Canadian town was over. I wish I could find words to tell all our Canadian hosts how gratefully we remember them.

We had found it more convenient to come home from New York than from Quebec. So back we went to New York by the night train and found ourselves with a little spare time which we spent in sight-seeing. Like all good tourists we went to the top of the Empire State Building whence we should no doubt have had a wonderful view if the whole country had not been shrouded in mist. More fortunately we visited the Metropolitan Art Museum and saw its undimmed treasures, also the Frick Gallery whose pictures are exhibited in an intimate way which is uniquely attractive. We met too a friend of friends, a Mr. Kienbusch, in whom I found a strange link with Winchester College. For, years before, he had purchased some of the stained glass from the college chapel which had been shamefully disposed of by the Warden and Fellows of the college a hundred and more years ago. It had no doubt passed through many hands, but there it was now exhibited in a private house in New York amidst a priceless collection of armour and other art treasures. One day perhaps, through the generosity of the present owner, it may return to its first home. I wish I could say the same of similar panels which may be seen in the Victorian & Albert Museum in London. This was a delightful stay, during which Beth Webster was as before our generous host. And so our tour came to an end. We boarded the Queen Mary and as soon as we were out of sight of the famous skyline she started rolling - she had as yet no stabilisers - and rolled until she reached Southampton Water. I suffered accordingly, but dramamine averts the worst disasters.

Had our tour been a success? I hope so. But in the States there had been occasional awkwardness. I had been warned that Jowitt's book about Alger Hiss had created ill-feeling in some quarters and was prepared for some coldness. One distinguished lawyer to whom I was introduced as "the Lord Chancellor" must have thought I was the Lord Chancellor who wrote the book, for I could see no other reason why he should have turned his back on

me. However, these were specks on the surface of golden days.

At Southampton we were met by our car and after a short stay at Sparsholt returned to London to face some weeks' accumulation of business. A year of high office was left to me, but I have already referred to much that happened in that year. It was a period of comparative calm. "Comparative" is perhaps the key word there, for there were troubles enough at home and abroad. I was now approaching 72 and sometimes thought enviously of my colleagues in the law whose official hours of work ended at 4 p.m. and who could at their leisure prepare their judgments. It may well be that a greater burden is borne by the holders of other offices, the Prime Minister, the Foreign Secretary and others. The Lord Chancellor at least is spared the fatigue of sitting in the House far into the night except on rare occasions. He need not, and in my view should not, go about the country making political speeches, though a liking for that practice may, it appears, become an occupational disease of party politicians. But, all that said, it is a laborious life and I began to look forward to days of greater ease, particularly as I knew that another was ready to take my place.

I have said nothing about a subject which can never be absent from the mind of a Lord Chancellor and was certainly present to mine. The law of England today is largely determined by statutes and their attendant regulations but there remains a large body of common law in which I include equity, meaning thereby the body of law originally administered by the Court of Chancery but now by all courts alike. It may be said generally that, where experience or change of circumstance has shown that a statute needs to be amended, there is some department of State, the Board of Trade or the Ministry of Health, or as the case may be, whose province it is to promote in Parliament a Bill that will effect the necessary reform. And at the beginning of every session there is an eager queue of Ministers trying to get a place for their department's Bill. But, again generally speaking, there is no department which is concerned with reform of the

common law. I emphasise the words "generally speaking", for there must be subjects in which there is an overlapping of statute and common law, for example, accidents in factories where the common law and the Factories Acts may equally be invoked. Where no department is immediately concerned, then it is the task of the Lord Chancellor to promote a Bill which will effect the necessary reform. Dissatisfaction is from time to time expressed that the process of reform is not regarded with sufficient urgency. I have some sympathy with this view. The 1920's saw great measures passed for the reform of our land law under the inspiring influence of Lord Chancellor Birkenhead. But thereafter there was a lull. In 1934 Lord Chancellor Sankey appointed a committee called the Law Revision Committee under the chairmanship of Lord Wright whose duty it was to "consider how far, having regard to the statute law and judicial decisions, changes are desirable in such legal doctrines as the Lord Chancellor may from time to time refer to the Committee". This Committee did some useful work issuing reports between 1934 and 1939, but the war brought its labours to an end. When the war ended the need was no less urgent for the Committee to continue its work, but it is significant that Lord Jowitt who had then succeeded to the office of Lord Chancellor did not think fit to reappoint it. It was not that he was less conscious of the need than modern critics. But he had been (as many of them have not) a member of the House of Commons and a Minister for many years and he realised that he would ask in vain for parliamentary time for passing measures of reform and very properly declined to ask the Committee to embark on what might be fruitless labours. However, I had not been long in office before I was under pressure from the reformers to renew the good work and, risking the possibility of labour being in vain, in June 1952 I appointed a committee, now called the Law Reform Committee, under the chairmanship of Lord Justice Jenkins (as he then was) consisting of judges, practising barristers and solicitors and academic lawyers from the universities. Their terms of reference were substantially those of the old Committee, but I

gave them power to act by sub-committees, who were authorised to co-opt members with special experience of the subject under review. Also I strengthened the link between them and myself by providing that the secretary and assistant secretary should be members of my staff. This Committee, whose gratuitous services are insufficiently recognised, has done much valuable work, and some useful measures, which I will not detail, have been passed. In many instances reform has been effected by private members' Bills. I would not belittle the efforts of private members, but in almost every case such Bills have been based on reports of the Committee and supported by the Government and drafted by or with the assistance of parliamentary counsel. But these efforts do not satisfy the critics who would like to see a high-powered and highly-paid body in more or less continuous session advising the Lord Chancellor what changes in the law are desirable. Such a suggestion goes much too far. It would almost certainly involve the consideration, under the guise of law reform, of changes of social policy which are not for the Lord Chancellor to initiate and would be likely to create trouble between him and the appropriate department of State. And the overwhelming difficulty would always remain of finding parliamentary time for the passing of the proposed Bills, particularly if they were of a controversial nature. There is no complete solution of the problem. The best that can be done is to make a fuller use of the machinery of the existing Committee and to induce the House of Commons to be somewhat more generous of its time. The proposed Bills could be appropriately introduced in the House of Lords which should have no difficulty in finding time for their consideration. The question of reform of the law is bound up with another question which at least among lawyers excites a good deal of controversy. At an early state in these reflections I referred to the words of Francis Bacon upon the necessity of certainty in the law. I have always regarded it as of paramount importance that the law should as far as possible (and perhaps that is not very far in the infinite complexity of human affairs) be ascertainable and certain

To this the greatest contribution is made by regarding a decision of the House of Lords, the highest judicial tribunal, as once and for all determining the relevant law. But it may well be that in course of time owing to changes in economic or social conditions that decision no longer reflects present needs. What then is to be done? Is the House of Lords to say: "This which in the past we have declared to be the law of England or Scotland shall no longer be the law."? Or is Parliament to effect the required change by legislation? Not everyone agrees with me, but I strongly favour the second alternative. That is why I would gladly see more effective use made of the Law Reform Committee. But in the last resort all depends on the House of Commons finding parliamentary time. Good luck to those who try to find it!

We are here on the fringe of an important topic which has for long exercised the minds of those engaged in the administration of justice, though it seldom appears to attract public discussion. I refer to the anomalous position of the Lord Chancellor who in his person defies any theory of the division of powers - an anomaly certainly, though it may be that he supplies a useful link between the Executive and the Judiciary. But this has led to an agitation, which from time to time finds voice, for the abolition of his office and the creation of a Ministry of Justice. This is too large a subject for my random reflections. Bentham, I think, gave birth to the idea and in the "prolific and unstable mind" of Lord Brougham it took root. From that time onwards there have been proposals directed to the establishment of a Ministry concerned with law reform, patronage and administration of all the machinery of justice. Lord Chancellor Haldane was disposed to view them with favour. Lord Chancellor Birkenhead, beside or behind whom I would humbly range myself, was uncompromisingly opposed to them. I commend to those who still play with the idea the essay written by him which is to be found in a volume called "Points of View". If they can find an answer to his argument I shall be surprised.

A distinguished peer whose autobiography I have recently read observes that he would "need to be a poor fish, inarticulate, morbidly discreet, shamefully evasive or of failing memory" if he had nothing to report of his eighteen years in the House. Having completed twenty years in the House, I have no wish to be branded with any of these qualities, if I do not emulate him in character sketches of his fellows, though I would suggest that what some call morbod discretion or shameful evasion might by others be described as decent reticence. There is, however, at least one matter, not affecting personalities but directly touching the constitution of the House, upon which I would fain say something as I took a leading part in the discussion of it and led my side to defeat.

It is a familiar objection to our House that at any moment reforms which, having passed the House of Commons, are said to represent the will of the people, are liable to be defeated by the votes of conservative peers who seldom attend the House but leave their backwoods when they conceive that their own interests are adversely affected. This is a very crude way of putting it but makes an effective political appeal. It is illustrated by the story of a peer who was induced to emerge from his remote fastness and come to the House to vote against a Bill. Ignorant of its ways and nervous at finding himself in unknown territory, he had braced himself more than adequately for the venture. Entering the House by the Throne he edged his way along the benches and by chance making contact with a bishop's lawn sleeves he cried aloud: "Women, by God!" and fled incontinently. To meet this sort of objection a proposal was made that in some way a restriction should be imposed on the attendance of peers. In effect they were to be required either to attend or to get leave of absence and in the latter event could only attend if that leave was revoked. This is a story which beginning during my term of office did not end until long after I had resigned. The prime mover was the late Lord Exeter, a peer learned in the lore of the House and universally respected. (I was wafted back to Elizabethan days when Lord Salisbury referred to him, as he delightfully did, as "the noble Marquess the Head of my House)

When the matter was first mooted by Lord Exeter, I was on the Woolsack and, though I sympathised with his object, I did not think that the means were feasible. I buried myself in the books that dealt with the law and custom of the Constitution and in particular the history and powers of the House of Lords and came to the conclusion that it was not within its power to limit the right of attendance of a peer who had received from the Soversign the usual writ requiring him in peremptory terms to attend His Parliament at Westminster. In former days this requisition was seriously regarded and at the instance of the Soversign peers were fined for non-attendance. But, even assuming that this practice could be revived, it appeared to me to be a contradiction in terms, unauthorised by reason or precedent, that the House should assume the power to require leave of absence to be given and to deny the right to attend until that leave had been revoked. This seemed to ignore the overriding command in the writ of the Soversign. I therefore thought myself bound to advise the House that in my opinion the proposals were unconstitutional. But I could not and did not resist the suggestions that a Select Committee should be appointed to examine and report on the matter. This course was taken. A Select Committee was appointed and in due course reported in a sense adverse to my opinion.

The result was that a new standing order was drafted and submitted to the judgment of the House. I opposed it and received a substantial amount of support but was defeated. The position is a very curious one upon which I permit myself a few comments. The standing order begins by prescribing that "Lords are to attend the sittings of the House" - a prescription that might seem a superfluous addition to the mandatory and solemn words of the writ - and goes on "or if they cannot do so, obtain leave of absence, which the House may grant at pleasure. But a Lord who is unable to attend regularly is not required to apply for leave of absence, if he proposes to attend as often as he reasonably can." This is all very well, though it is so vague as to admit any latitude. The order goes on, however, to provide that the Lord Chancellor in

writing shall remind every peer to whom a writ is issued that he has a duty to attend the House or, if he cannot, to apply for leave of absence and ask him to answer whether he wishes to apply for leave of absence or not: if he fails to answer within twenty-eight days, he is to be deemed to have applied for leave of absence for the remainder of the Parliament: then comes the vital provision: "A Lord who has been granted leave of absence is expected not to attend the sittings of the House until the period for which the leave was granted has expired or the leave has sooner ended, unless it be to take the Oath of Allegiance." I do not find this provision easy to reconcile with the indubitable right of a peer to receive the writ. I say "indubitable", for in old days it was successfully asserted against the Sovereign who would exclude a peer who was objectionable to him. But now if a peer has applied for, or is to "be deemed to have applied for", leave of absence, he is at mercy and may be excluded for as long as the House thinks fit. He may as well tear up his writ. His constitutional right of attendance, or it might be said, his duty of attendance are at hazard. The only saving grace that I find in the order is the use of the word "expected". Nothing is said as to whose is the expectation or what will happen if the expectation is disappointed. What will in fact happen if a peer, having failed to answer the Lord Chancellor's letter and being therefore deemed to have asked for leave of absence and presumably to have been granted it, comes to the House, takes the Oath of Allegiance (for that the order permits him to do) and then asserts his right to sit and speak and vote? I should rather like to see it. I do not think that the order serves any useful purpose. It by no means abates political objection to an hereditary chamber, but it does, as I very well know, cause embarrassment to peers who would gladly come to the House and give their counsel on matters in which they are expert but are precluded from frequent attendance by preoccupation in business or public service elsewhere. What is to be the test for them how often they "reasonably can" attend?

Two other important changes in the constitution of the House I have seen, but they too took place after I left the Woolsack. The

long vexed question of life peerages has at last been settled and I think that most people today are wondering why in the world it was not done long ago. The theoretical objection, if there is one, to such an innovation was disregarded nearly one hundred years ago to meet the needs of the House in its judicial capacity. Lords of Appeal in Ordinary, first five, then seven, then nine, have been created without any noticeable pollution of the atmosphere. The creation of other life peers to meet no less a need, to redress in some measure the imbalance between the two main parties in the House and to obtain the counsel of men and women of distinction who would decline hereditary honours, was an obvious remedy. It has been an unqualified success. The other change, by which peers are permitted to surrender their peerages under certain conditions, is too recent for opinion to be founded on its results. It was not a new question to me. For apart from the general discussion, to which in the nineties of last century the cases of Curzon and Midleton and Selborne had given rise, I had been a member of the so-called Personal Bill Committee of the House to which had been referred the Bill promoted by Anthony Wedgwood Benn. He, being the heir to his father, Viscount Stansgate, then still alive, sought by this Bill legislative power to disclaim his right of succession to the peerage. He argued his case in person and extremely well he did it. Had his inclination led him to the Bar (but perhaps he despises the profession) great success, perhaps "glittering prizes", would surely have been his. But the Committee, and not least I, were hardhearted. Whatever merit there might be in a general change such as has been brought about by the recent Act, it would have been highly improper to permit a great constitutional change in the case of a single person whose position was not in any relevant way different from that of the generality of peers or heirs to peerages. So we hardened our hearts and made an adverse report to the House. How much has flowed from this! It may be doubted whether without the enthusiasm and driving force of one young man the change permitting disclaimer of peerages would ever have been made. It is in truth to the hardness of heart of a Personal Bill

Committee that Sir Alec Douglas Home owes it that he is Prime Minister of England. We have not yet seen the long-term results of the change and I retain the doubts that I have always felt about its wisdom, not because I regret that Sir Alec is Prime Minister - he is supremely well fitted for that post - but because I fear that it may weaken, as it has already done, the strength and prestige of the House of Lords.

But I have been led to discuss matters that became topical only after my resignation in October 1954 and I must return - Lord Haldane, who knew as well as most men what hard work meant, once said that three years was as much as any man could stand as Lord Chancellor. He was himself only 56 years old when he first became Lord Chancellor and held office for just under three years. His second short term began when he was in his 68th year and lasted under one year. Since his time two Lord Chancellors have substantially exceeded the term of three years. I do not know whether that confirms or refutes Lord Haldane's view. But at any rate neither of them at the date of his appointment was within reach of three score years and ten. For me the time was drawing near, and as I come to the end of my recollections of my term of office, I am conscious of much that I have left unsaid. The choice often lies between being dull and being indiscreet and I choose the former. No doubt opinions will differ as to the limits of discretion. Of two parties to a transaction one will think it so confidential that he will record it in his own hand, unwilling to risk even his private secretary sharing his knowledge, the other will think it proper material for disclosure in a Sunday newspaper. I applaud the former. And so it is that I have said and will say no word about anything that could be regarded as confidential. And if that is dull, so be it.

In October of 1954 the Prime Minister thought that the time had come for a change. The Home Secretary, Sir David Maxwell Fyffe, had been Attorney-General in his previous administration and had fully earned the right to a place on the Woolsack, which, it appears, he had for some time been anxious to assume. There were other

changes too, which the Prime Minister wished to make, including the promotion of my good friend Gwyllym Lloyd George (now Lord Tenby) for whom a place could be found as Home Secretary if Maxwell Fyffe succeeded me. And so it was brought about. It chanced that all that time Lord Porter, a Lord of Appeal in Ordinary, who had long been in ill health, had placed his resignation in the Prime Minister's hands. I resigned and was reappointed a Lord of Appeal in Ordinary in the place of Lord Porter. Maxwell Fyffe succeeded me as Lord Chancellor and became Lord Kilmuir.

Thus after three years my political adventure ended and once more I was back in the familiar world of law and lawyers. And now, as I write about it nearly ten years later, it sometimes seems like a strange dream. I suppose that at some future date there will be a successor to Atlay and Professor Heuston who will write the Lives of the Chancellors from 1940 onwards and I daresay he will not find much good to say about me. I was at any rate loyal to my colleagues and gave them unstinted help. I remember being told by a member of the Cabinet soon after my appointment that the Lord Chancellor and the Law Officers could by giving wrong advice bring down a government quicker than anyone else. That may have been an oblique reference to Sir Patrick Hastings (who, incidentally, was very badly treated) and the Campbell case. I took to heart this formidable warning and will claim the negative credit that no disaster followed any advice of mine. But here let me pay tribute where it is due. Throughout my term of office one of the Law Officers, first as Solicitor under Lionel Heald and then as Attorney, was Reginald Manningham-Buller. To him I owed much. He would not claim to be a monument of erudition such as his great ancestor Sir Edward Coke. But he was the equal of him or any man in bringing to bear a sound commonsense upon the often difficult problems that faced us. Later on it was my fortune to hear him argue many appeals, which he did with equal brevity and clarity. These are the qualities which appeal to an appellate tribunal, just as they appeal to the House of Lords where he now, to my great satisfaction, sits on the Woolsack. But I am speaking of the time when he was a Law Officer and it was

then that I learned to appreciate his worth as an adviser and very loyal comrade. I was fortunate too in my office staff. Napier, who retired during my term, was succeeded by George Coldstream than whom there never was a more careful and discreet counsellor. And behind him in their respective spheres were Dobson and Skyrme who would not have known how to put a foot wrong. To them all and others whom I do not name let this be my testament of thanks.

I have mentioned Professor Heuston. His admirable book, which every aspiring student of the law should read, has just reached me. Reading it, I became conscious how far I had fallen short of my predecessors in accomplishment. But the press of business in the years during which I was Chancellor, did not admit of any large measure of law reform and on the political side my lack of experience would have deterred me from taking a strong line even if I had been inclined to differ from my vastly more experienced colleagues. There was perhaps another aspect in which I fell short of my colleagues. Though But, if I have sometimes written almost flippantly about my duties, that conceals my immense pride in holding the high office of Lord Chancellor and my determination that it should not in my time be degraded. It is with that thought in mind that I turn to the single episode of which I think with great distaste. Necessarily I had from time to time crossed swords with leaders of the Opposition, but they were honourable opponents without rancour or ill-will, and our combats left no scars. It was otherwise with a measure upon which opinions were strongly held on both sides of the House. I refer to the monopoly of television which was held by the B.B.C. I do not propose to argue here the merits of the case. Readily I concede that there are arguments in favour of that monopoly by which its supporters may be sincerely convinced. But that had never been my view and I welcomed the possibility of a rival independent television authority being set up. For it seemed to me that the reasons which can alone justify a monopoly were wholly lacking, and that nothing could be more dangerous than to leave in the control of one man or one body of men an organ so powerful for influencing public opinion. It would be worse than to allow the printing of only one newspaper, whether it was the "Daily Mirror" or the "Daily Express" or "The

I hesitate to think so. One of them has written that, while in Opposition, their "hatred of the Government was deep & sincere". It is means that when returned to power our hatred of the Opposition was equally deep & sincere. I had no part in it. But perhaps it was an idiosyncrasy of the writer. Hatred is not, I think, generally regarded as an emotion that should be governed by differences of opinion in politics.

Times. In all this I may be wrong though the years have not changed my opinion, but, right or wrong, it was a view strongly and sincerely held and as vigorously expressed in the House when the matter was debated. What then was my anger when I read in the next issue of a Sunday newspaper an article by Lord Reith in which he questioned my sincerity and in effect charged me with prostituting my high office for party advantage? I will confess that I saw red. The arrogance and self-righteousness of the writer might be forgiven but his insolence in making such a charge against me was more than I could bear. For to one who is bred in the law and dedicated to its service the office is indeed a high one and to prostitute it an unpardonable offence. I took the best advice as to the course I should follow. It was not open to me to enter into a newspaper controversy and I was advised to wait and bring up the matter when next the subject of independent television should be before the House which was likely to be soon. Unfortunately that was not so. It was over a year before I had my opportunity. By that time no doubt the thing had for everyone except myself become rather stale. But I was not inclined to let it go. I gave Lord Reith notice and said what I thought of his attack. He did not attend the debate but next day appeared and made an explanation which I was content to accept as an apology. So ended what was for me the only disagreeable incident in my tenure of office. It had one agreeable feature and that was the zeal with which Lord Altrincham (Ned Grigg of Winchester days) leapt to the defence of an old friend!

Thus another change in my life had taken place. We left our residence in the Palace of Westminster with regret. We sought and found a flat, where we still live, in Rutland Gate, a quiet enclave but for the fact that half the cars in London use it as a parking place.

I was now nearly 73 years of age and, health permitting, could hope for a further term of judicial work. Now an age limit of 75 has been set for judges of the High Court and the Appellate Courts including the Lords of Appeal in Ordinary, but it did not apply to me. Even if it had, I had still two years to run. In the event I was able to continue working for considerably longer. The question

of an age limit is a profoundly difficult one. I am pretty clear about one aspect of it. I favour an absolute limit without a discretionary power in the Lord Chancellor or anyone else to extend it. In the case of County Court Judges there is such a discretion vested in the Lord Chancellor. I found it, as everyone holding that office must find it, a difficult and invidious task to decide whether a judge should or should not have his term extended. Nor, since I could seldom, if ever, have any first-hand knowledge of the case, could I be sure that I was making a right decision - and that is a mighty uncomfortable feeling in a matter closely affecting the administration of justice. Upon the broad question whether there should be an age limit or not, there are weighty arguments either way, but I think that a right decision has been made. It is quite true that in the exercise of the judicial function experience has greater relative value than in other activities. It is true too that many a judge has given judgments of great value after attaining his 75th year. Lord Halsbury in his 93rd year gave a judgment that might have come from the pen of a man in his intellectual prime: Lord Dunedin in his 80's remained as good a judge as ever I practised before. Of him a story is told which illustrates the heart-searching difficulty that confronts a man who has to decide for himself whether he is too old for his job. His resignation took everyone by surprise, for he appeared, old as he was, to show no signs of failing. Challenged as to why he had so suddenly departed he said: "Well- I used to be, if not quicker than my colleagues at getting to the point, at least not behind them. But the other day even old so-and-so got there before I did. It was time for me to go!" Happy the man who has such a yardstick to measure his days, but not all those who sit in an appellate tribunal can find one and he who sits alone in this as in every other decision pursues his lonely way.

Lord Dunedin, if I may digress once more, could claim to exhibit in supreme degree what is regarded as an attribute of judicial excellence. It was said of him that he always kept an open mind until the end of a case. This is of course what every

judge should do. It is the logical extension of the elementary maxim "Audi alteram partem". But it is perhaps just where an old and tired mind begins to fail. Having found his way through the mazes of a modern statute and arrived with difficulty at its meaning, the judge is reluctant to retrace his steps and arrive with equal difficulty at a different conclusion. That is where old age creeps in - an argument in favour of an age limit.

It is perhaps anomalous that, though the age limit applies to Lords of Appeal in Ordinary, yet after they have passed it, they are qualified to sit as volunteers in the House of Lords and the Judicial Committee of the Privy Council. And it sometimes happens that they are called on to do so. Lord Goddard happily described those of us who are thus brought out of store as "the mothball brigade".

To keep an open mind is a judicial virtue. So is patience. And how hard it is to be patient while counsel pursues a tortuous and tedious path when the broad highway to a right conclusion lies open before him or when he flogs and flogs a dead horse in the vain hope of inspiring a breath of life! But I am not sure whether the old man of 75 is more liable to be impatient than the young one of 65. We all suffer from it. One of the greatest judges that I knew was Lord Buckmaster. But, if he had a fault, it was impatience of delay when he had himself arrived, as he so quickly did, at the heart of a problem. I well remember a case which I argued before him in the House of Lords. The leading counsel on the other side was D. N. Pritt, K.C., a learned and courageous advocate but apt to illustrate his propositions by examples from domestic life as - "If, my Lords, I had said to my butler, though of course your Lordships will understand that I have not got a butler," and so on. I can see Buckmaster at this throwing himself back in his chair and saying: "Mr. Pritt, Mr. Pritt, are we never to have an end of these infinitely tedious personalities?" And I think that his sense of grievance must have endured, for, when Pritt's turn to reply came, it being then 3.45, Buckmaster said: "I suppose you will finish today, Mr. Pritt; I never took more than a quarter-of-an-hour to reply and let me say, Non sine gloria militari."

As I have said, upon my resignation I was reappointed a Lord of Appeal in Ordinary. Therefore I was not confronted with the problem how far as an ex-Lord Chancellor receiving a pension I was under an obligation to attend judicial sittings of the House or of the Judicial Committee. My pension was in fact in abeyance so long as I received the salary of a Lord of Appeal. This question was raised in an acute form in the case of Lord Birkenhead who with characteristic vehemence asserted his right to retain his pension and to attend or not to attend judicial sittings and to engage in other remunerative business just as he thought fit. It is, I think, clear that a Lord Chancellor is not under any legal obligation, if he receives a pension, to attend judicial sittings. An obligation express or implied is not to be extracted from the Act of 1832 which authorised the granting of such a pension or from the patent granting it. Is there then a moral obligation? I very much dislike being dogmatic or even expressing a tentative opinion about any moral obligation. Certainly I do not think that the observance of a practice by every Lord Chancellor since the Act except Birkenhead creates a constitutional convention which it would be morally wrong to disregard. I say this because in the third quarter of the twentieth century economic conditions are so/ideally very different from those prevailing during the greater part of the time in which a convention might be supposed to be established, and/now If an ex-Lord Chancellor has no private means, his taxed pension may well be inadequate to meet his family commitments and to support him in the state to which he is accustomed. I can only conclude rather lamely that it is a matter which each man must decide for himself and be no more critical of one who finds himself constrained to follow Birkenhead than to say I greatly regret it. For it is in truth a pity that the wisdom and experience in the law that a Lord Chancellor must be presumed to have should be lost in the wastes of the City. I should regret it more if it was thought to be a precedent for other judges abandoning their judicial office and engaging in commercial enterprises. I am not sure that too much emphasis has not been laid on the question of pension. I should regard it as

wholly objectionable if (for example) a judge who had been accustomed to sit in the Commercial Court retired from the Bench and accepted directorships in commercial companies and my objection would be the same whether he sacrificed a pension or not.

Release from the cares of office gave me more time to enjoy the pleasures of our country home. I could still take part in the active pursuits which had been my recreation. But old age has also its own privileges. More than ever I enjoyed the inactive life also. It was a golden day when sitting at the window of the billiard room I saw within half-an-hour all the British finches drinking at the bird bath just outside. Chaffinch and greenfinch were common and usually there was at least one family of bullfinches and goldfinches but the fifth, the hawfinch, was with us a rarity indeed. I had only once before seen them in the garden and on that occasion was just in time to save from the gardener's murderous intent a pair that had got inside the fruit cage. So on another occasion I was drowsing in a deck-chair under some trees when I heard a flutter and for the first and last time in this neighbourhood saw a greater-spotted woodpecker busily searching for its food in the crannies of a lime tree trunk. Whence come they and why, and whither do they go, these rare and welcome visitors?

Here is a question for lovers of birds. How to prevent them from committing suicide by flying into the windows and breaking their necks? It was to us a constant anxiety and I would not like to say how many birds I have picked up outside the billiard room windows. Sometimes they were only stunned and I could nurse them back to life, but too often they were gone for ever. One sad day I picked up a dead nuthatch and a willow wren lying side by side. Small panes or lattice windows might be the answer, but that is to deny yourself the wide unbroken aspect which is one of the joys of country life. Particularly that would have been so to us, for we looked across a little valley to what, when we first knew it, was open downland but later became a broad expanse of corn. And thereby hangs a tale. We had an old gardener who had been for many years with our predecessors. In 1914 he had working under him an ancient

labourer who one day looking across at the down said he remembered it under corn. When he was cross-questioned it appeared that that was before the repeal of the Corn Laws in 1846. Thereafter it was not ploughed again until 1940. Here was the agricultural history of England in small. But downland, where the chalk-loving wild flowers grew in profusion, or corn land, green in the spring and golden before harvest, it was a healing vision for London eyes.

One thing I learned, the importance of silence and absolute stillness. Nature does not show her treasures to those who move with clumsy foot. I remember one September evening fishing on the Itchen. A chestnut tree which overhung a favourite pool had begun to turn its colour and its golden leaves were reflected in the water. My wife was with me and we sat very quietly in deep content and watched, when suddenly there was a movement on the opposite bank and two young otters slid into the water and began to play. They were not fishing but gambolling as innocently as two village children. And so we watched them until one unwary movement frightened them away. How many people have seen an otter at such close quarters?

I remember too one afternoon when I was fishing on the Test. It was a day that was by all counts hopeless for fishing: the sun was brazen in the sky: no fly was on the water, not a fish was moving. But I saw a fish lying not too deep and thought it might be tempted. Very very quietly I waded towards it and, knee deep in the water, stood motionless and watched. And as I stood there, from an ~~alibeea~~ alder tree on the bank not five yards away, a nightingale burst into full-throated song. It is not only at night that a nightingale sings.

One other memory of the river and I will have done. It was again the Test and I was standing one evening on a bridge over the river with the waterkeeper at my side. Still and silent we watched the water for a rising fish when there was a sudden flutter and a young cuckoo settled on my neighbour's head. I do not know which was most surprised. (No! I have never had a kingfisher perch on the end of my rod, but that is a good fisherman's story.)

But before I return to London I must tell the story of the

butterfly. A friend, who was a keen collector, was staying with us and walking in the garden one morning asked me whether we ever had White Admirals so far from the New Forest. I said no I had never seen one in the garden or near it. No sooner was the word spoken than a White Admiral rose at our feet and flew away, the only one I have ever seen before or since. A ragged wanderer it was. I wonder what impulse had wafted it so far from its natural home.

Upon my resignation a viscounty was conferred on me. It was an honour that I was glad to receive. My wife at least deserved to be a viscountess. So now for the third time I went through the ceremony of introduction in the House of Lords. My sponsors were Lord Templewood and Marshal of the Royal Air Force Lord Portal of Hungerford. The former, then Sam Hoare, had been a friend at New College fifty years before: with the latter I had shared many a happy day with rod or gun. So now we marched and made our bows together, though when I say "together" I must recall that Sam just could not get his drill right. On this occasion my successor, Lord Kilmuir, was on the Woolsack, I could therefore deliver my writ to him.

Now I was free to give my mind to my judicial work and I will not deny that I felt that I had returned home again. It was not quite my only avocation. For soon after I became Lord Chancellor I had undertaken the general editorship of the third edition of Halsbury's Laws of England. Lord Halsbury himself had been the first editor of that great work. Lord Hailsham had edited the second edition in 1931/1951. When Lord Rothes, the chairman of Butterworths and Mr. Whitlock, the managing director, came to see me in my office in the House of Lords and proposed this task to me, I quailed somewhat at the thought of a new burden, but they were very persuasive. I reflected that after all it was a job that would last far longer than any term for which I could reasonably expect to be Lord Chancellor and would be an agreeable occupation for retired old age. I therefore closed with the proposal and somehow found time to read critically every line of the instalments that came out while I was in office. Altogether the production has

taken more than a decade and the text of nearly forty volumes runs into many thousands of pages. It is impossible that in such a work there should not be questionable passages and even mistakes, but I will claim that it maintains a high standard of accuracy and scholarship for which the main credit must go to J. T. Edgerley, the managing editor. Beyond question the work supplies a need of both branches of the legal profession in this country. It surprised me, however, to find how widespread were the sales throughout the Commonwealth and in foreign countries too. I noted when I embarked on my task, that there had been 3,000 copies of the second edition sold in Canada and an equal number in Australasia. This was perhaps to be expected but who would think to find a copy at Kisumu, Kampala, Entebbe and other places on the shores of Lake Victoria, at Nakuru in the heart of the great Rift Valley or at Moshi at the foot of Mt. Kilimanjaro? Yet so it was. A world-wide responsibility became mine.

I had, while in office, played with the idea that I would, when I retired, compile an anthology of English prose consisting of extracts from judgments of English judges. It arose in this way. I was dining at "the Club" one night shortly after Mr. Justice Macnaghten had had privately printed a selection from the judgments in the House of Lords of his father, the great Lord Macnaghten ("great" for ever and ever to all lawyers). I chanced to mention it to another member T. S. Eliot. He was interested and I lent him my copy. He was more than interested and asked whether there was much like it in legal literature. I said that, while in my opinion Lord Macnaghten stood alone in the profundity of his thought and the felicity of his language, yet from the Year Books onward there could be found many passages in recorded judgments which for dignity and beauty and sometimes for humour were worth the study of any lover of literature. He asked me whether I would undertake the compilation of an anthology. Greatly as the suggestion attracted me, I could only say that it must wait until I was a free man. So the years passed and the idea had to be dropped. In the meantime a book has come from the hand of R. E. Megarry,

which he has called "Miscellany at Law". It is not quite in the form that I had in mind but is of surpassing interest. I eagerly await the promised second volume.

Mention of "the Club" leads me astray again. Are not these random recollects? I have used inverted commas and it may seem arrogant to invest any Club with a singular dignity. But "the Club" is the dining club which was founded two hundred years ago by Sir Joshua Reynolds and Dr. Johnson. We recently celebrated the event at a bicentenary dinner. Readers of Boswell will remember his eagerness to be elected a mamber. His wish was not at once gratified. When it was, it was too much for him. In the members' dining book, which is still preserved, his signature at the first dinner that he attended sprawls drunkenly across the page. A perusal of the list of members over two hundred years would perhaps justify the inverted commas. I have been rather an amateur of dining clubs, amongst them Grillion's Club which was founded about one hundred and fifty years ago with the intention of softening political animosity by convivial gatherings of statesmen of opposing parties but now opens its doors more widely, "Nobody's Friends" a club composed half of clerical, half of lay members, and the "Fox Club" which is nothing to do with the chase but was founded shortly after his death in memory of Charles James Fox. I have long since resigned from the last two.

But it was judicial work that now once more filled my days. Except on the very rare occasions that the Lord Chancellor sat and I sat with him, it was my duty to preside either in the Appellate Committee of the House of Lords or the Judicial Committee of the Privy Council. It is not always an easy task. Long ago in these recollections I recalled how the continual interruptions of Lord Blanesburgh used to worry his colleagues almost beyond self-control. For counsel also who tries to present a coherent argument his task is made doubly difficult. It is only the President of the Court who can by judicious intervention secure a fair and comfortable hearing. It would perhaps be a good thing if we all thought of the Kantian maxim and reflected what would happen if everyone interrupted as much as the champion interrupter. But I would not for a

moment suggest that this difficulty was often or seriously mine. I was blessed with colleagues, whose only fault was that they were perhaps too patient with me.

So the years passed and it may seem strange after all that I have said about a retiring age that in my 80th year I was still in the saddle. I had many heartsearchings. But physically I was fit and as well able as much younger men to stand a full day's shooting and fishing, and I was not conscious of any falling off of such powers as I had to wrestle with problems of the law, to detect a fallacy or false analogy or to apply the right principle to ascertained facts. And, if I ventured, as I sometimes did, to suggest that the time had come for me to make way for a younger man, my suggestion was scornfully swept aside. So I stayed on and if I was wrong, may I be forgiven!

These were happy years of hard work enough and quiet pleasures. As I look back on them, I think of few incidents that are worth recording. Once more I sat on the cross-benches in the House and rarely intervened in debate, and then only on subjects that were not politically controversial. I was indeed the more scrupulous to be non-partisan because I had for a time been a member of the Government. It is not very often that a decision of the House of Lords finds the headlines in the popular Press. The recent trade union case (to which I was not a party) was an exception. It is no doubt of far-reaching importance and opens the way to an enquiry long overdue into the whole structure of trade union law. Another case that excited popular attention was the Enahoro case and in this I was concerned. The question was a very simple one, whether the Nigerian Government had made a case for the return of Enahoro to Nigeria under the provisions of the Fugitive Offenders Act. That they had, appeared to us to be beyond any reasonable doubt, though it was always open to the Home Secretary, whatever the Courts might say, to refuse to return him. As a result a demand has arisen in some quarters for amendment of the Act. A word of explanation is necessary. Our Victorian ancestors thought it desirable when providing for extradition treaties to exclude from their scope political offences

so that a man, guilty in France or any other country with which a treaty had been concluded, of a political offence (a term not easy of definition) could seek sanctuary in this country and be safe from extradition. Let it be assumed that this was a wise provision though it might be difficult to justify if the offence was committed in a friendly country having a form of government which we call democratic. What then was to be done with a man who sought asylum here after committing an offence in another part of the Empire or Commonwealth? Treaties are not made between different parts of the Empire. Therefore, unless some legislative provision was made, such a man would be safe from arrest and snap his fingers at the executive authority here or abroad. Hence the Fugitive Offenders Act; but (here is the point) it was naturally thought right not to exclude political offences from the scope of the Act. It would have been absurd to allow a man who was charged with a political offence, say treason, in Australia to avoid trial and, if found guilty, punishment for his crime by claiming sanctuary here. That was Enahoro's case. And now there is an outcry and it is said that the Act is to be amended. How is it to be amended? Is a man charged with treason in Nigeria to be safe from extradition here and is a man charged with treason here to find sanctuary in Nigeria? And what of the Great Dominions? Is a distinction to be made between one member of the Commonwealth and another? These are questions that will give a headache to those who seek to make a fair and acceptable amendment to the Act. It may well be found better to leave things as they are.

The most troublesome of all cases that come before the House are those in which the litigant appears in person. He is often an object of pity. He persists through the ages. Aristophanes made fun of him; so, I think, did Terence, and he is an immortal figure in Sir Walter Scott. I do not know a harder task than to explain with sympathy and understanding to an old lady with a sense of grievance that she has not a glimmer of hope of succeeding in her appeal. She has carried her case from Court to Court and now here is her last hope. I have sometimes felt like a Lord High Executioner. But not all litigants in person are unsuccessful. An

outstanding example was Colonel Wintle, who fought a difficult case to victory. He was inclined to wander into irrelevance but I held him on a tight rein and he was a remarkably good advocate.

I was not destined to complete my eightieth year without disaster. Perhaps my own hubris contributed to it. For I would not recognise that advancing age put a limit to my physical powers. So far had I tempted fortune that I had eagerly accepted a birthday present from my kindest of friends and neighbours, Lord Rank, to have a shooting party of my own on his estate on my eightieth birthday in November - and those fortunate ones who have shot with him at Sutton Scotney will know what a handsome present that was. But it was not to be. One day in June (I have already mentioned this) I was fishing on Sir Thomas Sopwith's water on the Test. It was a blistering hot day: the valley was like an oven. I had not been deterred from a long tramp up the river to a favourite haunt where I had often found a fish rising when all else failed. I had just returned to the fishing hut having at the last moment caught a good fish, when I utterly collapsed. And there I lay, convinced, so far as I was conscious of anything, that my last hour had come. Tommy Sopwith dashed back to his house to summon doctor and ambulance, while Reggie Manningham-Buller and the water-keeper stood by. Notwithstanding the oppressive heat I was icy cold and they sacrificed their coats to pile them over me. At last ambulance and doctor came and I was taken to my home some miles away. A coronary thrombosis was diagnosed and the usual treatment prescribed, of which the main feature is absolute rest and freedom from ~~wrong~~ worry. Rest I had, worry I could not altogether avoid: for I was still a Lord of Appeal and I knew that the Lord Chancellor might be hard pressed to find a quorum if I was not available to sit. But the doubts that conscience suggests are easily stilled. It was conveyed to me that I was not to worry and by no means to resign, which it was my first thought to do. So the summer months passed. I had not spent so long a time in bed since the almost forgotten days in Tidworth Military Hospital when I was recovering from diphtheria. Gradually strength returned: even in old age there is no joy like the feeling of returning health. We got back to London in October and soon I was back at work again. But it was clear to me that I ought not to go on much longer and at Christmas I firmly said that I could not carry on beyond

the end of March. That would complete 25 years of service on the Bench. In the meantime I had celebrated my eightieth birthday in November first with a family feast and then with a dinner given me by 25 friends at Brooks's.

I stood by my word and at the end of March 1962 resigned my office. I was to sit again occasionally to fill a gap but that I regarded as the end of my judicial career, of which seven years were spent as a judge in the Chancery Division with serious interruptions as President of the National Arbitration Tribunal and eighteen years in the House of Lords, three of them as Lord Chancellor. It has been a career beyond anything that I expected or had any right to expect. How far I have fallen short I must leave it to others to say. I have at least striven to observe the letter and the spirit of the judicial oath that I took so long ago and I pray that no man left my court thinking that I had not tried to do justice to his cause. I hope too that the Bar will think of me as one who was patient and courteous to them. At least I vow that I have never missed a chance of showing indulgence and encouragement to young counsel. And what shall I say of my colleagues? I have spoken of some who have passed on. Of those who still live I will only say that my heart is full of gratitude for all their kindness to me. It is surprisingly easy for fierce antagonism to be roused by intellectual problems - witness the theologian and even the scientist. To use a hackneyed phrase, a problem, for instance, of interpretation of a statute, is often one upon which "different minds may well come to different conclusions". But when the differing minds are those of colleagues sitting next to each other and the different conclusions are resolutely adhered to and each is thought by the other to be an impossible conclusion, then there is need for mutual understanding and goodwill. It is just that which I have had in full measure, and for which I am truly grateful.

My resignation coincided almost to the day with our golden wedding, which we celebrated with a large dinner party followed on the next day by a large cocktail party. The latter I regard as a horrible form of entertainment, for I do not like cocktails, I am

not very good at standing up for a long time and, last infirmity, I am getting deaf and in the uproar of a party hear very little. In spite of all this it was a happy day, and with this banal reflection I say no more about our golden wedding.

Now at long last I was a completely free man and my wife and I talked of the things we had not done & might yet do. But once more fate intervened. I had been troubled for some little time with a painful hip. In the summer of 1962 it got rapidly worse. The pain extended to the other hip, then to both knees, to both ankles, and finally to the wrists. I was in a bad way indeed and was put into Sister Agnes' Hospital and there stayed for many weeks. If it is good for us to suffer pain, I had what was good for me. But gradually, owing to the skill of my doctors and the infinite patience and kindness of my nurses, I got better and in the autumn could consider myself a whole man again, but not in a condition for the adventures that we had contemplated.

I had now been for nearly 30 years a Fellow of Winchester College - five of them as Warden - and had reluctantly come to the conclusion that it was time to retire and make room for a younger man. I therefore told the Warden that I would go at the end of the summer term of 1963. So I did and thus after 70 years my connection with the school came to an end. So far as I know no younger man has yet been elected to my place. Grave problems await him. It is common talk that an attack upon the public schools, those "bastions of class privilege", is in the forefront of the Socialist Party's programme. What form the attack will take appears not to have been determined. This is perhaps because the attackers are not inspired by a single motive. If the object is to advance towards a "classless society" by denying to the few the privilege of education at public schools as now established, the attack may take one form. If on the other hand the object is the more creditable one of raising the general standard of education, it may take another. I do not profess to know whether it is feasible or desirable to establish a classless society. It is a concept that eludes me, but it appears to spring from a crude egalitarianism which does not stand up to any

practical test. The determination of the craftsman to preserve his differential in status and remuneration, which I saw exemplified over and over again during my four years chairmanship of the National Arbitration Tribunal, is a warning to those who preach egalitarian doctrine. But whatever form the attack may take, I hope that the governing bodies of Winchester and other public schools will be zealous to preserve their independence. That does not mean that they should not submit to periodical inspection by the Ministry of Education. We found at Winchester that the periodical visits of the inspectors were a valuable help and spur. But it does mean that they will be free to teach what they like how they like, to admit scholars of their own choice and to charge the fees that they think proper. There is nothing in this that is inconsistent with making every effort to implement the Fleming Report in its original or an extended form, if it is thought that that is the best way of spreading more widely the benefits of the best possible education. But it is perhaps the saner view that that object could be better achieved by improving the standard in the State schools of every degree. These are problems which I can now only survey from my armchair. So far as Winchester is concerned I am glad to remember that her fate is in the capable hands of the present Warden, Anthony Tuke.

After my illness in 1962 we sold our house at Sparsholt. So that link too with Winchester was severed. But in the following year a new link was forged. On the 5th June, 1963, I was admitted a Freeman of the City of Winchester, and very proud I am to be a Freeman of that ancient city. The roll of those who have been thus honoured is a short one: almost the last of my predecessors was Lord Wavell, to whom it was a particularly appropriate gift; for, apart from his own early association as a scholar of the College and his outstanding service to the nation, his family had been connected with the city and some of them had held civic office many centuries ago. A branch of my own family too had migrated from Berkshire to Hampshire at least as early as the beginning of the eighteenth century and had prospered there. The head of that

branch, William Barron Simonds, was member of Parliament for the city during the latter part of the nineteenth century.

The ceremony of admission took place in the Guildhall, a building whose outward design is something less than beautiful. The Mayor of Winchester (a Lady Mayor, as has often happened in recent years) paid me a tribute which I by no means deserved: I was presented with a silver bowl, a replica of the "Winchester bushel", a reminder of the days when there were provincial weights and measures to which local traders must conform, and a copy of that admirable book, "Elizabethan Winchester" by the city Archivist, to which I have already referred. A similar honour was at the same time conferred on Sir George Dyson who has made a great contribution to the musical life of the city. And that is now my only connection with Winchester except for the friendships that remain and never-fading memories of College and Cathedral and City and downs and watermeadows. How often "in vacant or in pensive mood" I traverse that loveliest mile in England, turning from the High Street into the Cathedral Close and so past that mighty fane to the Deanery and on through the Kingsgate along College Street to the outer Gate of College, on again through the College Buildings and Meads and so to St. Cross. Where will a rival beauty be found?

Now there remain few duties to perform. When I began some months ago to write these recollections, I described myself as an idle old man. There are still occasional chores. The lamentable death of Sir Charles Hambro deprived the Peabody Donation Fund of its chairman and circumstances forced me to assume that office, which may well take up a good deal of time. If I can do something to alleviate the lot of the houseless I shall be satisfied with the fruit of idleness. The House of Lords too makes its call. Like most people, I suppose, who have listened to a great many speeches, I am inclined to be selective and do not easily listen to those which have neither matter nor manner to commend them. Rarely I break silence. Speaking the other day after a long interval, I apologised for my intervention saying that I doubted whether anyone

who was well into his ninth decade could make a useful contribution. Hansard reported me as saying "ninetieth" decade. That was an interesting debate on a matter upon which I hold a strong opinion, but my opinion has not yet prevailed. Ever since the passing of the Court of Criminal Appeal Act in 1907 it has been a blot upon our criminal procedure, a blot criticised and condemned by successive chief justices, that that Court cannot order a new trial as in civil cases a civil court can. It can only allow the appeal and quash the conviction or dismiss the appeal. I ignore for this purpose the provision enabling the court itself to hear new evidence and that which enables them also to disregard what I may call, for brief, insubstantial errors in the trial. The result is that prisoners - how many does not matter - appealing from conviction on the ground of, e.g., a misdirection, nay, though they are guilty as hell, be set at large to pursue their nefarious way. If the court had power to order a new trial, this result, which can fairly be called a fantastic result of an Act intended for the protection of innocent men, would be avoided. Yet, whenever an attempt has been made in Parliament to amend the Act satisfactorily, it has failed. I say "satisfactorily", because a recent amendment which has with difficulty got through the House of Commons is of a limited character and quite unsatisfactory. But the debates have shown that the Lord Chancellor was right in thinking that obscurantism would prevail and that this unsatisfactory Bill was all that he could get. The underlying objection to this power being given to the court appears to be that it conflicts with an alleged fundamental principle that a man should not be put in peril twice. Let it be noted that here there is no question of a man who has been acquitted being tried a second time. The man with whom we are dealing has not been acquitted he has been found guilty and has discovered some ground for challenging the verdict. Justice must be done alike to him and to the community of which he is a member and it can only be done by ordering that he be tried again, when the error of which he complains will be avoided. I should be more inclined to give weight to the objections raised by the opponents of reform, if we had not the

advantage of the experience of almost all the members of our Commonwealth whose criminal law has long contained such a provision as I now postulate without any of the ill consequences that are feared.

I crave pardon for dilating on this matter. It is probably my last chance, for though, surely enough, reform will come in time, it is unlikely that I shall be at hand to give what help I can.

Here, if I am to observe any sort of chronological order, this tale, which has been my desultory task over many months, should end. As I read through it, I am painfully conscious that I have been far too gentle with my own sins of omission and commission. May I be forgiven that final sin!