

From an English Office Window

MIDDLE TEMPLAR

The sad news of the death of Middle Templar on April 24th reached us as this instalment of "From an English Office Window" went to press. Several months ago, moved perhaps by some premonition, we invited him to drop for a moment the veil of his anonymity and to explain the circumstances in which this series of notes was commenced in January 1942. Readers of this year's January issue will remember the humour and charm with which he responded. He favoured anonymity, he said then, because of his belief that "there is too much self-advertisement in the world to-day", but he was doing the Editor's bidding because it had "always been a matter of regret to him that he will not be able to read his own obituary notice". Those of us who had met Middle Templar knew that his modesty was sincere and that the dictate of his long life was service. He had become for us of the Canadian Bar Review not only the dependable contributor of notes from the Mother of the Common Law but a friend to whom we turned for advice on all kinds of questions. He never failed us, and many of the features that have appeared in this Review of late years had their origin in a tactful word from him. Author, editor, librarian, hospital administrator, student of comparative law and international affairs, Cyril Edward Alfred Bedwell combined a calm pride in his homeland with a responsible awareness of its rôle in the family of nations. He always seemed to us to stand for what was best in the British heritage.

Medico-Legal Society

Among the many interesting items in the complete report of the last Annual Meeting of the Canadian Bar Association, which has just reached this country, was one that particularly attracted my notice as a member of the Council of the English Medico-Legal Society. The increased attendance at our meetings and the steadily growing membership would seem to show that the time is opportune for the establishment of a Canadian Medico-Legal Society.

The English Society has just made a departure by electing a woman as President, in the person of the distinguished gynaecologist and obstetrician, Dame Louise McIlroy, whose presidential address is printed in the latest issue (Vol. XVII, Part IV) of the Medico-Legal Journal. In it she referred to a long cherished desire of the Society to see a Medico-Legal Institute established in London. A preliminary step has been taken by the University of London and it raised hopes that the Institute may become an accomplished fact when conditions have become more favourable.

A happy feature of the Canadian proposal is that it emanates from the legal profession. Experience in this country is that there is more interest among the doctors, though the balance is carefully preserved as far as possible in the subjects of the papers and the discussions. There is no doubt about the value of these opportunities for the clash of the intellects of the two professions, whose difference in training leads to an entirely different approach to medico-legal problems.

Popular Legal Education

Tribute has been paid to the admirable work that is being done by the B.B.C. in educating their listeners in the principles of British justice. On a recent Sunday evening, for example, there was a programme at a popular hour entitled "British Justice". It was originally produced in the Third Programme more than two years ago. The fact that it is now included in the Light Programme is to some extent evidence of the increasing popularity of the subject, especially as in it, as well as in the Home Programme, there have been other broadcasts dealing with legal matters.

An account is given of the system of justice in the form of a trial in which the prisoner is "British Justice" herself on a charge of injustice. The witnesses were called in historical order so as to reveal the different methods of procedure, beginning with trial by ordeal followed by trial of compurgation and trial by combat. An uneducated Saxon explained the actual methods. The next witness was a Norman landowner dealing with the inequalities of the land owning systems in different parts of the country, followed by a jurymen describing the foundation of the jury system and its development.

From criminal procedure the narrative proceeded to the liberty of the subject, as presented by a plaintiff in a civil action.

Included in the eighteenth century section was the deposition of a man who had just escaped from being pressed to death by pleading not guilty. The next witness described the right of prisoners to give evidence and he was followed by a poor person showing the need for legal aid.

The prisoner, "British Justice", gave evidence on her own behalf and demonstrated a growing standard through the centuries based upon the fundamental principle that every man is innocent until proved guilty. The witnesses called in support of the defence included a justice of the peace, a probation officer, police officer and a "young person" who had been tried in juvenile court.

By this procedure the listeners are left, upon the judge's summing up, to give a verdict whether British justice can justify its claims while at the same time showing that they are responsible to arouse public opinion to carry out further reform which may be needed to attain justice. The claim that British justice has progressed is emphasised by the fact that there have been valuable reforms since the programme was originally produced, so that Miss Jennifer Wayne will need to prepare a revised edition.

Steam Boilers

Professor Goodhart contributes to a recent number (October 1949) of the Law Quarterly Review an article with the intriguing title "Dangerous Things and the Sedan Chair". It discusses the case of *Ball v. London County Council*, [1949] 2 K.B. 159, in which the Court of Appeal, reversing the decision of Stable J., decided that the landlords had not been negligent in installing a boiler without a safety valve. The allusion to the sedan chair in the title is justified by the line of reasoning, which shows that the court failed to appreciate modern developments and dealt with the matter as if it belonged to "the gracious days of the sedan chair when gentlemen fought duels and the only steam generated was in a lady's tea kettle". The closely reasoned article leads the learned author to the conclusion that "a steam boiler falls within the category of things dangerous in themselves" and the court were not justified in basing their decision upon *Malone v. Laskey*, [1907] 2 K.B. 141. Even if boilers are not within the category of dangerous things the tenant might still have had her remedy by the application of the principle of *Donoghue v. Stevenson*, [1932] A.C. 562.

Appeals to the Privy Council

The common form of referring to the fact that Canada and other nations of the Commonwealth are no longer making use of a judicial body outside their territories is liable to cause some misunderstanding. The appeals went to the Judicial Committee, which was a body created by statute (3 & 4 Will. IV, c. 41). Up to that time the appeals had been so few that they were heard by committees specially appointed, usually in the vacation when the judges were free to attend. Although at times sovereign bodies, like individuals, have not liked the result of judicial proceedings, the fact remains that the Judicial Committee have attained a position of great prestige. There was a notable expression of this regard when the last appeal was heard from India. Although South Africa has now joined Canada and India, there will still remain a certain amount of work to be done, probably an increasing quantity, by the Judicial Committee in appeals from the Colonies, but the point is that, whatever happens to the Judicial Committee, the Privy Council with its great historical traditions and the remarkable modern development of functions is still a body with extensive potentialities. It is too large a subject for discussion in one of these notes but might well be set for a prize essay — *The King in Council* — defining the term, explaining the differences in its meaning in Canada, Australia and South Africa, and describing the scope of his functions.

The Head of the French Judiciary

Last year Lord Goddard, Lord Chief Justice, and Lord Greene, then Master of the Rolls, paid a visit to France, which has now been returned by M. Mongibeaux, President de la Cour de Cassation, and his charming wife. He is remembered as having presided at the trials of Pierre Laval and Marshal Petain. The President made a round of the Law Courts where he was welcomed by the presiding judges and the Attorney General. The Lord Chancellor and Lady Jowitt gave a party in his honour. While the President dined with the Benchers of the Inner Temple the Master of the Rolls and Lady Evershed took Madame Mongibeaux to the Ballet at Covent Garden. Next day, after visiting the Central Criminal Courts, they lunched with the President and Council of the Law Society, attended a reception given in their honour by the Government and dined privately with the Lord Chief Justice.

Happily synchronising with their visit, *The Times* published (March 15th and 16th) two informing articles by Mr. C. J. Hamson, Reader in Comparative Law in the University of Cambridge, on the subject of criminal procedure in France, in which among other matters he examined the formalities giving the impression in the mind of many Englishmen that the prisoner is presumed to be guilty when in fact he is only required, as we should say, "to make a statement".

Monopolies

In 1948 an Act (11 & 12 Geo. VI, c. 66) was passed "to make provision for inquiry into the existence and effects of, and for dealing with mischiefs resulting from, or arising in connection with any conditions of monopoly or restriction or other analogous conditions prevailing as respects the supply of, or the application of any process to goods, buildings or structures or as respects exports". The Act set up a Monopolies and Restriction Practices Commission of not less than four nor more than ten members appointed by the Board of Trade. The Act, which received the Royal Assent on July 30th, 1948, required the Board to make a report on its operations within the first two months of the year 1950. The Commission has been appointed and consists of eight members, with Sir Archibald Carter as chairman. Sir Archibald has paid a visit with two members to Canada in connection with the work, as has also the Secretary, Dame Alix Kilroy. The references made to the Commission by the Board of Trade were chosen to cover a wide range of allegedly restrictive practices and it is hoped that the Commission's judgment upon them may enable other industries to look into their practices. The subjects were electric lamps of various kinds, electric wires and cables, various builders' materials, dental equipment and matches. As a beginning this covers a wide field of research and inquiry so that it must be some time before the Commission are in a position to make any kind of detailed report.