

FROM AN ENGLISH OFFICE WINDOW

MIDDLE TEMPLAR

*Empire Nomenclature*¹

In that almost casual manner characteristic of the British Parliament a change has been made of far-reaching effect. It happened while a bill dealing with medical practitioners and pharmacists was passing through the House of Lords. Attention was drawn to the fact that the phrase "colonial practitioners" taken from a former act is now inapplicable as a description of doctors coming from the Dominion. The Government at once appreciated the point and, after consultation with the Commonwealth Relations and Colonial Offices, substituted "Commonwealth practitioners". They were advised that "the word 'Commonwealth' alone can properly be given the wider meaning of all territories within the Empire, including the Dominions". Having regard to current developments, the change is clearly an improvement and one may expect in future to find the word Commonwealth in more extensive use. But for those who are accustomed to refer to Australia as the Commonwealth there is some complication. Moreover when once the pattern is broken up it is difficult to piece it together again. "Empire" is passing through a wave of unpopularity, but its historic meaning carries with it something comprehensive, which under British auspices is the maintenance of the principle of the liberty of its subjects.

The Rose Tavern

The latest published volume of the Records of the Hudson's Bay Company contains the minutes of a committee meeting held "at the Rose Tavern without Temple Bar" on July 26th, 1682. Some of the inns around the Middle Temple were giving trouble to the Benchers about that time. The Rose Tavern does not appear in the records to the same extent as some of its neighbours, among which the Devil's Tavern and Palsgrave Head were conspicuous. Pepys on his return from attending the Christmas Eve Service at the Queen's Chapel, St. James's, in 1667 "drank some burnt wine at the Rose Tavern door". Strype in his edition of Stow's Survey of London, published in 1720, gives a favourable description of the house: "The Rose Tavern, a well customed house with good conveniences of rooms and a good garden". It

¹ Readers may be interested to refer in this connection to the exchange of correspondence between Mr. Frank L. Bastedo, K.C., and Professor F.R. Scott, published in the November 1947 issue of this Review (1947), 25 Can. Bar Rev. 1036.—*Editor*.

backed on to Brick Court, which was obliterated by the Germans and is now replaced by the temporary library erected on a water tank used during the war. The garden could not have been large, but in the time of Strype it had an arbour with a vine growing over it, which is said to have borne grapes. Cross Keys Alley gave access to the Rose Tavern and from it there was a passage through to the Temple. It was also available from the Palsgrave Head and the landlord of that hostelry seems to have had most of the trouble with the Benchers rather than mine host of the Rose. The Benchers did not look with favour upon such a ready means of obtaining refreshment by the students. Moreover there were times when the conviviality in the neighbouring taverns raised their spirits to such a degree that they were a disturbing element in the Temple. Since the Rose Tavern appears so little as a contributory cause to this offence, it may be assumed that its respectable tradition justified the Hudson's Bay Company's Committee in selecting it as a meeting place.

Administrative Tribunals

The development of administrative tribunals in the jurisdictions in which the English system of law operates is attracting the close attention of the legal profession. Accordingly the publication of a new edition of Dr. Robson's *Justice and Administrative Law*, which was first published nearly twenty years ago, is particularly welcome. In the interval a considerable amount of new material has accumulated and it is especially useful to have collected together information about the various tribunals established by recent legislation. Dr. Robson holds that "the alleged distinction between judicial and quasi-judicial decisions is so dubious and unreal that it cannot be applied in practice". On the strength of the *Board of Education v. Rice*, [1915] A. C. 120, he contends that it was admitted "that an administrative department of the Government had power to determine, finally and absolutely, not mere matters of fact, but also questions of law".

As a general rule Dr. Robson finds that the developments of the last twenty years have followed the course which he recommended with one important exception, namely the creation of an Administrative Court for hearing appeals from the decisions of Administrative Tribunals and for reviewing administrative action generally. The operation of an Appeal Tribunal might do something towards securing uniformity of procedure and developing some basic principles. Many who have taken an active part in the work of these tribunals share Dr. Robson's "impression of a

great lack of system in their organization". The subject has been engaging the attention of the Institute of Public Administration. In the latest issue of their Journal, Public Administration (autumn 1947), there is a useful paper, which gained second place for the Haldane Prize Essay, on "English Administrative Tribunals and their Reform". The writer, Mr. J. F. Garner, advocates that the industrial tribunals should become part of the regular hierarchy of the courts of law (p. 185). For administrative tribunals generally he would have a Court of Administrative Appeals, as a division of the Supreme Court of Judicature, with the status of the existing Court of Appeal. Before we come to the acceptance of the more advanced proposal, useful work might be done in establishing common forms and some general principles for the conduct of these administrative tribunals.

The New Forest

Few people come to England without seeing something of the charms of the New Forest. But it has been left to a committee appointed by the Minister of Agriculture and Fisheries to reveal the ramifications of its history and the varieties of affairs arising in its management.

The Committee accept the description of the New Forest as "a miraculous survival of pre-Norman England". Its physical features and peculiar privileges have undergone slow but continuous change through the operations of nature and man. By experts in natural history it is described as unique in Western Europe. It possesses a complex association of woodland and waste, cattle and ponies, birds and flowers, villages and fields, and inhabitants of diverse occupations. In short, in the words of the Committee, "it is a great national heritage".

The legal history of the Forest dates back to ancient times. It can be inferred from the Laws of Canute issued at Winchester in 1016 that, in common with other Royal Forests, it was already subject to the forest laws of the period. From the seventeenth to the middle of the nineteenth century the chief interest of the Forest lay in its capacity to produce timber for the Navy. The statutory conditions of today begin with the Deer Removal Act, passed in 1851 with the object conveyed in its title. The legal relations of those concerned in the welfare of the New Forest are contained in the Act of 1877, of which the primary object was to define the rights of the Crown and the Commoners, and to provide a setting for the reconciliation of the interests which had hitherto clashed.

One of the most important purposes of the Act of 1877 was to reconstitute the Verderers, who have certain administrative duties with respect to the control of the grazing and health of animals in addition to their judicial functions at the Court of Swainmote. Every Verderer has the powers of a Justice of the Peace acting in and for the Forest for all purposes of his office and the Court of Swainmote is deemed to be a Court of Petty Sessions. Under the proposals of the Committee the Court is to become a Council and from its members some will be selected by the Lord Chancellor to exercise the judicial, as distinct from the administrative, duties. The object is to provide a body composed of representatives of the Forestry Commission, Commoners and the general public, with power to reconcile the conflicting interests which assert themselves from time to time.

The particular charm of the New Forest is to be preserved by maintaining parts of it as natural reserves for the bird life and woodland flowers.

Middle Temple Dramatists

The Middle Temple is notable among the Inns of Court for the number of its members distinguished in walks of life other than law. Among them are several distinguished dramatists, including William Congreve, Nicholas Rowe, Richard Tickell, and Richard Brinsley Sheridan. In recent years the Inn has been represented among the dramatists by one of its Benchers, Sir Patrick Hastings, Attorney General in the first Labour Government, who has had several plays produced, so that he has a considerable entry in "Who's Who in the Theatre" and is a member of the Garrick Club. His latest play, *The Blind Goddess*, obviously deals with the administration of justice; in fact the principal scene is laid in the court of the Lord Chief Justice with a jury hearing an action for libel. There are several opportunities for observations upon the ethics of advocacy and, in particular, the point upon which laymen are always inclined to be critical, whether an advocate can represent a client in whose case he has no confidence. Having by brilliant advocacy secured a verdict for his client, the leading K.C. obtains further evidence proving him to be, as was stated, a humbug and imposter. To some extent the legal procedure seems to have been subservient to the plot, but the play held the audience and received an enthusiastic welcome. Sir Patrick is certainly maintaining worthily the association between the Inn and the drama.