FROM AN ENGLISH OFFICE WINDOW

Money

"At the present time there are millions of persons of comparatively humble position, who have put their savings into a savings certificate, war bonds and so forth. Persons of that kind in ninety-nine cases out of a hundred refer to these investments of theirs as their 'money' and would so describe them if they attempted to dispose of them by a home-made will—as no doubt many of them will—with the result that they would succeed in dying intestate with regard to their savings." (Greene M.R., *In re Morgan*, [1942] 1 Ch. at p. 346.) This is the effect of the definition of "money" invented by the courts and adopted in a catena of decisions. Miss Morgan made her own will and directed that "all moneys of which I die possessed of shall be shared by my nephews and nieces now living." Her estate consisted of investments, cash at the bank, dividends received or accrued due, rents prior to her death, a proportion of rents payable on property of which she was life tenant, some income tax repayments to which she was entitled, household goods, and some freehold properties, including those specifically devised. The Court of Appeal felt bound by the rule that, the words do not cover either the investments which are, of course, things which can be expressed in terms of money, or the freehold not specifically disposed of, or the household goods. In doing so they recognized that they were defeating the intentions of the testatrix, and the Master of the Rolls went so far as to say that the result is "a blot upon our jurisprudence." He invited an appeal, and the House of Lords have applied the fundamental rule in construing the language of a will to give to words the meaning, having regard to its terms, intended by the testator. The Lord Chancellor traced the development of the use of the word "money" (*The Times*, 26 Jan. 1943) even to the extent that it might be used to cover the whole of an individual's personal property. This might be a popular as distinguished from a "legal" meaning but in interpreting a will, especially a home-made will, it might be the more important of the two. Accordingly the House of Lords which included Lord Atkin, Lord Thankerton, Lord Russell of Killowen and Lord Romer, decided that the bequest of all moneys of which the testatrix died possessed included all the net personalty of her estate. This interpretation may be embarrassing to lawyers drafting wills who naturally seek to use words in their legal meaning, but it is an example of

a wholesome desire, evinced more than once lately, on the part of the courts to keep abreast with modern thought and rescue law from shackles which tend to make it unacceptable to the general public.

War Crimes.

As the outrages perpetuated by the Germans develop in ferocity and extent there is an increasing measure of concern that there shall be adequate retribution. The subject is complex and there are varieties of opinions from the legal point of view, as well as those which exercise the mind of the ordinary layman. The subject is really too extensive to be dealt with in these communications which cannot pretend to do more than draw attention to matters of current interest. But it may be worth while to give the impressions of an important discuussion in which I was privileged to take part. The representatives of the Allied Nations, especially of the smaller, naturally feel strongly on this subject, and evidence is being accumulated as so to provide something in the nature of an indictment against particular persons. There is a body working upon the subject in which they are strongly represented, and it appears to lean towards the constitution of some kind of Inter-Allied Criminal Court,—the Lord Chancellor has depreciated the use of the word "international" in this connection. The suggestion is that the Court might have divisions sitting in the countries where the crimes were committed, though it is admitted that these might not always be convenient nor practicable when the accused had committed crimes in several countries. After listening to one of the most eminent of the foreign jurists in favour of this scheme I was impressed that he dismissed the argument for a military court on the ground that it would be less expeditious. Apparently that has been his experience in his own country, but there has been nothing in this country in the present war to justify that contention. Even prisoners tried for treason in the civil courts and exercising all their rights of appeal have received the due punishment for their crime within a short period of time. The Lord Chancellor in a debate which took place in the House of Lords on 7th October clearly seems to lean towards action by the military courts as being more simple and expeditious than any other form of procedure. Whatever prospects there are of bringing the criminals to justice are in the hands of the fighting forces. Practical considerations must control the decision if anything is to be accomplished. Any objection that the military tribunals are outside the scope of the law is completely answered

by reference to the Manuel of Military Law and the corresponding volumes in use in the Dominions and the United States. It is fair to add, however, that the foreign jurist who spoke on behalf of his colleagues studying the subject did not examine the arguments in favour of the military courts, but took the sole objection that they would involve delays and based his proposals upon obtaining judicial punishment after the fighting is over.

Thr National Trust.

News of the noble gift by Lord Astor by Lord Astor of the Cliveden Estate, where the Canadian Red Cross have a fine hospital, with a monetary endowment for its upkeep, will have reached your readers through the lay press. A note may be added, however, about the legal procedure adopted to maintain such gifts in perpetuity for the public use, as war time taxation is leading to its extended use.

Miss Maberly Bell's recently published life of Octavia Hill describes the conditions under which nearly sixty years ago it was proposed to found a body to accept, hold, preserve and purchase open spaces for the people in town and country. The difficulty was to find a name which would make an appeal, and on a memorandum dealing with the subject Sir Robert Hunter, Solicitor to the Post Office, who advised her as a friend on the legal aspects, scribbled "National Trust." Octavia Hill threw herself into the formation of the Society, which, as Sir Reginald Rowe has testified, "now plays so notable a part in saving from the building speculator and preserving in perpetuity for the common use and benefit such beautiful stretches of country", and so, "owes its origin largely to her efforts and her passion 'for the healing gift of space'."

The work developed and in 1907 the "National Trust for places of historic interest or natural beauty" was incorporated by Act of Parliament (7 Edw. VII, c. 36) and is the only philanthropic body to receive statutory powers exercisable beyond some particular district. Its powers are comprehensive and are to preserve the natural aspect and features of the land and the animal and plant life thereon as far as practicable. The estates may be managed and maintained either alone or jointly with other bodies or persons as open spaces for places of public resort and buildings for public recreation, resort or instruction. Thus there is full power for Cliveden to be used for promoting friendship and understanding between the peoples of Canada and the other Dominions, the United States and Great Britain and other

causes which the donors have at heart. The practical advantage to the donors is that where the whole estate is indefeasibly vested in the National Trust the Treasury may remit the death duties (21-22 Geo. V, c. 28, s. 40) though the donor and his family after him may remain in occupation as tenants, as the nation benefits by the endorsed preservation of the beauties of the estate.

The Beveridge Report

The programme of social security contained in the Beveridge report has raised an interesting point as regards its similarity with other schemes which are in operation or may be adopted be the United Nations. There may be analogous proposals put forward, especially by the Dominions and the United States, to embody the principles of the Atlantic charter, but the actual legislation containing them vary a good deal and oftentimes to a quite unnecessary extent. There seems to be work for a body like the Commissioners on Uniform State Laws in the United States to undertake active measures to secure uniformity, or the Canadian Commissioners who are engaged in similar work. But there is no body with the same plan of operation in England. The General Council of the Bar does not function in the same way as the Bar Association sof Canada and the United States, so that they have not the same interest in the subject. In some respects, however, the work which might be undertaken has been receiving the attention of the Law Reform Committee appointed by the Lord Chancellor. An extension of their terms of reference might be feasible to cover uniformity of legislation in relation to the Dominions and the United States. Is not this a matter in which Canada might take the initative, since the practical experience of the Dominion might carry conviction of the value of this undertaking to those primarily concerned in this country? While a variety of proposals are under consideration for welding together the component parts of the British Empire in some union with the United States we might have at hand an effective weapon which can be welded without infringing upon the individual liberty of any one part.

MIDDLE TEMPLAR