FROM AN ENGLISH OFFICE WINDOW

MIDDLE TEMPLAR

Land Nationalization

The changes in social conditions accelerated by the war are gradually solving the problem of the ownership of land, which at the beginning of the century was the subject of violent political controversy. The latest development is the arrangement by which the Chancellor of the Exchequer has agreed, in suitable cases, to accept land in payment of death duties. The State has thus acquired an estate of more than thirty-three thousand acres in North Wales including Lake Bala, the largest lake in the principality of Wales.

Another development that will lead to large areas of land passing into public ownership is contained in the New Towns Bill, which has just passed through both Houses of Parliament. Its object is the creation of new towns by means of development corporations whose work is to constitute communities with a properly organized relationship of industrial and residential areas instead of the haphazard "overspill" of towns which disfigured the country before the war. The corporations are given the ordinary powers of compulsory land purchase, which may even include land inalienably held by the National Trust under special statutory powers to secure the protection of natural beauty. In the case of the Trust, however, there is to be special procedure to meet any objection that may be raised. Combined with the powers already possessed by local authorities and exercised, especially in bomb-destroyed areas, the new act will place a substantial proportion of the country in the possession of the community as a whole.

The Lives of Law Books

The rule of law owes much to the adherence to precedent among the English-speaking peoples. The decisions of the courts are disseminated by the text books, especially those that have a continuous life through a number of editions. Their number, under developments of legal publishing, has decreased in recent years. So it is particularly gratifying to welcome a new edition of Pollock on Contracts, which has now reached the allotted age of man. The first edition, published in 1876, was made possible by the termination of "the lamentable division of jurisdiction", as Lord Westbury called it, by the Judicature

Act of 1870. Accordingly it presented an equal and concurrent view of the doctrines of common law and of equity on the subject. The book was notable for its references to the Indian Contract Act and occasionally, as the title page recited, "to Roman, American and Continental Law". The learned author was justified in claiming the Indian Contract Act to be "an interesting and instructive example of what can be done to consolidate and simplify English case-law". It shows better than any discussion can do what are the real advantages of codification, the real difficulties to be overcome and the most likely means of overcoming them.

Pollock gave some account of "a certain number of the decisions of the Supreme Court of the United States selected as being recent or otherwise of marked importance". Professor Winfield in the edition that has just been published has demonstrated the affinity between the two systems by frequent reference to the "Restatement of the Law of Contracts" as well as to Professor Williston's work on the subject. Seventy years is a comparatively short period in the lives of law books and it may be hoped that the twelfth edition will be followed by many more of a book that maintains principles of such vital importance as the sanctity of contracts in daily life.

Guernsey

An historic meeting of the Guernsey Parliament was held on April 8th, 1946, of which an interesting account is given in *The Solicitor* (June 1946) by Mr. C. Winter. The purpose of the meeting was to consider the offer of £3,300,000 from the British Government for the financial rehabilitation of the island after the severity of the German occupation.

Even the Mother of Parliaments at Westminster does not conduct itself with more dignity and ceremony than the General Assembly of the States of Deliberation of Guernsey, which claims to be the older body. The President of the Assembly, the Bailiff, sat on a raised dais with the Lieutenant Governor as the representative of the Crown on his right. On either side were eleven out of the twelve jurats who constitute the legislative assembly.

"The Bailiff and Jurats were robed" writes Mr. Winter, "the Bailiff's robe being lined with shot silk and bearing lapels of ermine while the Jurats wore purple robes (similar to the Oxford robe for Doctors of Civil Law), bearing lapels of pale rose silk. The two Law Officers of the Crown, the Procureur

du Roi (*i.e.* the Attorney-General) and the Controle du Roi (*i.e.* the Solicitor-General) wearing King's Counsel robes occupied seats on the cross benches to the left of the President. The Bailiff, the Jurats and the Law Officers each wore a round hat of mauve velvet, brimless and with a protruding crown similar to the hat worn by the Professors of the University of Caen. On other benches sat the rectors of the parishes in their black college gowns, the delegates of the parishes and the people's deputies."

After the Greffier had recited the Lord's Prayer in French and called the attendance roll the Bailiff referred to the Billet d'Etat, which was before the Assembly and suggested the procedure.

"The Chairman of the States Finance Committee" continues the narrative "rose and gave a short history of the war finances of the Island and the arrangements made to meet the Island's debts. He explained the solution arrived at with the English Treasury and moved the recommendations embodying that solution. No speeches were made by any of the other members of the Assembly and the Bailiff proceeded to put the recommendations to the vote by calling "AUX VOIX". The answers given were usually 'Pour', there being no dissentients in principle." At the conclusion of the business the Greffier recited the Benediction in French.

The first step towards a close cohesion between any of the Channel Islands has been taken with the purchase by Guernsey of the Island of Herm from the British Government at a cost of £15,000. The island is one and a half miles long and half a mile wide and has a population of about 30. The island of Sark, which is the chief of the other small islands in the group, is still a separate entity.

Finance of Public Corporations

The points that Mr. Sellar has been discussing in his recent article in this Review[1] raise some interesting problems under the new National Health Service Act. The hospitals with medical schools, known as "teaching hospitals", are exempt as charitable bodies from payment, under Schedule A, of income tax on land. Likewise, although they are not exempt from local rates, their assessment is usually on a low basis in consideration of the service they render to the community. But Assessment Committees have not always shown the same consideration to hos-

[1] (1946), 24 Can. Bar Rev. 393 and 489.

pitals supported out of the rates and, as financial purists, Assessment Committees may claim that each department of the work should stand on its own feet. While the teaching hospitals retain their own governing bodies with some amendment of their constitution, the act sets up Regional Hospital Boards to hold the endowments and administer the funds of other hospitals. The bulk of their funds, including all that is necessary to carry on their work, will be derived from the Treasury. The Boards, although exercising functions on behalf of the Minister, can enforce any rights acquired and are liable in respect of any liabilities incurred, including liabilities in tort. Their constitution is analogous to that of the B.B.C. rather than the Post Office, though the method of finance may more nearly approach to the latter. So, will they remain liable to rates? (*Cf.* Sellar at p. 402)

An even more intriguing point is raised by the concession in the National Health Service Act that hospitals may still have accommodation for private patients. In fact, there is a steady increase in the demands for this accommodation, though it may decrease when the act comes into operation. Admittedly the charges made for these rooms, as they generally are, more than cover the cost, so that there is a balance which in the case of a private company would be regarded as a profit. Even if the Treasury were directly conducting this business, which it is not, it would still be liable to income tax (*cf.* Sellar p. 404). Since the voluntary hospitals developed this form of activity they have realized that the Inland Revenue authorities might take an interest in this section of their account, so they have endeavoured to meet the points by devoting any balance to the general work of the hospital. Originally this accommodation was regarded as a development of the charitable work of the hospital, but in recent years it has become more like a business. Patients are admitted on an agreement in the form of a contract upon which they can be, and sometimes are, sued. It looks as if these accounts will be liable to taxation, though the profits may be reduced by the operation of a proviso in the act allowing non-paying patients to be admitted to the accommodation so set aside, if they are regarded from a medical point of view as urgently needing it and suitable accommodation is not otherwise available. Incidentally this accommodation is competing with private nursing homes, which are liable both to taxation and assessment for rates as ordinary business undertakings.

However, perhaps enough has been written to show that the practical points arising under the new act are not those

which have attracted attention in the press; the same is true of other legislative measures passed into law this year and having a bearing upon the subject of Mr. Sellar's article.

Professional Discipline

A good deal of public interest has been aroused recently in the subject of professional discipline, especially as regards the medical profession. The responsible body is the General Medical Council constituted under an act of 1858, which has only been revised once since, in 1886. The Council itself appreciates that the time has come for substantial amendments in its constitution and powers. Comparison is made with the disciplinary powers exercised by the Law Society over solicitors under an act of 1932. The main differences are that in the case of the latter all evidence must be given on oath in person, the tribunal has power to order the attendance of witnesses and the production of documents and it can impose a varying range of punishments. The General Medical Council can do neither of the former and its only form of punishment is to strike the offending doctor off the register, though the procedure allows him to be put on a kind of probation to secure good behaviour without proceeding to that extremity.

The solicitor has automatically a right of appeal to the High Court, although the tribunal before which he is heard in the first instance consists of trained legal minds. The doctor has no such appeal, his only remedy being by writ of mandamus; on the facts of the case the General Medical Council alone decides and a decision whether those facts amount to injurious conduct cannot be challenged elsewhere. The comparison between the two forms of procedure suggests the obvious points for amendment, to which must be added the composition of the Council itself. It is generally admitted that professional discipline should be exercised by the profession, since a man is entitled to be tried by his peers. But it cannot be said that the General Medical Council, including as it does eminent professors and others divorced from ordinary medical practice, can be regarded as representing the average practitioner.

It may be added that the other branch of the legal profession has no corresponding procedure. A member of the bar can be disbarred for conduct unbecoming his profession by the Benchers of his Inn of Court. He has no right of appeal to the courts. For many years the Benchers have allowed an appeal to a tribunal of judges acting as visitors, though the occasion is

very rare upon which any barrister attempts to dispute disciplinary action taken by the Benchers, because it is only exercised over flagrant offenders. The high standards of the English bar are maintained by loyal support of tradition rather than any disciplinary measures exercised inside it. Very few people would wish it to be otherwise.

PRINCIPLES OF THE UNITED NATIONS

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

(Article 2 of the Charter of the United Nations)