

FROM AN ENGLISH OFFICE WINDOW

Charges Against Ministers

The disclosure to the House of Commons by the Secretary of State for Air in the Coalition Government that he had been guilty of irregularities in connection with an R.A.F. training school has led to an interesting discussion upon a question of some constitutional importance. He purchased parcels of pig food contrary to the pig-rationing order in a desire to help the R.A.F. service charities. The House of Commons accepted his explanation. The Prime Minister stated that he had himself investigated the facts and was satisfied that there was no ground for charges impugning the personal integrity of the Secretary of State.

Earl Winterton however raised the point that, when a charge was made by a member against the personal conduct of a minister with a demand for the appointment of a Select Committee, the Government was under an obligation to agree to an inquiry. Mr. Iwi, who has gained a reputation by well-informed letters to *The Times* on constitutional problems, has summed up the discussion in a useful contribution to the *Modern Law Review* (November, 1945). His contention is that the only matters the Government need consider are the nature of the charges and the available evidence. "In the absence", he adds, "of an absolute rule of the Law and Custom of Parliament, if the Government failed to pay regard to these requirements and agreed to a Select Committee being appointed, they would be failing in their duty to the House." In 1918 there was a precedent directly to the point when the Government refused to support a demand for a Select Committee arising out of charges in connection with the conduct of the war (105 H.C. Deb. 5s. 2347). On the other hand, when the Government refused in 1924 a Select Committee upon the question of their improper interference with the Attorney-General in the exercise of his discretion, they were defeated and the result was their resignation (177 H.C. Deb. 5s. 581). The position is that the Government remains master of its own conduct and the House itself, as master of the Government, is the final authority to decide the necessary action.

Cut Off With a Shilling

The meaning of the phrase, "to cut one's heir off with a shilling," is pretty generally understood, but its origin is not

as well known. It is submitted that it owes its origin to a famous will made just over two hundred years ago, which was the subject of litigation and legislation at the time.

Christopher Tancred was a wealthy Yorkshire landowner who was trained as a lawyer and took a very active part as a county justice. By his will dated May 20th, 1746, he actually left one shilling each to his five sisters in the following terms:

I give and bequeath to each of my sisters Catherine, Dorothy, Ann, Elizabeth and Ursula (or to such of them as shall be living at the time of my death) one shilling which is all I intend any of them to receive by this my last will or out of either my real or personal estates which is more than they deserve or can reasonably expect for what they have ever been towards me the most cruel and unnatural of all sisters and I firmly believe them to be the most self interested, most false and vilest of all women.

Tancred was a bachelor and before making this will he had established a trust to benefit :

twelve young persons of sixteen years of age or more, when admitted to the said charity. (Natives of Great Britain, of the Religion of the Church of England, and of such low abilities as not to be capable of obtaining the education directed by the said settlement, without the assistance of such a Charity as is thereby given). Four of which said Twelve Persons should be educated in the study of Divinity at Christ College in Cambridge, four of them in the study of Physic at Gonville and Caius College in Cambridge and four other of them in the study of the Common Law at Lincoln's Inn London which said sums of Fifty Pounds yearly a piece should be paid to the said twelve persons till they have taken their respective degrees of Batchelor of Arts, Batchelor of Physic and Barrister of Common Law and also three years after they should have taken such degrees as aforesaid and no longer; and that the said Twelve Persons should be ever stiled Tancred's Students.

The Trust is now administered by the Masters of Christ College and Gonville & Caius College in the University of Cambridge, the President of the Royal College of Physicians, the Treasurer of the Society of Lincoln's Inn, the Master of the Charterhouse, the Governor of the Royal Hospital of Chelsea and the Governor of the Royal Naval College, Greenwich.

In addition to the Tancred Studentships there are also scholarships for "the children of necessitous gentlemen, clergymen, or commissioned officers in the Army or Navy who are natives of Great Britain and of the religion of the Church of England". The Scholarships are tenable at any secondary school approved for the purpose.

The funds of the Trust also provide pensions for "decayed and necessitated gentlemen, clergymen, commissioned land or

sea officers of 50 years of age or more, natives of Great Britain and of the religion of the Church of England”.

The property of the Charity has been so increased by skilful administration that both the students and the pensioners now receive £100 a year. The list of those who have derived benefit from this Foundation contains notable names. Among the lawyers may be mentioned Lord Courtney of Penwith, Sir Edward Clarke, Solicitor General, Lord Wrenbury, author of *Buckley* on the *Companies Act*, Lord Justice Kennedy, Sir Anton Bertram, Mr. Justice Clauson and R. F. Barrington Ward, the Editor of *The Times*.

Busking

Henry Mayhew was one of that numerous band who have deserted law for literature. After becoming one of the founders of *Punch* and being for a time joint editor, he devoted himself to a study of the conditions of the poor, in which connection his name is still remembered. His work on *London Labour and London Poor* is a mine of information on conditions of life a century ago. It has provided for the Oxford English Dictionary the earliest example of the use of the word “busking”, which he defined as offering goods for sale only at the bars and in the taprooms and parlours of taverns. In a later edition he described it as going into public houses and playing, singing and dancing. In recent years this occupation has developed outside theatres as a means of obtaining money from the waiting audience. Unfortunately it is an occupation that appeals to a certain type of discharged service men, especially if they have some disablement. The police have been trying to put a stop to this nuisance by prosecuting a recent case under the Metropolitan Police Act, 1839 (2 & 3 Vic., c. 47), which forbids any one to “blow any horn or use any other noisy instrument” for the purpose of obtaining money or alms. The magistrate adopted a sympathetic view and described the practice as “pure blackmail”, but as busking has been winked at, if not actually allowed, he refrained from establishing a precedent until the magistrates as a body have agreed that the Act can be put into operation against this nuisance. The police are not in a position to support their action with what is perhaps the most forcible argument under present conditions. The country is agreed upon a policy of full employment and by no stretch of the imagination can busking be regarded as a profitable contribution to the national economy.

Christianity at the Crossroads

"To take up the subject of religion means treading on a tessellated floor, the mosaic pattern of which is wrought in up-ended eggs. It is a ticklish subject. But there is no getting out of it." So writes Mrs. Peat in a readable little volume with the title "Canada: New World Power" (Toronto: George J. McLeod Ltd.). She finds the same problem as we have in this country and which has been ably put forward by Mr. Richard O'Sullivan, K.C., in a broadcast address, "What is a Christian country?", now available in print. He establishes an association between law and religion. "The Civil Law of Rome", he writes, "was in origin a *pagan* system of law, designed to fit a community in which the mass of men and women were slaves The Common Law of England, on the other hand, is in origin a Christian system of law. Its principles were hammered out by lawyers and by judges in Westminster Hall, which has been called the forge of English justice The Common Law of England never worshipped the King nor admitted that his rule was absolute. It never rendered to Caesar the things that are God's. 'The King', said Henry of Bracton, 'is under God and the law'." "The Common Law", Mr. O'Sullivan contends, "in obedience to the Christian spirit, recognized the personality of Everyman; and boldly affirming that by virtue of his nature man is free, rejected the idea and the institution of slavery; which was declared to be against natural right and justice". The foundation of the law that governed the lives of individuals and the whole community was animated by Christian principles. But gravely Mr. O'Sullivan asks, "in the year of Our Lord 1945 is it any longer true to say that the law and institutions of the realm are fed and animated by Christian philosophy and the Christian faith". In the judgment of the House of Lords in *Bowman v. Secular Society, Limited*, [1917] A.C. 406, he finds the answer that England is now in essence a non-Christian or what is called a secular state. Legislation has undermined the Christian basis of marriage, which is the foundation of family life, until in the words of Lord Russell of Killowen "what was once a holy estate enduring for the joint lives of the spouses, is steadily assuming the characteristics of a contract for a tenancy at will" (*Fender v. St. John-Mildmay*, [1938] A.C. 1, at pp. 34 and 35). Modern legislation disregards the old freedom and dignity of human personality. If it must be admitted that a majority of citizens no longer adhere to the Christian faith and are no longer animated by Christian principles, then we have reached a turning point, which may well be expressed in the title of Mrs. Peat's chapter "Christianity at the Crossroads".