



OF GREEK AND LATIN.....

The origin and development of our current laws have always been an interesting area of study and research to academicians, practitioners and students alike. Here below I have attempted to take the reader through a journey beginning in Greek legal and political history through Roman law and administration and their influence on British law which are the basis of all popular legal structures currently.

The Eumenides was the third part of the trilogy written by the ancient Greek tragedian Aeschylus in his finest work the Oresteia.

It is named after the principal character Orestes, who at the behest of his sister Electra and the god Apollo had killed his mother Clytemnestra who had killed his father Agamemnon. The deities of the nether world known as 'the Furies' or 'the Erinyes' were female spirits of vengeance torment Orestes for his offence of matricide. Orestes approaches Apollo who unable to help sends him to the goddess Athena. The Erinyes find him in Athens clinging to a statue of Athena in supplication and fear. Athena intervenes and proposes a jury of twelve citizens of Athens alongwith her to judge her suppliant. Apollo acts as the counsel for Orestes and the Furies for Clytemnestra in this jury trial. Apollo argues the superiority of men over women and submits that the goddess Athena herself was born without a mother from the god Zeus. The jury votes when counted were a tie and Athena votes for acquittal of Orestes. She then convinces the Furies to accept the verdict and when

they do she honours them with a reception by the citizens of Athens.

Athena also declares that henceforth tied juries will result in the defendant being acquitted, as mercy should always take precedence over harshness.

Thereafter the Furies are called 'the Eumenides' or 'the kindly ones'. The development and progress of Greek law was through procedure, private law and rhetoric or oratory. There is really no systematic compilation of Greek laws and we can only estimate the Legal system in Ancient Greece from reading the epics of Homer such as the Illiad and Odyssey and the writings of the great philosophers Plato and Aristotle. Around 600 BC, there were the Draconian laws enacted by Draco which were very severe and harsh. The Draconian laws were reformed by Solon, a magistrate and eminent jurist. He brought in the principles of debt cancellation, abolition of slavery of the Athenians and Land reforms. Eventhough most of the Draconian laws were overhauled later, his homicide laws were continued and was the law even till 300AD. The Greeks also had laws to adjudicate disputes between states, external arbitrators and even maritime laws. External arbitrators would show the advanced thinking of the Greeks , their principles of democracy and the concept of the republic nation. Jury system was the norm although the numbers in the jury could be in thousands and hearings held in stadia depending on the stake of the matter. These large juries in turn promoted persuasion through rhetoric and oratory as methods of advocacy.

In the seventh century BC, due to overpopulation and famine, Greeks began to explore for new ports and began to settle in various coastal towns of Italy, the eastern coast of the black sea and Eastern Libya and even France. These included settlements in Sicily and the southern part of the Italian peninsula. The Romans called this area 'Magna Graecia' Or 'Great Greece'. Thus Greek culture through language, religion and the most important concept of ' polis' meaning city or

citizen was exported. Hellenic civilization interacted with the natives. The Greek alphabet was adopted by the wealthy and refined Etruscans (southern Tuscany and Umbria) evolving into the Latin alphabet or the widely accepted Roman letters which include the English alphabet. The new Hellenic cities of Naples and Syracuse, part of Magna Graecia became rich and powerful. In the third century BC there was a conflict over a naval treaty violation between Rome and Tarentum, a Magna Graecian city who was supported by the Greek ruler Pyrrhus of Epirus. These conflicts were known as the Pyrrhic wars (remember Pyrrhic victory-the phrase derives from the fact that though Pyrrhus was the victor in the battles of Heraclea and Asculum he lost such a lot of men including his principal commanders in the battle and could not replenish them whereas the Romans were able to recruit easily from a steady supply of young battle ready men) and involved the Romans, Etruscans, Tarentum, Carthage and other cities of Magna Graecia leading to the realization by the Hellenistic kingdoms that ancient Greece could not protect the Hellenistic Kingdoms leading to Roman dominance and the absorption of Magna Graecia into the Roman republic.

The first legal text of the Romans dated 450 BC is the Law of the twelve tables. The plebeian tribune wanted the laws to be written down in order to prevent the magistrates from applying the law arbitrarily. After a long struggle of eight years they convinced the patricians to send a delegation to Athens to copy the Laws of Solon. Likewise they sent delegations to other Greek cities and ten Roman citizens were appointed with Supreme political power (Imperium) to record these laws. The powers of the magistrates were curtailed at this time. Many scholars believe that sending an official delegation by Rome to Greece was unlikely and the Romans acquired these From the Greek cities of Magna Graecia.

Athenian democracy and Roman administration became the foundation of Roman law. In 43 BC Julius Caesar arrived on the

shores of Britain and around 43 AD the Roman General Agricola began the systematic annexation of Britain. For the next three and a half centuries Britain came under Roman occupation and was under Roman Governorship as an important province. Rome had a garrison of 30000 soldiers and it continued for the next few centuries till they were withdrawn to defend the northern parts of Italy from invasion. Rome was never ousted by Britain because it was Rome that gave up Britain. Roman town planning, temples, schools for the children of nobles and bath houses were the contributions. Latin was used in many courts. The law of wills, land ownership and Teutonic procedure were Roman contribution.

The next phase of Roman influence in Britain came as a form of evangelization. Eventhough Emperor Constantine had declared Christianity as the official religion in 325 AD it had not seeped into Britain. It took the arrival of St Augustine in 596 Ad with 40 Benedictine monks in Canterbury for the Romans to establish connection with the British tribesmen. He established a monastery there and his most famous convert was King Ethelbert of Kent who permitted him to preach anywhere in his land. Augustine who became the first Archbishop of Canterbury was sent by Pope Gregory the Great who was eminent in Roman law and jurisprudence and it was this influence that made King Ethelbert write and codify law which was till then oral and customary. The presence of Roman clergy in Britain helped them develop a proper public administration and taxation on the basis of assessment. The clergy had a new law for their protection which gave the origin to the law of status now known as the law of persons.

The Roman law blended with Anglo Saxon, Norman and common law is what we now see as the most widely accepted method in Anglo-American and Anglo-Indian jurisprudence and is definitely a tried and tested process as it has its roots based on the rights of the citizenry from a very ancient civilization who gave this concept to the world. We see how

mythology, superstition, politics and religion have all in great measure contributed to the legal culture in countries where the rule of law is prevalent.