FROM AN ENGLISH OFFICE WINDOW

Gift to Canadian Bar Association

Sir Norman Birkett is making a gift to the Canadian Bar Association which is leaving in time to be available for the use of the Chairman at the Annual Meeting in Winnipeg. It consists of a wooden mallet with stone base from the ruins of the Temple Church. The interior of the Church was so completely burnt out that it was only with the greatest difficulty possible to find a piece of wood large enough to provide a mallet. Even that was so charred that there is still a small spot showing its condition. It came from the pulpit which was put into the Church just a hundred years ago at the time of the extensive internal restoration. A small plate records that it is “presented by Sir Norman Birkett”. The stone has been left as far as possible in its original condition as it came from one of the windows when the building was shattered. The inscription states “from the Temple Church destroyed by German action May 10, 1941”. The one bright spot in the present sad picture, of which this present gives a glimpse, is that the west doorway, which was undoubtedly part of the original building dating back seven centuries, is still intact.

Service Pensions

There has been a good deal of anxiety in the country, which has found expression in the House of Commons, about the terms of the pensions to the members of the various forces and their dependants as well as mercantile marine, civil defence workers and civilians who have been injured by enemy action. These have been allayed to a considerable extent by a new Royal Warrant setting forth revised conditions which has been accompanied by Parliamentary provision for Pension Tribunals. Under pressure the Attorney General introduced a provision which was not contained in similar legislation in the previous war. Although the tribunals have a legal chairman the new Act gives an appeal to a judge of the Supreme Court nominated by the Lord Chancellor for the purpose if the appellant or the Minister “is dissatisfied with the decision as being erroneous in point of law.” This allays anxiety of those who are concerned about the powers given to administrative tribunals though one would have thought that while the Government were about it they might have gone the whole hog and given an appeal to the Supreme Court. However
half a loaf is better than no bread and the other new feature is even more welcome. When leave is given and an appeal on a point of law is taken to the Court, so it was described by the Attorney General, “whether the proposal is initiated by the man or the Minister, the State should pay the cost of both sides.” This is an interesting extension of a procedure to which I have had occasion to refer previously in these notes. (20 Can. Bar Rev. at p. 708.)

**Fair Comment**

The *Daily Telegraph* has gained a satisfactory victory in the courts in the assertion of the freedom of the press to comment upon matters of public interest. They published a letter referring to a broadcast entertainment given on Sunday evenings which was described as “an insult to British intelligence”. The type of humour consists of a vulgar exchange of abuse. One comedian alludes to the other as “a louse” and his chief contribution is to say at intervals “I’m laughing me blooming ead off”. The letter containing more to the same effect, was signed as if coming from a vicarage in Winchester and was printed in good faith by the *Daily Telegraph*. Its statement on that point was accepted by the plaintiffs though the whole name and address were fictitious. The writer of the letter was never discovered and therefore was not sued. Hilbery J. was much impressed by these facts and gave judgment for the plaintiffs, although he only awarded £5 damages. The Court of Appeal have overruled him and Scott L.J. held that the letter in no way exceeded the bounds of fair comment on a matter which was one of public interest and that on the facts in evidence there was nothing to destroy the defence of fair comment. So the result would have been the same if the writer had been available. Nevertheless it is useful to know that a journalistic practice in creating correspondence does not prejudice the position of the newspaper.

**The New Silks**

The Lord Chancellor announced that the creation of some new “silks during the war had become necessary in the interests of the administration of justice”. Mindful of the fact that only two, now Lord Wright and Lord Justice Mackinnon, were created during the war of 1914-1918 the Bar had expected quite a short list, so when it was found to number twenty-four there was some surprise. The number was made up by several non-practising
lawyers including two whose names are probably the best known of any of them to the readers of the C. B. R. They were Professor Goodhart and Dr. Winfield who have been given the rank of King's Counsel in recognition of the importance of academic teaching of law.

**Insemination**

The House of Lords have a procedure by which any matter of public interest can be raised by a member "moving for papers." Lord Brabazon took this course and initiated a discussion on the subject of artificial insemination, in which he said that there were ten thousand applicants among childless couples in the United States—he is not reported to have stated during what period—for the wife, rather than adopt a child, to be inseminated by an unknown father. It is difficult to know to what extent, if any, the practice is growing in England, but the medical men are certainly concerned to know what is the legal position of themselves and the parties. One peer thought that research on the subject might be associated with the problems of sex determination. Another desired to abolish the use of the term "illegitimate child" as a gross injustice to innocent children. Lord Bledisloe hoped that we in this country would do everything possible to discourage a process which could only in the long run tend to break up family life. Others agreed with him. Replying on behalf of the Government the Duke of Norfolk as Parliamentary Secretary to the Ministry of Agriculture said that when the human side as distinct from the animal, with which he is concerned, became a live issue (the humour of the metaphor appears to have passed over their lordships) no doubt the Minister of Health would consult the Lord Chancellor about the legal problems raised. Under the existing law the presumption is that the child is the legal offspring of the woman and her husband unless there is evidence of non-access such as when he is abroad on active service, but that would hardly be the case if the procedure is followed as laid down by a report of the American Medical Association in 1936. A form of document was recommended to which the signature of the husband and wife are affixed and attested before a notary and each party retains a copy. Other precautions were suggested such as that the surgeon who does the artificial insemination, should in no case become the obstetrician at the birth of the child. Frequently the husband requests that the donor may be a brother or relation so that the resemblance of the family likeness may be preserved. But
this was not considered desirable as, among other reasons, where there is a question of inheritance involved the fact might lead to complications. But before proceeding to the legal aspects it seems as if the whole basis of this admittedly artificial procedure needs examination. It is not based necessarily upon the assumption that the husband is impotent, and if so, what possible justification can there be for it?

MIDDLE TEMPLAR.