

FROM AN ENGLISH OFFICE WINDOW
MIDDLE TEMPLAR

The Insurance of the Self-Employed

All political parties are agreed upon the desirability of a unified Insurance Service covering all branches of social insurance, so that the bill with that object has had helpful criticism in its passage through the House of Commons. One of the main problems, to which it is by no means easy to find a solution, is the insurance of the self-employed. The class ranges from the wealthy barrister to the costermonger. However much it may be thought desirable to cover them, the fact remains that this development is a leap in the dark. The first suggestion was that the self-employed should not be entitled to sickness benefit until the fourth week of incapacity. This, however, did not meet with general approval and the Minister, making a considerable reduction, introduced an amendment by which benefit is payable after the third day. The basis of entitlement is incapacity for work and incapacity is very difficult to determine in the case of the self-employed. The workman stays at home but the shopkeeper living on his own premises may be directing activities from his bedroom. Even the barrister may be away from chambers but studying his briefs at home.

Another aspect of the matter is that in the case of the self-employed there is no contribution available from the employer towards the cost of the scheme. The consequence is that the self-employed man will have to pay more. The rate fixed at present is 6/2d a week (say \$75 a year) and it is thought that many of those most likely to need the benefit will be unable to afford this amount. The man who works for an employer will pay 5/1d a week (say \$63 a year). For that sum he will be covered against the risks of loss of work and of occupational disability as well as for the benefits to be enjoyed by the self-employed.

As the measure proceeded through the House it happened that the increase in the payment of Members of Parliament came under consideration at the same time. Thereupon the question arose whether Members of Parliament were self-employed persons under the insurance scheme. The Minister confessed to a "head-ache" whenever he thought of the matter but finally referred to self-employed persons as including "Members of Parliament, solicitors, shopkeepers and the like". Thus a member of the House of Commons, though not apparently the Peers, will

be able to claim benefit when he is too ill to record his vote. He will have an incentive to remain in the House after the age of sixty-five since by doing so he will increase his pension by 2/- a week. A married woman M.P., when she becomes a mother, will qualify for a maternity allowance provided that she refrains from representing her constituency for thirteen weeks. Somewhat ironically *The Times* observes "that the main flaw in this new conception of the legislator is the failure to provide unemployment benefit for those members, with no income other than their Parliamentary salaries, who may lose their seats at the next General Election".

The Laws of Jersey

The laws of the Channel Islands provide a unique body of law among the varieties within the British Commonwealth and Empire. Although they possess some common features, each island is separate with its own judicature. The laws of Jersey are primarily derived from the Coutume de Normandie. Naturally text books are rarely published and it is the more remarkable that one should have been produced while the island was in occupation by the Germans. "Traité de la coutumier de l'Ile de Jersey" is the work of Mr. C. S. Le Gros, formerly H.M.'s Viscount and now Lieutenant Bailiff. The printers have done their work well and contributed to the production of an admirable volume. Mr. Le Gros holds the doctorate of the University of Caen and has had a lifelong career at the Jersey Bar. His book deals with the basic principles as well as their applications to local conditions by the Royal Court. The volume shows the development of the ancient system of law to meet the progress of ideas in such matters as the status of married women and their right to hold property. The practical value of the work is enhanced by a chapter on procedure in the local courts. Not the least interesting section of the volume of five hundred pages is a glossary of seventy pages containing ancient legal terms derived from the old Norman law. The Law Society of Jersey are to be congratulated with the author on the production of an excellent text book in exceptionally difficult circumstances.

Justices of the Peace

It is nearly forty years since a Royal Commission was appointed to report upon the conditions of appointment of justices. Since then their work has enormously increased and they now deal with something like ninety-nine per cent of the criminal charges preferred in this country. Added to that, they

are called upon to carry out a miscellaneous variety of duties including the authentication of documents requiring the support of a person of recognized standing and repute. This work brings them into contact to a considerable extent with the general public so that there is a widespread interest in the way in which it is done and in the occupants of the office. There has been a certain amount of criticism, for which on some occasions recently an impartial inquiry has found justification, with the result that the Government have decided to appoint a Royal Commission on the subject.

Lord du Parcq has undertaken the chairmanship of a representative body of sixteen members with unusually wide terms of reference. The one point that seems to be excluded from the inquiry is the substitution of stipendiary magistrates in the place of the unpaid justices, though this may have some attention under the reference to consider whether any alteration is desirable in relation to the selection and appointment of the chairmen of magisterial benches. The thorny questions of the method of choice and the age of justices receive specific mention and one reference is devoted to whether any alteration is desirable in the law or practice governing the selection and appointment of justices to form panels for juvenile courts. The question, which crops up in other departments of public service, is raised whether the expenses of justices of the peace in the course of their duty should be paid out of public funds. The position of stipendiary magistrates is also to have attention, especially as regards salaries and pensions and the Commission has also to consider the allocation of work between the stipendiaries and justices. While the Commission is sitting there seems to be a strong probability that a Committee just appointed under the chairmanship of Denning J. to deal with divorce procedure will add to the duties of justices of the peace. There is a growing body of opinion in favour of enlisting them in the work of reconciliation, rather than leaving the parties to be drawn by the process of law into a situation that can only result in separation.

Seven-Year Covenants

Seven-year covenants as a means of relief from income tax do not seem to have gained the same popularity in the Dominions as in this country. Introduced by the Income Tax Act 1918, they allowed a subscriber to a charity to sign a covenant for seven years, without his estate becoming liable upon death, and the charity to reclaim the amount of income tax paid in respect to

that subscription. The introduction of surtax led to a further development by which a subscriber can actually profit by adopting this method, since he will be entitled to deduct the gross amount of his annual subscription from the total income shown in his return for surtax. The practical effect of this is that large surtax payers may apparently give considerable sums to charities while their own actual contributions at present rates of income and surtax is only 6d. in the £. The *Law Times* justly argues that "the existing privilege relating to these covenants is based on a wholly wrong principle. In effect it allows A to give X£ to B and in so doing call upon the taxpayer to give Y£."

Not unnaturally these seven-year covenants have been exploited by charities, especially voluntary hospitals, until the total is a serious consideration to the nation exchequer. The Treasury have protested for some years and the Chancellor of the Exchequer has decided to put an end to the arrangement in giving relief to the surtax payer. The total of these covenants has increased from 55,000 in 1935 to nearly five times that number. They involved a sum of £2,250,000 paid by the Treasury in the form of repayment of tax to the charities and another £1,250,000 representing the amount saved in surtax to donors. It may be assumed that the largest losers among the charities will be the voluntary hospitals, but by the financial arrangements under the new national health service bill the amount will be made good by direct payments from the national exchequer.

The Privy Council

In 1940 the Germans bombed the Judicial Committee out of their accommodation in Downing Street. For six years they have sat in one of the committee rooms in the House of Lords. At the opening of the Trinity sittings the Judicial Committee returned to their own premises, which have provided accommodation for them since their formation in 1833. The Lord Chancellor, Lord Jowitt, presided over a full meeting and took the opportunity to refer to their far-flung and wide jurisdiction. "Every system of law" he said "is grist to our mill. We have to consider not only Roman-Dutch Law and the French law of Louis XIV as modified by the Statute of Quebec, but we have to consider also Hindu and Mohammedan law and all sorts of ancient customs —of Normandy in the Channel Islands, of the Gold Coast and customs from all parts of the world." Acknowledgment of the Lord Chancellor's tribute to the Bar practising before the Judicial Committee was made by Mr. C. T. Le Quesne K.C., who has

an intimate knowledge of the Channel Islands, and Mr. John Jennings K.C. of Toronto. *The Times*, in a leading article upon the occasion, concluded: "To all who believe that the kernel of the British Empire's contribution to modern civilization is the doctrine of the Rule of Law the home-coming of the Judicial Committee is a significant symbol of victory".

There has recently been revived the suggestion for an Imperial Privy Council. Canada alone among the Dominions has a Privy Council, though its members are only Honourable instead of Right Honourable. Why should there not be a body of councillors drawn from all parts of the Empire and competent, by virtue of a common status, to function in any part at any time? It might have a defence committee or even a foreign affairs' committee, on the analogy of the Judicial Committee, to give advice to the King. No new constitutional departure is needed to create such a committee, which might do something to fill the gap generally recognized to exist by all the Prime Ministers at their recent discussions in London.

WHICH COME TO YOU IN SHEEP'S CLOTHING

The advantage, or the apparent advantage, of the tendencies that are hostile to democracy is, above all, the charm of novelty—a charm to which humanity always shows itself highly susceptible. What Ceasar said of the ancient Gauls, that they were *novarum rerum cupidi*, eager for new things, is true of humanity as a whole—for reasons which tend to support a pessimistic-compassionate judgment concerning its destiny. For it is the fate of man in no condition and under no circumstances ever to be entirely at ease upon this earth; no form of life is wholly suitable nor wholly satisfactory to him. Why this should be so, why there should always remain upon earth for this creature a modicum of insufficiency, of dissatisfaction and suffering, is a mystery—a mystery that may be a very honourable one for man, but also a very painful one; in any case it has this consequence: that humanity, in small things as in great, strives for variety, change, for the new, because it promises him an amelioration and an alleviation of his eternally semi-painful condition. (Thomas Mann: *The Coming Victory of Democracy*. 1938. New York: Alfred A. Knopf)