

## FROM AN ENGLISH OFFICE WINDOW

### MIDDLE TEMPLAR

#### *Cabinet Changes*

The changes in the Government have led to the retirement of Lord Addison from the post of Secretary of State for Commonwealth relations. His successor, Mr. F. J. Noel-Baker, has a long record of interest in international relations. While at Cambridge he held the Cokewell scholarship for three years, which is primarily for the promotion of the study of international law. From 1924 to 1929 he was Sir Ernest Cassel Professor of International Relations in the University of London and at the conclusion of his term of office he published his study of the "Juridical Status of the British Dominions in International Law". Since then, at the Foreign Office and in international assemblies, he has had opportunity to develop an appreciation of their position in world affairs. In particular it will be remembered that he took part in the Toronto Conference in 1933 under the auspices of the Institute of International Affairs.

Mr. Arthur Henderson, who succeeds Mr. Noel-Baker as Secretary of State for Air, is a member of the Bar and has been standing counsel to the Labour Party, besides writing several law books.

The new Lord Advocate, Mr. John Wheatley, steps up from the position of Solicitor General for Scotland to succeed Mr. G. R. Thomson, who has been appointed Lord Justice Clerk upon the retirement of Lord Moncrieff. Of the other appointments it is not necessary to make any mention in these pages, especially since they will have been recorded elsewhere, with interpretations of the mind of the Prime Minister, according to the predilections of the source. One independent observation may be made, that the record of the new Secretary of State for Commonwealth Relations is typical of others in combining academic qualifications and practical experience for his new post.

#### *Liability of the Crown*

It was anticipated in the January instalment of these notes that a bill to enable proceedings to be taken against the Crown which has been hanging about for the last twenty years, might be passed into law in the last session of parliament. This expectation has been fulfilled in the Crown Proceedings Act, 1947, c. 44, which enacts that "Where any person has a claim against the Crown . . . the claim may be enforced as of right, and without the fiat of

His Majesty, by proceedings taken against the Crown . . .". Under the act the Crown becomes "subject to all those liabilities in tort to which, if it were a private person of full age and capacity, it would be subject:—(a) in respect of torts committed by its servants or agents; (b) in respect of any breach of those duties which a person owes to his servants or agents at common law by reason of being their employer; and (c) in respect of any breach of the duties attaching at common law to the ownership, occupation, possession or control of property".

The importance of this measure, of course, is that it enables proceedings to be taken against Government departments, the activities of which have been extended in recent years to such an extent that there are many more opportunities to do injury to private citizens. Nevertheless it is possible to contract out, the most noticeable example being the Post Office in the form of contract covering the telephone service.

Although in practice the new act may not lead to much litigation, it will certainly enable justice to be done in some cases where, hitherto, there has been hardship; and in a much larger number it will remove the feeling that the Crown had an unfair advantage over the ordinary employer in its relations with the general public.

### *The G. O. M. of the Bar*

For twenty years Sir Francis Kyffin Taylor has been Chairman of Shropshire Quarter Sessions and now on his retirement he has been presented with his portrait by Mr. Oswald Birley. In that office he held what is probably a unique record because there has never been a successful appeal from any decision, conviction or sentence passed under his chairmanship. Although Sir Francis is ninety-three years of age, he is still retaining his appointments as Presiding Judge of the Liverpool Court of Passage and as one of the Railway and Canal Commissioners. Having been called to the Bar in 1879, he is the doyen at the present time, but there are well-known precedents, such as Sir Harry Poland, for hoping for him years more of useful life.

### *Sir Norman Birkett on Nuremberg*

The Royal Institute of International Affairs is indebted to the University of Toronto Press for assistance in the regular publication of its Journal. The latest issue contains the paper read before the Institute on the "International Legal Theories Evolved at Nuremberg" by the Rt. Hon. Mr. Justice Birkett.

The surroundings at Nuremberg were quite incompatible with a court of justice, though it may have been sound policy to allow unlimited publicity to the proceedings. Besides movie cameras and brilliant lighting there were 250 press representatives from one country alone. Sir Norman deals with the common objections to the Trial. As to its desirability, he holds firmly "that it was wise and right and expedient and indeed essential that the Trial should be held". On the point that there should have been neutrals sitting upon the Court, Sir Norman thinks that it would have been "quite impracticable". Every effort was made to provide a fair trial and the account of the trouble taken to assist the defendants certainly justifies the claim that the efforts were successful. As to the international legal theories evolved at the trial, students will desire to study the learned judge's own observations in their bearing upon the judgments.

### *Evolution of the British Commonwealth*

Under the title "Thoughts on the Constitution", Mr. L. S. Amery has just published, through the Oxford University Press, the Chichele lectures delivered at All Souls College, Oxford. The last of them has been considerably amplified in the chapter under the same heading as this paragraph. The subject is one upon which he can speak with special knowledge. It was in November 1924 that Mr. Baldwin invited him to become Colonial Secretary; he accepted subject to the stipulation that he might be allowed "to break up the office and create an entirely separate office for Dominion Affairs". Since then he and we have progressed to the conception of "a definite political system whose character is appropriately designated by the fine old title of Commonwealth". This is a conception which cannot be embodied in any formal legal document. Mr. Amery's exposition of the Commonwealth, bound together by its sense of responsibility, deserves to be read at length. Space only permits of one quotation:

"We are only gradually beginning to realize, here and in the Dominions, that the Empire is not an external bond, a superstate limiting our national lives, but like the Kingdom of Heaven, within us. It is not something to which we submit, that owns us: it is something that we all own, an enlargement and exaltation of our own national and individual lives. Imperial unity is inherent in our constitutions and not imposed by a federal constitution from without — inherent in a common Crown, in a sense of responsibility for the common Crown, in a sense of responsibility for the common interest

springing from that common focus, and strengthened by innumerable strands of common interest, kindred thought, and mutual sympathy."

But these intimate relations must have some official channels through which to find expression, in addition to the millions of interchanges which are taking place from day to day between individuals and corporate bodies. So it is that the change of title of the Secretary of State for Dominion Affairs to the Secretary of State for Commonwealth Relations has been generally recognized to be in harmony with the movement of thought among the peoples of the Commonwealth.

### *School for Justices*

The residential college of citizenship known as Ashridge, which stands not far from the Canadian Red Cross Hospital at Taplow, was established to stimulate full, informed and active citizenship and to fit men and women for public life at every level. Recently the Magistrate's Association organized a week-end course for the benefit of justices of the peace who desired to obtain information and guidance in various aspects of this work. Full advantage was taken of it and more than one hundred had to be refused for lack of accommodation.

The Home Secretary, Mr. J. Chuter Ede, welcomed the justices, who had a full programme from late on Friday throughout Saturday and Sunday. "Evidence and Procedure", "Juvenile Courts" and "Motoring Offences and Penalties" were the subjects for Saturday. Men and women of acknowledged authority gave the opening lectures. For example, the last was undertaken by Dr. Carleton K. Allen, Warden of Rhodes House, who is so well known as the author of "Law in the Making" and "Law and Orders". The evening was devoted to discussion groups upon legal aid, bail, problems of punishment, adoption, and sexual offences, from which a choice could be made according to the need of the member. On Sunday two stipendiary magistrates gave up their leisure to lecture about matrimonial cases and probation. There was general agreement that the course was admirable and the organization of the College excellent. The Principal is General Sir Bernard Paget whose war services, in the opinion of many, did not receive adequate recognition. The Chairman of the Executive Committee is Mr. Arthur Bryant, a member of the Bar though more widely known as a historical writer and lecturer.