FROM AN ENGLISH OFFICE WINDOW

Master Churchill

The Prime Minister has been elected an honorary Bencher of Gray's Inn and therefore is properly described as Master Churchill, as that still prevails as the correct method of referring to Masters of the Bench. Among his colleagues are Sir Lyman Duff and Mr. W. N. Tilley, K.C. Unlike them, however, Mr. Churchill is not a member of the Bar. Nevertheless Gray's Inn has ample precedent for his election, though in old days eminent statesmen were received into membership rather than given honorary titles on the governing body. It is sufficient to mention the younger Cecil, Earl of Salisbury and Henry Wriothesley, Earl of Southampton, the friend of Essex and patron of Shakespeare. Another honorary Bencher of Gray's Inn at the present time is the Dean of St. Pauls, Dr. Matthews, who was formerly the preacher appointed by the Inn to officiate in their chapel. The admission of distinguished ecclesiastics to the Inns was not at all uncommon in the sixteenth and seventeenth centuries. Gray's Inn has on its registers Archbishops Whitgift, Bancroft, Laud and Ussher, as well as Bishop Lancelot Andrewes and Dean Overall who wrote the latter part of the Church Catechism. The position of an honorary Bencher differs from that of a Royal Bencher as he has no voice in the government of the Inns. At the time of his death, the Duke of Connaught was the senior Royal Bencher in the four Inns and the Royal Family is now represented on the Bench of Gray's Inn by the Duke of Gloucester. The original precedent for the election of Royal Benchers was provided in 1661 by the Inner Temple when they admitted the Duke of York and also called him to the Bar. Royal Benchers as such are entitled to a voice in the governing body of the Inn. After his accession to the throne as James II he was admitted to Lincoln's Inn and called to the Bar, but in modern times members of the Royal Family are not attached to more than one Inn.

The Liability of a Hospital

The Supreme Court has had to decide a question in reference to the liability of a hospital which raises a novel point in English law. In the various claims for damages there has not previously been one involving the work of a radiographer. In this case (*Gold and others* v. *Essex County Council*, [1942] 1 All

E.R. 326) a little girl of five was taken to a hospital under the control of a local authority for the treatment of warts on the face. The consulting dermatologist fixed the dosage of X-Ray treatment. The radiographer applied the treatment on several occasions and screened the little girl's face, other than the warts, with a rubber material lined with lead, which he had placed over a layer of lint. Under medical orders the dosage was doubled and on the first occasion of the increase the radiographer did not make use of the rubber lead-lined material as a screen for the face but used only lint as a protection. The mother was given a pair of lead-lined gloves and held the child's face in position. There still remained a considerable area of the child's face which was not covered and, although the radiographer thought that the lint would be sufficient screening, the face became very inflamed and the evidence was that the lower part of the face was permanently disfigured. Actions of this kind are usually brought against the governing body of the hospital rather than against the individual members of the staff, for the natural reason that the one has the funds from which to pay damages and the others have not. Tucker J. said that it was plain from the medical evidence that Mead, the radiographer, was guilty of negligence. He then had to examine the question of the hospital's liability. He found that the radiographer was qualified and fully competent to administer the treatment ordered by the dermatologist. That gave the local authority judgment in accordance with *Hillyer* v. *St. Bartholomew's Hospital*, [1909] 2 K.B. 820. An effort was made to show that the hospital had not sufficient or proper professional assistance because the mother held the child instead of a nurse. The Court could not accept these charges since the mother was obviously the best one to take care of such a young child. The failure of the radiographer to use the proper material was not due to lack of it but to an error of judgment.

Nevertheless Tucker J. was quite clearly not happy, after examining the case, in having to reply upon *Hillyer* v. *St. Bartholomew's Hospital*. In his view of the decisions he included *Fleming* v. *Sisters of S. Joseph*, [1937] 2 D.L.R. 121, aff'd. [1938] S.C.R. 172, and said that "in the light of the judgments of Lord Alness (in *Anderson* or *Lavelle* v. *Glasgow Royal Infirmary*, [1932] S.C. 245) and of the Supreme Court of Canada I might possibly have come to a different decision in the matter, if I did not consider myself bound to take the same course as Swift J. (in *James* v. *Probyn, The Times*, 29th May, 1935) took—namely that he was not free to express any views of his own on the matter

but was bound by the decision in Hillyer's case". The cases were ably reviewed by Mr. F. N. MacLeod in the *Canadian Bar Review* (Vol. 18, pp. 776 *et seq.*) with special reference to the work of nurses. The attention of the English Court does not seem to have been directed to any cases in the United States courts, although *Runyan* v. *Goodrum*, 147 Ark. 481, 228 S.W. 397, discussed by Dr. Donaldson in "The Roentgenologist in Court" (p. 56, Baltimore, 1937), seems to have decided the same point. It may be doubted, however, whether Mr. MacLeod's line of thought in advocating a master and servant relationship is the ultimate solution of this problem. With some years' experience of hospital administration, I suggest that the patient is more adequately protected if each of these qualified professional technicians is made responsible for his own actions just like the medical man. They too, would have to be insured by a defence union. The action could be brought against the nurse who burns the patient with a hot water bottle, the masseuse who applies too much radiant heat, or the radiologist who does not provide adequate protection, and the hospital would still be liable if the staff were not properly qualified or there had been any failure in its administrative acts such as the supply of adequate apparatus.

Waste of Paper

The judges have been cooperating cordially in the campaign to save paper. There have been several strictures upon solicitors using only one side of the paper and wide margins. A comment by a Lord Justice in giving judgment in the Court of Appeal has a bearing on the subject. He said:—"This was as plain a case as was ever brought. If the learned judge had not achieved the remarkable feat, I should have thought that it would have exceeded the bounds of human prolixity to have delivered a judgment on it which occupied 15 pages." The economy is being effected in a wide variety of directions and accumulated stores are being turned out on a large scale. Care is being exercised so that nothing valuable is destroyed. In one solicitor's office a document was discovered with the signature of the original of the famous John Gilpin, citizen of London. Confidential documents can be cut up into slips by a machine in an establishment quite near the Law Courts. Briefs are delivered with an outer sheet and just the original documents inside so as to save the making of copies. The Bar and the solicitors made a big contribution to the special week of collection in the City of Westminster.

A Notable Jubilee

As a postscript to my account of the work of the unpaid judiciary may be added a note of the recent completion of fifty years' service by Sir Cecil Bigwood as a Justice of the Peace for the County of London. He is chairman of the London Standing Joint Committee and the Appeals Panel of the London Quarter Sessions. In an interview on the occasion, Sir Cecil described London as a more law abiding city than he knew fifty years ago. He hoped that after the war more use would be made of lay justices for dealing with lighter cases, such as motoring offences.

MIDDLE TEMPLAR.