FROM AN ENGLISH OFFICE WINDOW

Legislation of the Session

The legislative output of Parliament up to the time of the summer adjournment has been small and contains no measure of conspicuous importance. Another Act similar to that dealing with unemployment in 1940 has been passed in response to an address to His Majesty from the Senate and the House of Commons of Canada in Parliament assembled. This one authorises the postponement of the redistribution of seats in the Dominion in accordance with the census of 1941 "until the first session of the Parliament of Canada commencing after the cessation of hostilities between Canada and the German Reich, the Kingdom of Italy and the Empire of Japan." Earlier in the session there was a consolidation of the Courts (Emergency Powers) Acts which is some help, though the statutory rules and orders still provide a maze for litigants and their advisers.

A useful piece of law reform has been effected in the Law Reform (Frustrated Contracts) Act incorporating recommendations made by the Law Revision Committee presided over by Lord Wright in 1939. Reference was made to *Chandler* v. *Webster*, [1904] 1 K.B. 493, a case which arose owing to the postponement of the Coronation of King Edward VII, *Lloyd Royal Belge S.A.* v. *Stathatos* (1917), 33 T.L.R. 390 and *Civil Service Cooperative Society* v. *General Steam Navigation Co.*, [1903] 2 K.B. 756, to illustrate the harshness of the rule that after a frustrating event the 'loss lies where it falls'. It was pointed out that the doctrine is modern and is no part of the old common law. The new Act now provides that a man who had in principle to pay back a pre-payment should in the event of frustration, be entitled to set off against the amount the expenditure, which he had already incurred in connexion with the execution of the contract. The other provision deals with the other party to the transaction and seeks to ensure that there should be payment for fair value of any benefit enjoyed. The measure was warmly welcomed on behalf of the business community.

Evacuee Guests

The legislation in Canada and other Dominions for the care of children, who were so hospitably received out of the dangers here has been noted in this country with much appreciation.

In the same connection the Court of Chancery has just had an interesting case (*In the matter of D. Infants*, 59 T.L.R. 354). Four children, all of tender years, were brought to this country from Germany on 26 July, 1939. Their parents, German subjects of the Jewish persuasion, are still living. It is believed that they have escaped from Germany into Italy. There is a general impression that the Court only has jurisdiction where there is property but Bennett J. was satisfied that the need for protection is sufficient to enable the Court to exercise its jurisdiction. He was able to act upon the authority of a judgment given just a hundred years ago by Lord Langdale that the Court of Chancery has power to appoint guardians for any infant residing in England (*Johnston* v. *Beattie*, 10 Cl. & F. at p. 145).

Continuous Lunches

A trifling incident but significant of present conditions is the continuance of lunches in the Inns during August and September. The Courts have not actually risen for a vacation though there will be a new term, so members of the Bar are still available. The Inner Temple Hall is completely destroyed but there is the modern Niblett Hall which is standing complete in the midst of ruins. It is remarkable how some buildings have escaped in this way. I had lunch recently in the hall of a City Company which is surrounded by rubble. The Niblett Hall is normally used in connection with the educational work and has sufficient accommodation so that the Benchers can lunch in the same room with the members of the Bar and students. Before the war there was usually a break in the provision of lunches for about six weeks. An incidental advantage of the present arrangement is that it provides much needed accommodation as, owing to the destruction in the neighbourhood, all catering and refreshment places are crowded in the middle of the day.

Discipline of the Medical Profession

Although the statutory powers of the disciplinary bodies controlling the medical profession in Canada are not precisely the same as those of the English General Medical Council they are sufficiently analogous to make it worth while to refer to a case upon which the House of Lords delivered a reserved judgment at the end of term (*General Medical Council* v. *Spackman*, The Times, 6 August, 1943). The Council's powers and duties in respect to removing a name from the medical register are laid

down in s. 29 of the Medical Act, 1858. One part of the section deals with cases where the doctor has been convicted before a criminal court and is distinct from the other in which the allegation of infamous conduct is not connected with a criminal conviction. Dr. Spackman had been respondent in divorce proceedings and on his behalf it was desired to call additional evidence not presented to the Divorce Court in support of statements made by him at the trial. It was contended that the Council were under an obligation to hear the evidence as their decision could only be reached "after due inquiry". The question therefore was, said the Lord Chancellor, "whether the Council in the present case could be regarded as having reached their adverse decision "after due inquiry" when they had refused to hear evidence tendered by the practitioner to show that he had not been guilty of the infamous conduct alleged and that the finding of the Divorce Court against him as co-respondent was wrong." The decree of the Divorce Court provided a strong *prima facie* case which threw a heavy burden on him who sought to deny the charge, but it was not irrefutable. The Lord Chancellor drew attention to a standing order of the Council prescribing the procedure to be followed — namely "the practitioner will then be called upon by the president to state his case, and to produce the evidence in support of it." The House of Lords accordingly dismissed the appeal from the decision of the Court of Appeal that "due inquiry" involves at least a full and fair consideration of any evidence that the accused desires to offer and, if he tenders them, the hearing of his witnesses" ([1942] 2 All E.R. 150). The point is a new one and might relate to proceedings other than in the Divorce Court as *e.g.* a verdict of justification in proceedings for slander, judgment for the plaintiff in an action for seduction or a bastardy order made by a bench of magistrates. The decision certainly increases the responsibility of the General Medical Council which has neither the power to compel the attendance of witnesses nor to take evidence upon oath.

Hudson's Bay Company

Sir John Clapham in the latest volume of the Minutes of the Hudson's Bay Company 1671—1674 (published by the Champlain Society of Toronto) ascribes to James Hayes of Beckington Somerset and Lincoln's Inn a considerable part in the promotion and development of the Company. He was admitted to Lincoln's Inn on 17th October, 1649 and on the 12th February, 1666, according to the minutes of the Inn, being

on the sodaine engaged to attend Prince Rupert in the quality of a secretary, had leave given to him by the Benchers to dispose of his chamber. Some years before, on 18th February, 1638, Sir Antony Ashley Cooper, Bart., as he then was, had been admitted to the Inn. His constant care for the welfare of the Company as chairman of the managing committee is duly recorded in the minutes and as his position in the State reached eminence the Benchers of the Inn on 28th January, 1673, resolved:

> "WHEREAS it hath been accounted the greatest respect which this Societie can expresse to persons of greatest honour, members of this Societie to call them to be Masters of the Bench, wee therefore do nominate and declare the right honourable Anthony Earl of Shaftesbury Lord High Chancellor of England a most honourable member of the Societie to be one of the Masters of the Bench of this Societie of Lincoln's Inn".

Among other men sufficiently important in the work of the Company to have separate biographical notices in the editor's additions to the volume was George, Duke of Albemarle who was specially admitted to Lincoln's Inn on the 4th March, 1664, by the Reader. Another was Henry Bennet, Lord Arlington, who was one of the first to take stock in the Company, though he did not maintain his interest. He was also admitted to the Inn on the occasion of a reader's feast on the 5th August, 1669, when that office was held by the Recorder of London, Sir John Howell. In the following year on August 2nd, there was admitted under similar conditions Sir George Carteret who took a long and close interest in the Company and became its deputy-governor. Finally may be noted the association of the Governor, Prince Rupert, with the Inn as he was in the company on the notable occasion when Charles II admitted himself to membership and "followed this great and highest example". Altogether the association of the Hudson's Bay Company with Lincoln's Inn may be regarded as analogous to that of the Virginia Company with the Middle Temple, though not perhaps on the same scale, as the latter held its meetings in the Inn and had other close relations with it.

MIDDLE TEMPLAR.