

FROM AN ENGLISH OFFICE WINDOW

Foreign Broadcasting at Elections

Sir Cecil Carr and a dozen colleagues have been dealing with a number of problems relating to electoral law reform, including points which were raised by a Conference under the chairmanship of the Speaker of the House of Commons. Among the latter was a suggestion to prohibit a British subject from broadcasting matters affecting a parliamentary election from wireless stations outside the United Kingdom. It raises some entertaining questions. First of all is there going to be an available record of the offence? At present the B.B.C. maintains a "monitory" system whereby foreign broadcasts are recorded but will that be continued in peace time? Will a jury be satisfied with witnesses' identification of a voice?

The prohibition contains intriguing possibilities. It might even catch a British Prime Minister or other eminent political figure who, while attending an international conference on the Continent, might legitimately wish to address his constituents or the electorate.

As the offence is to cover persons who "promote or aid in promoting foreign broadcasts" the offender might not be a British subject. On the other hand the offence might be committed by British subjects who have never left our shores and without the foreign broadcast ever actually taking place.

The Committee observe that "those who would be concerned with the enforcement of the law may be expected to show no enthusiasm for the creation of a criminal offence which it is awkward to bring home to the offender, when the object of the enactment may be mainly or entirely its deterrent value". As an example of legislation which may have a deterrent effect though rarely put into operation the Committee refer to the Public Order Act 1936 (1 Edw. 8 & 1 Geo. 6 c. 6) which had similar objects and was enacted to put an end to the mischief of uniformed processions, and similar practices. It would be possible to extend it to a restriction on sending of matter from this country either by telephone line or by wireless transmission to an oversea station for re-broadcasting to Britain.

Another measure which has a useful bearing on the subject is the Representation of the People Act 1918 (7 & 8 Geo. 5, c. 124, s. 38) in which provision is made for the punishment of offences

in connection with elections by persons outside the Kingdom and prescribes that proceedings may be taken as from the date upon which the person returns to the United Kingdom.

The possibility of an international understanding on the lines of the Convention on the Use of Broadcasting in the cause of Peace signed at Geneva in 1936 and ratified by the United Kingdom in 1938 was not overlooked by the Committee.

Finally the House of Commons might investigate the matter on the ground of privilege though, of course, during the progress of a general election there would be no Parliament in existence.

Contributory Negligence

The Lord Chancellor in introducing a bill to deal with the law of contributory negligence explained that it proposed to substitute for the common-law rule principles which had been in operation since the Maritime Conventions Act, 1911, in the Admiralty Court in reference to collisions at sea. They correspond with those which are familiar to Canadian lawyers in the measure promoted by the Commissioners on Uniformity of Legislation which has been widely adopted in the Dominion. It is notable, however, that a contributor to the *Law Journal* (vol. xcv. at p. 69) in examining its provisions refers to it as assimilating the law with that of "at least some European countries" without any mention of the Dominions. The Bill has had a calm passage through both Houses of Parliament.

The Channel Islands

Lord Justice du Parcq in making a broadcast appeal for the work of the Channel Islands Refugee Committee said that they had "marvellous help from all over the Empire, especially Canada." As a Jersey man he has felt acutely the sufferings of the islanders. Thirty thousand of them had to take refuge in Great Britain. Most of them could only bring what they could carry in their hands. Three thousand of them were school children whose mothers were to have followed them but were trapped by the invasion. Many adults are, of course, in employment, but there is need to supplement the Government provision for the children and old people. Last year the bills for clothing amounted to £18,000 and £1,200 had to be spent on the repair of boots and shoes. In front of the Committee, possibly not far away, lies the task of repatriation, in which assistance beyond the bare provision made by the government will be a generous gesture.

The Islands will undoubtedly build up again their fine system of government of which some particulars were given in a previous note (22 Can. Bar Rev. p. 694). Their relationship to the government of the United Kingdom might form a useful study in connection with the problem of Newfoundland. Any Newfoundlander who knows the sturdy independence of the Jerseyman could never be nervous that to establish a similar attachment could have a serious effect upon the autonomy of the island.

Woman Police Magistrate

Miss Sybil Campbell, O.B.E., is the first woman to be appointed as a stipendiary magistrate in a Metropolitan Police Court. She was senior student at Girton College, Cambridge, in 1912 and was one of the first batch of women to be admitted to the legal profession. She was called to the bar by the Middle Temple in 1922. Before that, during the years of war, Miss Campbell did excellent work in the Ministry of Food and was called back to that Ministry in the early days of this war. Her particular work has been in connection with the suppression of the Black Market. Between the two wars she was employed with the Ministry of Labour upon trade boards and was Metropolitan Chairman of Courts of Referees for that Ministry but has had little opportunity to practice at the bar. A man who had followed the same career would not be thought to be equipped for the post of police magistrate, which is generally filled by men with the experience of her predecessor Mr. Arthur Morley, O.B.E., K.C., who has been recorder of Sheffield and Leeds after having had years of work in criminal cases. The Home Secretary has explained that the appointment has been made as a recognition of a woman's ability but without being unchivalrous the legal profession have not acclaimed it as maintaining the standard of qualifications for the office. On the other hand a member of the Canadian Bar who has had opportunities to see the work of the magistrates' courts considers that it is a good thing to give a chance to a woman with this kind of experience as she cannot possibly be worse than some of the men on those benches!

Damages for Shock

It is with apologies that any contributor approaches a subject which has been dealt with so fully and with so much brilliance by the learned Editor (see 21 Can. Bar Rev. pp. 65

et seq.). It is legitimate, however, for an English correspondent to note that the importance of Dr. Cecil Wright's contribution to the discussion has been appreciated in this country by Professor Goodhart in an illuminating article in the Cambridge Law Journal (vol. viii pp. 265-273). Moreover there are later developments which are of some interest in the same connection.

Provision has been made in the Personal Injuries (Emergency Provisions) Act 1939 c. 82 as amended by the Pensions (Mercantile Marines) Act 1942 c. 26, s. 5 and as at length set out in the Personal Injuries (Civilians) Scheme S.R.A. 1944 No. 369 for the victims of enemy action. Under these measures, to which attention has been drawn in another connection (23 Can. Bar Rev. p. 155) disablement in reference to such persons means "physical or mental injury or damage, or loss of physical or mental capacity". The legislation has been carefully considered in *Young v. Minister of Pensions*, [1944] 2 All. E.R. 308.

On September 25th, 1940, Miss Y. was in an air raid shelter not far from her home in Hampstead. On returning to her residence she was greatly shocked to find that her home had been damaged and as a result a previously existing nervous condition was aggravated and she had to receive hospital treatment. Her previous condition was due to X-ray treatment for the purpose of causing an artificial menopause and as a result she had become highly nervous and hysterical. The Pensions Tribunal to whom the claim went in the first instance found that there had been an aggravation of her existing nervous condition. Tucker J., however, was clear that her aggravated condition was not caused by "the discharge of any missile . . . or the use of any weapon, explosive or other noxious thing; or the doing of any other injurious act . . . or . . . by the impact on any person or property of any enemy aircraft" within the meaning of the Personal Injuries (Emergency Provisions) Act 1939, s. 8. He thought that the mental disturbance brought about by the sight of bombed property is too remote to amount to a cause within the meaning of that definition. "What the case finds" he added "is that the hysteria, which was an after effect of the treatment and the organic change, is not itself an organic disease but is a functional disorder, and I find it quite impossible to say that in coming to that finding the tribunal have in any way erred in law" (*ubi sup.*, at p. 319).

In this case the lady had not been gainfully occupied but having regard to the loss of earning capacity suffered by some who have been the victims of various types of 'incidents' the

tribunals, and on points of law the Supreme Court, are likely to have a number more of these problems.

Legislation in quite the opposite direction to that of the English War Injuries measures has been passed in the State of New South Wales in a Law Reform (Miscellaneous Provisions) Act which received the Royal Assent on 8th December 1944. Any person who by neglect or default causes the death or injury of any other person now also has a liability for injury arising wholly or in part from mental or nervous shock sustained on the occasion by a member of the family, which means "the husband, wife, parent, child, brother, sister, half brother or half sister of the person in relation to whom the expression is used". Parent includes further, mother, grandfather, grandmother, stepfather, stepmother and any person standing in *loco parentis* to another. Child includes son and daughter, grandson, granddaughter, stepson, stepdaughter and any person to whom another stands in *loco parentis*."

This Act follows the South Australian Wrongs Act Amendment Act No. 18 of 1939 s. 6, and confirms the decision of the Privy Council in *Victoria Railway Commrs. v. Coultas*, 13 App. Cas. 222, which, as Dr. Wright observed "has been a source of difficulty to Canadian Courts" (*loc. cit.* at p. 66). The Australian legislation seems to have still further complicated the position.

MIDDLE TEMPLAR.