

FROM AN ENGLISH OFFICE WINDOW

MIDDLE TEMPLAR

Judicial Appointments

Whatever differences of political opinion there may be, there is general agreement among members of the Bar that the present Government deserve much credit for their judicial appointments. The selection of Lord Goddard for the office of Lord Chief Justice was a notable departure from precedent as his two immediate predecessors gained that position in recognition of their political services rather than their experience as lawyers. Lord Goddard served a long apprenticeship as Judge in the King's Bench and the Court of Appeal before he became a Law Lord. His return to the Courts of Justice in the Strand is cordially welcomed. It is understood that he hopes to mark his tenure of the office by reforms in procedure, which will effect economy of time and money.

The impartiality of the Government is further demonstrated by the selection of Sir Donald Somervell, so recently a political opponent in the offices of Attorney General and Home Secretary, for the vacancy in the Court of Appeal caused by the sudden death of Lord Justice MacKinnon. He collapsed on his way to the Law Courts and died shortly after removal to hospital, thus fulfilling his own anticipation, "I shall go on until I drop".

Other recent appointments include the elevation of Mr. Justice Uthwatt to the House of Lords as successor from the Chancery Division to Lord Russell of Killowen. His name is familiar for the difficult job he did as Chairman of the Committee on Compensation and Betterment. His place in the Court of Chancery is taken by Mr. Ronald Roxburgh who had a large practice at the Chancery Bar.

Lord Goddard's successor in the House of Lords is Lord Justice du Parcq who is a Jerseyman and has done indefatigable work for the refugees from the Channel Islands. His familiarity with another legal system, although it may not often be brought into use, gives him a broader mind than the average. Besides being respected as a sound lawyer, he is much esteemed for his kindly and unfailing courtesy.

A Woman Judge

While Mr. Christmas Humphreys, the Recorder of Deal, is in Tokyo to take part in the trial of Japanese war criminals, his place as chairman of Quarter Sessions is being taken by Miss Dorothy Dix. The Court derives its name from being held quart-

erly in accordance with an Act of 1414 (2 Hen. 5, stat. 1). It is an historic measure that marks a stage in the development of the lay, as distinct from the ecclesiastical, administration of justice. The court composed of Justices of the Peace was to be held "in the first week after the feast of St. Michael, and in the first week after the Epiphany, and in the first week after the clause of Easter, and in the first week after the translation of St. Thomas the Martyr, and more often, if need be". Miss Dix is the first woman to hold such high judicial office; her powers exceed those of a metropolitan police magistrate to which position a woman was appointed recently. She has the right to sentence a criminal to penal servitude for life.

Fifty Years Ago

Mr. Gilchrist Alexander, who spent many years in various offices in the legal service of the Colonial Office, has contributed to the *Law Times* reminiscences of the changes that have taken place in legal affairs since he was called to the bar fifty years ago. In those days, he considers that the Bar was less of a business than it has since become. Unpaid devilling was the rule, which meant that the devil while helping to augment his chief's income was under the necessity of maintaining himself. Nowadays devilling is paid, though the recipient may not always think that the rate of remuneration is commensurate with his services.

Mr. Alexander records that the volume of business at the bar, except in the Probate, Divorce and Admiralty Division, has decreased considerably. The Parliamentary Bar has almost disappeared. He notes the effect of the employment of typists. "Nowadays a business man, who if he wrote a letter himself, would express his meaning in a few sentences, marches up and down a room dictating endless involved paragraphs to his faithful stenographer. The recipient of the letter replies in the same strain. As a result the Court is burdened with enormous inflated bundles of typed correspondence."

In delegated legislation Mr. Alexander finds "the most significant departure from the old regime".

Incidentally this survey makes an interesting contribution to the history of social customs. Nearly every Londoner wore a tail coat, striped trousers, stiff white shirt and collar, and tall silk hat. Now, especially since the restriction of clothing coupons, few wear stiff collars, silk hats are so rare as to attract attention and lounge suits are legitimate on formal occasions. In fact, one distinguished representative of this country has told how during

an official ceremony in a Scandinavian capital he was sitting on his waistcoat. His tailor had no material to put a patch in his trousers so the only thing to be done was to make use of his waistcoat.

The Beauty of Trees

In the destruction of the Temple perhaps no building will be so much missed as Brick Court occupying the island block between Essex Court and Middle Temple Lane. Few people omitted from their tour No. 2, where Goldsmith had his chambers. The trees added much to its charm. Some escaped destruction by the enemy while others have since been condemned owing to their dangerous condition. There have been the usual protests that action has been taken beyond necessity. It is always a difficult problem. I remember a chestnut tree which was condemned fifteen years ago and is still flourishing with fine foliage. The prospect of more trees being destroyed has led a writer in the *Solicitor's Journal* through a search of records to find how varied were the trees which formerly flourished in the Inns of Court.

Niblett Hall, where members of the Canadian Bar were entertained by the Benchers of the Inner Temple, stands in what was formerly the garden of 3, King's Bench Walk. Here grew peach trees and all along the walls were orange trees in tubs. Fig Tree Court, Elm Court and Vine Court all record their pleasant shades. In Inner Temple records for 1654 is entered the payment of 2s.6d. to the joiner for mending the pales about the fig tree. A century earlier the Benchers had dismissed their gardener and their record of his offences included cutting down the trees. At the beginning of the eighteenth century the accounts contained payments for thirty elms, two standard laurels, six junipers, four hollies and two box trees. Among other purchases were included yews, chestnut, cherry, lime, nectarine and plum trees. Queen Mary recently made a memorable addition of a walnut tree in Lincoln's Inn. But the trees which remain most vividly in the memory of any visitor to the Temple are those around the Middle Temple fountain. Indeed there is justification for the plea that trees make their own distinctive contribution to the charm and repose of these hallowed precincts.

The Effect of the Statute of Westminster

The South African Institute of International Affairs have done a useful piece of work in printing a paper by Mr. C. J. Burchell, K.C., on "The Statute of Westminster and its Effect on Canada". Mr. Burchell was one of the delegates who took

part in drafting the Balfour report. He was the first High Commissioner appointed by Canada to hold office outside the United Kingdom and from Australia was transferred first to Newfoundland and then to South Africa.

Mr. Burchell's historical treatment of the subject shows that the Statute of Westminster only established the status desired by the American colonies of which the refusal by the British Government led to their secession. He claims that "by far the largest share of the credit for the Balfour report and the Statute of Westminster must be given to two Canadians and two South Africans" who in both cases were political opponents—Sir Robert Borden and Mr. Mackenzie King for Canada, Field Marshall Smuts and General Hertzog for South Africa.

Australia and New Zealand, Mr. Burchell points out, "until very recent years were not particularly interested in the Balfour Report, nor in the Statute of Westminster". "This is evidenced", he adds, "by the fact that Australia never adopted the Statute of Westminster until last year [1943] and New Zealand has not yet adopted that statute." In reviving the effect of the Statute of Westminster Mr. Burchell regards as one of its most important benefits to Canada the fact that it gave the right to maintain neutrality and declare peace and war on its own behalf. It also results, in his contention, that the Parliament of Canada has the right to deal with the important royal prerogative of appeals to the Privy Council.

It may be, however, that Mr. Burchell's conclusion is, from the point of view of the reader sitting at the focal point of the British Empire, the most important of all. He finds that "today Canadians are not only proud of their Canadian nationhood but are becoming increasingly British Commonwealth-minded and also increasingly internationally-minded". It is good to find an ambassador of Empire going out from one Dominion and thus proclaiming his faith so clearly to the peoples of another great Dominion.

The Bar Council

Not since the General Council of the Bar was formed just over fifty years ago, when a thousand members of the Bar are said to have been present in Lincoln's Inn Hall, has there been so much general interest as at this year's annual meeting. First, there was a certain difference of opinion about the statement issued by the Council in reference to the appearance of advocates before the Nuremburg Tribunal. Although the procedure adopted by the Attorney General in obtaining advice from a private

gathering of eminent King's Counsel was regarded as being open to objection, the Council obtained endorsement of their opinion mainly on the ground that the appearance of English advocates on behalf of Germans who had offended against all the laws of humanity would only be misinterpreted in foreign countries.

The main issue, however, that stimulated the interest of the Bar was the general management of the Council's own business. At last year's meeting there were signs of uneasiness and the Council in their report had not realised its extent. Resentment was expressed at their method of dealing with the matter, with the result that the sections of the report were referred back and an adjourned meeting was held to discuss a definite resolution calling for a new constitution and by-laws.

The new Solicitor General, Sir Frank Soskice, presided and some sympathy was felt that, with his progressive views, he should be placed in the position of defending a body whose action, to say the least, was conservative. It was quite clear that the Council had not realised the strength of feeling in the Bar as a body. There had been a movement for the formation of a Junior Bar Association, which had been discouraged by those in favour of more constitutional procedure. There was an obvious need, as the Nuremberg discussion had shown, for some machinery through which members of the Bar could express their opinions, but the constitution of the Bar Council did not provide for any other than the annual meeting nor indeed was there any provision in the by-laws for a revision of its constitution.

Objection was taken to the method of electing the Council on a circuit basis, the point being made that emphasis should be laid on the Inns of Court, which should be entitled to elect a quota of their members to the Council.

Sir Frank Soskice explained that the Council was elected by an absolutely universal suffrage of the Bar. Any member of the Bar could be put forward as a candidate if he could secure nomination by ten other members. No improvement upon that system could possibly be made by any committee. Elected members held office for two years only; half of them retired each year, so that the membership of the Council was perpetually changing. Apart from that, the Council had the power to co-opt six members on account of their parliamentary or professional position, or because they represented any circuit or section of the Bar that the Council did not consider to be adequately represented. The result was the most perfect system of which he could conceive for representing the interests of the Bar as a whole. Obviously, if

members did not like the action of the Council, the remedy was in their own hands. In fact, the Solicitor General could not see in what respect the regulations, which the resolution proposed should be drawn up by a new joint committee, could improve the existing ones. In spite of the official objection to which further expression was given by the Chairman of the Council, Sir Herbert Cunliffe, the resolution was carried with few dissentients. Accordingly a committee of eighteen members has been appointed, of whom half are members of the existing Council and the other nine include three King's Counsel and six junior members of the Bar.

The result is that the body representing the Bar is to receive a general overhaul such as so many representative assemblies are undergoing at the present time. The test of the value of this shaking of the dry bones is the extent to which the result has a realistic effect upon the work of these organizations, so as to enhance the value of their contributions to the welfare of the community.
