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Lord Templeman

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# FORUM

## TEMPLE CHURCH, TEMPLE INN, AND TEMPLEMAN\*

The Right Honourable Lord Templeman†

The origin of the English common law lies in the fact, which persists at the present day, that the English are incapable of learning a foreign language. Contrary to popular belief, the English have been conquered on three occasions. They were conquered by the Romans who introduced Roman law; but, as the English never learned to speak Latin, they never became proficient in Roman law. Next, the English were conquered by the Normans who introduced the continental civil law; but, as the English never learned to speak French, they never became proficient in the civil law. Finally, the English were conquered by the Americans; but, as the English never learned to speak the language of the United States, they have been unable to understand either the Bill of Rights or the Restatement.

So the English were driven to invent their own law. It was called the common law, because under the feudal system any baron or other owner of land invented his own law and administered his own court within his own territory, but the common law was common to all men; it was in fact the means by which the monarch gradually established his ascendancy over the quarrelling nobility.

Shortly after the Norman invasion there began the series of crusades

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\* Printed with the permission of The Lord Templeman. This Essay is excerpted from an address delivered on August 21, 1989, at The Thomas Gilcrease Institute of American History and Art, in Tulsa, Oklahoma, for the opening of the newly chartered American Inns of Court W. Lee Johnson Chapter.

† Sydney William Templeman is a Lord of Appeal in Ordinary in the House of Lords. In the English judicial system, his position as one of the "Law Lords" is analogous to that of a United States Supreme Court Justice.

during which Jerusalem was conquered by the Christian armies of Western Europe. In 1118 there was founded an order of warrior monks dedicated to protecting the pilgrims on their journey to and from Jerusalem. This order of warrior monks was given part of the royal palace of Baldwin II, King of Jerusalem, on Mount Moriah, where there was a round church known as the Temple of Solomon. The warrior monks, therefore, took the name of Knights Templar.

The Order of Knights Templar flourished and received grants of lands from the various kings of Western Europe. In England, King Stephen and Queen Matilda granted to the Templars a site on the north bank of the River Thames on the western boundary of the City of London between the City of London and the Palace of Westminster, which was the seat of power of the kings of England and where the King's courts and the King's judges were struggling to erect and maintain the common law which would keep the King's subjects in order. On this site the Knights Templar built a church. They called it the Temple Church, and they built it as a round church patterned on the round Temple of Solomon where they worshipped in Jerusalem. The round Temple Church was consecrated in the year 1185 by the patriarch of Jerusalem, a most improbable and exotic event.

In addition to the site of the Temple Church, the Knights Templars acquired the surrounding lands which ran down to the River Thames. On that land buildings were erected; those buildings proved to be popular among lawyers. The growth of the English courts administering the common law had given rise to a small professional body of lawyers who appeared and argued in those courts. The Temple was conveniently half-way between the courts at Westminster, where the judges operated, and the City of London, where merchants and others most involved in litigation, were to be found. It was possible to attend the courts at Westminster and the merchants of the City from the Temple by road or river. And so the lawyers congregated in the vicinity of the Temple Church and became the tenants of the Knights Templar.

About the same time as the Knights Templar acquired the Temple Church and the surrounding land in London, they acquired also extensive estates and farms in Somerset, which helped to produce some of the revenue and wealth of the Order. The lands of the Templars in Somerset included land near the town of Ilminster and the surname of Templeman became attached to more than one inhabitant of the farms of Ilminster. One suggested explanation is that a Templeman was a servant of the

Knights Templar. A less charitable suggestion is that some illegitimate offspring of a Knight Templar was named Templeman for want of any better surname.

In due course, the Knights Templar became too powerful for the kings of Western Europe to endure. Their lands were confiscated, in 1313 the Grand Master of the Templars was burned in Paris, and by 1319 the Temple Church and the lands of the Templars in England had been confiscated by the King.

The buildings occupied by the lawyers near the Temple Church were ordinarily called "Inns" because they were hostels for the accommodation of the lawyers and their students. But, by 1350 these establishments had acquired educational as well as residential functions and the Inns had become societies of lawyers.

In 1362, an Act of Edward III, recognising the inability of the English to learn a foreign language, directed that pleadings in the courts of law be in English and not in Norman French. An historian of that era, Fortescue, commented that while the laws of England were heard in three languages, English, French, and Latin, they could not conveniently be taught or studied in the universities where only Latin was exercised. Hence, as Fortescue said, study was carried on at the Inns of Court which became the Inner Temple and the Middle Temple "for this place of study is situate near to the King's court where the same laws are pleaded and argued and judgments for the same given by judges, men of gravity, ancient in years, perfect and graduate in the same laws."

It was necessary for the Inns to become recognised educational establishments and for the qualifications of members of the Inns to be recognised because it was necessary that anybody who was recognised as a pleader in the law courts should not be guilty of the crime of maintenance. The King could not abide trouble-makers who encouraged litigation, and at an early stage, "maintenance" was unlawful. Maintenance consisted of pursuing someone else's quarrel and carrying on litigation on his behalf in return for payment. But there was a need, and there is still a need, for a litigant to be represented by someone who is eloquent and skilled in the law. And so membership of an Inn became a qualification for lawyers practising in the courts without incurring the penalty of maintenance. To be protected against allegation of maintenance, a lawyer had to be learned in the law "*ereditus in legibus terre*" and for that he showed that he was a member of one of the Inns of Court.

There were, by 1388, two societies of lawyers near Temple Church,

the Inner Temple and the Middle Temple. It was said that there was "no precedence between them, they being alike equal in antiquity, honour and estimation." There were two other Inns of Court established elsewhere, Lincoln's Inn, which occupied premises about a half-a-mile north of the Temple Church, and Gray's Inn, which occupied premises about half-a-mile further north still.

The students and the lawyers in the Inns learned the law in two ways. First, students attended the King's courts of which there were four sitting in Westminster Hall, that great building which still serves as part of the Palace of Westminster, adjoining the House of Commons and the House of Lords. Secondly, students were taught in the Inns. It was then and still is the custom of each Inn to appoint, from among their number, a member called a Reader. The Reader conducted an examination of one of the laws enacted by Parliament. The reading usually occupied the evenings of seven to twelve days spread over three or four weeks. The Reader would give an introductory explanation of the statute, read the whole and analyse each clause, dwelling on any difficulties of construction. The problems raised by the Reader were then discussed by the body of the members of the Inn.

At the head of the hall where the Reader conducted his reading there was a raised table or bench and the seats at the bench were occupied by former Readers — they became the Benchers of the Inn because they sat at the bench and they were headed by the Treasurer who was in charge of administration. In the body of the hall there were forms, called bars. The students sat on the inside of the bar, presumably so that they would be bound to stay awake during the reading. The full members of the Inn sat on the outside of the bar and therefore were called "utter" or "outer barristers." The students and barristers took part in the discussions on the statute which was the subject of the reading and in moots which were arguments about the problems disclosed by the reading.

The day that a student was found by the Benchers to be qualified by his contribution to moots to become a full member of the Inn, that student was called to the Outer Bar and became a barrister, a man learned in the law and entitled to be heard in the King's court without fear of being accused of the crimes of maintenance.

In 1547, in the first year of the reign of Edward VI, there was a Royal Proclamation that:

Only barristers of the four Inns of Court (Middle Temple, Inner Temple, Gray's Inn, and Lincoln's Inn) shall and may from henceforth

lawfully plead and be counsellors and pleaders at or in any court of record within the realm of England.

Thus was established by Royal Proclamation the sole right of audience for barristers in the higher courts of this country. In the year 1989, the present administration has made proposals for that sole right of audience to be abrogated.

The barrister is the advocate and pleader. The barrister is the specialist consultant, instructed by the solicitor who is the general agent of the litigant, and who collects all the correspondence, takes statements from all the witnesses, prepares a case for trial to be conducted in court on behalf of the litigant by a barrister, and is now responsible for seeing that the barrister is paid.

In the year 1562 when Edmund Plowden was Treasurer of the Middle Temple, the Inn began the construction of the Great Hall, which still stands and where all the functions of the Inn, its moots, debates, and dinners take place.

The Great Hall of the Middle Temple was completed in 1570. Built of brick with stone dressing, it is 100 feet in length, forty feet in width. The principal feature of the Inn is a splendid hammer beam roof; the windows are of stained glass and the interior walls are covered with wooden panels bearing the coats of arms of all the Treasurers and Readers of the Inn. At one end of the Hall there is a magnificent wooden screen and above it a minstrels' gallery where the choir sings. At the other end, on a raised dais, there is a table where the Masters of the Bench dine. The Bench table is over twenty-nine feet in length, made of polished wood from a single tree. The tree was a gift from Queen Elizabeth I at the time when the Hall was being built. The tree was floated down the Thames from Windsor forest and constructed and installed as a table in the Hall while the Hall was being built. Indeed, it would not now be possible to take the table out of the Hall because it is too long. Immediately below the dais there is another small oak table which is known as the cupboard. On the fourth August 1586 Sir Francis Drake, who was a member of the Inn, was congratulated in the Great Hall on his voyage round the world and he presented the Inn with the cupboard which was constructed from the wooden hatches of his vessel, the *Golden Hind*. Since then, whenever a student is called to the Bar, he is presented to the Treasurer who stands by the cupboard; having been presented and called, the student then signs the register which lies on the ancient table waiting for his signature.

In 1609, King James I granted the Temple lands to the Middle and Inner Temple so that they ceased to be tenants and have been the owners of the Temple ever since. The charter which granted the lands is now preserved by the two Inns. The charter recites that:

The Inns of the Inner and Middle Temple London (two out of those four colleges most famous of all Europe) abounding with persons devoted to the study of the law and experience therein have for a long time been dedicated to the use of the students and practitioners of the law. From these Inns many men in their own time as well as in the times of our predecessors have by reason of their great merit been advanced to discharge the public and arduous functions of the State and of justice in which they have exhibited great examples of purdence and integrity.

Therefore, the charter continues:

The King being desirous of perpetuating the welfare of the realm of England flourishing for so many ages by the administration of the law and encompassing not so much the continuance of the ancient renown of the Inns as an accession of new honour and to leave upon record to all posterity testimony of his goodwill munificence to the profession and to the practitioners of law and determined to give and grant all the halls houses cloisters buildings chambers gardens courts and the church called the Temple Church which shall 'serve for the entertainment and education of the students and practitioners of the law residing in the same Inns for ever.'

At the date of the charter and ever since, the Middle Temple Hall was surrounded by buildings occupied as offices and residential apartments by members of the Inn and students. Pump Court was built in the seventeenth century, Brick Court in the eighteenth century, and then Fountain Court and other buildings which lie between the Strand and the Thames.

The Civil War of 1642, which ended with the execution of Charles I, disrupted the business and divided the members of the Inns of Court and the whole educational functions of the Inns ceased. An attempt was made to revive readings when the Civil War was ended but the last reading was given in 1677. Thereafter, for two centuries, the education of a barrister was obtained by reading law at a university, joining one of the Inns of Court and becoming a pupil to an established barrister.

The Middle Temple suffered grievously in the last war. On 15th October 1940, when the attack on London by the German air force was at its height, a landmine, suspended from a parachute, fell near the Hall and the blast brought down the screen and the mistrel gallery but fortunately did little damage to the roof and other parts. On 14th March

1941, two incendiary bombs fell on the roof but were put out. On 25th March 1944, a hundred incendiary bombs fell within the the area of the Temple. The Hall of the Inner Temple was completely destroyed and the Temple Church was badly damaged, but the Hall of the Middle Temple survived although the screen and the gallery were damaged by bomb blast. The pieces and slivers of wood which made up the screen and the gallery were carefully rescued and stored and at the end of the war, with the help of donations from the American Bar Association, the screen was painstakingly pieced together and re-erected.

The Middle Temple has always enjoyed a special association with the United States of America because the Declaration of Independence was signed by five members of the Middle Temple. Traditionally, whenever a new ambassador of the United States is appointed to the United Kingdom, the Middle Temple offers to make him or her an Honorary Master of the Bench of the Inn and the same courtesy is extended to the Chief Justice of the Supreme Court of the United States.

Each of the four Inns of Court consists of a Treasurer, Benchers, barrister members of the Inn, and student members of the Inn. A student reads law at a university and obtains a degree. He can at the same time join one of the Inns of Court. When he has obtained his law degree, he enrolls at the College of Legal Education. This is an establishment rather like your law schools and has been founded and financed by the four Inns of Court to give vocational training to students. The course of the College lasts for one year, there is an examination at the end of it and students learn all about practice and procedure and advocacy, and other matters which are material to them when they become advocates. In addition, every student, before he is qualified to be called to the Bar by his Inn, must attend twelve dinners at the Inn. He can eat some of these dinners before he qualifies and some after. The Inn is open for dining twenty nights in each of four terms. On each night there is some function — a lecture, an eminent guest, a moot or a debate, or a mingling of Benchers, barristers, and students. The old collegiate tradition which dates from before the sixteenth century is still maintained. The Inn is also open for lunches during every day throughout the year when the courts are sitting. Judges, barristers, and students come hurrying across to lunch in the middle of their cases. All the judges are Benchers of one Inn or another. They are supplemented as Benchers by Queen's Counsel and junior barristers. There are about 100 Benchers in the Middle Temple Inn, plus Honorary Benchers who consist of distinguished public



figures. Then we have two Royal Benchers, the Queen Mother and the Princess of Wales.

Although there are now 5,500 practising barristers and only about 300 judges, the Inns enable all the barristers and judges, particularly those who are working in London, to maintain contact. Points of etiquette and conduct can be discussed informally. The reputation of a barrister is imperceptibly and subtly developed with his fellow barristers and also with the judges. Some are known to have better judgment and to be more persuasive than others. If a barrister misled a judge or was guilty of anything approaching sharp practice, his reputation would suffer and his future would be jeopardised. All the judges were once barristers themselves and therefore they know full well what is right and what is wrong. The system may not be perfect but it has by common consent produced a legal profession which is independent, incorruptible, and learned.

The Temple Church belongs to the Inner Temple and the Middle Temple equally. The Church and the choir are administered by a committee composed of members of both Inns. Services are conducted by the Master of the Temple Church. The seats in the nave face the centre so that members of the Middle Temple sit on the north side frowning at the members of the Inner Temple who frown back from the south side. On both sides there are choir stalls occupied by one of the finest choirs directed by one of the most able choirmasters and organists in England.

So much for Temple Church and Temple Inn. Now for Templeman. In the year 1700, one, Nicholas Templeman, from whom I am directly descended, lived in the village of White Lackington in the county of Somerset. He and his descendants were the village blacksmiths. They shod all the horses of the Lord of the Manor and installed and prepared the ironwork in the village church and they were all buried in the churchyard. At the beginning of this century, my grandfather, seeing no future in White Lackington, came to London where he worked as a blacksmith with brewers' horses and coal merchants' horses. My father found that the internal combustion engine had supplanted the horse and he became a coal merchant in a small way of business. My mother's family were tailors in London in an even smaller way of business. So I had no connection with the law or the Middle Temple.

I was educated at a state school, Southall Grammar School, in the western suburbs of London. From there I went up to St. John's College, Cambridge. But in 1939, the war came and my studies were interrupted.

I joined the Middle Temple in 1946 and was called to the Bar in the Great Hall of the Middle Temple by Mr. Justice Cassels, the then Treasurer, in 1947. In 1969 I was elected a Bencher of the Middle Temple and in 1987 I was elected Treasurer for that year. You will find my coat of arms displayed on one of the corridors of the Middle Temple, along with the coats of arms of all the Treasurers and Readers since 1570. In due course my ashes will be interned with those of my late wife in a niche in the Round Tower of the Temple Church so that finally Temple Church, Temple Inn and Templeman will be symbolically united.

