AGENCY OF NECESSITY.

I. *Introductory.*

Agency of necessity is said to arise when the law allows one person to act on behalf of another to save some proprietary interest of the latter which is in jeopardy. Whether or not agency of necessity exists in a given situation is a question of law; the application of the doctrine does not depend on the express or implied consent of the parties. In this fundamental respect agency of necessity differs from true agency; on the other hand the two are analogous in that the effect of both is to give rise to similar rights and duties between principal, agent, and third party.

It is not the object of this article to re-examine the whole law relating to this doctrine.[1] The four cases in which it is well established require to be stated rather than to be once more exhaustively discussed. They are:—

(i) Acceptance of a bill of exchange for the honour of the drawer. When a bill is not accepted by the drawee, a stranger may, with the consent of the holder, accept the bill for the honour of the drawer, and, if the stranger has to pay on the bill, he becomes entitled to the rights of the holder against the drawer.

(ii) Authority of shipmasters: Where it is necessary to do so for the further prosecution of the voyage, the master of a ship has authority to borrow on his principal's credit, to hypothecate the ship, cargo, and freight, or the cargo alone, to sell the ship, and to sell part of the cargo. He can only do so if it is not reasonably practicable to communicate with the principal. It has been said that this is not agency of necessity at all but an illustration of the principle that an agent has implied authority to do all acts reasonably necessary for the execution of his authority.[2] But while this may be true where the master pledges the shipowner's credit, or where he sells or hypothecates the ship, it is not generally true where he disposes of the cargo, since he is not normally in any prior agency relationship with the cargo-owners.

[1] See 1 HALSBURY, LAWS OF ENGLAND 157 (Simonds ed. 1952); BOWSTEAD, A DIGEST OF THE LAW OF AGENCY Art. 4 (11th ed. 1951); POWELL, LAW OF AGENCY c. ix; and Williston, *Agency of Necessity*, (1944) 22 CAN. BAR REV. 492.

[2] POWELL, *op. cit.* 329; Williston, *loc. cit.* 494; BOWSTEAD, *op. cit.* 65-67 but at 68 this is qualified: "The authority of the master as an agent of the owners of the cargo is strictly an authority of necessity."

(iii) Salvage: A person who goes to the aid of a ship at sea and saves life or property is entitled to a reward for his efforts. Subject to the limitation that the reward shall not exceed the value of the interest or property salved, the amount of the reward is within the discretion of the court. In exercising that discretion the court will take into account, *inter alia,* the value of the property salved, the danger to life or property, the value of the property employed in the salvage operation, and the loss suffered and expenses incurred by the salvor.[3]

(iv) Deserted wives: A wife who has been deserted by her husband has authority to pledge his credit for necessaries suitable to the couple's style of living before the desertion,[4] unless she has means of her own.[5] This is a very clear case of agency of necessity, for the authority survives even though the husband has forbidden the wife to exercise it, and even though this prohibition is communicated to the third party.[6]

It will be observed that of these four cases the first three are based on the law merchant and maritime; as these branches of the law were strongly influenced by Roman law, it is not unreasonable to detect something of the influence of the doctrine of *negotiorum gestio* behind these three cases. The fourth case is a creature of common law and seems to be based on two considerations of public policy: First, it was felt that the husband was morally obliged to support his wife; and secondly, it was realized that the wife, being incapable at law of having any property, would be destitute and hence become a burden on the country if her husband were not compelled to support her.[7]

It is the object of this article to enquire whether, and if so to what extent, any of these special cases can be made the foundation of a general principle of agency of necessity. In England such a possibility has always been received with a certain amount of caution and distrust, but recent developments seem to have made the problem ripe for re-examination. The most marked hostility to the doctrine of agency of necessity is to be found in cases where one person has taken it upon himself without the owner's authority to *sell* goods.

3 1 HALSBURY, LAWS OF ENGLAND 65 (Simonds ed. 1952); 30 HALSBURY, LAWS OF ENGLAND 900 (Hailsham ed. 1938).

4 See G. H. Treitel, *The Deserted Wife's Right to pledge her Husband's Credit for Necessaries,* (1953) 16 MOD. L. REV. 221.

5 Biberfeld v. Berens, [1952] 2 Q.B. 770.

6 Bolton v. Prentice, (1745) 2 Str. 1214, 93 E.R. 1136.

7 See National Assistance Board v. Prisk, [1954] 1 W.L.R. 443, for a similar problem in a modern setting.

Where the agent of necessity has done something for the *preservation* of another's goods, a more liberal attitude has become discernible. Failure to distinguish between unauthorised sale and unauthorised preservation has created the impression that the doctrine of agency of necessity is narrower than it really is. It is therefore proposed to discuss the two types of cases separately.

II. *Sale.*

It is a commonplace in the development of commercial law that in the struggle between security of title and security of commercial transactions the bias of the common law judges has been in favour of security of title. It has generally been left to the legislature to redress the balance in favour of commercial convenience.[8] The working of these factors is apparent in the development of the doctrine of agency of necessity. The judges have been reluctant to admit the validity of unauthorised sales in circumstances of necessity; thus it has been said that "the court should be slow to increase the classes of those who can be looked upon as agents of necessity in selling or disposing of other people's goods without the authority of the owners."[9] This attitude has recently led to legislative intervention.[10] It has manifested itself in two ways: First, it has been sought to restrict the categories of persons who as a matter of law are capable of being agents of necessity to sell; secondly, the conditions in which a person who is capable of being an agent of necessity to sell is in fact entitled to exercise his authority of necessity have been strictly interpreted in favour of the owner.

(1) *Who can be agents of necessity to sell.*

The one case in which it was clearly established that one person could sell another's goods was that of the shipmaster.[11] In 1841 Parke B. tried to close the door to any extension of the shipmaster cases[12] and in 1895 Lord Esher M.R. echoed this opinion.[13] A turning point in the history of the doctrine came in 1924, when McCardie J. said: " . . . There is nothing[14] in the existing decisions which confines the agency of necessity to carriers whether by land or sea, or to the

8 The best example of this process is to be found in the history of the Factors Acts, 1823-1889.

9 Sachs v. Miklos, [1948] 2 K.B. 23, 36.

10 Disposal of Uncollected Goods Act 1952, *infra.*

11 Note that in none of the other four cases mentioned above did the doctrine of agency of necessity validate an unauthorised *sale.*

12 Hawtayne v. Bourne, (1841) 7 M. & W. 595, 599, 151 E.R. 905, 907.

13 Gwilliam v. Twist, [1895] 2 Q.B. 84, 87.

14 This is an overstatement in view of the two cases cited in notes 12 and 13.

and the only decision was that the company was not liable for the damages resulting from the delay as the strike which caused the delay was a matter beyond its control. But Scrutton J. (as he then was) went out of his way to say that the principle of the shipmaster cases applied to land carriers.[21] Again, in *Springer v. Great Western Railway Co.*[22] this extension was further supported. The actual decision in that case was that the railway company was not entitled to sell; but the ground for the decision was not that the relationship between the parties was such that the doctrine of agency of necessity *could not* apply—it was rather that one of the conditions which must be fulfilled before the doctrine in fact applies had not been fulfilled.[23]

(ii) *Bailees.* Two recent cases inferentially support the view that a bailee may become an agent of necessity to sell his bailor's goods.[24] In both cases it was held that the doctrine did not in fact protect a gratuitous bailee from an action of conversion; but again the ground for the decisions was not that the doctrine *could* not apply between bailor and bailee, but that it *did* not apply since there was in fact no necessity for the sale. Thus in *Sachs v. Miklos* a bailee of furniture was not entitled to sell it merely because it was causing him inconvenience; but Lord Goddard C.J. indicated that the decision might have been different if "the house had been destroyed and the furniture left exposed to thieves and the weather."[25] So, too, the bailee might have been justified in selling had the subject-matter of the bailment been perishable goods. If the extension to bailees is accepted, the doctrine of agency of necessity can apply where there is no prior *agency* relationship between the parties.

(iii) *Buyers.* There is some authority for the proposition that where goods are sent to a buyer in purported performance of a contract of sale, but are found on examination not to correspond with the contract, the buyer may become agent of necessity for the seller to dispose of the goods, if, for example, the expense of returning the goods would be out of proportion to their value.[26] If this proposition were accepted, it would provide another instance of the application of

[21] *Ibid.*, at 112.

[22] [1921] 1 K.B. 257.

[23] The carriers could have communicated with the owners and obtained their instructions.

[24] Sachs v. Miklos *(supra);* Munro v. Willmott, [1949] 1 K.B. 295.

[25] [1948] 2 K.B. 23, at 36.

[26] Kemp v. Pryor, (1802) 7 Ves. 237, 32 E.R. 96, where the actual decision was, however, that the buyer, having paid the price under protest, had no *equitable* remedy.

the doctrine of agency of necessity in a case where there was no prior agency relationship.

It seems from a consideration of these cases that the categories of persons who are capable of becoming agents of necessity to sell have been extended and are not yet closed. The more serious limitations on any further development of the doctrine lie in the stringent conditions which must be satisfied before it can in fact apply.

(2) *Conditions to be satisfied.*[27]

(i) *Impossibility of communication.* It must be impossible for the agent to communicate with his principal. It has been doubted whether, in view of the speed of modern communications, this requirement can ever now be satisfied.[28] The doubt appears to be unfounded, as a few illustrations can show: (a) communication may be made impossible by war,[29] strikes,[30] or natural catastrophes; (b) communication may be impossible if the agent of necessity does not know the whereabouts of the owner;[31] (c) communication may be possible but ineffective to elicit a reply in time to deal with the emergency;[32] (d) the owner may simply not reply to a request for instructions; (e) though it may be physically possible to communicate with the owner it may be commercially impossible to do so, for example where the expense of communication is totally disproportionate to the value of the goods.[33]

(ii) *Good faith.* The agent of necessity must have acted in good faith in the interests of the owner. In addition it seems that he must act reasonably.[34] Thus the agent would be liable if he sold in good faith but made a negligent error as to the price which the goods could reasonably be expected to fetch. It is submitted that while the burden of proving good faith is on the person relying on the sale the burden of proving negligence on the part of the agent should be on the party trying to impeach the sale.

(iii) *Necessity for the sale.* The sale must have been necessary, i.e., commercially necessary. Thus in *Prager v. Blatspiel, Stamp and Hea-*

27 See Prager v. Blatspiel etc. (note 15, *supra*).
28 (1913) 29 LAW Q. REV. 124, 125.
29 As in Prager v. Blatspiel etc. (note 15, *supra*).
30 See [1948] 2 K.B. 23, at 35.
31 Cf. Munro v. Willmott (note 24, *supra*).
32 Cf. Tetley v. British Trade Corporation, (1922) 10 Lloyds' List Rep. 678.
33 "Impossible" in this context means "commercially impossible or extraordinarily difficult": [1921] 1 K.B. 257, 268, and [1948] 2 K.B. 23, 35.
34 Cf. Williston, *loc. cit.* 501, BOWSTEAD, *op. cit.* 67, where a similar condition is said to apply to a shipmaster selling the ship in circumstances of necessity.

cock, Ltd., an agent was held not entitled to sell furs belonging to his principal (an alien enemy[35]) since he might have preserved them by putting them into cold storage or otherwise.[36] More recently it has been held that inconvenience does not amount to necessity; thus a gratuitous bailee cannot sell goods whose owner he cannot trace merely because they are in his way.[37] It has been said that the sale is only necessary "where the goods are perishable or in a somewhat similar category";[38] although perishability is a matter of degree, it does not seem that the concept will be interpreted at all widely in favour of the agent.

It is the severe limitation which this condition imposes on the doctrine of agency of necessity which has recently led the legislature to intervene to remedy a case of particular hardship. If a person such as a cobbler accepted goods for repair and they were not collected in due time, his position was an unenviable one. He might attempt to protect himself by putting up a notice in his shop saying that goods not collected within a certain time would be sold. But if he did this his rights would be uncertain in view of the increasing reluctance of the courts to allow a party to a contract to rely on a clause unilaterally imposed by him in his own favour by means of some printed condition or similar device.[39] If he sold the goods and was not protected by such a clause, the plea of agency of necessity would afford him no defence in an action of conversion, since inconvenience arising from lack of storage space does not make the sale "necessary." The common law protected him only to the extent of allowing him to deduct the value of his repairs from the damages he would have to pay for conversion[40] but on a rising market this right might be stripped of some or all of its value. This situation was remedied by the Disposal of Uncollected Goods Act 1952,[41] which gave the repairer, subject to

35 Curiously, this feature of the case does not figure in the judgment. Contrast the remarks of Scrutton L.J. in Jebara v. Ottoman Bank (note 16, *supra*) at 271: "How can one imply a duty in an enemy to protect the property of his enemy?" Perhaps the argument was not raised because the plaintiff was only technically an alien enemy; he was a national of an allied country which had been overrun by Germany.

36 [1924] 1 K.B. 566, at 573.

37 Sachs v. Miklos and Munro v. Willmott, *supra*.

38 [1948] 2 K.B. 23, at 35.

39 See especially the recent decisions in Alexander v. Railway Executive. [1951] 2 K.B. 882, and Curtis v. Chemical Cleaning and Dyeing Co. [1951] 1 K.B. 805.

40 Munro v. Willmott (note 24, *supra*).

41 15 & 16 Geo 6 & 1 Eliz. 2, c. 43.

certain stringent conditions,[42] the right to sell the goods, to retain out of the proceeds of sale his charges for repair, and to hold the balance for the owner. It must not be supposed that the Act has revolutionised this branch of the law; it is limited in scope to "goods accepted by the bailee in the course of a business for repair or other treatment." Thus none of the decisions discussed above would fall within its provisions. The Act is of general interest only in that it provides yet another instance of legislative intervention to remedy a situation in which the high respect paid by the common law to security of title has led to a commercially inconvenient result.

III. *Preservation.*

The object of this section is to discover whether the principles of salvage, like those relating to shipmasters, can be said to have moved on to the dry land. The judges have not been exactly friendly to the unauthorised preserver of another's goods, but they have at least been less hostile towards him than towards the unauthorised seller. It is submitted that dicta to be found in cases of sale ought not to be regarded as conclusive in the type of case now under consideration, any more than dicta in the shipmaster cases would be so regarded in cases of salvage. Two questions arise: Whether the unauthorised preserver has any right against the owner; and, if he has, what is the nature of that right.

(1) *The existence of the right.*

There are *dicta* in the English cases that a person who voluntarily intervenes to save another's property from destruction or serious deterioration has no claim against the owner,[43] but the decisions indicate that the law is by no means as rigid as these *dicta* suggest. As a matter of policy, there is much to be said in favour of such a claim. It seems just to force the owner to give some recompense for the benefit he has received, and desirable to encourage persons to take trouble for the preservation of property, whether it be their own or not.

[42] The most important are: (i) the bailee must, twelve months before the sale, give written notice by registered letter to the owner that the goods are ready for delivery; (ii) the bailee must, fourteen days before the sale, give the owner written notice of intention to sell, an ordinary letter being sufficient for this purpose. If the bailee does not know the owner's address, it is sufficient for him to send these notices to the owner's last known address.

[43] The most outspoken of these is to be found at the beginning of the judgment of Bowen L.J. in Falcke v. Scottish Imperial Insurance Co., (1886) 34 Ch. D. 234, 248.

(i) *Where there is a prior relationship between the parties.* The cases show that there is definitely a claim in two types of cases of this kind, and probably in a third.

(a) *Principal and agent.* An agent who without authority incurs trouble and expense in saving his principal's goods from destruction is entitled to be reimbursed by the principal. In many cases, indeed, the agent will be under a duty to do what he can to preserve his principal's property, and if there is such a duty it is plainly just that there should be a correlative right to recover money spent in the performance of that duty.[44] It is arguable that these are cases of implied authority, since the principal must, in the absence of evidence to the contrary, be taken to have consented to the steps taken by the agent. But this argument breaks down where the agent has acted contrary to the principal's instructions. Yet even in such a case he is entitled to recompense. Thus in *Tetley v. British Trade Corporation*[45] an agent who removed his principal's goods from Batum to Constantinople to save them from seizure by an invading army was held to be entitled to recover from the principal the expense of such removal despite the fact that the removal was contrary to the principal's instructions.

(b) *Carrier and consignee.* A carrier who incurs expense in preserving his consignee's goods is entitled to recover such expenses from the consignee. In *Great Northern Railway Co. v. Swaffield*[46] a horse had been consigned to a railway company for carriage to the defendant. On the defendant's refusal to accept the horse the company incurred expense in stabling and feeding it. It was held that the defendant was liable for this sum. Again it is arguable that the case is one of implied authority to do all acts reasonably necessary in unforeseen circumstances for the protection of the defendant's property.[47] But it is not really consistent with the facts of the case to say that the owner impliedly consented to the expenditure; on the contrary, he seems strongly to have protested against it all the time. The main reason for the decision was that the plaintiffs had no choice to act

[44] See Great Northern Railway Co. v. Swaffield, (1874) L.R. 9 Exch. 132, 138, following Gaudet v. Brown (Cargo ex "Argos"), (1873) L.R. 5 P.C. 134.

[45] (1922) 10 Lloyds' List Rep. 678.

[46] Note 44, *supra.*

[47] POWELL, *op. cit.* 239-244, and Williston, *loc. cit.* at 499-501, call this implied authority of necessity. There is slight support for this view in the dicta that the Company, as carriers, were bound to take reasonable care of the horse even after the transit was over.

otherwise than they did. They could not turn the horse loose, for this might have involved them in a breach of duty not only towards the owner but also towards members of the public.[48] Nor could they let the horse starve; they were "bound from ordinary feelings of humanity to keep the horse safely."[49] Indeed, had they kept the horse and neglected it they might have been criminally liable for cruelty.[50] Finally, one judge mentioned the fact that the defendant ought to repay money which had been spent for his benefit.[51] All these reasons are based on broad grounds of policy and not on the narrow and rather dubious view that the owner impliedly authorised the company's acts.

(c) *Bailor and bailee.* It is submitted that if a bailee, without being in any way bound to do so by the terms of his bailment, does an act to save his bailor's goods from destruction or serious deterioration, he has a claim against the bailor. To support this proposition it is necessary to look somewhat closely into the implications of *Munro v. Willmott.*[52] In that case the defendant gratuitously permitted the plaintiff to leave a car in his yard. The car began to deteriorate so that ultimately it was worth about £20 as scrap. The defendant, to whom the car was causing inconvenience, did work costing £85 on it and sold it. He was held liable in conversion, but the damages were reduced by £85 "not from the point of view of payment for what he has done, but in order to arrive at what is the true value of the property which the plaintiff has lost . . . "[53] In effect, however, the defendant got something for his work.[54] It would be strange if the law were to place him in a worse position if he had not converted the car but returned it. It is therefore submitted that if the defendant had returned the car he ought to have had a claim for the value of his work, provided that the steps he took were reasonable and necessary. The fact that he was not agent of necessity to sell is no bar to holding that he was agent of necessity to repair.

48 (1874) L.R. 9 Exch. 132. at 135, 139.

49 *Ibid.*, at 137.

50 Sachs v. Miklos *(supra)*, at 35, 36.

51 (1874) L.R. 9 Exch. 132, at 136.

52 [1949] 1 K.B. 295.

53 *Ibid.*, at 299.

54 The defendant sold the car for £105, but at the time of judgment it was worth £120. The defendant was entitled to deduct the cost of repairs from the value of the car at the time of judgment. Thus the plaintiff recovered £35 and the defendant lost £15. But had the market not risen the defendant would in effect have got the full value of his work.

(ii) *Where there is no prior relationship between the parties.* Story has said that a mere stranger who intervenes in circumstances of necessity to save another's property has a claim against the owner.[55] What English authority there is on the question is somewhat dated and inconclusive. In *Binstead v. Buck*[56] the finder of a dog was held liable in trover for refusing to give it up unless the owner paid him the cost of feeding it for twenty weeks. Similarly, in *Nicholson v. Chapman*[57] a person who rescued another's logs from a river which had washed them away was held liable in trover for his refusal to return them unless he was compensated for his trouble and expense. Both cases merely decide that the finder was not entitled to hold the goods, and this is understandable in view of the common law's long-standing hostility to liens: "And growing liens are always to be looked at with jealously . . . . They are encroachments upon the common law."[58]

But a person who has no lien may still have a claim for reward. On this point there are contradictory dicta in *Nicholson v. Chapman.* Eyre C.J. said on the one hand that the finder should depend for his reward on the moral duty of gratitude, and on the other hand that the court would go as far as it could in enforcing the owner's moral duty to pay.[59] Later dicta deny that the finder, or other stranger, has any right.[60] But if the inference drawn from *Munro v. Willmott* is correct, it might equally well apply to a stranger, for a bailee who steps outside the terms of his bailment is, for some purposes at least, in the same position as a stranger.[61] Further there are cases not involving the preservation of property in which the law allows recompense to a stranger for good offices. Thus one who provides a funeral for a deceased person can claim back the expenses of the funeral from the executors.[62] Again, where a person who has been injured in a road accident receives medical attention, the doctor giving it is entitled to a reasonable fee.[63] The question whether on

55 AGENCY, s. 142.
56 (1776) 2 Wm. Bl. 1117, 96 E.R. 660.
57 (1793) 2 H. Bl. 254, 126 E.R. 536.
58 Rushforth v. Hadfield, (1807) 7 East 224, 229, 103 E.R. 86, 88.
59 (1793) 2 H. Bl. 254, at 258-259, 126 E.R. 536, at 539.
60 See POWELL, *op. cit.* 335.
61 Cf. the cases on infants' contracts: Jennings v. Rundall, (1799) 8 T.R. 335, 101 E.R. 1419; Burnard v. Haggis, (1863) 1 C.B.N.S. 45, 143 E.R. 360.
62 Ambrose v. Kerrison, (1851) 10 C.B. 776, 779, 138 E.R. 307, 308. If deceased was a married woman, the liability to pay falls on the husband, unless she died leaving property of her own: Rees v. Hughes, [1946] K.B. 517.
63 Road Traffic Act 1934 (24 & 25 Geo. 5, c. 50), secs. 16 and 17.

facts resembling *Nicholson v. Chapman* the stranger has a claim against the owner seems on the whole to be still an open one; the most that one can say is that it has not yet been answered with a conclusive negative. It is submitted that a stranger who in saving property incidentally averts a danger to the public ought to have a claim against the owner, for in such cases the grounds for encouraging unauthorised interference are particularly strong.[64]

(2) *The nature of the right.*

Where a person has a claim against the owner for preserving property, its value might be made to depend on various factors, the most important of which are the value of the interest saved and the value of the work and materials supplied by the plaintiff. The law of salvage takes both these factors and others into consideration, but the law of agency of necessity has regard only to the latter. The agent can claim only an indemnity for expenses actually incurred and a quantum meruit for services rendered. The law allows him to claim reimbursement but not to exploit for his profit a situation in which the property of another is placed in peril of destruction or deterioration.

IV. *Summary.*

(1) The doctrine of agency of necessity is well established in four types of cases, *viz.* (i) acceptors of bills of exchange; (ii) shipmasters; (iii) salvage; (iv) deserted wives.

(2) The second of these cases has been extended to land carriers, bailees, (possibly) buyers, and may be further extended. It is, however, difficult to prove that necessity for a sale has in fact arisen.

(3) The third of these cases has been extended so that agents acting contrary to their instructions, carriers, and bailees may become agents of necessity to preserve goods. It is an open question whether a mere stranger may become an agent of necessity for this purpose. A person who has become an agent of necessity to preserve property can claim an indemnity and a quantum meruit, but no more, in respect of his efforts.

G. H. TREITEL*

[64] Some such notion seems to underly the analogous case of Shallcross v. Wright, (1850) 12 Beav. 558, 50 E.R. 1174.

* *M.A., B.C.L. (Oxon.); Fellow and Tutor in Law, Magdalen College, Oxford.*

SOME THOUGHTS ON LEGAL HISTORY.

It is now widely recognised that the great modern increases in knowledge in the field of science are making the task of preparing manageable university courses in the many branches of scientific study a very difficult one; for a full understanding of any one subject there is a surfeit of material to be studied in the time normally available for a degree course. It is less often recognised that academic teachers of law are increasingly required to face the same problem, their task being made more difficult by the claims of a practising profession as well. Among other proposals, suggestions have been made that the pressure on the lecturer's and student's time may be eased by lengthening the period of study by another year, or by discarding the teaching of certain subjects. In the meantime the desirable course of requiring students to engage in some preliminary or consolidating work during the extensive Long Vacations has not yet been generally adopted. At all events, it is at this point that the teacher of legal history may be forgiven for becoming a little uneasy. Criticisms of the teaching of this subject come from a number of directions—from the social scientists, from the practising lawyers and at times (most unkindly) from academic staffs. Though, of course, it is still widely taught in Australian Faculties of Law, the extent to which its value is questioned demands some re-examination of its place in the scheme of things, which in any case, as in other matters, may be a very salutary exercise.

The complaint that legal history is no help to students intending to practise as solicitor or barrister is a not unfamiliar one. Many would say that what they need to know is the legal system as at present established, that the law in 1954 is all that really concerns them and that that, to their minds, is the end of it; what happened, then, in 1485 is a rather pathetic piece of archaism which can have no connexion with their legal practice. It is hoped that one kind of answer to charges of this kind will be provided by the wider arguments to be put forward later. At this point it may be enough simply to observe, without any originality but with necessary emphasis, that this attitude involves a fundamental misconception of the primary purpose of university studies. It is a pity too that the predominant desire of many students to obtain quickly and as painlessly as possible a technical qualification has concealed from them the cultural value of a university education, in which respect legal history is not to be denied its due. One can perhaps be forgiven for feeling rather apprehensive in making this latter assertion, since the pursuit of culture