

FROM AN ENGLISH OFFICE WINDOW

Clifford's Inn

Clifford's Inn was formerly one of the eight Inns of Chancery attached in a not very clearly defined relationship to the four Inns of Court. The property was located close behind the church of St. Dunstan's in the West in Fleet Street. When an Act was passed in 1829 to take down and rebuild that Church compensation amounting to £5,000 was paid to the Principal and used for the improvement of the remaining portion of the Inn. In ancient times Clifford's Inn was attached to the Inner Temple. Their interest was exercised by the appointment of **Readers** for the instruction of students. Just about one hundred years ago they ceased to take even this amount of concern in its affairs. Except for the purposes of residence there was no reason for the continuation of the membership, so that by the end of last century it had dwindled to sixteen members, of whom five desired to dispose of the property and divide the proceeds for their personal benefit. The history of the Inn may be found in the record of the proceedings in the Court of Chancery (*Smith v. Kerr*, [1900] 1 Ch. 511). Cozens Hardy, then a judge of first instance, held that under the conveyance of the property by the Earl of Clifford in 1618 there was created a charitable trust for the purposes of legal education. The judgment was affirmed by the Court of Appeal [1902] 1 Ch. 774 who were satisfied that the accounts of the Inn given by Sir John Fortescue, Lord Coke and Stowe, the historian of London established beyond a doubt that the Inn had been a school of learning.

After the fire of London Sir Matthew Hale and other judges sat in Clifford's Inn to adjudicate upon the claims of landlords and tenants of destroyed property and to deal with other matters arising from the effect of the conflagration.

Somewhat late in the day the Inner Temple applied to the Court to intervene and be allowed to participate in the proceeds of the sale. Farwell J. held that the Inner Temple had no paramount right to be regarded as persons in the position of Trustees. The point which told against them was that for more than half a century they had taken no interest in Clifford's Inn. Anyway it could make little difference as the Attorney General settled a

scheme for the money to be used for legal education which was approved by the Charity Commissioners.

Clifford's Inn has been represented in recent years by a block of modern flats and offices in Chancery Lane. The freehold, with the exception of the Hall has now been purchased by the Legal and General Assurance Society so that the association with lawyers is now secured in perpetuity.

Cutting out the Dead Wood

Once again the need for the consolidation of the law is receiving public attention. Mr. John Maude, K.C., M.P., put forward a plea in *The Times* to cut out the dead wood especially in the criminal law. Something has been done in recent years by means of what is known as the expository schedule of subjects covered only by a comparatively small amount of legislation. Amending provisions are printed in a schedule as inserted in the original. Better still is the procedure adopted for the Army Act which has the original text with amendments inserted in it. Nevertheless large masses of legislation remain without any kind of consolidation. This involves an enormous unnecessary expenditure of time especially where individual citizens have occasion for reference to the law. The Income Tax Acts provide a leading example. Parliament has never found time to carry out the recommendations of Lord Macmillan's Committee on the consolidation of the law which reported fifteen years ago. The Inland Revenue authorities have stepped into the breach and produced a convenient working volume with revisions which are being kept up to date. Typographical devices have been used to facilitate reference. But this cannot be quite so satisfactory as a legislative enactment.

It is not only in the realm of public law that difficulty is experienced through an accumulation of legislation. The local authorities find that their work is hampered by the mass of material to be examined and the members themselves appreciate the difficulties for the officials and all who may have relations with them. A valuable lead has been given by Middlesex County Council, which, in spite of all the difficulties of war time, succeeded in passing a consolidation Act through Parliament in 1944. The Act has now been published in an edition annotated by Sir Harry Pritchard, whose eminence as a solicitor in local government law and practice is second to none.

Middlesex is one of the smallest counties in area in Great Britain and one of the largest in population. Its rateable value of £22,000,000 is larger than that of any other administrative county outside London. During the past fifty years sixteen local Acts of Parliament had been passed to regulate its affairs. They are now in one compact measure of 482 sections and eight schedules covering a wide variety of subjects. If it is worth while for a local authority to devote the time to cutting out the dead wood in this way it is obviously just plain common sense for Parliament to do the same, especially when economy of time and labour is so important in the national interest.

Parental Authority

In the aftermath of the war comes a realisation of the loss occasioned by the absence of the father, especially in its effect upon juvenile delinquency. It may be, however, that legislation has done something to diminish the father's influence in the home especially owing to the indirect effect of laws enacting the equality of women. The Courts have shown more inclination to respect the position of the father as one well established in the common law of the country. "The law," said Brett M.R. in the well known case *In re Agar Ellis* (1883), 24 Ch. s. at p. 328, "does not interfere because of the great faith and trust it has in the natural affection of the father to perform his duties and therefore gives him corresponding rights." Or again (at p. 329) "the rights of a father are sacred rights because his duties are sacred duties". Bowen L.J. in the same case recognized that fathers make mistakes and that a wiser person might do something better for the child. Nevertheless he would not do anything to slight the authority of the father (*loc. cit.* at p. 339). This was the case in which the religion of the child was concerned as the father was a Protestant and he desired to restrain the child from intercourse with her mother who was a Roman Catholic. In this wish he was upheld by the Court. This line of thought has been recalled in the recent case of *Lough v. Ward* (173 L.T. Rep. 181) which attracted a good deal of public attention. A father sought and succeeded in restraining a religious community from retaining the custody of his daughter.

The influence of legislation has been shown by the Guardianship of Infants Act 1925 which has made the interests of the child the paramount consideration. So in *B——s settlement*, [1940] 1 Ch. 54 when a Belgian Court had given the custody of a girl

to her father and the mother had had the charge of her in England for some time the Court held that she should continue to have the care of her. In a more recent case (*M. v M.*) (1945), 62 Times Law Reports 12) Denning J. held that parenthood was the test upon which to decide a case and not legitimacy. The Court of Appeal have further asserted the father's right by reversing an order of Denning J. giving the custody of a child to his mother who had been divorced and had married a Czech, (*The Times* 16 Oct. 1945) with a condition that she should bring him back to school in England at the age of nine. The Court of Appeal thought it difficult to enforce the condition and in any case the child was a British subject, the son of a British father and entitled to be brought up in the British way of life.

Lincoln's Inn

Canada has established an indissoluble link with Lincoln's Inn as the headquarters of the Canadian Air Force have been housed for nearly six years in a building fronting on Lincoln's Inn Fields. On the morning of October 30th the Mayor of Holborn, Alderman W. R. Mullen accompanied by Air Marshall C. O. Johnson, commanding R.C.A.F. overseas, named this side of the square 'Canada Walk'. The building which was occupied by the Air Force stands immediately outside the principal entrance to the Inn leading to the Hall and Library of which the centenary of the opening was commemorated on the same day.

Queen Mary who was elected a benchler of the Inn *in absentia* owing to war time conditions paid her first official visit in that capacity. In beautiful sunlight she was received at the foot of the Library steps by the Treasurer, His Honour Hugh Sturges, K.C., and conducted across the garden where she planted a walnut tree to commemorate the centenary. Her Majesty is a great lover of trees and delighted a large gathering by shovelling seven spadefuls of earth over the roots of the tree with a silver spade. Afterwards she took tea with the Benchers in their Hall and signed the Golden Book which contains the names of members of the Royal Family and other distinguished people who have been admitted to membership. In doing so Queen Mary made use of the inkstand provided for Queen Victoria when she opened the Hall one hundred years ago. On that occasion the Prince Consort was admitted as a benchler as in those days there was no thought of a woman being received into the Inns. By electing Queen Mary Lincoln's Inn established another precedent as they did by the original precedent

of admitting a member of the Royal Family in the person of King Charles II. The Middle Temple have since followed it by admitting the Queen as an Honorary Benchers.

Although Lincoln's Inn is separated by a wall from Lincoln's Inn Fields, which, by an Act of Parliament in 1735, were placed under the control of a separate governing body, the whole forms one of those precinctal areas which are being preserved in the centre of London and in its midst is Canada Walk.

MIDDLE TEMPLAR.