miscarriage of justice. I am not unfamiliar with the practices of the American courts. In my younger days I was a court reporter, and next to being a practicing attorney there is nothing so enlightening as being a court reporter. The perjury committed in the American courts day after day is appalling. In the one place where every word is uttered under oath and supposed to be absolute verity there is no less regard for the truth than among horse traders dickering at a county fair.

On one occasion I was waiting for a petty debt case to be closed up to allow an important case to be heard. The defendant, a former policeman, was a letter perfect in repeating conversations helpful to him, but his mind was an utter blank when asked the amounts he alleged to have paid. To one of the waiting attorneys I said: "The defendant is a former policeman, he was the attorney admitted; then why didn't the Judge stop him, I asked; oh, said the attorney, he didn't; isn't for the Judge to do, it's for the jury to determine the credibility of the witness."

In criminal cases there is not only perjury of the most flagrant kind, of which the Judge takes no notice, but the Judge puts every obstacle in the way of the State securing a conviction and gives every improper advantage to the criminal to escape punishment. In England we have abandoned the medieval indictment with its absurd circumlocution and redundancy, and simply charge John Smith with having killed William Jones on a certain date and leave it for the jury to determine whether he committed murder or acted in self-defense. In the United States the indictment is a masterpiece of circumlocution and redundancy, and the product of the ingenuity of City Councils, Boards of Aldermen, Mayors, Commissioners and city managers.

The said John Smith is charged with having wilfully and feloniously upon him, the said William Jones, wear a pistol held in his right hand, of the value of five dollars, loaded with a bullet and powder, done so as to kill him, and much more to the same meaningless effect; and in the form of different counts the story is told five or six times over. I remember a man having been indicted for murder under the name of James P. Brown. A careless copyist in the District Attorney's office struck the B key instead of the P, and Brown appeared in one count as James B. Brown. When the case was called on, the District Attorney's office moved to dismiss the indictment on the ground of misnomer, the plea was sustained and the District Attorney had to begin the proceedings anew.

I doubt if any English Judge would have entertained such a frivolous motion. He would have taken the common-sense view and said it made no difference whether the man was called James P. or James B., as his identity was not challenged and his rights were not impaired. Nor is it possible in England to prevent the execution of sentences by appeals on technicalities taken simply for the purpose of delay. There is a Court of Criminal Appeals in England, before which few cases come, and then they are swiftly disposed of.

The most striking difference in the administration of English and American criminal law is its celerity in England as opposed to the almost interminable delay in America. The principle governing English law is that justice must be exact and immutable, and punishment must quickly follow crime to strike terror to the evildoer. When a murder is committed every effort is made to apprehend the murderer, and few escape. His trial follows almost at once; he is hanged within three weeks after sentence is pronounced. It is stern, but salutary. All the facts are fresh in the minds of the witnesses, who are readily available. Delay always works on the side of the criminal, and usually defeats justice. Every day he can stave off trial is that much gained. That is why an unscrupulous attorney will seek to have an indictment declared defective because of a wrong initial, when he will take an appeal. Important witnesses forget or disappear; the prosecuting attorney loses his interest; a greater and more sensational cause eclipses his; the papers and demands for attention. The criminal and his criminal attorney have again flouted justice.

The reason there were nearly five times as many murders committed in

MAYOR CAMERON IS AGAIN MAYOR

He and Six Aldermen Elected in Sackville by Acclamation

Sackville, Jan. 11.—Nominations for civic elections, which will be held on Tuesday, Jan. 15, closed at 5 o'clock today. Allister Cameron, mayor, was re-elected by acclamation for the fourth term. Six aldermen were also elected by acclamation as follows: North ward, K. H. Secord and J. Kirby; south ward, W. H. Oulton and Dr. C. L. Glas, who is a new member; east ward, R. Tower and A. McCready, editor of the Sackville Post, also a new member.

There will be a contest in the west ward, with two ex-aldermen, of some time ago, running against Hyman Goldstein and W. C. How, who are now in office. The new men are Robert Ames and F. W. Cole.

LAYS STONE FOR BIG RADIO STATION

Brussels, Jan. 11.—The King has laid the foundation stone of the International Station, which the Independent Belgian Society of Wireless Telegraphy is erecting at Rayvalde, ten miles from Brussels. Eight masts, each 284 metres high, will support several wires.

The station is to be one of the most important in the world. It will be able to communicate with the United States, Canada, the Congo and other parts of the earth, making Belgium independent of other countries in respect of wireless communication.

FLAG TO BE CHANGED.

Cairo, Jan. 11.—The familiar red and white Egyptian flag will disappear in the near future, when the King issues a decree maintaining the design of a white crescent and three stars, but substituting for the present red ground green, which is the color entitled to be worn by those who have accomplished the pilgrimage to Mecca.

New York as in the whole of England and Wales can be explained in a single word—politics. I say this not by way of criticism, but as a fact; and I say it reluctantly because it is an indictment of democracy and American institutions. Yet, if a foreigner may tell a perhaps unpalatable truth the statement cannot be denied. An elective judiciary, that is a political bench brings the element of politics into a place where politics should be unknown; the source of the fountain is polluted and its waters are poisoned.

This is not a reflection upon the Judges, the majority of whom I am convinced, are upright and conscientious men, but the atmosphere of politics surrounds the court, and they are engaged not for their ability and standing, but because they are supposed to have political influence, and politics taints the whole proceeding. Prosecutors looking to re-election suddenly resurrect long-forgotten blue laws, to cater to a certain element in the community, and cast reproach upon the whole body of the law. When you make it illegal to sell a glass of soda water on Sunday you invite not only that particular provision to be violated, but all laws. When prosecutors yield to pressure or are delirious in their duty because of the fear of political consequences, political influence supplants justice.

So much is politics the life of an American—as religion was that of the Puritan—that a garment to be worn on Sundays, but a shirt to be worn every day—that the impulse of nearly every American is to turn to politics as his haven of refuge in an emergency. When a wretched creature shot down another wretched creature in front of a Court House, he immediately said he was not in danger of being executed as there was a "big guy" to protect him. Eminent members of society who do not commit murder, but violate the civil code, when detected, have their big or little "guys" to come to their rescue.

The criminal knows this, but so long as he is under the protection of the "right kind" of the law is without fear. In England we hold the robber to be as bad as the thief. There would be no hoodlums if there were no leading members of the community to make their trade profitable. There would be no professional smuggling dressmakers if there were no fashionable women to encourage an illicit traffic. There would be fewer murderers walking the streets of New York if there were fewer politicians to secure their release on bail.

In England we keep our politics and our law in watertight compartments.

TALK OF MAN'S JOB! Frail Woman Makes Big Success of Electric Welding Machine Business

Warren, O.—A new business trail has been blazed by Mrs. Zella McBerty. Manufacturing and selling electric welding machines seems rather out of a woman's province, but when you hear Mrs. McBerty talk ohms and amperes as well as any electrical engineer you realize there is hardly a business realm that a capable woman can not invade.

Mrs. McBerty started in the business world at 16. She can run a lathe, shaper or any machine tool, as well as her own workmen. When in 1911 she and her husband decided to invest their capital of \$5,000 in the manufacture of electric welding machines she undertook to run the shop and office while he went on the road.

This partnership proved so successful that in seven years they sold out for \$200,000. Hard-headed business men recognized the ability of this woman, who looks as if she would be far more at home in a candle-lighted, flower-scented drawing room than in a noisy, oily machine shop, and made her secretary.

Her successful handling of all of the money affairs of this large corporation and treasurer of the new company, proves that a woman can develop financial acumen.

"Up to the present," says Mrs. McBerty, "I have never sold a machine to a firm or individual that could not pay for it. I consider my instinct to judge people and credits is the time-honored quality of intuition which is an asset women are bringing into the business world. It doesn't make any difference what you build or how much you sell—unless you get paid for it you cannot stay in business."



MRS. ZELLA MCBERTY.

FUNDY CHAPTER MEETS.
Fundy chapter of the I. O. D. E. held its January meeting last night in the G. W. V. A. rooms with Miss Frances Alvord, the regent, in the chair and a good attendance. Preparations for the annual meeting were made and the nominating committee appointed consisted of Miss Margaret Wilson, Miss Irene Barber, Miss Dorothy Hickson and Miss Maud Lake.

FOUND NOT GUILTY OF \$79,000 FRAUD

Jury Out 20 Minutes in Reaching Verdict in Rabinovitch Case

After the short deliberation of 20 minutes, the jury on the case of Harry Rabinovitch, tried before Chief Justice McKeown in the Circuit Court, yesterday afternoon brought in a verdict of not guilty on the charge of conspiracy to defraud Lew Chechik out of between \$79,000 and \$80,000 in connection with a shipment of liquor in November from here to Providence, R. I. The evidence for the defence was concluded yesterday morning, while the afternoon was taken up mostly with addresses to the jury of Dr. J. B. M. Baxter, K. C., for the defence and William M. Ryan, for the Crown, and the charge to the jury by Chief Justice McKeown.

ON BETTER ENGLISH MISSION.

Miss Rosamond deWolfe Archibald, B. A., has gone to Montreal, whence she will proceed to Toronto to continue her missionary work for better spoken English. Mrs. R. deWolfe Archibald, who has been enjoying with her daughter the kind hospitality of Miss Ella Clark, of West St. John, has left for Windsor, N. S., where she will visit her sister, Mrs. J. F. Rathbun. While Miss Archibald is absent on her tour of Ontario, and possibly part of Quebec, her place at the Acadia Ladies' Seminary is being filled by Miss Evelyn Smallman, who is a graduate of the Acadia University and also of the LeLand owners School of Expression in Boston.

Old Dutch for Kitchen Utensils



Wont Scratch. Contains no lye or acids. Goes further. Does better work.

VICTOR RECORD HEADQUARTERS

Open every evening, with a courteous staff and complete lines of Victor Records. We can guarantee 100 p. c. service.

PHONOGRAPH SALON
Lou M. Le Lacheur. 25 KING SQ. H. D. Finley

\$300,000 IN CASH

to be given away in STROLLERS

THE CIGARETTE WITH THE ORIGINAL FLAVOR

CONTEST

We have illustrated above ten small and five large pictures of movie stars as contained in packages of Strollers 10s, 25s, 50s and 100s.

Only a portion of each picture is shown.

It is a matter of skill to determine which movie star is illustrated and to complete all the pictures with actual inserts taken from packages of Strollers. This is done by pasting the correct complete pictures in the spaces where the portions are shown. For the first correctly filled "contest sheet" received at the office of Tobacco Products Corporation, at Hamilton, Ontario, we will pay \$100.00 in cash.

For the next two correct sheets we will pay \$50.00 each in cash.

For the next ten correct sheets we will pay \$10.00 each in cash.

The publication of this advertisement has been so arranged that entries mailed to-day from any point in the Dominion will arrive at Hamilton, Ontario, on the same date. Every contestant is thus given an equal opportunity of winning the prizes offered, whether they live in Victoria, B. C., or Halifax, N. S. The awards and decision of the judges must be regarded as final. The names of the prize-winning contestants will be published in this paper.

Additional copies of this advertisement may be obtained from your tobacconist or by writing direct to THE TOBACCO PRODUCTS CORP. OF CANADA LIMITED, STROLLERS CONTEST DEPARTMENT, "K" HAMILTON, ONTARIO.

RULES OF CONTEST

Anyone except employees of the Tobacco Products Corporation of Canada is eligible.

Complete pictures of correct movie stars over portions of pictures shown in this advertisement, pictures to be those included in Packages of Strollers 10s, 25s, 50s and 100s.

This contest sheet, showing the 15 completed pictures and your name and address in space provided, to be mailed to Tobacco Products Corporation of Canada Limited, Hamilton, Ontario, marked "Strollers Contest Department."

\$100.00 cash prize for the first correctly filled sheet received.

\$50.00 cash prize for both the second and third correct sheets received.

\$10.00 cash prize for each of the succeeding ten correct sheets received.

Checks will be mailed at close of contest.

Contest closes February 21st.

S.C.—

STROLLERS

Just Say—**"GIMME"**

Demander

Aspirin

SAY "BAYER" when you buy—Genuine

Proved safe by millions and prescribed by physicians for

Colds	Headache	Neuralgia	Lumbago
Pain	Toothache	Neuritis	Rheumatism

Genuine Accept only "Bayer" package which contains proven directions.

Aspirin is the trade mark (registered in Canada) of Bayer Manufacture of Monocarbonylchloride of Salicylic acid. While it is well known that Aspirin means Bayer, the public is advised to be on their guard against imitations. The Tablets of Bayer Company will be stamped with their general trade mark, the "Bayer Cross."

IMPORTANT: This is the one and only insertion of this advertisement in this paper. Cut it out now. If additional copies are required they can be obtained from your tobacconist.