



Max M. Kampelman Papers

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Max M. Kampelmacher

History 50

Book Report

Satisfactory

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Bede's

Eccelesiastical History of the English

1st half

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BINDING

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Bede's Ecclesiastical History of the English seems to be written in the style of the pre-Norman period. It is not divided into paragraphs and is long and tedious reading.

What Bede tells us, however, of the English is well told. From the dates given, we get a pretty good picture of what the upper classes were doing in England, in a chronological order.

The author begins by describing the land, the climate, the resources, and the people of England and Ireland. He tells how the natives came to live in England and where they originally came from. He also tells of the lives of the peoples and of their wars with each other. We learn, for example, that the Scots made the Picts choose a queen instead of a king rule over them, when the latter asked the Scots for wives. Bede also tells us something of the language of these ancient people. Bede then goes on to tell us about the history of Britain.

He starts with Julius Caesar and gives the date or after the founding of Rome. He tells about Caesar's Gallic conquest and how Caesar then came to England. Bede then continues with England becoming a Roman province and how the Celts became Romanized and were converted to Christianity. From this point on, all events are closely inter-related with Christianity.

The "reverable Bede" then goes on to tell the story of St. Alban, and how he became a martyr in the time of Diocletian. Bede then tells of the Arian heresy which came to Britain and plagued the country.

(It is good to mention here that in giving the history of the English church, Bede refers constantly to the ruler of the land. This is the author's method of giving dates, and it is one of our best ways of finding out what was going on in Britain at any time.)

Soon, however, Rome needed its soldiers back and thus Britain was left without soldiers at a time when it needed them most, for the Picts and the Scots were coming from the west and north; the Anglo-Saxons and Jutes from the east. At first, Rome answered the call with troops, but then the Britons were left to defend themselves as best they could. The Britons then hit upon the plan of inviting the Anglo-Saxons into England to settle down and to fight for the Britons against the Scots and Picts. But the Anglo-Saxons soon defeated the enemy and turned to their old allies, the Britons, and drove them out of the low country into the mountains.

In 429, Germanus, a bishop, sailed into Britain from France. He was the first clergyman to enter Britain since the Romans had left some

twenty years before. He did not get very far, however, and he soon left England, to return again in 447. This time again he did not make much headway, and returned to the continent for good.

In one short paragraph, Bede then tells us that Britain was taken up by civil wars and invasions for the next 150 years. It was during this time that the 6 English Kingdoms were formed.

In 596, Augustine was sent to England to convert the people to Christianity. Augustine did his work thoroughly, and converted Kent and Northumbria. Augustine was the first Archbishop of Canterbury. As the first ecclesiastic in England, many questions of great importance came up for Augustine to decide, and when he could not decide them, he applied to Pope Gregory in Rome for answer. Gregory gave all the assistance needed and wrote to the Bishop of Arles entreating him to give aid to Augustine when necessary.

Bede then reproduces many of the letters written by Pope Gregory to many high personages, both ecclesiastic and otherwise. In 605, Augustine died with Christianity fairly well established. His work was carried on by Laurentius. Once or twice, however, the kings in power were hostile to the

Church and reverted back to Paganism and idolatry, showing us that the Church did not have complete sway in Britain. Bede then tells of many miracles performed by these first archbishops in converting the people. They seem to have had excellent healing powers. — The Church played a very great part in the lives of the people.

Bede, however, does not tell us what the common people did, how they reacted to the idea of being converted to Christianity, whether they wanted to accept the teachings of Rome and subject themselves to Rome or not. But Bede does tell much of the period, and helps to clear up much doubt about pre-Norman days in England.

Much of what Bede says is from hearsay, that is, the miracles performed by the clergy, but the parts that are true are very valuable to historians today.

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Max M. Kampelmacher

Term Paper in

History 40

between 2400-2500 words

Mr. Huffer

"The Habeas Corpus Act of 1679"

The Habeas Corpus Act of 1679

The Habeas Corpus Act of 1679 was really the first great reform in criminal law, because it specifically guaranteed the citizen against arbitrary arrest on a criminal charge. It asserted that the right not to be imprisoned save on grounds defined by law was in existence for many years prior to 1679; nevertheless, the old acts were not the direct ancestors of the modern act, although they did partially accomplish the same results. The old Magna Carta asserted its 39th clause that no free man shall be imprisoned otherwise than by the lawful judgment of his peers, or by the laws of the land, and also that if imprisoned on a criminal charge he must be brought to trial within a reasonable time.

Throughout the history of England, the phrase Habeas Corpus has been prevalent. It has been prevalent, however, in different forms. It is necessary to explain these forms in order to better understand the topic. The three most important forms are:

- 1) Habeas Corpus ad respondendum. — Issued when a ^{man has} ~~cause~~ cause of action against one who is confined by the process of some inferior court.
- 2) Habeas Corpus ad subjiciendum et recipiendum. — Issued when a person is detained by a criminal charge.
- 3) Habeas Corpus ad faciendum et recipiendum. — Issued when a defendant in a civil action is in an inferior court, and desires to remove the action to a superior court.

The early history of the Habeas Corpus ^{is} in reality a struggle between various courts. One of its first uses was to carry out the "Writ of Privilege". This writ protected a member of one tribunal from rivals. When a member of one court was sued in another court he got a "Writ of Privilege" to bring him to his own tribunal. The Habeas Corpus would detain him until an officer of his court would claim him. A century later, we find this writ used by the old established "superior common" courts to test the validity of imprisonment sentences by their newer "prerogative" rivals. In other words, the cause of the development of Habeas Corpus must be sought in the desire of the courts of common law to maintain and extend their jurisdiction at the expense of rival courts. Thus, it can be divided into two periods: 1st - is in the mediæval period, in which this contest was with the local and franchise courts. 2nd - in the 15th and 16th centuries, in which this contest was with rival central courts such as Chancery, the Council, Star Chamber, and the Admiralty.

During all this time, however, the King was the supreme ruler. He claimed the power to supervise all the justice of his realm. If anyone was imprisoned, it was the King's power to inquire the cause of the imprisonment. At the suit of an imprisoned subject, the King would send his writ of Habeas Corpus, bidding the keeper to have the body of that subject before the King's court. This prerogative of the King came to be regarded as the right

of the subject. A person who felt himself aggrieved by the refusal of the sheriff or the justices of the peace to let him find pledges, or bail, could by means of the writ of Habeas Corpus bring his case before one of the common law courts.

In practice, however, all was not so simple. These legal securities really proved insufficient. Sincere belief in the necessity of the state, or timid subservience to the king, often led the judges to decline making any order on the writ. Also, if a person were conveyed as a prisoner out of the kingdom of England, he was beyond the jurisdiction of the King's Bench, and had no legal remedy for his detention. It was also very doubtful whether the writ of Habeas Corpus could be issued by the Court of Common Pleas, or by the Court of Exchequer; and whether a single judge could issue it during vacation. Under these circumstances, it is not surprising that cases of arbitrary imprisonment frequently occurred down to the meeting of the Long Parliament. It is not strange, therefore, that the House of Commons sought to provide an effectual remedy.

During the reign of Charles I, an argument arose pertaining to the powers of the king. The question was whether a person could be released on bail by a writ of Habeas Corpus, if he was imprisoned by the king. Such a case arose when five knights; Darnell,

Corbett, Earl, Hereningham, and Hampden, were imprisoned for refusing to contribute to the so called "loan" that was being exacted by Charles. They obtained a writ of Habeas Corpus, but the judges did not accept it because they said that the king imprisoned them, "per speciale mandatum Domini Regis".

Attempts were made between 1640-1679 to perfect the Habeas Corpus, but all the laws were evasive, while a few could not pass the House of Lords. Finally, in 1679, Parliament passed the Habeas Corpus Act. They did so because they felt that the king had been violating the law in his conduct towards them. They passed this law to protect the liberty of the individual against the government. It claimed the right to pass such a law because it asserted that it only asked for something which historically was its rightful possession; because the early Habeas Corpus acts did logically imply all that Parliament thought it did. The king at the time was Charles II. Parliament knew that it would have a hard job getting the king to accept this new law.

King Charles II had but few principles in political matters. To one, however, he held firmly, namely, the principle of hereditary right to which he himself owed his crown. His brother James, who was next

in line to succeed Charles renounced the religion of his country, and announced himself a Catholic. Now, in the great question which arose between his brother's rights of succession, and the religion of his country, Charles ~~showed~~ ^{was} in favor of the former. Parliament, however, was determined on passing the Exclusion Act which would bar James from the throne. Charles saw this, and proposed a compromise whereby even under a Catholic successor, the Protestant religion might be forever secured. After heated arguments, however, Parliament rejected the compromise. It looked as though the Exclusion Act would go through and pass. At that time, the Earl of Shaftesbury was an important power in Parliament. He engineered with the king a plan whereby the Exclusion Act would be dropped by Parliament, in return for the signature of the king on the Habeas Corpus Act. This was done.

The Habeas Corpus Act of 1679 was of special constitutional importance. Roughly speaking, here is the result: Any person who stands committed for any crime except for treason or felony plainly expressed in the warrant, is to have the writ; it is to be able to get it in vacation time as well as term time; The chancellor, or any judge to whom he applies, must grant it or incur a penalty of £500; The gaoler must make the return within a very short

time, or incur a penalty. No person is to be sent into prison out of the kingdom, and anyone who breaks this rule is to incur the penalty of "praemunire" and be incapable of pardon. Prisoners who are committed for treason or felony are to have the right to a speedy trial. The heavy penalties which judges and gaolers incur if they break this act are given to the injured person, and may be sued for by him as debts. (This scheme makes it impossible for the king to protect or pardon them, for the king has no power to forgive a debt due to his subjects; Every person committed for a misdemeanor has the right to be released upon giving bail for his appearance at the trial. No person set at liberty on a writ of Habeas Corpus was to be again imprisoned on the same charge, otherwise than by the order of the court having jurisdiction in his case.

A modern code maker would very possibly not put the provisions of the Habeas Corpus Act into that part of the code which dealt with constitutional law - but he would put it in criminal procedure. Nevertheless, the history of the writ of Habeas Corpus is truly a part of the history of the English Constitution. If the king had been able to commit any person to prison, or do any other outrageous act

which Habeas Corpus prohibited, he would
have had a potent engine for controlling
Parliament, and would be an absolute
monarch.

Max M. Kampelmacher

History 50

Term Paper

Professor Park

B

"Censorship of the Drama in England
during the
Sixteenth Century"

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for
"Censorship of the Drama in England
during the
Sixteenth Century"

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also

Shoemaker's Holiday by Thomas Dekker

Some of the plays of Shakespeare

"Dramatic Censorship in England in the 16th Century"

Censorship of the drama in England is closely connected with the censorship of other forms of literature, for, as a rule, the same reasons were advanced by the officials for censoring all forms of entertainment and literature. Before turning to the special problems of dramatic censorship, it may be well, therefore, to briefly consider the degree of effectiveness of the methods applied in the suppression of works of literature in general.

The first real taste of censorship came with the introduction of printing. It was at this time that ecclesiastical control became really pronounced. In the early part of the sixteenth century it seems to have been either required or expected that books should be presented to a bishop or archbishop ^{for} before printing.¹

When the Lutheran heresies began to circulate, an additional impetus was given to ecclesiastical censorship in England. Cardinal Woolsey, for example, helped to enforce the Bull of Leo X which was issued in 1520, and required the burning of all Lutheran books. There are two recorded occasions in the records of the Vicar-General of Bishop Tunstall of London. On October 12, 1524 an order was issued not to import or sell books printed in Germany; and on October 25, 1526 the bishops of Norwich and London announced that not only Lutheran works, but all other works in Latin and English must be submitted to

¹ E. M. Albright, Dramatic Publication in England, p. 61.

the Lord Legate, the Archbishop of Canterbury, or the Bishops of London.²

The greatest control of censorship in the sixteenth century was in the hands of the Master of the Revels, who was appointed by the king and was closely connected with the life of the court. He did not, of course, approach the work of censorship with the attitude of a missionary for the reform of public morals or manners. His aim was chiefly to guard against the publication, on the stage or in print, of matters offensive to religion, government, and the satirizing of living persons.³

The Master of the Revels was at first in charge of the entertainment at the Court. He was held responsible for the inoffensiveness and general success of the entertainment. We can see, for example, that if anything improper would be presented he would be blamed. It was necessary, therefore, for his own welfare to discriminate between good and bad plays. During the time of Queen Mary, who was a Catholic and who desired the elevation of Catholicism in England and the suppression of everything else, his duties became more difficult.

In 1574, a new situation was created by Queen Elizabeth when she granted a patent to players belonging to her favorite, the Earl of Leicester, giving them the right to perform in all cities and towns of the realm, including London itself, without molestation.

² *Ibid.*, p. 62.

³ V. C. Eldersleere, *Government Regulation of the Elizabethan Drama*, pp. 49-62.

from the local authorities. Of course, with this new situation, it became necessary to see to it that the new players keep within bounds and adhere to rules. The Master of the Revels was, therefore, given wider powers and was instructed to regulate the outside group, and deal with it as though it was the entertainment of the Court.⁴

The examples of dramatic censorship which we will consider and mention show that the main sources of offense were: indulgence in religious controversy, particularly the favorable or unfavorable exploiting of a creed or denomination; any kind of sacrilege, and the use of oaths containing the name of Christ or God or any obvious substitutes for them; the realistic portrayal of living kings upon the stage, especially their weaknesses, vices, or policies; dangerously satirical or hostile portrayal of foreign kings or of high officials of any country; discussion of foreign politics or international relations; cartooning of a real person of any rank, but especially of noblemen; seditious sentiments or discussion of facts likely to produce popular discontent or a desire for greater civic liberty or a change of form of government; and excessive indecency,⁵ especially if a work were otherwise questionable as well.

During the 16th century, the Catholic was a favorite type of wicked intriguer. When Elizabeth came to the throne, the treatment of religion on the stage became an important issue. Elizabeth assumed the

⁴ Fouell and Palmer, Censorship in England, p. 18.

⁵ E. M. Albright, Dramatic Publication in England, p. 94.

Spanish ambassador in 1559 that her own religious faith had much in common with Catholicism, but her active policy did not carry out that impression. She issued proclamations every so often which forbade political and religious problems to be discussed, but in spite of these proclamations, they were strangely ineffective.

The dramatists also enjoyed attacking the Jewish character and habits. Most of the presentations of the Jew in English drama show pronounced prejudice. Shakespeare's Shylock is distinctly more sympathetic than the average treatment.

Because of the narrowness and bitterness of the Puritans in their attacks upon the theatre and the drama, they suffered quite as much ridicule on the stage as did the Catholics in the days of Protestantism, or as did the Jews. Playwrights of any or no religion considered the Puritans as a common enemy. Such plays as a Knack to Know a Knave, Chapman's A Humorous Day's Mirth, and Bartholomew Fair and The Case is Altered by Ben Jonson are typical plays which ridiculed Puritans. The Puritan is usually portrayed as a stickler for the proprieties, prim and over-conscientious to non-essential and minute details, yet lax to the points of impurity in the greater affairs of life.

On November 8, 1589 because of the widespread production of plays which displeased the authorities, the Privy Council at the suggestion of the Master of the Revels ordered a temporary suppression

⁶ Ibid., p. 100

of all plays in London.

In the order of importance, one might say that the chief aim of the censor, as far as religion was concerned, were these: "to prevent any attack upon the religion favored by the state; to suppress ridicule of religious beliefs in general; and to prohibit trouble making satirical portrayals of particular sects and denominations",⁷ though it must be admitted that there was much laxity in the enforcement of restrictions where Jews, Catholics, and Puritans were concerned.

Dramatists were also expressly forbidden to dramatize current affairs. The censors were of the opinion that the drama should not be the mirror of the age. Nevertheless, a few dramatists succeeded in getting away from the ban by disguising current people and affairs in the dress of historical events. Many dramatists could not resist the temptation of writing about the amorous exploits of Elizabeth. Lyly's Campaspe, for example, has been interpreted as associated with the Duke of Anjou, his Sappho and Phao with the rejection of the Duc d'Alençon, and his Endymion with Elizabeth's revived interest in Leicester.

Plays which seemed to criticize governmental policies toward other nations were naturally open to censure by the authorities. In the time of Elizabeth such allusions, if they occurred, were generally rather indirect. Also, plays which the authorities thought might

⁷ Ibid., p. 101.

arouse the people to riots were banned. About 1557 there seems to have been a tendency to introduce trouble making material into plays. On February 14, 1557, the Privy Council ordered the Lord President of the North to command justices of the peace that "they doo in no wyse suffer any playes, enterludes, songes, or any such lyke pastymes whereby the people may any wayes be steryed to disorde, to be used by any manner persones".⁸ On September 3, 1598, the Mayor and aldermen of London wrote to the Privy Council objecting to plays because "they move wholly to imitacion and not to the croiding of those ryces w^{ch} they represent w^{ch} wee rarely think to be the chief cause... Of the late stirre and mutinous attempt of those few apprentices and other servants who wee doubt not shiew their infection from these and like places".⁹ The play, Sir Thomas More is a typical example of a play which the censor wrecked with his red pencil because he was afraid of riots.

Closely connected with criticism of royal policies is satire on foreign nations, when that satire is anything more barbed than genial ridicule such as humorists of any nation tend to heap on other nations for pure fun. During Elizabeth's time, the language of the Welsh was often put to ridicule. Henry IV and Merry Wives of Windsor all show

⁸ E. M. Albright, Dramatic Publication in England, p. 28.

⁹ Ibid., p. 131.

humor at the expense of the Welsh. French jargon was also commonly used for humor as in Henry V; and Shoemaker's Holiday shows a similar use of Dutch dialect.

Although most of this humor was innocent, the censors had to be very careful of poking fun at Spain, France, and Scotland, the three nations with whom England was not in such good relations with. In Sir Thomas More, for example, Tilney, a censor of the 16th century, substituted Lombard for Frenchman where a passage seemed insulting. Letters written by foreign ambassadors residing in London show that they watched the plays for such satires. The French ambassador took action on Chapman's Byron; the Spanish, on Middleton's A Game at Chess; and the Scotch on Eastward Ho. In spite of this watchfulness, however, there was considerable satire on these and other nations.¹⁰

The period 1594-1601 contains most of the uncomplimentary reference^s to Scotland. The relations between Elizabeth and James were strained. On November 12, 1596 James brought complaint against Edmund Spenser for his satire on himself and his mother in The Faerie Queene, books iv-vi. Some of the writers who were critical of Scotland were Greene, Peele, Dekker, Shakespeare, Jonson, and Chapman.

Plays suspected of being seditious naturally caused the most commotion. A conspicuous example is The Isle of Dogs of

¹⁰ Fowell and Palmer, Censorship in England, p. 14.

which Nashe was part author. This was not published, but it was played between July 19 and August 10, 1597. It resulted in the seizure of Nashe's papers at his lodgings for examination, the arrest of several players, and the examination of Nashe himself. The offense was considered a grave one. On July 28, 1597 the Privy Council ordered all the theatres closed, because "there are verie greate disorders committed in the common playhouses both by lewde matters that are handled on the stages and by resorts and confluence of bad people."¹¹ Many attribute this action to The Isle of Dogs as a cause.

The authorities occasionally attempted to censor impropriety. Certainly the Puritans objected zealously to the indecencies of the drama. On June 27, 1557 the Privy Council thanked the Mayor of Canterbury for imprisoning certain players, adding that "in the meantime their lewde play booke is committed to the consideration of the King and Queene's Majesty's learned counsell,"¹² who are willed to declare what the same waith unto in law. On September 5, 1557 the Council directed the Mayor of London to prevent the further performance of another "lewd play", A Sacke Full of News, to arrest the players, and send their playbooke to the Council.¹³ An order issued on December 6, 1574 for the perusal of plays by the mayor and aldermen

¹¹ E. M. Albright, Dramatic Publication in England, p. 182.

¹² Ibid., p. 28.

¹³ Fowell and Palmer, Censorship in England, p. 15.

required, among other things, the censoring of "unchaste, uncomely,¹⁴ and unshamefaced speeches," as Miss Albright quotes it.

It seems then that during the latter part of the 16th century the Privy Council acquired something of the Puritan attitude. Again in 1593, for instance, they forbid plays at the universities, because they may corrupt the students and allure them to "lewdness and vicious manner."¹⁵ Reading the Elizabethan drama today, however, we realize that the regulation on "lewdness" was not strictly enforced.

We have seen above that various methods were employed in the censorship of drama. The names of the Bishop of London, the Treasurer, the Privy Council, the Court of High Commission, the Chamberlain, the Mayor, and the Master of the Revels have all on occasion been mentioned in the act of suppressing the performance of an objectionable play. The city officials, usually the aldermen, could appeal to any of these authorities. The most common procedure of restraint in London was the order of the Master of the Revels, though he frequently only carried out the orders of the Chamberlain, the King himself, or the Privy Council.¹⁶

The Master of the Revels, by virtue of his censorship, had it in his power to destroy a play copy absolutely and refuse

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¹⁵ Op. Cit., p. 189.

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Y. C. Gildersleeve, Government Regulation of the Elizabethan Drama, p. 178.

¹⁶

Y. C. Gildersleeve, Government Regulation of the Elizabethan Drama, p. 83.

to license it for stage or for press. Or, he could grant it a license, noting certain conditions which must be met before the grant should become effective. He could forbid the distribution of parts of the play to the actors until it had been revised, and he could insist upon having a revised version of the play submitted for his approval before rehearsal.¹⁷ The licenser always had power to delay the publication or the start of a play indefinitely; and once it was circulated, he could command its return.

To enforce his judgment, the censor usually could imprison either the actors or the author for a short period of time. One law was passed which gave the officials the necessary power to arrest and imprison either the actors or the author who happen to violate any of the rules, for fourteen days or more, as the case shall warrant, and until they gave surety that they would behave in the future.¹⁸ As a rule, however, the actors and authors were threatened with much more severe penalties than they were really obliged to undergo.

Studying the English Drama in the sixteenth century, we see that the Crown had as much control over the forms of entertainment as it had over all other English affairs. There were slight signs of local regulation, but as a rule, the actual censorship came

¹⁷ E. M. Albright, Dramatic Publication in England, p. 193.

¹⁸ V. C. Gildersleeve, Government Regulation of the Elizabethan Drama, p. 15.

from the officers of the Crown.

One can also not get away from being impressed with the fact that the early and formative drama, which was really the basis for all the future English Drama, had to labor with the shackles of censorship. Nevertheless, it slowly grew to immense proportions. It is somewhat similar, I believe to the development in England of democracy and the concepts of freedom which go with it. A very interesting point in English history.

Term Paper

The History of the Relation of the Colony of New York and the Six Nations

Max M. Kampelmacher

Professor Brown

History 51-61 A

Term Paper

due January 5, 1938

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for
The History of the Relation of the Colony of New York and the Six Nations

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^X = used extensively

The History of the Relation of the Colony of New York and the Six Nations

The Six Nations were "the most powerful league of Indians ever assembled on this continent."¹ They originally occupied most of the territory of the present State of New York. This group of Indians was also known as the Iroquois and the Five Nations. The explanation for the latter name is that formerly this confederation consisted of five tribes: Mohawks, Oneidas, Onondagas, Senecas, and Cayugas. In 1715, however, a sixth nation, the Tuscaroras, was accepted into the confederation. In the course of this paper, therefore, I shall freely use all three names.

The importance of the Six Nations to the English colonies, and especially to New York, cannot be overstressed. These Indians acted as a buffer state between the English and the French of Canada with their Indian allies. They occupied the region which extends from the mountains of Western New England to Lake Erie. In addition, from time to time they established their villages north of that lake and Lake Ontario. Their power, however, extended westward of these limits and further south as far as the Ohio.² Their political organization was marvelous in that it was the most perfect of any Indian power in North America.³

¹ E. S. Ellis, The Indian Wars of the United States, p. 151.

² Channing, History of the United States, Vol. II, p. 139.

³ Ibid.

The friendship or hostility of the Iroquois was the key to the reasonably peaceful possession of the region north of the Potomac and the Ohio, and east of the Mississippi. As Mr. E. S. Ellis wrote, "England and France were the two mighty rivals for the possession of the New World, and the tremendous contest had to be waged until one or the other was vanquished."⁴

There is no question but that England finally gained control of the colonies mainly because of the friendship they had with the Iroquois. Both the French and the English tried their utmost to win the confidence of these Indians, with the latter winning out. Even after treaties of alliance were signed, however, the Iroquois wanted to break away because of the bad treatment they were subjected to by the English. "During the earlier years of the province of New York, before the issues involved in the Revolution were raised, the most important public interest of the inhabitants - the danger which touched them most nearly - was the attitude toward them of the Indian Confederacy called the Six Nations. Intelligent, ferocious... these savages lived at the very doors of the province... Moreover, the almost continuous hostility between the French in Canada and the English colonists gave to this Confederacy a balance of power... and had they given to the French their active alliance... the plans of France might have been carried out."⁵ As they

⁴ *Op. cit.*, p. 47.

⁵ B. Tuckerman, *Life of General Philip Schuyler*, p. 19.

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held the routes leading from the St. Lawrence southward and lived on the flank of the most feasible route from the Upper Lakes to Montreal, their hostility closed a large part of the continent to the French, and at the same time protected the English colonies from French attack. "Had the case been reversed, it is difficult to see how the northern English colonies, especially the colony of New York, could have maintained themselves," is the opinion of Channing.

One of the first bits of information we have of the Five Nations is that they were continually at war with the Adirondack Indians. When the French in 1603 arrived at Canada and settled at Quebec, they thought it advisable to gain the esteem and friendship of the Adirondacks in whose country they settled.⁷ Monsieur Champlain, who was the first governor of Canada, formed a plan in 1609 whereby he could subjugate the Iroquois by entering into an alliance with the Adirondacks and joining into an expedition against them. Champlain thought that his reward would be the opportunity to explore the heart of the land. "For France," he said, "the conquest of the Iroquois might mean much."⁸ Their conversion to the Christian faith might follow their conquest and would give France the mastery of lands which perhaps would prove to hold the road to China

⁶ *Op. cit.*, Vol. I, p. 109.

⁷ C. Colden, *History of the Five Indian Nations*, Vol. I, p. 3.

⁸ Channing, *History of the United States*, Vol. I, p. 105.

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and the golden East.⁹ Had the Iroquois been an ordinary Indian tribe, the plan might have succeeded; but so far from being an ordinary tribe, the League of the Iroquois was unlike all other Indian tribes - it was the strongest and most formidable organization in North America.

Of course, the first encounter between Champlain and the Five Nations was a rout, because the strange French firearms surprised the latter so much, that they were immediately put into confusion. This French victory and the prospects of trade attracted most of the Indians to Quebec where "the French showed greater wisdom than the English later showed, by cultivating the friendship of the Indians who gave them great aid in desolating the frontier settlements. Together with these Indians, Champlain again attacked the Five Nations. In the ensuing battles, many Iroquois were cruelly killed. The superior strength of the Five Nations was evident, however, and they successfully repulsed all the French attacks. A temporary peace was eventually made which "acknowledged the Five Nations as Masters of all the Nations around them, applauding their Valor, and promised them Friendships, and to supply them with Provisions". Although officially peace was made, the unexpected attack of the French aroused in the Iroquois a fierce

⁹ Ibid.

¹⁰ E. S. Ellis, *The Indian Wars of the United States*, p. 43.

¹¹ C. Colden, *History of the Five Indian Nations*, Vol. I, p. 11.

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hatred of Frenchmen and things French.

A few weeks later, a Dutch ship, the Half Moon, commanded by an English sailor, Henry Hudson, met another band of Iroquois in the mid reaches of the Hudson River. The difference in the treatment these Indians received from the French and the Dutch was obvious, as Hudson entertained the native chiefs most royally with "biscuit and grog". As the Dutch settled in New Netherlands, now called New York, they entered into an alliance with the Five Nations, which continued until the English gained the country. Even in 1664 when the English took New York, they likewise entered into a treaty with the Five Nations. The Iroquois remained faithful to the Dutch and the English, who bought their furs and supplied them with ample firewater and firearms. "On the other hand," Channing says, "they killed or tortured very nearly every Frenchman, whether he were missionary or explorer, who fell into their hands."¹²

The French erred in their treatment of the Iroquois in that they confused their program. At times, they were peaceful, and after a while they would suddenly attack. The English worked their way into the good will of the Indians by peaceful means, sending people among them to gain their affection, and to persuade them to come to Albany to trade. For a time, the French governors and churchmen sought to overcome the hostility of this confederacy by converting them to Christianity of the French type. One Jesuit missionary after

¹² Op. cit., Vol. I, p. 107.

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Should cite
author's name - to
avoid confusion

another bravely went to them, with slight success. Colden says that the Duke of York, strangely, ordered the Governor of New York to give these missionaries all the encouragement possible.¹³ These priests tried to breed quarrels between the English and the Five Nations, and to withdraw the Five Nations from fighting with those Indians that traded in Canada. The French had no hopes of persuading the Five Nations to break with New York directly; but they had hopes that by these Indians doing mischief in Virginia, New York would be forced to join Virginia, and thereby destroy the union between New York and the Five Nations. For this reason, incidentally, the Governors of New York have always with the greatest caution avoided a breach because of minor differences regarding other colonies.¹⁴ Of course, had they succeeded, French military power would have enveloped the English colonies. The Iroquois insisted on preferring friendship with the Dutch and English traders because English goods could be bought at Albany cheaper than French commodities at Montreal. In addition and this is a very important reason, they were fond of cheap intoxicating beverages, which could be obtained in abundance from the English, and which the Jesuits detested.

In 1665, Louis XIV grew tired of peaceful means, and resolved to chastise the Five Nations once and for all. He sent

¹³ Op. cit. p. 25.
¹⁴ Ibid., p. 54.

over, therefore, a regiment of soldiers to subdue them. It is difficult, however, for soldiers unaccustomed to the wilderness to successfully fight natives, so the expedition failed. In 1687, 1688, and 1689, the French again tried to conquer the Five Nations. During the preceding twenty years, however, the Iroquois had risen to the height of their power and did not fear the French. On the contrary, they continually attacked the French in the North and often successfully. In 1688, the Five Nations cruelly sacked Montreal and put French affairs everywhere into the greatest disorder.¹⁵

The French now realized that they could not gain anything from a war, and that peaceful measures were necessary. "The French had the more Reason to desire a Peace with the Five Nations, because they knew that they would now certainly have the English Colonies likewise upon them, and if the Five Nations had been able to do so much mischief by themselves alone, they were much more to be feared, when they would be assisted... with the Force and Interest of the English Colonies."¹⁶ They decided, therefore, to act very nicely towards the Five Nations. They took one imprisoned Indian and treated him royally. They took him to France and showed him the sights introducing him to all the important Frenchmen. When they returned, the Indians ~~was~~ ^{was} given all the comforts possible in Canada. They

¹⁵ Ibid., p. 99.

¹⁶ Ibid., p. 117.

expected the Indian to advertise the fact that he was treated very well, and they expected appreciation. They were not disappointed because many Iroquois agreed to a Council of Sachems with the Canadian Governor to be held at Onondaga, where peace proposals were to be heard. Count de Frontenac, the Governor of Canada, asked for peace and an agreement between Canada and the Five Nations. Due to the influence of the English, however, the Iroquois as a group refused to agree to a treaty because they did not trust him.

Meanwhile Peter Schuyler, the Mayor of Albany, recognized that the Iroquois were not satisfied. The Iroquois began to think that the English were becoming weak. "They long hoped that the King of England would have been powerful enough to deliver them, but now they began to lose all hopes of them."¹⁷ In 1687, 1689, and 1691, therefore, conferences were held to renew the friendship between the English and the Five Nations. Here the Iroquois were induced to desist from attacking the back settlements of the Chesapeake colonies and acknowledged themselves subjects of England. To emphasize the fact that the Indians were under the protection of the King of England, the arms of the Duke of York were affixed to the walls of the Iroquois' fortified towns.¹⁸ The Indians also reaffirmed their hatred of the French. To ease the minds of their

¹⁷

¹⁸ *Ibid.*, p. 117.

Channing, *History of the United States*, Vol. II, p. 147.

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white friends, they said: "for our Brethren and we are but one, and we will live and die together."¹⁹

The Schuyler family was very important in cementing the friendship between the English and the Iroquois. "That this bulwark against French invasion was maintained, that good relations with the savages were kept up... that the Dutchman could sleep securely in Albany, were benefits due chiefly, before 1745, to members of the Schuyler family."²⁰ Philip Schuyler became very familiar with the Six Nations. As a result, they trusted him and warned him of any impending danger from the French. They called him "Quider", and as this name symbolized Indian friendship, even after Schuyler's death, the colonists called themselves "the descendants of Quider". Peter Schuyler, Philip's cousin, was for a time Indian Commissioner of New York, and later became Mayor of Albany.

When the Iroquois pledged alliance with the Colony of New York, they meant it. At the least trouble, they volunteered and tried their best to revenge English losses. On February, 1690, for example, the French sent out an expedition which surprised Schenectady and slaughtered many people. The people of nearby Albany were panic stricken for fear that they would be attacked next. Many residents resolved to desert their homes and go to New York

¹⁹ C. Colden, History of the Five Indian Nations, Vol. I, p. 126.
²⁰ B. Tuckerman, Life of General Philip Schuyler, p. 11.

where it was safer. When the Mohawks, however, heard of the attack and of the plans they sincerely gave their condolences and pledged themselves to revenge it, and protect Albany from any attacks. "The English of New York and the French of Canada were now entered into a War, in which the part the Five Nations took was of the greatest Consequence to both; the very Being of the French Colony depended on it, as well as the Safety of the English," as Colden expresses it.²¹

It is a pity, therefore, that the English could not treat their Indian allies well enough to satisfy them. The traders, first of all, took unfair advantage of them and thereby bred discontent. In addition, the New Yorkers promised the Iroquois many favors and requests which could not be and were not kept. New York forgot that its existence depended on the Five Nations and, therefore, it tended more to internal affairs than to Indian affairs. It is no wonder then that the Iroquois started to distrust the English. They felt that the English were lavish with Indian lives and too careful of their own. The Iroquois would have liked it if the English had fought a battle every day against the French. It is now evident that the Indians could no longer be amused with words, and that, unless the English entered soon upon action, the French would carry their designs of making peace with the Five Nations, and the English be left to

²¹ Op. cit., p. 149.

11
carry on the War in America by themselves." ²²

The French saw their opportunity and communicated with the Five Nations. Governor Fletcher tried his utmost to discourage a meeting between both parties, but the Indians decided to hear what proposals Canada had to offer. To explain their action they said: "The only Reason, to be plain with you, of our sending to make Peace with the French, is the low Condition to which we are reduced... the whole Burthen of the War lyes on us alone... We alone cannot continue the War against the French, by Reason of the Recruits they daily receive from the other side of the great Lake." ²³ The Indians continued and said that as long as the English are resolved "to prosecute the War vigorously against the French," and as long as the Iroquois get assistance from the English they "will prosecute the War as hotly as ever," but if not, "we must make Peace." ²⁴ Col. Fletcher could not promise vigorous action, and finally permitted the Indians to negotiate for peace with Canada on condition, of course, that their own agreement be not violated.

When negotiations opened between the French and the Iroquois, a snag was immediately hit because of the latter's loyalty to the English. The Five Nations wanted to have an English delegate from Albany present, and the French objected because they felt the Five Nations should not

²²

Ibid., p. 157.

²³

Ibid., p. 215.

²⁴

Ibid., p. 216.

accept a "Sixth Nation" (English). The Canadian Governor was angry at the blind loyalty of the Iroquois for the English, and on that score negotiations were called off. Battles again broke out and lasted until 1697 when the Treaty of Ryswick was made. In 1702, Queen Anne's War broke out and lasted for 11 years until the Treaty of Utrecht in 1713.

From 1713 to 1750 nothing of great importance happened affecting the relationship of the Colony of New York and the Six Nations. During this period, however, the French were persistent and never gave up trying to influence the Six Nations. "The desperate endeavours of the French to undermine the attachment of the Six Nations towards the English, and procure their support, had not been without effect." ²⁵ Some of the hitherto staunch allies had already been enticed away into the Ohio Valley and Canada. The reason for this is the same indifferent attitude of the English, especially New York; at times even using abuse. Of infinite service at this crisis was the restraining influence of a young Irishman, named William Johnson, who had settled in the back country on the Mohawk River; and who acquired an immense influence over the Six Nations. ²⁶

To their friend, Sir William Johnson, the Six Nations freely voiced their complaints. They accused the English of deserting them, while the French were continually soliciting their friendship; of failing to build forts while their enemies were swarming into the country;

²⁵

A. G. Bradley, Fight With France For North America, p. 78.

²⁶

Ibid.

of already partitioning their lands, and of quarreling at that very moment with the French about territory that belonged to neither; while for the Dutch traders of Albany they had only contempt.²⁷ The Six Nations were, in fact, on the very verge of repudiating the old alliance. Johnson was the man of the hour who used his influence to placate the Indians.

Johnson was the main factor during these years for the Iroquois remaining faithful to the English. Whenever the English authorities needed a favor from the Six Nations, Johnson procured it. From 1756 to 1774 his work was the most valuable. At the slightest notice, he could stir up the Six Nations to their old enthusiasm for the English cause.²⁸ In 1763, for example, he succeeded in securing the help of the Iroquois against the Pontiac Rebellion of the Ottawa Confederacy, which was a rebellion of many Indian tribes.²⁹ In 1769, as a result of his efforts, the Treaty of Fort Stanwix was made which settled a long argument between the Indians and the colonists; and a line of demarcation was made which definitely decided the boundary between the lands of both.³⁰

When reviewing the history of this great confederacy, the Six Nations, it is indeed remarkable to see the loyalty and

²⁷

Ibid., ch. 8-10.

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W. G. Stone, *Life and Times of Sir William Johnson*, Vol. II, pp. 9-15.

²⁹

Ibid., pp. 191-195.

³⁰

Ibid., pp. 240-242, 355.

devotion they had for the English. Throughout the years, the Iroquois remained faithful to the Crown, which they considered their sovereign also. Even during the American Revolution, they could not understand the colonists' struggle with their friend "who lived over the Great Lake". They said: "You are two brothers of one blood. We Indians cannot find in the traditions of our ancestors a similar instance".³¹ It is for that reason that most of the Six Nations joined the side of England during the Revolution.

³¹ F. W. Halsey, The Old New York Frontier, p. 16.

Term Paper

B

"The Free Negro in the South Prior to the Civil War"

Max M. Kampelmacher

A good survey. The only phase not adequately covered is the economic position of the free negroes. That is, as to what occupations they generally followed in town & country.

Dear Brown

History 61 A

Term Paper

due April 28, 1938

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The Free Negro in the South Prior to the Civil War

The free Negro created a very important problem in the South. In fact, up until the middle of the nineteenth century, his plight was just as important as the condition of the slave. The free Negro is not dealt with as an important factor, however, until the latter part of the eighteenth century.

The process of manumission was really a simple one and was the obvious result of slavery, before the invention of technological improvements which made the slave a necessity in the agricultural life in the South. In fact, in many American colonies, negroes were indentured servants even before they became slaves, and then became free again upon the expiration of their term of service.¹

As to those negroes who were originally brought over into this country as slaves, many masters recognized the wrong which was inherent in the system of slavery and freed their slaves. Other slaves were freed after they were of no further use to their master.

In 1670 the manumission of male⁵ was officially recognized by the colony of Virginia.² The free negro, however, according to this act was not allowed to have Christian white servants, although he was given permission to hold negro servants. All that manumission required was some solemn process of law or official act, not only to protect

¹ C. G. Woodson, *The Negro in Our History*, p. 243.

² J. C. Ballagh, *History of Slavery in Virginia*, p. 119.

the freedman in his new rights and as a check upon the master, but to acknowledge, according to the law, the supremacy of the state over such private acts of the individual as might affect the public.³ The master consequently admitted the freedom or declared his intent and desire to free his slave in a court of equity. Not until later years was this legal procedure abandoned. In Virginia, for example, the first step towards negro emancipation was the growth of customary commutation for service in rents by payments in kind or in money. Another form of commutation was that of service to the state instead of to the master. "Here free services were by common consent taken as presumptive evidence of free condition."⁴

In 1691, the Virginia legislature grew a little wary of the growth of the free negro population, and, therefore, restricted the right of manumission slightly. Manumission was forbidden unless accompanied by a provision for the removal of the negro within six months. If the master did not comply with this, he was fined.⁵ This restriction was soon repealed and the free negro population continued to grow.

The Georgia colony besides recognizing the existence of free negroes, taxed them first merely as they would any other persons

³ J. C. Ballagh, History of Slavery in Virginia, p. 110.

⁴ Ibid. p. 119.

⁵ T. M. Whitfield, Slavery Agitation in Virginia, p. 6.

in a poll tax, and later levied separate race taxes on them. A law passed in 1755 for "Raising and Granting to His Majesty A Sum of Money to Defray the Expenses of the Courts of Oyer and Terminer and other Contingencies of Government" laid a tax of one shilling on all negroes, and this tax was later doubled. In 1768 the first tax levied on free negroes as a separate class appeared. This was again repeated in 1796 when all free negroes 21 years of age and over were taxed fifty cents.⁶

To further free slaves, the state legislatures, especially in the South, passed laws to encourage such steps. Kidnapping and selling free negroes was forbidden under pain of death. One of the first acts of Virginia as a sovereign state was the emphatic prohibition of the slave trade. In 1778, the importation of slaves to Virginia was declared illegal. This last law was repeated again in 1794 when all imported slaves sold or bought contrary to the act of 1778 were made free. In 1785 a law was passed stating: "Slaves which shall hereafter be brought into this commonwealth and kept therein one whole year together, or so long at different times as shall amount to one year, shall be free".⁷ In 1788 the reduction of the children of free blacks or mulattoes to slavery was made a

⁶ R. B. Flanders, Plantation Slavery in Georgia, p. 34.
⁷ J. C. Ballagh, History of Slavery in Virginia, p. 123

crime punishable by death without benefit of clergy. In fact just about this time George Tucker and Thomas Jefferson proposed a general emancipation of all slaves.⁸ Also, as late as 1793 the migration or importation of free negroes or mulattoes into Virginia was prohibited under the heavy penalty of £100.

By an act in 1795, the procedure in a suit for freedom was simplified to a great extent. "A slave was allowed to sue in forma pauperis."⁹ He made his complaint to a local magistrate who required the owner to give ~~land~~ bond to allow his slave to come and maintain suit. If the master refused, the slave was taken into the custody of the state, at the master's expense, and council was assigned to protect the slave. "Process was issued against the owner and the slave had free writs of subpoena."¹⁰

The result of all this encouragement was that in 1790 there were 35,000 free negroes living in the South.

Of course, under such conditions, the problem facing the South was whether the free negro could succeed to assimilate himself, and if not, to create some kind of a social order for him. The answer to the first question seemed to be in the negative because "Political and social conditions that

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⁹ Ibid., p. 24.

¹⁰ Ibid., p. 123

Ibid., p. 123

might result from the presence of and contact with ... was an insurmountable barrier to the realization of such wishes." ¹¹ A solution to the second problem was never found although many attempts were made. It was the problem of the presence of a large number of negroes in a territory dominated by whites who possessed "neither the privileges of the whites nor amenable to the restrictions imposed upon the great mass of blacks." ¹²

The free negro did not have social freedom. The disabilities of his status were partly the result of the abuse of his liberty and his frequent connection with rebellion. Because of the many free negroes who were idle and did not work, for example, a vagrancy law was passed in 1796 ¹³ deporting all negro vagrants inside of ten days.

In the early provinces of Maryland there were apparently no separate rules of law applying to free negroes. However, the change of slaves to the legal status of freedom surely did not alter the marks of race nor did it raise the social status of the negroes. As freemen, they continued to live substantially like the slaves lived, to associate with slaves, and apart from formal rights to be indistinguishable from slaves. But it was impossible

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J. C. Ballagh, History of Slavery in Virginia, p. 24.

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B. B. Munford, Virginia's Attitude Toward Slavery, p. 42.

¹³

J. M. Wright, The Free Negro in Maryland, p. 97.

to treat both classes alike. "Hence a few separate provisions were early made for free negroes, and when the 'evil' of their number increased the statutory provisions affecting their activities increased also. These statutes endeavored (1) to protect property and personal rights from infringement by means of negro freemen, (2) to prevent the free negroes from becoming a financial burden to the state, and (3) to prevent servile insurrection."¹⁴ A fourth objection was that of preventing the growth of the free negro class irrespective of consequences.

By the restrictive slave law of 1723, freedmen were still allowed to enlist as musicians or laborers in the militia, and if housekeepers or frontiersmen, might help keep ammunition and arms. In 1797, a license was needed for peddling and trading in order to protect the property of whites. Regarding punishment for crime, the free negro suffered a harder penalty than a white for many offenses. In one instance, one free negro was given 39 lashes more than a white man. For some time the laws became harsher for fear of insurrection, but the punishments were again reduced gradually.

By the Constitution of 1776, the right of suffrage in Maryland was given to all freemen of age who held a certain amount of property. It is certain that some free negroes voted in the early years of the state. In 1783, however,

¹⁴

J. M. Wright, The Free Negro in Maryland, p. 94.

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a law was passed that no negro freed thereafter could vote, hold office, give evidence against a white, and also denied "all other rights of freemen excepting those of acquiring and holding property and obtaining redress at law and equity for injuries to person and property."¹⁵ But this law did not affect the positions of free negroes residing in Maryland prior to its passage. With this latter law, every state except North Carolina forbade suffrage to negroes. In North Carolina every person who paid a public tax, including a free negro, was entitled to vote. Even this, however, was changed in 1835 when a new constitution was adopted.¹⁶

~~In most states,~~

In Louisiana, the typical plantation life was a sort of feudal system, with the free negro being in the same boat as the poor white, and playing a part of comparative unimportance.¹⁷ In most states, the orderly free black would be master of his own movements without hindrance in the communities where he was known. But beyond that he might be liable to annoyance and possibly arrest and delay. Color created the assumption that a negro was a slave, and the burden of proof of freedom, by means of a certificate or otherwise rested on the black.

¹⁵ J. R. Brackett, The Negro in Maryland, p. 187.

¹⁶ A. B. Hart, Slavery and Abolition, p. 83.

¹⁷ Albert Phelps, Louisiana, p. 203.

During the two decades from 1790-1810, the rate of increase of free negroes was so rapid that it even exceeded that of the slave. And the proportion of free negroes in the black population increased accordingly from 7.9% in 1790 to 13.5% in 1810. Of course after this date the tendency was in the other direction because of the reaction against the negro due to the fear of the growth of the abolition movement and constant insurrections which brought about a restriction on manumission, so that in 1860 the rate went down to 11%.

The following is a table which lists the changes in ^{free negro} population in the Southern states from 1790 to 1860.

STATE	1860	1830	1790
MARYLAND	83,942	52,938	8,043
VIRGINIA	58,042	47,348	12,866
NORTH CAROLINA	30,463	19,543	4,975
LOUISIANA	18,647	16,710	7,585
GEORGIA	3,500	2,486	398
ALABAMA	2,680	1,572	—
MISSISSIPPI	773	519	240
UNITED STATES	488,070	319,599	59,527

"While numerically weak, the free negro was despised and neglected, but growing into strength he caught the eye of the... Assembly." ²⁹

¹⁸ J. M. Wright - The Free Negro in Maryland, p. 92.

¹⁹ T. M. Whitfield, Slavery Agitation in Virginia, p. 6.

addition, the slaveholders feared that the mere existence of free negroes among slaves might make the latter dissatisfied. And there was always a possibility that some of the free negroes might actively endeavor to create discontent. For these reasons a strong and apparently unanimous desire arose to abolish the free negro class, with certain objectionable exceptions.²⁰

In order to restrict the growth of the number of free negroes, Virginia passed a law in 1806 providing that no slaves thereafter freed should remain in Virginia. In 1819 an act was passed authorizing the County Court to permit such as were "sober, peaceful, orderly, and industrious to remain in the state."²¹ Later it was provided that all slaves thereafter freed should leave the state within 12 months from the date of their emancipation.

In 1808 even voluntary manumission was not permitted in some states. Virginia, Maryland, Kentucky, and Tennessee, the border states, began to regard manumission as a dangerous experiment; and men sometimes felt that they had no right to indulge in private manumissions when they might thereby endanger the lives of the community.²²

In 1831, the Virginia House of Delegates passed a law which was a ban on negro education. All meetings of free

²⁰ C. S. Sydnor, Slavery in Mississippi, p. 203.

²¹ B. B. Munford, Virginia's Attitude Toward Slavery, p. 43.

²² M. S. Locke, Anti-Slavery in America, p. 130.

negroes in schools, churches, meeting houses, or "any other place by day or night" in which they shall be taught "under whatsoever pretext" were forbidden. Whites who assembled with them for the purpose of teaching them were liable to fine and imprisonment.

Also, in 1831, Mississippi passed a law which required all adult ~~negro~~ free negroes to leave that state.

The free negro was not even always secure in his own position as a free negro. It was possible for them to once again become slaves without fault or neglect on their part. Legal technicalities were always found when necessary. There were instances where successful suits were brought for the possession of families who had lived in freedom for thirty years unmolested.²³ Many free negroes were kidnapped into slavery. A still more common case was the sale of free negroes for their jail fees. In several of the Southern states a negro who incurred a fine might be sold as a slave. In Maryland a free negro under certain conditions might be sold as a perpetual slave simply for the offense of coming into the state. Free negroes who continued to dwell in Virginia without permission were to be taken up after one year and sold by the sheriff into slavery.

As James Curtis Ballagh wrote: "In 1856, under the peculiar political stress of the time, the menace of the free negro element, a way was opened for the voluntary enslavement of free negroes. This was by petition to the courts on the part of the negro, designating the

²³ A. B. Hart, Slavery and Abolition, p. 88.

master he wished to serve, who on his part had to give security and pay into court one-half the valuation of such a slave".²⁴

Needless to say very few negroes availed themselves of the "opportunity". In 1859 they found a better method by authorizing the sale of free negroes convicted of crime into absolute slavery.

In addition to making laws to force free negroes out of many Southern states, there was a slight interest in schemes to persuade them to leave voluntarily. Colonization organizations were found among them the Mississippi Colonization Society "the object of which... shall be to aid... in the colonization of free people of color in the United States on the coast of Africa".²⁵ After 1840, however, most of these societies ceased active work.

I am quoting two interesting sources on the condition as a whole facing the free negroes. "The free colored people were looked upon as an inferior caste to whom their liberty was a curse, and their lot worse than of the slaves, with this difference, that while the latter was to be kept in bondage 'for their own good' it would have been very wicked to enslave the former for their good".²⁶

Also, "Despised by the whites and denied privileges that would have been his had his skin been lighter, limited on the capacity for earning an honest living yet denied access to the barns of the slaveholder, the free black was in many ways less

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²⁵ *Op. Cit.*, p. 56.

²⁶ C. S. Sydnor, *Slavery in Mississippi*, p. 204

B. B. Munford, *Virginia's Attitude Toward Slavery*, p. 64

fortunate than his brethren in bondage... In too many cases he exchanged perpetual slavery to a master for intermittent slavery to the State."²⁷

Although I have emphasized above the plight of the typical free negro, there were a few who were really well off. This was especially true in New Orleans and in Charleston, where there were actually free negroes who owned negro slaves. "Some negroes were gentlemen with a standing amongst other gentlemen which would scandalize good Southerners of today."²⁸ These negro slave owners played a considerable part in the civic life of the community and were among the staunchest defenders of slavery as an institution, "and were bitterly opposed to all who talked of setting free their slaves."²⁹ Of 360 persons of color in Charleston, 130 were rich enough to be assessed with taxes on 390 slaves in 1860. In 1830 the U. S. Bureau of Census reported 3777 negro heads of families in the South who owned slaves.

To make a brief resume and compare the status of the freedman with the white we find that the former was not a citizen in any Southern state after 1834. In most states he had the right to own and alienate property. They could even own and sell negro slaves. For fear of improper uses too, free negroes

²⁷ T. M. Whitfield, Slavery Agitation in Virginia, p. 7.
²⁸ W. E. Dodd, Cotton Kingdom, p. 18.
²⁹ Ibid.

in the South were not allowed to own such property as firearms, dogs, poisonous drugs, and intoxicants. He did, however, have the remedy of habeas corpus. When charged with crime he had the right to trial by jury, and, after indictment, could give bond for his liberty.

After Nat Turner's insurrection in 1831, the right of jury trial was restricted in several southern states to cases punishable by death. It must be remembered, however, that the negro could not expect a trial for "consistency with the unwritten primitive law of the white man in dealing with the blacks, judgment preceded proof."³⁰

At times the free negroes could go and come at free will. After a while it was necessary for them to show papers. Later a permit was needed to pass from one state to another. Near the middle of the 19th century it was unlawful in some southern states for a free negro to return after leaving. "He might be spoiled by contact or education."³¹

There was also little progress in the education of the free negro. "With the exception of some clandestine operations" there were few schools for them in the South.³²

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C. G. Woodson, The Negro in Our History, p. 250.

³¹ Ibid., p. 252

³² Ibid., p. 253

Max M. Kampelmacher
English Bible
Term Paper on
Joseph and His Brothers

and

B Young Joseph

Although you do not write fluently, I found your paper most interesting because it contains your own reactions. You comment intelligently on the books without resorting to synopses.

Now read the last two!

Between the Lines

Before even starting to ^{fiction} ruminate through the pages of Thomas Mann's Joseph and his Brothers and Young Joseph, the first two books of his Joseph trilogy, one is impressed by the work and effort put into the novels. A student of the Bible can well be surprised to discover an author who succeeds in writing thick volumes on a series of stories which take up but a few pages in Genesis.

Yet every reader of the Bible realizes when he finishes the adventures of Jacob and his sons that there is much lacking. He is often puzzled by the sudden breaks in the narrative, by the seeming disregard for chronology and for time in general, by the somewhat cruel and abrupt behavior of the nomadic family, and by the many incidents which seem to occur without cause or reason. The story as included in the Bible is obviously too short for the vast content which the original writer wanted to include and hence the reader can readily realize that there is need for the filling in of many details so as to straighten out structural conflicts and tend towards an easy flowing narrative. Thomas Mann set out to accomplish the difficult task.

Undoubtedly, his limited source is mostly legendary material, although its basis can well

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be considered historical. It is interesting to note that as the writer of the Joseph story in Genesis used a few true facts for the foundation of his narrative and then added to it the many legends which sprang up as well as some of thoughts from his own imagination, so did Thomas Mann use the Bible chapters as the background of a work to which he added much of the products of his imagination.

P In my opinion, Mann has certainly improved upon what we find in the Bible. If one succeeds in plowing through the introductory lengthy / or complex sentences and the difficult repetitions and philosophical observations intermingled with occasional metaphysics and psychology, he finds himself in the midst of a glorious story beautifully told. Mr. Mann does not take many liberties with the Biblical text; he merely adds to it from his great imagination and from a knowledge which he undoubtedly possesses of ancient lore and customs.

Joseph and his Brothers, the first of the trilogy, deals mainly with Jacob's early life, his long service with Laban for Leah and Rachel, the birth of Joseph and the other sons, and finally the death of Rachel. His second volume covers the period from Joseph's youth to the time he

was sold into slavery. Both, however, have a tendency to wander back through past historical events and both do not hesitate to inform the reader of what is to come. In fact, before becoming accustomed to the style of the author, I was occasionally disturbed by Mr. Mann's complete disregard for chronological order. In Joseph and his Brothers, for example, he begins the book with Joseph standing by the well and then he smoothly moves us to Jacob's early life with Esau, immediately followed by the later incident of Dinah and the Shechemites; and then in the next chapter he goes back to the Esau hoax and narrates Jacob's experiences with Laban. In Young Joseph the time element is not as important and the only difficulty we are faced with is a comparatively simple one with the author merely bringing us a few centuries back to Abraham before he sees fit to tell us the reasons for the enmity on the part of the sons of Leah against Joseph. It was all done very cleverly and simply without abrupt changes so that the reader suspects nothing until he finds himself suddenly in a different circumstance than he was before. But he has become so interested in the new developments that he does not mind the change.

Mr. Mann also attempts in his books to offer some sort of an explanation for the relation of the Patriarchs to one another. He says, and I believe that he himself is not sure, that Joseph's great-grandfather Abraham is not the same Abraham spoken of as the discoverer of Jahveh. Yet even in Joseph's mind, both Abrahams are confused with one another. Perhaps Mann is referring to the ever-present past, as it were, of a first enlightened man as compared to the Jewish concept of an ever-sought-after future Messiah. To Mann, even during the days of Joseph's great-grandfather the name Abraham must have referred to an older Abraham who first recognized Jahveh, the first enlightened man. But even though it is confusing to hear that Abraham is not Abraham and that Eliezer is not the same old Eliezer, for how can one man live through so many generations, the problem does not detract from the interest of the book, but adds to its interesting features.

An important variation from the Bible is found in the interpretation of the characters of Joseph's brothers. In Genesis, we get the impression that they are cruel and jealous of Joseph's superior intelligence. To the reader, of course, such feeling is

the expression of that feeling in their overt act is not easily understood. Mann, however, explains their motives by presenting both sides of the story. In fact, we tend to sympathize with the brothers against the supercilious wearer of the cloak of many colours. It was a perfectly normal reaction for the brothers to have decided to leave Jacob and get away from the superior Joseph who continually plagued them with his dreams. The dreams may or may not have been true but they did hurt the brothers at the core. Were Joseph content to accept his advantages and not boast, Mann argues, the story might have been different, but he insisted on showing his father's present to all. It was no wonder, therefore, that the brothers decided to escape. But Joseph followed them. Of course, there is no justification for the sadistic manner in which the brothers behaved, Mann says, but we at least see their problem more clearly.

One of the most beautiful incidents in Joseph and his Brothers contrasted with the same incident in the Bible demonstrate Mann's excellent technique. The love of Jacob for Rachel and the marriage of Leah to Jacob, which occupies but a few verses in Chapter 29 of Genesis, is the highlight of the

novel. In fully 100 pages, Thomas Mann weaves with his excellent imagination a beautifully told story. I have yet to see a modern love scene painted so picturesquely. It was also very amusing and entertaining to read a description of the ceremony preparatory to the adventure in the bridal chamber.

The author succeeds very well in instilling human everyday characteristics in his characters. The dealings of Laban and Jacob, for example, are put forth in a perfectly natural manner with two shrewd business people attempting to outwit one another until they finally reach an agreement. This is evident in the story of the pied sheep and goats which incidentally goes further than the Bible story. In fact, the whole incident is explained more or less as a scientific basis. Jacob discerned a phenomenon of shock in pregnancy and here was able to have many spotted flock produced. Mann defends this underhand method by saying that Jacob was in the position where the only way he could prosper would be to outwit his shrewd father-in-law.

One question that is always raised is dealt with fairly satisfactorily by Mann. The reader can find absolutely no reason for Rachel stealing her father's images. Was it her motive to remove a pagan force from her father's household so as to

make him accept the religion of his husband or was it her motive ^{to} merely anger her father? In the novel, the question is answered by saying that Rachel was merely a weak feminine figure possessing all the inherent weaknesses of a woman, who was torn between two beliefs. She had always believed that her father's idols were real, but her husband had also instilled in her his religion. In her somewhat childish mind, therefore, she decided to doubly insure her safety by holding on to both religions at the same time. Battered by leaving the incident, therefore, completely puzzled, the reader's reaction is one of sympathetic understanding.

I cannot leave a discussion of Thomas Mann's work without briefly taking cognizance of the manner in which he presented the incident of David and the Shechemites. As he did in dealing with other incidents, Mr. Mann added much to the original story. We now find a story in itself worthy of occupying the sole attention of a novelist. Fortunately, the author does not attempt to apologize for an incident which put a blot on Jacob's family ^{that} which cannot be removed. All through the story, the brothers had the eventual massacre in mind. Only Jacob protested against the unvirilized action, But what control has an elderly father over his wild

children?

As the story in both novels progresses it is interesting to note that in Young Joseph Thomas Mann, knowingly or unknowingly, seems to have his history a bit confused. He describes a scene where Jacob and Joseph are eating the Passover lamb, presumably celebrating the feast of Passover. Yet we know, and I am sure that Mr. Mann knew, that the incident which presumably led to the Passover celebration took place a few centuries later. To Mr. Mann this may have been an insignificant technicality which did not bother him and or it may have been merely Mr. Mann's way of expressing his belief that the Bible itself is not in chronological order, as many contend.

Thomas Mann adds much to his story by picturing the incident of Joseph in the pit in an entirely different manner than is usually thought of. I, for one, was never conscious of the psychological significance to the story although its significance as a turning point in Joseph's life is obvious. Thomas Mann, however, makes us realize that up until the time he is thrown into the pit Joseph was a mere child who enjoyed living in a dream world of his own. He is innocent enough not to realize that his actions might anger his brother. But in the pit

facing reality he matures and becomes conscious of all the wrongs he has committed against his brothers. No longer is he a pampered child. Incidentally, it is this transition which tends to center the reader's interest on the next volume of the trilogy because Young Joseph ends with this incident.

Of course, we all know the eventual outcome and future events, but we do not know in what manner Mr. Mann will develop Joseph's character. Here we have an individual whom we feel we do not know quite thoroughly being thrown into a strange new world on which he will eventually rule. The question of how Thomas Mann will make an adult Joseph conform to young Joseph is an interesting one.

Thomas Mann succeeds in clearing up one more difficulty in the Bible. The scriptures do not so satisfactorily account for the presence of both Medianites and Ismaelites in the incident, nor do they differentiate between the two. The complete passage is an extremely vague one. Mr. Mann, however, clears it up. He states that the men from Gilead came from Mizraim, another name for Egypt, which is also called Moson or Midian. They were, therefore, Ma'omites or Midianites. These people,

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he continued, was closely related to Abraham's son
Ismael and hence were often called Ishmaelites
also. "It was of no importance to them what
people called them and who they were", Mann
explains. In other words, the difficulty is cleared
by saying that both Midianites and Ishmaelites
referred to the same group.

All in all, although I do not think it
necessary for me to say so now, I found both
Joseph and his Brothers and Young Joseph extremely
enjoyable. It is fortunate that I have not read
Joseph in Egypt, as so many have done, for now I
am looking forward to reading the last of the
trilogy.

DRAMA CRITIC REPORT

MODERN DRAMA

MARCH 23, 1939

MAX M. KAMPelmacher

Stark Young, Otis Ferguson

The New Republic

No.	Play	Grade	Critic
1	<u>Oscar Wilde</u>	A	Stark Young
2	<u>Hamlet</u>	C	Stark Young
5	<u>Abe Lincoln in Illinois</u>	B	Stark Young
8	<u>Knickerbocker Holiday</u>	C	Stark Young
12	<u>Danton's Death</u>	D	Stark Young
24	<u>Leave It To Me</u>	A	Stark Young
18	<u>Boys From Syracuse</u>	B	Stark Young
19	<u>Rocket To The Moon</u>	B	Stark Young
25	<u>American Landscape</u>	D	Stark Young
26	<u>Here Come The Clowns</u>	C	Stark Young
37	<u>Mamba's Daughters</u>	B	Otis Ferguson
39	<u>The Gentle People</u>	C	Otis Ferguson
42	<u>White Steed</u>	B	Otis Ferguson
43	<u>Dear Octopus</u>	B	Otis Ferguson
51	<u>The American Way</u>	D	Heywood Broun
54	<u>Henry IV</u>	C	Otis Ferguson
59	<u>Stars In Your Eyes</u>	A	Otis Ferguson

It will be necessary for me in this paper to deal with three critics of plays. Mr. Stark Young, formerly dramatic critic of The New York Times (1924-1925), is the official play reviewer of The New Republic. Some time ago, however, he left on a leave of absence and the movie critic Mr. Otis Ferguson took over the task of reviewing current Broadway productions. In this critic project report, I have also ~~am~~ included the review of The American Way by the noted columnist and former dramatic critic Mr. Heywood Brown. I included the latter even though it was not printed in the drama section of the magazine because I considered it of interest, especially since neither Mr. Youngⁿ or Mr. Ferguson printed their impressions of the play.

All in all, The New Republic included the reviews of seventeen of the sixty odd plays which were produced during the period we are considering.

In trying to discover the standard used by the critics in the choosing of plays to review, I found that there were really no definite classifications which appealed to them, for the seventeen plays included a diversity of types. I did notice, however, that most of the plays were either hits or were significant for other reasons. In fact, looking over the present list of Broadway hits I find only three Hells a Poppin, Outward Bound, and Set To Music which were not reported in The New Republic up until today. They may yet be reviewed.

Of the seventeen plays reviewed in The New Republic only three were not hits: Danton's Death, American Landscape, and Dear Octopus.

The former play, however, received a great deal of attention from all the dramatic critics because of the probable future effects Mr. Orson Welles and his Mercury Theatre will have on the drama. American Landscape was significant because it was produced by the Playwright's

Company which had up until then produced the successful Knickerbocker Holiday and Abe Lincoln in Illinois. In addition, the play was written by Elmer Rice whose Street Scene received the Pulitzer Prize and whose talents are widely known. The third play Dear Octopus may have been reviewed to counteract the poor reception the play received from most dramatic critics, which many, including Mr. Ferguson, felt was not deserved.

It is useless to attempt to go further and find other reasons for play discrimination, for they would be nothing more than guesses.

In analyzing Mr. Stark Young, I find a remarkable lack of complete enthusiasm. Even in his two 'A' plays Oscar Wilde and Leave It To Me, there is no frantic raving, merely a clear criticism and a thorough enjoyment of the play. I attribute this not to the peculiar habits of Mr. Young but rather to the peculiar system of reviews inherent in a weekly periodical such as The New Republic, where the critic does not sit down at a typewriter as he rushes out of the theatre to his office, but waits until his ardor cools and his first impression wears off and he has an opportunity to think of the play rationally. It is very difficult under such circumstances to rave about a play.

Mr. Young definitely seems well versed in all phases of the drama. He is not easily pleased nor is he unduly hard. He merely knows the good points necessary in a successful play, looks for those points and renders his decision accordingly. Mr. Young is one critic who looks for good lighting effects, costumes, where necessary, scenery, and settings.

It was very interesting and strange for me to read of his criticism of Hamlet as to costumes. He violently objected to the lack of coiffures and headdresses in the play for he believed that this lack of proper costume tended to lead the audience away from the ill-

usion Shakespeare was attempting to create. He did not like to hear intricate Renaissance lines emerge from "scene after scene of everyday hair".

This point and other similar ones give the reader of Stark Young the impression that he is very observant and has an excellent knowledge and much sensitivity about good plays.

One of the positive impressions I received from the reviews was that Mr. Young knew his subject. He seems to have a very good knowledge of the Shakspearian Quartos and Folios. In Hamlet, he differentiates between passages belonging to the Second Quarto and First Folio, something which the ordinary critic does not pay much attention to. Similarly in the Boys From Syracuse he attempted to trace the sources used by Shakespeare in The Comedy of Errors.

As to acting, Mr. Young was properly enthused with the performances considered by all critics as excellent, Mr. Robert Morley's Oscar Wilde and Mr. Raymond Massey's Abraham Lincoln. He wants an actor to possess poise, to understand the role deeply, to possess good diction, and to be lacking in exhibitionism. That both men fulfilled the requirements can be seen, Mr. Young says, from the attitude of most people who associate the faces and mannerisms of Abraham Lincoln and Oscar Wilde, whom they have never seen, with Raymond Massey and Robert Morley.

Strangely enough, however, Stark Young differs from most critics by severely criticizing Mr. Evans' presentation of Hamlet both as to acting and interpretation. To him the encounter between Laertes and Hamlet is a failure. In addition, he prefers the traditional interpretation of the King to Mr. Henry Edwards' interpretation of an agitated, not a magnetic, character. He did feel, however, that Ophelia and the Queen were very well presented. As to Mr. Evans, he praises his diction and sincerity, but he says that Mr. Evans does not possess the

art of stage movements vitally necessary to give Hamlet the characteristics of a prince.

But the critic believes that Mr. Evans' great fault lies in interpretation. He feels that when Mr. Evans raises his voice and reaches a more active tempo, there is a tendency for some lines to be stressed and other subtleties to become lost; and to him the subtleties are most important for the characterization of Hamlet. Mr. Young cannot agree with Maurice Evans that the struggle going on within Hamlet should be minimized so as to contravert the idea of Hamlet's feebleness of will. the critic believes that Shakspeare himself contraverted the impression in the play. He says, therefore, "The irony, then, is that the actor should lose so many of the finer shades and values trying to do for the character what Shakspeare has already done otherwise".

To Mr. Young, the fundamental fault in Evans' interpretation is that the latter attempted to change a play of clever words, oftentimes spoken aimlessly, into a play where the words seem planned for action. The latter, he believes, eventually becomes boring.

It is my personal opinion that Mr. Young was too harsh and unfair. It seems to me that he grew tired of reading all the compliments paid by the other critics to Mr. Evans and decided to take a few feathers out of the Englishman's hat, as it were, by revealing and magnifying the faults of the play and only hastily mentioning the good points of the play.

Without the necessity of further elaboration, there is no doubt, as we review, that Mr. Young understands the drama and its intricate and technical phases more so than most critics.

When reviewing Rocket To The Moon, Stark Young expressed his belief that the dramatic technique used in the play, which took divers facts, details, and other information out of the dialogue and put them

in the stage directions, was not a good one. He felt that too much was left to the imagination, which tends to create problems and take away from the play's interest.

An observation that pleased me was that Mr. Young had no prejudices against musical comedies. In fact, one, Leave It To Me, was given an 'A'. In that play, Mr. Young took cognizance of the good dance routines, songs, and colorful ~~costumes~~ costumes.

This pleased me because it definitely set the critic up as one who judges a play according to the standards called for in that particular play. A musical comedy, for example, should certainly not be judged along the "Stagerite" standards of unity in time, place, and action.

Out of all the plays reviewed by Stark Young, I discovered one clear prejudice on his part. In ^dcommemning Danton's Death, Mr. Young deplores the attempts by Mr. Orson Welles and the Mercury Theatre to rip apart old plays and create new ones to suit the producers' peculiar style. He said that if the artist cannot find "the seed of what he wants to express in drama", he had better go to other endeavors or write his own play, rather than ~~distort~~ distort a play beyond all recognition.

That is a prejudice on the part of one who loves the drama of today and yesteryear, especially the latter. It gave me the impression that Mr. Young loves the theatre so much as it is that he is wary of any changes at all. It is not only Mr. Welles whom he dislikes but all those who attempt to introduce innovations into the theatre. He shows a high regard for the old theatre by violently objecting to a remark he heard in the lobby of the Mercury that the long speeches practised by Welles were in the style of the older theatre. He curtly remarks that the older method did not lose sight of the sense in a speech.

It is interesting to note that Mr. Young occasionally quotes from the reviews of Brooks Atkinson, John Anderson, and John Mason Brown to show how audiences differ in reactions to the merits of a play. This can only be done, naturally, by a reviewer in a weekly periodical not a daily.

One of the most enjoyable characteristics of Stark Young is the delightful style of writing which he uses. His language and style are smooth flowing and very well phrased. The reader finds that he is reading fairly difficult language with deeper significance than is at first recognized, but he does so normally and completely at ease. It is not often that a writer is as fortunate as to possess such characteristics.

Of course, one of his great faults is his inability in most cases to stick to the play. Mr. Young enjoys giving his personal views about abstract matters, and enjoys rambling about former performances of ~~a~~ plays which tends to lengthen the review. Where he does not do this, however, Stark Young's observations are concise and to the point.

It is fitting to close our remarks about Mr. Young with a quotation from his review of Here Come The Clowns "... what's good enough for life ought ... be good enough for the theatre".

As to Heywood Broun, it will be impossible to attempt to analyze all of his dramatic preferences and prejudices from just reading one of his reviews, but his comments on The American Way can give us a fairly general idea of his opinions.

The reader can immediately recognize that Heywood Broun does not concern himself with the drama as an art. Technical defects and good points do not concern him at all for his judgment seems based on the affect the play might have on social, political, or economic conditions with which he is primarily concerned. In this play, for example

he gives it a poor rating because the lesson it teaches is not obvious.

But Mr. Broun definitely does not ignore the drama as an art because he is ignorant of it as such. Undoubtedly, his experience as a play reviewer has made him as competent to criticize plays as any critic. An evidence of that in the review of The American Way is the comparison of the play with a somewhat similar one of years back Cavalcade. He has purposely, however, forgotten about the art and dwells on the serious problems which the drama, to him, can help solve.

Before watching a performance of the play, Mr. Broun expected it to be an answer to the implications of prejudice contained in the phrase "the American Way" or "vote the American Way". But he was disappointed for the play did not go far enough and hence he feels that it lacks a definite point of view, something he cannot excuse.

Mr. Broun is deeply prejudiced against anything which seems to "confuse patriotism with Hearsting the flag", as he puts it. He would rather have the play one ~~as~~ for clear propaganda purposes dealing with modern problems of labor, New Deal, and anti-semitism instead of merely championing Americanism which means different ideals to different people.

Of course, the average critic and student of the drama will disagree with Mr. Broun, for the theatre definitely has place for the pageant, even if it is without a purpose. Drama is what it is today because of its entertainment values and not because it acts as a propaganda agency.

Otis Ferguson is in many ways similar to Stark Young, but his remarks are usually simpler and more general in character. He definitely has been greatly influenced by his work as movie critic in the reviewing of plays; ~~and~~ he admits that himself. In writing about Maurice Evans' Henry IV, Mr. Ferguson states that the movies have made people

understand that a play must have more than a succession of speeches and strange action like the stomping of feet. It is for that reason that he objects to Mr. Evans' interpretation which did away with the effects of the words, taking for granted that Shakespeare's work would be appreciated, and substituted for it bits of "show off" activity.

But Mr. Ferguson is more than a substitute play critic. He knows the drama and its details very well. In Mamba's Daughters, for example, he draws a comparison between the work of Ethel Waters, which he calls very good, and that of Gerorgette Harvey, whom he calls the best Mamba ever. He also appreciates the artistic assets of each play. Stars In Your Eyes, he says, is good not only because of the work of the two leading characters, but also because of a successful harmonious blend created between the clever lyrics and music, the drama routines, costumes, and general lighting effects.

In all his reviews, Mr. Ferguson briefly gives a resume of the plots, but he does not let us know too much. It also seems to me that his criticism is very fair. He is straightforward and when he sees a fault in a play, puts his finger on it instead of hedging. Likewise, when he feels that a play possesses certain good characteristics he gives credit where it is due. Thus in The Gentle People, in spite of its many faults, he appreciates the human pathos so realistically brought to the stage from family life. It seems that Mr. Ferguson enjoys simple true to life plays like White Steed and certain scenes in The Gentle People.

Otis Ferguson's pet hobby seems to be to scrutinize the acting in the plays. In three good plays, he stresses the excellent acting over the plays' other assets. Ethel Waters in Mamba's Daughters, Barry Fitzgerald in White Steed, and especially Jimmy Durante in Stars In Your Eyes all receive more notice than the vehicles they are appea-

ring. In other plays, he also gives credit lines to those who deserve it them. Mr. Ferguson is definitely a good judge of acting. In Stars In Your Eyes, the critic bubbles over with enthusiasm over Jimmy Durante's performance. Of the three columns of print, fully two are devoted to the antics and specific characteristics of the comedian.

There is one fault that Mr. Ferguson cannot forgive and that is miscasting. In the Group Theatre production of These Gentle People, therefore, he complains that the wrong actors were chosen to play the parts. He cannot see, for example, how Franchot Tone fits in as the vicious gangster. Also, in Henry IV, Mr. Ferguson lashes out cruelly against the obvious, as it seems to him, bad acting and miscasting. He insists that either W.C. Fields or Charles Laughton would have made better Falstaffs than Maurice Evans, who should have been Prince Hal. There is more to acting the role of Falstaff, he contends, than merely dressing up as a "department store Santa Claus". And, he adds, there is more to being an actor than just being versatile. An actor must live and fit his part.

Mr. Otis Ferguson's literary qualities are not many. His style is an easy flowing one and very simple. There are no grandiose flourishes of literary phrases, merely clear cut and straightforward remarks. Nevertheless, they are written in a very entertaining manner to give the reader the impression that the language is beautiful and colorful, which it is not. Unlike Mr. Young, whose vocabulary is academic, Mr. Ferguson is not averse to saying, where he feels it will express what he really wants to say, "The hell it can" as he does in Henry IV.

I find in him a sympathetic appreciation of the problems facing a playwright. It is for that reason that he seems to usually give the author the benefit of a doubt wherever possible, and seems

lenient. It was very interesting to note that Mr. Ferguson asks us to call a play a good one if after we go over it we see how ^{many additional} wrong might have been committed than really were and then realize how many assets it has.

That is a lesson which we do not have to adhere to but which gives us somewhat of an indication of how Mr. Ferguson himself judges plays.

Mr. W. H. Ferguson

Call to play as a good one

if after we go over it

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Psychology and the Play

Call to play as a good one

if after we go over it

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wrong might have been committed

than really were

and then realize how

many assets it has.

...very interesting to note that Dr. ...
...very much ...
...strongly ...
...very much ...
...that is a lesson which we do not have to ...
...gives us ... of an indication of ...

Max M. Kampelmacher
Public Speaking 50
Professor Busse
Term Paper

"Psychology and the Law"

C +

Bibliography

for

"Psychology and the Law"

1) On the Witness Stand

by Dr. Hugo Münsterberg

Foreword by Charles S. Whitman

2) The Art of Cross-Examination

by Francis S. Hellman

Psychology and the Law

I shall attempt to demonstrate how important it is for a successful lawyer to have a knowledge of psychology, and how necessary it is for our judicial system to accept psychology as a science which can help our legal system.

In the class room and in the seminar, the student of law is told to concentrate on a mass of legal principle and to apply them to determined facts. He is educated, when he receives his degree, in legal bibliography and precedent. In the law school, legal principles have been formulated into rules, doctrines, and statutes; all harmonized and codified. The legal practitioner, therefore, usually approaches his task proficient in the knowledge of legal science.¹

But there is another branch of education necessary in the legal field. It has to do with the domain of facts which has to do with the dramatic episodes of every controversy between individuals or between an individual and the state. For this task, the lawyer and the legal system as a whole is not usually well prepared. The ability to discern the facts which control the application of legal principle is not fully developed.

The difficulties experienced by judges, juries, and lawyers in probing for the truth where conflicting versions are presented, are in no small measure responsible for the cynical attitude which is general towards the administration

¹ H. Münsterberg, On The Witness Stand, Foreword by L. Whitman, p. ix.

of justice.

The courts today must wake up to the fact that psychology today has emerged from the stage of a pure science to that of an applied science. Psychology can answer many problems which lawyers call unanswerable, because it deals with the workings of the mind. As applied to law, psychology can deal essentially with the mind of the witness on the witness stand.

Let us look at an example. There had been an automobile accident. Two witnesses appeared before the court to describe what they had seen. Both swore to tell "the whole truth, and nothing but the truth". Yet one swore that the entire road was dusty; the other that it had rained and the road was muddy. The one said that the automobile was running very slowly; the other that he had never seen an automobile rushing more rapidly. The first swore that there were only two or three people on the village road; the other, that a large number of men, women, and children were passing by. — Both witnesses were highly respectable gentlemen, neither of whom had the slightest interest in changing the facts as he remembered them.¹

There is another case where everything depended upon the time which had passed between a whistle signal from the street and the noise of an explosion. It was of the greatest importance for the court to know whether the

¹ Hugo Münsterberg, On the Witness Stand, p. 15.

time was long enough to walk a certain distance for which at least half a minute was needed. Of two unbiased witnesses, one said that the time was less than ten seconds; the other that it was more than one minute.¹

Again, there was a case where it was essential to find out whether at a certain riot the number of guests in the hall was larger than the forty who had been invited. There were witnesses who insisted that there could not have been more than twenty persons present, and others who were sure that they saw more than one hundred people in the hall.²

In a case of poisoning, some members of the family testified that the beverage had a disagreeable, sour taste; others, that it was tasteless; and others, that it was sweet.³

In some Bowery battle, one witness was quite certain that a rowdy had taken a beer mug and kept it in his fist while he beat the skull of his comrade; while others saw that the two were separated by a long table, and that the assailant used the mug as a missile, throwing it a distance of six or eight feet.⁴

¹ Ibid., p. 16

² Ibid.,

³ Ibid.,

⁴ Ibid.,

In another trial, one witness noticed at the seashore in moonlight a woman with a child, while another witness was not less sure that it was a man with a dog.¹

And only recently, passengers in a train which passed a courtyard saw a distinct picture of a man whipping a child. Yet one passenger swore that the man had a clean-shaven face, a hat, and was standing, while another was sure that he had a full beard, no hat, and was sitting on a bench.²

There is no need of heaping up further illustrations upon those already presented, for everyone who remembers the last few murder trials knows with what regularity witnesses differ from one another. These witnesses are not necessarily perjuring themselves. As a rule, the answer to the question of what is beyond these differences is an unintentional mistake of a normal person.

Instead of trying to answer the above puzzles, let me report an experiment held at Harvard some years ago. Several hundred young men, mostly between the ages of twenty and twenty three, took part. It was a simple test. The students were asked to answer a few simple questions. First, a large sheet of white cardboard was shown them with 50 little black squares pasted on it. The cardboard was exposed

¹ Ibid., p. 16.

² Ibid., p. 17.

for five seconds and then the students were asked how many black spots were on the sheet. The answers varied between 25 and 200. Then another cardboard was shown them which contained only 20 black spots. This time the replies ran up to 70 and down to 10. — Here were highly trained observers whose attention was concentrated on the material, and who had full time for quiet scrutiny. Yet in both cases, there were some who believed that they saw seven or eight times more spots than the others saw.¹ There is a marked difference similarity between this experiment and the difference of opinion as to how many people attended the banquet hall.

The next question referred to the perception of time. The students were asked to give the number of seconds which passed between two loud ~~click~~ clicks. The answers were between half a second and sixty seconds, while the real answer was 10 seconds. These fluctuations, remember, were present in spite of the fact that the students knew beforehand that they were to estimate the time interval; and yet a district attorney hopes for a reliable reply when he inquires of a witness, perhaps of a cabman, how much time passed between a cry and the shooting in a cab.

Among the other tests was for the class to compare the apparent size of the full moon with an object held at arm's length away. In other words, they were to describe an object just large

¹ Hugo Münsterberg, On The Witness Stand, p. 22.

enough, when seen at an arm's length, to cover the whole full moon. The list of answers began as follows: quarter of a dollar, silver dollar, a cent piece, a watch, hundred times the size of a watch, a canteloupe, a man's head, and others enough to show the overwhelming manifoldness of the impressions received. We can imagine a similar incident in a court.

These experiments were all presented to arouse a doubt in your minds. Is the lawyer, judge, a jury competent to believe the testimony of a witness without the help of a psychologist, who analyzes the mind.

It seems strange that while courts make the fullest use of all the modern scientific methods when, for instance, a drop of dried blood is to be examined in a murder case, the same court is completely satisfied with the most unscientific and haphazard methods when the memory report of a witness is to be examined.

No jurymen would be expected to follow his general impression in the question as to whether the blood on the murderer's shirt is human or animal. But he is expected to make up his mind as to whether the memory of a witness can be trusted. - It is fairly definite that justice would less often go wrong if those who are to weigh evidence were more conscious of the treasury of human memory and the human brain.

Psychologists tell us that there are different types of memory. There are persons who can, for example, vividly remember

every sharp outline in a painting, while they are unable, let us say, of remembering the sound of a voice. Then there are other people who can hardly read a letter of a friend without remembering his voice, and who can remember tunes very well, but are utterly unable to awake an optical image.

No one on the witness stand today is examined to ascertain in what directions his memory is probably trustworthy and reliable. He may be asked what he has seen, what he has heard, what he has spoken, how he has acted, and yet even a most superficial test might show that the mechanism of his memory would be excellent for any one of those four groups of questions and worthless for the others, however solemnly he might keep his oath.

The courts will have to learn, soon or later, that the individual differences of people can be tested today by the methods of experimental psychology far beyond anything which common sense might suggest. For the identification of criminals, modern law welcomes the discoveries of anatomists and physiologists as to individual differences. But no one asks for the striking differences as to the mental details which the psychological experiments on memory and attention, on feeling and imagination and other mental complexes have brought out in the last decade.

Courts have erred in the past and will continue to err in the future. An example of where the normal court procedure

sent an innocent man to be hanged in spite of the fact that psychologists were doubtful follows:¹ on January 12, 1906, a young married woman was brutally outraged and murdered in Chicago. Her body was found, by the unfortunate defendant, lying face downwards on a manure pile in a barnyard. The officers who inspected the premises found the woman's hat at her feet, but could discover no evidence whatsoever of a scuffle having taken place. Around her neck was a hard drawn copper wire, the ends being twisted together.

The young man looked as if he had not slept during the night and the officers suspected him. The testimonies show that the young man was regarded as a thoughtful fellow of good disposition. He never sought the company of women. He alternated between gay and morose moods. His most pronounced defect seemed to be his lack of initiative.

When he came to the police station, he was told at once that he was the guilty man; but the accused denied everything. Now the police began to press him and to suggest more and more impressively to ~~see~~ him his guilt. Suddenly, he began to confess, and he was quite willing to supply rich details. "At about 6:30 I took her in the alley, I wrestled with her and lost my senses. She wanted to run," — and so on and so on. On this basis, he was condemned to death.

¹ Hugo Münsterberg, *On The Witness Stand*, p. 165.

Yet, in spite of the jury's decision and the confession, not everybody was satisfied. The young man's alibi, brought forward by his friends, seemed to be convincing. Everything seemed to point to the fact that the woman was murdered by an unknown person at another place, and that her body was dragged during the night to the barnyard by the copper wire coiled around her neck. To the psychologists, the so called "confession" seemed absurd and contradictory, exactly like the involuntary elaboration of a suggestion put into the man's mind.

Why then did the man confess? Psychologists explained it by saying that his mind was weak and close to neurotic. He showed symptoms of being in a sort of "hypnotic" state. The shock of the murder weakened his mind further and he became semi-hypnotic soon believing what the police accused him of. A few psychologists publicly offered to examine the young man and perhaps bring him back to normalcy but they were denied permission. A few days before he was killed, he seemed to awaken from his dream and denied even confessing or going through a trial. His statements seemed to verify the contention of the psychologists. After his death, the error was discovered.

Up until now we have dealt with more or less technical relations between psychology and the law. Let us turn from that to something simpler.

We know of course of the person who repeated his

fish story so often that he finally believed it himself. Similarly, after hearing a story over and over again the listener may finally believe what he hears. This mental phenomenon is called suggestiveness.

Is it necessary to say that the most suggestible man in the courtroom and the one whose suggestibility is most dangerous may be neither the criminal nor the witness, but the jurymen? And the good lawyer who knows his average jurymen may instinctively make the richest use of all the psychologicals at his command. One of the tricks used is to bring the arguments of his side fully into the focus of interest and suppress and minimize the effectiveness of the opposite argument.

There are other psychological tricks which can be used effectively. Occasional juries are susceptible to having their attention diverted from the facts in a case if the lawyer plays up to their fondness for entertainment.

An illustration of this was afforded some time ago by a case brought by a young woman against the Trustees of the New York and Brooklyn Bridge¹. The plaintiff, while getting off a bridge car, stepped into the space between the car and bridge platform, and fell to her armpits. She claimed that she had sustained injuries to her ribs, lungs, and chest, and that she was suffering from resultant pleurisy and intercostal neuritis. A specialist on nerve injuries, called by the defence,

¹ F. J. Wellman, The Art of Cross-Examination, p. 95.

testified that there was nothing the matter with the plaintiff, for he had made a thorough investigation and examination and could find no pleurisy "rales" or other symptoms.

To cross-examine the doctor, the lawyer for the young lady decided to take a chance and entertain the jury. He proceeded, therefore, to question the doctor in rhyme, which everybody in the courtroom appreciated except the honored physician who was too busy answering to realize he was being made ridiculous. The testimony follows:

Q. "Now, doctor, please listen to me. You say for the sake of a modest fee you examined the plaintiff most carefully?"

A. "I tried to do my duty, sir."

Q. "But you saw no more than you wanted to see?"

A. "What do you mean, sir?"

Q. "Well, you laid your head upon his chest?"

A. "I did."

Q. "That was a most delightful test?"

A. "It is the common way of ascertaining if there is anything abnormal in the lungs."

Q. "And you mean to say, doctor, that if your ears are as good as mine, and with your knowledge of medicine, a mangled pleurisy rale and rattle you'd hear as plain as guns in battle?"

A. "I mean to say this, and no more, - that it would be impossible, if a person were suffering from a lacerated pleura, for me not to detect it by the test I made."

Q. "Now, you did this most carefully?"

A. "I did."

Q. "For you had to earn your expert's fee?"

A. "Of course I was paid for my examination, but that had nothing to do with it. I want you to understand that I made my examination most conscientiously."

Q. "Can you swear that you saw no more than you wanted to see?"

A. "I saw nothing."

Q. "And each of her ribs, on your oath as a scholar, was as good and sound as a daddy's dollar?"

A. "(protesting)"

Q. "You say you think she was malingering?"

A. "I do."

Q. "So when the poor creature ventured to cope with you and your science and your stethoscope, for he you'll acknowledge there was little hope?"

A. "I have come here to tell the truth, and I maintain that it would be very hard for

a young woman of her type to deceive me".

Q. "She might scream in anguish till the end of her breath, your opinion was formed you'd hold until death?"

A. (not answered)

Q. "Though she fell through a hole clean up to her arm, and that's quite a fall, it did her no harm; in fact, if she'd fallen from Mt. Chimborazo, you'd say she's unhurt and continue to say so. Such a fall from such a height, one might observe, might break all her ribs, but never injure a nerve?"

A. (not answered)

Q. "And you hope to be seized by the dance of St. Vitus if you found on the plaintiff intercostal neuritis?"

The judge finally stopped this line of questioning and the lawyer sat down midst the laughter of the jury. In this instance, the lawyer was successful, and the jury favored his client; and by a request signed by each of the jurors, they asked for a copy of the cross-examination.

Whether a lawyer realizes the fact or not, therefore, psychology enters his legal experience at some time or other.

It is to be hoped that in the near future, our courts and lawyers accept the help which psychology can offer to clear up some difficulties which may arise. Of course, the major part of litigation today has nothing at all to do with intricate and puzzling problems of the mind, but there are certain types of cases where the trained psychologist is as essential as the criminologist. It is in those cases, that there is room for improvement in the legal profession.

I thought your full report was the ^{best} ~~supplement~~ ^{to} ~~speech~~ ^{speech} ~~principles~~ ^{principles} ~~where are~~ ^{where are} ~~this is~~ ^{this is} ~~a report on another~~ ^{a report on another} ~~speech aspect~~ ^{speech aspect} ~~of trial work~~ ^{of trial work} ~~which~~ ^{which} ~~the~~ ^{the} ~~building~~ ^{building} ~~trial lawyer may~~ ^{trial lawyer may} ~~employ~~ ^{employ}.