

15th January, 1941.

My dear Hardinge,

The death of Mr. Justice Crossman creates a vacancy among the judges of the Chancery Division. Under section 10 of the Administration of Justice (Emergency Provisions) Act, 1938, it is not necessary to fill the vacancy unless the Lord Chancellor advises His Majesty that the state of business requires that the vacancy should be filled. The Lord Chancellor has given very anxious consideration to the question whether he should give to His Majesty such advice as is contemplated in the section to the effect that it is desirable that the vacancy should be filled. He has reached the conclusion that he should so advise the King. Out of the four judges now remaining in office, Mr. Justice Simonds is engaged practically for his whole time in work for the Ministry of Labour, and Mr. Justice Worton gives practically half his time, or somewhat more, to work connected with the Foreign Office. This leaves only Mr. Justice Parwell and Mr. Justice Bennett working full time in the Division. Mr. Justice Parwell's health is not such as to enable him to be likely to withstand any severe or prolonged strain. It is thus clear that even if, with such help as Mr. Justice Simonds and Mr. Justice Worton could give, the other two judges are able to carry on the work of the Division, they can only do so in very difficult conditions and with a grave risk that some accidental circumstance may at any time cause a congestion of work. At this moment, for example, Mr. Justice Bennett is engaged in trying a patent action which took three weeks last term and will probably require a further three weeks to finish it.

In these circumstances, after taking every fact into consideration, the Lord Chancellor thinks that he

ought to advise His Majesty that it is desirable to fill the vacancy

If the vacancy is to be filled, then the Lord Chancellor has no doubt of the name he should submit for His Majesty's pleasure. It is that of Augustus Andrewes Uthwatt. Mr. Uthwatt was born in Australia and was educated at Ballarat College, Victoria, and Balliol College, Oxford, where he gained the Vinerian Scholarship, and was called to the Bar by Gray's Inn (in which he has now completed his year as Treasurer) in 1904. In 1934 he was appointed to the office popularly known as Chancery Treasury Devil, that is to say Junior Counsel to the Treasury on the Chancery side. The Lord Chancellor has no doubt whatever that the appointment of Mr. Uthwatt would be universally welcomed by the profession and that he is still young enough to be able, if he is now appointed, to look forward to a career of great distinction upon the Bench. He is especially glad of the opportunity of now submitting Mr. Uthwatt's name to His Majesty for appointment. The position of Treasury Devil always involves great drudgery, and during the last three years the duties of the office have been exceptionally heavy. The Lord Chancellor is anxious that Mr. Uthwatt should be relieved of them before a further prolonged spell under so heavy a burden should affect his spring and powers of work.

If the King should see fit to indicate that he intends to act upon the advice tendered to him by the Lord Chancellor that the vacancy should be filled and that the name of Mr. Uthwatt should be submitted to him would meet with his approval, the Lord Chancellor will tender in a submission letter formal advice on the subject and will at the same time make a formal submission of Mr. Uthwatt's name.

Yours sincerely,

The Right Hon.
Sir Alexander Hardinge, G.C.V.O.,
K.C.B., K.C.