

From an English Office Window

MIDDLE TEMPLAR

Mirabilis Annus

Never has there been such a year in the history of the Temple as 1949 — not even in the festive days of the Restoration. The King was Treasurer of the Inner Temple while the Queen held the office in Middle Temple. Their deputies, Lord Merriman and Sir Henry McGeagh respectively, received the honour of G.C.V.O. at the New Year. The Under Treasurer of the Inner Temple, Mr. Roy Robinson, and the Librarian of the Middle Temple, Mr. H. A. C. Sturgess, were made members of the Royal Victoria Order at the same time.

During the year the King opened a temporary library for the Inner Temple and the Queen presided at a ceremony to mark the restoration of the famous Middle Temple Hall. In the course of the restoration the former Parliament Chamber has been entirely redesigned and is now the Queen's Room. It was a great occasion with symbolic significance in marking the beginning of a new era when men could look forward to creation of regained life in the future instead of the devastated desolation of the past. Her Majesty's gracious presence and obvious interest in the welfare of the Inn, to which she has paid more visits during her year of office than any previous Royal bencher, have contributed appreciably to this happy atmosphere. In accordance with ancient custom, by which the initials of Treasurers are placed upon buildings repaired during their year of office, the royal monogram provides a permanent record to be seen by all, and in front of the entrance to the Hall is a double scarlet hawthorn planted by Her Majesty.

The re-opening of the Hall was made the occasion for one of the Dinners which are held from time to time by the Benchers of the two Inns, when the Queen was the host Treasurer and the King led his brother benchers of the Inner Temple. Before the conclusion of her term of office she dined specially with the Benchers of her own Inn and in her Bencher's robe over her eve-

ning gown proposed the three toasts of "The King", "Domus" and "Absent Friends". The year has indeed left its effect upon the whole life of the Inn and will be long remembered in the Temple.

Conversation

The Benchers of the Inner Temple have elected as honorary bencher Mr. P. A. Landon, who is Reader in Criminal Law and Evidence in the University of Oxford. In electing him to be an honorary bencher (in which he is in the same category as Mr. Leonard Brockington) instead of an ordinary bencher as is normal in the case of a member of their own Inn, they have followed the precedent set in the case of Professor Sir Percy Winfield. Mr. Landon is widely known as a legal writer and teacher. As his recreation he provides what is probably a unique entry in *Who's Who*, not merely "conversation" but "conversation and conversation".

Administrative Tribunals

Professor Robson's textbook on "Justice and Administrative Law" has been usefully supplemented by a little symposium on "Administrative Tribunals At Work" published under the auspices of the Institute of Public Administration. In a foreword the Professor makes two good points. Parliament takes little interest in the subject of administrative tribunals. There is no committee such as was formed not long since to tackle the thorny subject of delegated legislation. Certainly there is room for one as these administrative tribunals are being formed and are proceeding in a most haphazard way. The second point is the apathy of the legal profession, or perhaps it would be more correct to say its sporadic course, mainly directed to secure the right of representation before these tribunals. Professor Robson put these points on the ground that the tribunals are "a vital part of the machinery of adjudication", though in his own book he says that "we must accept it as a system in the main independent of the Courts of law and reject any proposal to subject it to the contingent control of the courts". It is this difficulty in defining the status of these tribunals which makes this book, describing the working of seven, of particular value.

Mr. R. S. W. Pollard, who edits the volume, has been particularly concerned with the tribunals dealing with conscientious objectors, which form the subject of the first paper. Others are tribunals appointed by the Minister of Labour, appeal tribunals

under the National Assistance Act, 1948, furnished houses rent tribunals, rates valuation tribunals, appeals in town and country planning law and the tribunal dealing with the professional discipline of solicitors. This, however, is only a small selection since already there are nearly one hundred set up under different acts of Parliament. As Mr. Pollard observes, they "have been constituted without any common plan. The variety in constitution, practice and procedure is astonishing." Professor Robson endeavoured to lay down in his book (p. 500) principles of general application and Mr. Pollard has followed suit with some modifications. The subject is too intricate for detailed consideration in these notes, but the Institute's book is a helpful addition to the literature of a difficult subject:

Privileged Evidence

The efforts that are being made to effect reconciliation between husband and wife are providing difficulties in procedure, especially as regards communications to third parties. In *McTaggart v. McTaggart* (64 Law Times Reports 558) the parties had interviewed a probation officer who declined to give evidence and only did so upon subpoena by direction of the court. The position of the probation officer, which is delicate and important in such negotiations, was discussed by the Court of Appeal. Communications made to him are privileged unless the privilege is waived by the parties, or, as in this case, there is conflicting evidence by them of what took place at the interview, when the judge is justified in requiring the probation officer to give evidence. "The success of attempts at reconciliation", as Cohen L.J. observed (at p. 559), "might be prejudiced if it became known that the probation officer could be called". But Ormerod J. declined to extend this principle to an interview between the parties and their solicitor since it could not be assumed to be without prejudice as in the case of the probation officer (*The Times*, Dec. 5th, 1949). The distinction is a fine one and illustrates the care necessary in advising in these matrimonial disputes.

Mhicneachdain

Asquith L.J. started a correspondence in *The Times* by asking for the correct spelling of the name of the criminal whose mental condition gave occasion for the famous rules on legal insanity. Sir Ernest Gowers, the Chairman of the Royal Commission dealing

with the problem of capital punishment, joined in the correspondence by stating that, following the Home Office, the spelling to be adopted in their proceedings would be McNaghten. The curious thing is that rules of this importance should be named after the criminal whose crime was the cause of them. They have not gained for him a place in the Dictionary of National Biography, although by a curious coincidence it contains a life of a criminal about the spelling of whose name there is also some doubt — MacNaghten or Macnaughton. The spelling, "Macnaghten Rules", adopted fairly often is no doubt due to an impression that the rules were enunciated by a member of the eminent legal family bearing that name. In the correspondence which reached the Lord Justice as the result of his letter was a suggestion that all English variants are equally right, and equally wrong, because the word is Gaelic and its true form is the title of this paragraph.

An Olla Podrida Act

While a great deal has been done by the present Government to tidy up the law by the revision of statutes, they have also developed a practice which is undesirable and deserves mention as a warning to the unwary who may be making a reference to the English statutes. The draftsman who has to make a number of small amendments puts them into one act and calls it the Law Reform (Miscellaneous Provisions) Act. The one for 1949 (c. 100) deals with a variety of subjects, including one section of considerable interest owing to its effect upon much discussed decided cases. Section 7 provides: "Notwithstanding any rule of law, the evidence of a husband or wife shall be admissible in any proceedings to prove that marital intercourse did or did not take place between them during any period; Notwithstanding anything in this section or any rule of law a husband or wife shall not be compelled in any proceedings of the matters aforesaid". The same section also renders of no effect section 4 of the Adoption of Children Act, 1949, which received the royal assent at the same time. A worse trap for anyone referring to the statute could hardly be perpetrated and it must be remembered that social workers and others have far more use of the adoption acts than lawyers. For a time this kind of olla podrida act was particularly favored in New Zealand and it can be found elsewhere. Perhaps the Commissioners on Uniformity of Legislation, who do such excellent work, could prevent its spread in Canada.