

# From an English Office Window

MIDDLE TEMPLAR

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## *Genesis*

The end of another year since these contributions began seems to provide a suitable opportunity to respond to the Editor's request to place on record the circumstances in which this feature first appeared in the Canadian Bar Review in January 1942. It arose from a wish of the then President of the Canadian Bar Association to have information of what was happening in those days of war to English lawyers. Through discussions with Sir Norman Birkett it was arranged that this link between the two countries should be entrusted to Middle Templar.

The choice of a title fell upon "Through an English Office Window" because at that time the notes were written in an office overlooking the Temple. When that office was required for its original purpose at the end of the war, it was possible to find a room in Lincoln's Inn itself, which owing to its inaccessability in a quaint old tower was no use to a practising lawyer. Now, for nearly two years, the office of the Society of Comparative Legislation, of which the writer of these notes is Honorary Secretary, has been in the headquarters of the Royal Empire Society at 18 Northumberland Avenue.

It is the belief of the writer that there is too much self-advertisement in the world to-day and for this reason he favours anonymity. On the other hand it has always been a matter of regret to him that he will not be able to read his own obituary notice. The instructions of the Editor, however, now give him an opportunity to approach near to the latter, in which he feels justified since he has now passed the allotted age of man. It may be recalled that the great Sir Edward Clarke wrote his own obituary notice and the larger part was published in *The Times*, to which he had been a contributor.

The basis of these contributions is the firm belief of a Life Fellow of the Royal Empire Society that, whatever constitutional changes may be made, the British heritage is treasured by Cana-

dians, just as much as by any citizen of Great Britain. For a little longer than readers of the Canadian Bar Review have known him the same contributor has written a monthly letter to the Canadian Hospital, where his identity is revealed as C. E. A. Bedwell. From that it may be deduced that one half of his working life has been devoted to hospitals and the other to law in which he has the unique distinction of being the only honorary member of an Inn of Court. Another link of empire is created by a similar monthly contribution to the Australian Law Journal, under the title "From an Englishman's Note Book". In such contributions, the writer, even when anonymous, endeavours to meet the wishes of his readers and to establish a happy relationship. So my qualms in fulfilling the Editor's wish have been stifled by his assurance that, "given the affection that Canadian readers have for Middle Templar in spite of his anonymity, you need not worry about the propriety".

#### *A Founder of the English Speaking Union*

The English Speaking Union, now so well known in the United States, developed from the Atlantic Union of which the joint founders were Sir Walter Besant and A. C. Forster-Boulton. The latter lived to see the Union complete its first thirty years of existence and died at the age of 86 on March 12th of this year. His grandfather was a Canadian judge and, like his father, Forster-Boulton was called to the Bar in Toronto. Having married an English wife, he took up his residence in England and was called to the Bar by the Middle Temple in 1891. For a quarter of a century he was counsel to the Post Office but retained his attachment to Canada especially by extensive travels in the country. Forster-Boulton was one of those Canadians who before international relations were appreciated to be so important contributed to the formation of voluntary organizations that have cemented the attachment between the English-speaking peoples.

#### *Is the Bar Really Necessary?*

The question whether the Bar should undertake publicity in the interests of the profession is one upon which there is a good deal of room for differences of opinion. The answer, of course, is that a great deal depends upon how it is done. Personally I am bound to admit a certain amount of prejudice against anything which could be regarded as publicity by a great profession. It was dis-

pelled, however, by an address delivered by Mr. Gilbert Paull, K.C., a member of the General Council of the Bar, to a Rotary Club.

To start with, the subject was placed in a historical perspective by an explanation of the application of the word Bar leading to its extension in the phrase "called within the Bar", in its application to King's Counsel.

Mr. Paull then discussed the fusion of the two legal professions and gave some remarkable information from the United States, which showed that instead of being less expensive for the litigant it has entirely the opposite effect. By analogy with the medical profession, in the relation between the general practitioners and the specialist, he illustrated the need for the solicitor to prepare a statement of fact for the opinion of the consultant.

The whole bias of the address was towards the removal of misconceptions in the minds of his lay audience. The idea that the Bar is a "money grabbing profession" was completely dissipated by the figures actually collected confidentially of earnings at the present time. He removed another popular misconception, that the members of the Bar are imbued with Machiavellian concepts, by emphasising that the contacts between the Bench and Bar enable the judges as well as the solicitors to know a man's ability and his integrity. Fairness of advocacy is the basis of success at the Bar since it gains the respect of all.

#### *A Blind Witness*

The law reports provide a considerable number of circumstances in which the execution of wills has been challenged because the witnesses were unable to see the testator's signature. Some of these are quaintly archaic, as the case of *Newton v. Clark* (1839), 2 Curt. 320, where the footman could not see his master's signature because the curtains were drawn at the foot of the bed. This and other cases were cited before Pearce J. in *In Re C. C. Gibson deceased* (*The Times*, May 26th, 1949). But they all differed in so far that they were due to attendant circumstances, while in that case the point was the physical incapacity of the witness through blindness. Evidence was given that the witness had known the testator's voice for seventeen years. Nevertheless, there was no direct authority on the question and the learned judge was not able to find that the will was duly executed. In view of the fact that the Wills Act, setting forth the conditions, was passed in 1837 it is perhaps strange that this point has never come before the courts before.