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Crown Office Warrants & Patents

High Court Judge Chancery Division	A.A. Uthwatt.

(31159)—60) Wt. 18267—409 45,000 8/35 P. St. Gp. 645/95
(REGIBLUE)

4.

...nagement of the war and in the consideration of
...ecting subjects within

2.

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 if 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.,M.C.

To all to whom these Presents shall come Greeting:
Know Ye that We of Our especial Grace have given and

Confidential.

BUCKINGHAM PALACE

13th January, 1941.

Very Confidential

Dear Donald,

The Lord Chancellor wishes you to know that he proposes to advise the King that the vacancy caused by Crossman's death should be filled and to put forward the name of Uthwatt for appointment.

Yours ever,

The Right Hon.
The Attorney-General, O.B.E.,K.C.,
M.P.

14th January, 1941.

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...e King will be pleased
... Mr. Uthwatt to fill the
...Chancery Division caused
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... to carry on without the
... His Majesty will readily
... it is made by the Lord

...oursrsincerely,

A. H. L. Hardinge

...KC.,

A. Andrewes Uthwatt, Esq.

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of Mr. Uthwatt's name.

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

13th January, 1941.

My dear Uthwatt,

I am writing to offer you the
cant Chancery judgeship and I hope
very much that you will accept it.

This will not mean that you need
give up special work of importance
that you are now doing for the
Departments - I think Lord ~~Reight~~
Reith is anxious to get you for an
urgent report to assist the rebuilding
of London - for Farwell J. says he can,
if necessary, arrange for days off for
you. But it does mean that you will
end your grinding life as A.G.'s
devil, like Parker and others before
you, and open a judicial career which
I am sure will be of distinction and
usefulness.

Please keep my proposal as
secret - you will know that I have
to submit the name to the King - and
send me your answer as soon as you
can.

Yours ever sincerely,
(Sgd.) SIMON

A. Andrewes Uthwatt, Esq.

To all to whom these Presents shall come Greeting:
Know Ye that We of Our especial Grace have given and

Confidential.

BUCKINGHAM PALACE

14th January, 1941.

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A. A. L. Hardinge

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

To all to whom these Presents shall come Greeting:
Know Ye that We of Our especial Grace have given and

Confidential.

BUCKINGHAM PALACE

14th January, 1941.

My dear Schuster,

Thank you for your letter of yesterday.

I am desired to say that The King will be pleased to approve of the appointment of Mr. Uthwatt to fill the vacancy among the Judges of the Chancery Division caused by the death of Mr. Justice Crossman.

His Majesty quite appreciates, from what you say, that it would be very difficult to carry on without the appointment of a new Judge, and His Majesty will readily sign the formal submission when it is made by the Lord Chancellor.

Yours sincerely,

R. H. L. Hardinge

Sir Claud Schuster, GCB., CVO., KC.,
House of Lords.

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To all to whom these Presents shall come Greeting:
Know Ye that We of Our especial Grace have given and

The Lord Chancellor, with his humble duty to Your Majesty, submits for Your Majesty's approval, advice, in pursuance of section 10 of the Administration of Justice (Emergency Provisions) Act, 1939, that the state of business of the Chancery Division of the High Court of Justice requires that the vacancy occurring among the Judges of that Division by reason of the death of The Honourable Mr. Justice Crossman should be filled.

Also, in the event of Your Majesty being graciously pleased to act upon this advice, the Lord Chancellor submits for Your Majesty's approval, if you shall so please, the name of Augustus Andrewes Uthwatt to be a Judge of Your Majesty's High Court of Justice, Chancery Division.

And, in the event of Your Majesty being graciously pleased to approve the appointment, the Lord Chancellor submits for Your Majesty's signature, if Your Majesty shall so please, a Warrant for the appointment of the said Augustus Andrewes Uthwatt, to be a Judge of Your Majesty's High Court of Justice, Chancery Division.

Simon C

House of Lords,

15th January, 1941.

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To all to whom these Presents shall come Greeting:
Know Ye that We of Our especial Grace have given and

TELEPHONE
1146 HOLBORN.

9, STONE BUILDINGS,
LINCOLN'S INN, W.C.2.

Room 540

Royal Courts of Justice

14th Jan: 1941

My Lord Chancellor,

I am very glad to accept your offer
of the vacant Chancery judgeship and I hope
that I will justify the confidence you place
in me. May I at the same time thank you
for the kindly terms contained in your letter?

I shall be glad [illegible] to work with
Rights Committee. The problems to which I
have thereby turned current times - never very successfully.
I hope in better times.

Yours sincerely
G. Hubert Upjohn

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To all to whom these Presents shall come Greeting:
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TELEPHONE
1146 HOLBORN.

9, STONE BUILDINGS,
LINCOLN'S INN, W.C.2.

Room 540

Royal Courts of Justice

14th Jan: 1941

Dear Lord Chancellor,

I am very glad to accept your offer of the vacant Chancery judgeship and I hope that I will justify the confidence you place in me. May I at the same time thank you for the kindly terms contained in your letter?

I shall be glad to go on with Rights Committee. The petitions we have to deal with have been very numerous and very interesting.

Yours sincerely,

The Lord Chancellor

To all to whom these Presents shall come Greeting:
Know Ye that We of Our especial Grace have given and granted and by these Presents do give and grant to Our trusty and well beloved AUGUSTUS ANDREWES UTHWATT Esquire the Office of one of the Justices of Our High Court of Justice To hold the same so long as he shall well behave himself therein with all wages profits and advantages due and of right belonging thereto In Witness

15th January, 1941.

My dear Uthwatt,

* * * * * *

I was very glad to get your letter of acceptance. I shall be sending the submission to the Palace to-day and the announcement ought to appear before the end of the week. Till then of course, say nothing to anybody. Court circles are exceedingly touchy if there is any inspired anticipation in the Press.

Yours ever,

SIMON

A. Andrewes Uthwatt, Esq.

of the Justices of Your
unto Augustus Andrewes

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Know Ye that We of Our especial Grace have given and granted and by these Presents do give and grant to Our trusty and well beloved AUGUSTUS ANDREWES UTHWATT Esquire the Office of one of the Justices of Our High Court of Justice To hold the same so long as he shall well behave himself therein with all wages profits and advantages due and of right belonging thereto In Witness

Grant of the Offic of one of the Justices of Your Majestys High Court of Justice unto Augustus Andrewes Uthwatt Esquire

15th January, 1941.

My dear Uthwatt,

* * * * * *

I was very glad to get your letter of acceptance. I shall be sending the submission to the Palace to-day and the announcement ought to appear before the end of the week. Till then of course, say nothing to anybody. Court circles are exceedingly touchy if there is any inspired anticipation in the Press.

Yours ever,

SIMON

A. Andrewes Uthwatt, Esq.

Secret

15th January, 1941.

Dear Prime Minister,

The death of Mr. Justice Crossman leaves a vacancy for a Chancery Judge, which, I think, must be filled. I am proposing to the King that the choice should fall on Andrewes Uthwatt, who ought to make an exceptionally good Judge. He has done a great deal of work for the Government in various enquiries and committees, and I write to let you know that I have arranged that he can continue this war service notwithstanding the new appointment, for, though a new Chancery Judge is needed, it will be possible, in present circumstances, for him to arrange with the other Judges not to be constantly occupied.

The appointment ought to be announced by the end of the week and in the meantime is, of course, entirely secret.

The Right Hon.
The Prime Minister, C.H., M.P.

app.d GRS

The Lord Chancellor, with his humble duty to Your Majesty, submits for Your Majesty's approval, advice, in pursuance of section 10 of the Administration of Justice (Emergency Provisions) Act, 1939, that the state of business of the Chancery Division of the High Court of Justice requires that the vacancy occurring among the Judges of that Division by reason of the death of The Honourable Mr. Justice Crossman should be filled.

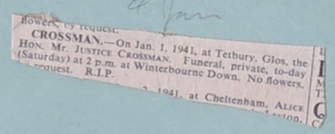
Also, in the event of Your Majesty being graciously pleased to act upon this advice, the Lord Chancellor submits for Your Majesty's approval, if you shall so please, the name of Augustus Andrewes Uthwatt to be a Judge of Your Majesty's High Court of Justice, Chancery Division.

And, in the event of Your Majesty being graciously pleased to approve the appointment, the Lord Chancellor submits for Your Majesty's signature, if Your Majesty shall so please, a Warrant for the appointment of the said Augustus Andrewes Uthwatt, to be a Judge of Your Majesty's High Court of Justice, Chancery Division.

Simon
C

House of Lords,

15th January, 1941.


Flowers by request.

CROSSMAN.—On Jan. 1, 1941, at Tetbury, Glos, the Hon. Mr. Justice Crossman. Funeral, private, to-day (Saturday) at 2 p.m. at Winterbourne Down. No flowers, by request. R.I.P.

1941, at Cheltenham, Alice

CROWN OFFICE PROCEDURE

DOCUMENT: HIGH COURT JUDGE Uthwatt

FEE £ : :

COLLECTED BY { HOME OFFICE / CROWN OFFICE

	Date
	1941
Instructions received from Sir Eland	Jan 15
~~Wrote for Fee~~	
~~Fee received~~	
Warrant sent to The King	15
~~Copy of Warrant sent to~~	
Warrant signed ✓ and received	✓
Letters Patent engrossed on { ~~small~~ / ~~large~~ } { ~~loan~~ / parchment } By The King Himself	✓
Letters Patent dated 20 Jan and great sealed	20
Writ prepared dated 20 Jan and sealed	20
Letters Patent ~~sent~~ in No 1 Box ~~to~~ handed to Uthwatt	21.
Gazette Notice sent	21
Warrant sent to L.C. for "recepi"	✓
Warrant returned	✓

RECORDS

~~Cash Book.~~

Docquet Book.

~~Fees Book.~~ Rolls Book

~~Sealing Book.~~

~~Presentations Docquet Book~~

~~Privy Council List.~~

Card Index.

Treasury ~~L.C. Lunacy~~

Knightswood

D 41872 250 D/d 1161 11/38 R P

Mr Ridley

10, Downing Street,
Whitehall.

20th January, 1941.

Dear Mayell,

Will you please convey to the Lord Chancellor the Prime Minister's thanks for his letter of the 15th January concerning the vacancy for a Chancery Judge, and inform him that the Prime Minister agrees with his proposals.

Yours sincerely,

J.H. Peck

F.Mayell Esq.,
Lord Chancellor's Office.

The KING has been pleased to approve the appointment of Mr. Augustus Andrewes Uthwatt as one of the Justices of the High Court of Justice (Chancery Division).

For publication NOT before tomorrow morning.

For broadcasting NOT before the 9 o'c News Bulletin

House of Lords,
S.W.1.

20th January, 1941.

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to His Majesty

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To

The Honourable Mr. Justice Uthwatt

A Writ of Attendance at Parliament

The Times
21 Jan 1941

NEW HIGH COURT JUDGE

MR. AUGUSTUS UTHWATT APPOINTED

The King has approved the appointment of Mr. Augustus Andrewes Uthwatt as one of the Justices of the High Court of Justice (Chancery Division).

It was expected that Mr. Uthwatt would succeed to the vacancy created by the death of Mr. Justice Crossman. Born in 1879, he was educated at Ballarat College, Victoria, and Balliol College, Oxford, and was Vinerian Scholar in 1904. Called to the Bar by Gray's Inn in the same year, he became a Bencher of his Inn in 1927 and Treasurer in 1939. Since 1934 he has been Junior Counsel (on the Chancery side) for the Treasury and the Board of Trade, and Junior Counsel to the Attorney-General in charity matters.

To
The Honourable Mr. Justice Uthwatt
A Writ of Attendance at Parliament

TELEGRAMS:
"IMPRIMERIE, LONDON."

TELEPHONE:
LONDON WALL 3214.

WATERLOW & SONS LIMITED
LAW AGENCY DEPARTMENT

All communications to be addressed to
G.P.O. BOX No. 92,
85 & 86, LONDON WALL,
LONDON, E.C.2.

In your reply please quote
U/R/CC.

16th Jan. 19 41.

Returned 20/1/41.

Sir,

re R. J. Moore

Herewith we are returning the form of Certificate of the Appointment of the above named as a Commissioner for Oaths impressed with the fee of £5.

We shall be pleased if you will be good enough to proceed with the matter, and let us have the completed Appointment at your earliest convenience.

We are, Sir,

Your obedient Servants,

WATERLOW & SONS LIMITED

L.C. Ridley Esq.,
Clerk of the Chamber,
House of Lords,
S.W.1.

Miss Fisher
Please return

Our trusty and well beloved Augustus Andrewes Uthwatt Esquire one of the Justices of Our High Court of Justice Greeting Whereas Our Parliament for certain arduous and urgent affairs concerning Us the State and defence of Our United Kingdom and the Church is now met at Our City of Westminster and there with the Prelates Nobles and Peers of Our said Kingdom to confer and treat We strictly enjoining command you that all other things laid aside you be personally present at Our said Parliament with Us and with others of Our Council to treat of the aforesaid affairs and to give your advice and this you may in nowise omit WITNESS Ourself at Westminster the twentieth day of January in the fifth year of Our Reign

SCHUSTER

To
The Honourable Mr. Justice Uthwatt
A Writ of Attendance at Parliament

I *Augustus Andrewes Uthwatt*
do swear by Almighty God that I will be faithful and bear true allegiance to His Majesty King George the Sixth His Heirs and Successors according to Law

I *Augustus Andrewes Uthwatt*
do swear by Almighty God that I will well and truly serve our Sovereign Lord King George the Sixth in the office of one of the Justices of His Majesty's High Court of Justice
and I will do right to all manner of people after the laws and usages of this Realm without fear or favour affection or ill will.

(30947) 125 12/36 P. St.

C.61/34.

21st January, 1941.

Dear Seal,

Mr. Augustus Andrewes Uthwatt was sworn in this morning as a Justice of the High Court of Justice and I write to remind you that, in accordance with custom, a knighthood should be conferred upon him as soon as conveniently possible.

Yours sincerely,

Eric Seal, Esq.

RY CHAMBERS
orge Street, S.W.1.

ruary, 1941.

letter of the 21st
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asury to inform your
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ent of salary at the
ar as from the 20th
tus Andrewes Uthwatt,
tice of His Majesty's

Servant,

C.61/34. 21st January, 1941.

Sir,

I am directed by the Lord Chancellor to inform the Lords Commissioners of His Majesty's Treasury that Letters Patent bearing date the 20th January, 1941, have been passed under the Great Seal granting the Office of one of the Justices of the High Court of Justice unto Mr. Augustus Andrewes Uthwatt, whereby the annual sum of £5,000 commencing from the 20th January, 1941, inclusive, and payable quarterly, becomes pursuant to the Supreme Court of Judicature (Consolidation) Act, 1925, chargeable on the Consolidated Fund.

I am, Sir,
Your obedient Servant,

...cretary,
Treasury.

...Ridley

...Y CHAMBERS
...rge Street, S.W.1.

...uary, 1941.

...Letter of the 21st
...ected by the Lords
...asury to inform your
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Dear Seal,

Mr. Augustus Andrewes Uthwatt was sworn in this morning as a Justice of the High Court of Justice and I write to remind you that, in accordance with custom, a knighthood should be conferred upon him as soon as conveniently possible.

Yours sincerely,

The Right Hon. Sir Edward Bridges, G.C.B., C.B.E., M.C.,

21st January, 1941.

The KING has been pleased by Letters Patent under the Great Seal bearing date the 20th day of January, 1941, to appoint Augustus Andrewes Uthwatt, Esquire, to be one of the Justices of His Majesty's High Court of Justice.

Mr Ridley

Any reply to this letter should be addressed to—
THE SECRETARY, TREASURY,
XXXXXXX, LONDON, S.W.1.
and the following number quoted :
E.13754/4.

TREASURY CHAMBERS
Great George Street, S.W.1.

8 February, 1941.

My Lord,

£5,000

In reply to Mr. Macaree's letter of the 21st January, 1941 (CO. 61/34) I am directed by the Lords Commissioners of His Majesty's Treasury to inform your Lordship that They have caused a charge to be made on the Consolidated Fund for the payment of salary at the rate of five thousand pounds a year as from the 20th January, 1941, inclusive, to Augustus Andrewes Uthwatt, Esq., on his appointment as a Justice of His Majesty's High Court of Justice.

I am,
My Lord,
Your obedient Servant,

The Lord Chancellor.

THE LONDON GAZETTE, 24 JANUARY, 1941

House of Lords, S.W.1.
21st January, 1941.

The KING has been pleased by Letters Patent under the Great Seal bearing date the 20th day of January, 1941, to appoint Augustus Andrewes Uthwatt, Esquire, to be one of the Justices of His Majesty's High Court of Justice.

Lord Chancellor

1. You may like to consider at your leisure the course to be taken with respect to the vacancy caused by the death of Crossman J.

2. By the Supreme Court of Judicature (Amendment) Act,1938,

Mr Justin Darwall
c/o Mrs Townsend,
Seaton Burn,
Sidmouth
Devon.

Chancery Division
Lord Chancellor,
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of Appeal. S. 2(1) of the Supreme Court of Judicature (Amendment) Act, 1938, laid upon any judge of the Court of Appeal appointed after the commencement of that Act the duty of sitting and acting as a judge of the Supreme Court when requested by the Lord Chancellor so to do.

5. I think, on the other hand, that some at least of the judges of the Chancery Division would hold the opinion that in peacetime at least four judges were insufficient for the discharge

Lord Chancellor

1. You may like to consider at your leisure the course to be taken with respect to the vacancy caused by the death of Crossman J.

2. By the Supreme Court of Judicature (Amendment) Act,1938, (s.3(2)) in effect the number of judges of the Chancery Division was reduced to five, subject to a power in the Lord Chancellor, with the concurrence of the Treasury, to advise His Majesty that the state of business in the Division required a sixth judge, in which case there was power to appoint him. Since the appointment of Luxmoore to the Court of Appeal in October 1938, the number of judges of the Chancery Division, therefore, has remained at five.

S. 10 of the Administration of Justice (Emergency Provisions) Act, 1939, provides, so far as is material, that in the event of the occurrence of a vacancy among the judges of the Supreme Court it shall not be necessary to fill the vacancy unless the Lord Chancellor advises His Majesty that the state of business requires that the vacancy should be filled.

3. Crossman's death reduces the number of judges of the Chancery Division to four, namely Farwell, Bennett, Simonds and Morton.

4. I have a strong impression that in peacetime in normal circumstances the business of the Chancery Division could be effectively discharged by four judges with the assistance, when necessity requires it, of a member of the Court of Appeal. S. 2(1) of the Supreme Court of Judicature (Amendment) Act, 1938, laid upon any judge of the Court of Appeal appointed after the commencement of that Act the duty of sitting and acting as a judge of the Supreme Court when requested by the Lord Chancellor so to do.

5. I think, on the other hand, that some at least of the judges of the Chancery Division would hold the opinion that in peacetime at least four judges were insufficient for the discharge

of the duties of the Division.

6. There can, I think, be little doubt that the work of the Chancery Division has very greatly diminished by reason of the war. This is indicated, amongst other things, by the fact that, although Crossman has not sat for several months, we have heard no complaint that the remaining judges of the Division were unable to deal with the work. The natural conclusion would seem to be that no appointment should be made at present.

7. There is, however, a good deal to be said for a contrary view. Farwell J. is not physically strong. His health obliges him fairly often to absent himself from work, and there would be some grounds for apprehension lest, if he finds the work of the Division to be getting behindhand, he will put too great a strain upon himself and break down. Simonds J. is almost wholly engaged on work for the Ministry of Labour and can give but little time to his judicial duties. Morton J. is working about half time on judicial and half time on extra judicial matters of national importance. Bennett J. is, therefore, the only fully effective judge of the Division.

8. Furthermore, s. 2 of the Act of 1938, which I have already cited, when laying upon the new members of the Court of Appeal the duty of acting when called upon as judges of one of the Division, contemplated that the number of judges of the Court of Appeal would be nine - the Master of the Rolls and eight Lord Justices. As the vacancy caused by Slesser L.J.'s retirement has not been filled, the number of Lord Justices is now seven and not eight. Furthermore Finlay L.J. is wholly engaged on the work of the Contraband Committee and does not sit at all; and perhaps account should also be taken of the fact that the health of Scott L.J. is not good, and he is fairly often disabled from sitting. The reserve strength of the Court of Appeal is, therefore, much less than that contemplated in the Act of 1938.

9. Perhaps before you reach a definite decision on this subject you may like to consult the Master of the Rolls and Farwell J. as senior judge of the Chancery Division. I am fairly confident that the advice given by the latter would be in favour of filling the vacancy.

10. If you should decide to fill the vacancy, you may think that there are three men whose names require careful consideration, namely those of Lionel Cohen, W.P. Spens and Andrewes Uthwatt.

11. W.P. Spens is probably a little older than Cohen. He was educated at Rugby and New College; called by the Inner Temple in 1910 and took silk in 1925. He served in the War of 1914-18, obtaining the rank of captain. He has been Member for Ashford since 1933.

12. Lionel Cohen is 52. He was educated at Eton and New College where he took Firsts in history and law; was called by the Inner Temple in 1913 and took silk in 1929. He served in the War of 1914-18.

13. Andrewes Uthwatt is 61. He was educated at Ballarat College, Victoria, and Balliol; obtained the Vinerian; was called to the Bar by Gray's Inn in 1904 and was appointed Treasury Devil on the Chancery side in 1934.

14. You are so well acquainted with these three men, their characters and their professional attainments that I do not think it would be appropriate for me to make any comments upon them, except to draw attention to the facts that Uthwatt has now served as Treasury Devil for six years, and, if he is ever to be a judge, had better not wait much longer. From a personal point of view I should like to draw attention to the very great assistance which he has given both in preparation of emergency legislation

of the duties of the Division.

6. There can, I think, be little doubt that the work of the Chancery Division has very greatly diminished by reason of the war. This is indicated, amongst other things, by the fact that, although Crossman has not sat for several months, we have heard no complaint that the remaining judges of the Division were unable to deal with the work. The natural conclusion would seem to be that no appointment should be made at present.

7. There is, however, a good deal to be said for a contrary view. Farwell J. is not physically strong. His health obliges him fairly often to absent himself from work, and there would be some grounds for apprehension lest, if he finds the work of the Division to be getting behindhand, he will put too great a strain upon himself and break down. Simonds J. is almost wholly engaged on work for the Ministry of Labour and can give but little time to his judicial duties. Morton J. is working about half time on judicial and half time on extra judicial matters of national importance. Bennett J. is, therefore, the only fully effective judge of the Division.

8. Furthermore, s. 2 of the Act of 1938, which I have already cited, when laying upon the new members of the Court of Appeal the duty of acting when called upon as judges of one of the Division, contemplated that the number of judges of the Court of Appeal would be nine - the Master of the Rolls and eight Lord Justices. As the vacancy caused by Slesser L.J.'s retirement has not been filled, the number of Lord Justices is now seven and not eight. Furthermore Finlay L.J. is wholly engaged on the work of the Contraband Committee and does not sit at all; and perhaps account should also be taken of the fact that the health of Scott L.J. is not good, and he is fairly often disabled from sitting. The reserve strength of the Court of Appeal is, therefore, much less than that contemplated in the Act of 1938.

9. Perhaps before you reach a definite decision on this subject you may like to consult the Master of the Rolls and Farwell J. as senior judge of the Chancery Division. I am fairly confident that the advice given by the latter would be in favour of filling the vacancy.

10. If you should decide to fill the vacancy, you may think that there are three men whose names require careful consideration, namely those of Lionel Cohen, W.P. Spens and Andrewes Uthwatt.

11. W.P. Spens is probably a little older than Cohen. He was educated at Rugby and New College; called by the Inner Temple in 1910 and took silk in 1925. He served in the War of 1914-18, obtaining the rank of captain. He has been Member for Ashford since 1933.

12. Lionel Cohen is 52. He was educated at Eton and New College where he took Firsts in history and law; was called by the Inner Temple in 1913 and took silk in 1929. He served in the War of 1914-18.

13. Andrewes Uthwatt is 61. He was educated at Ballarat College, Victoria, and Balliol; obtained the Vinerian; was called to the Bar by Gray's Inn in 1904 and was appointed Treasury Devil on the Chancery side in 1934.

14. You are so well acquainted with these three men, their characters and their professional attainments that I do not think it would be appropriate for me to make any comments upon them, except to draw attention to the facts that Uthwatt has now served as Treasury Devil for six years, and, if he is ever to be a judge, had better not wait much longer. From a personal point of view I should like to draw attention to the very great assistance which he has given both in preparation of emergency legislation

before the commencement of the war and in the consideration of questions arising out of the war and affecting subjects within his great knowledge and experience.

C.J.

6. I. 40.

To all to whom these Presents shall come Greeting:
Know Ye that We of Our especial Grace have given and

7th January, 1941.

Dear Farwell,

The Lord Chancellor wishes me to write to you with regard to the situation arising by reason of Crossman's death.

As you will remember under s. 10 of the Administration of Justice (Emergency Provisions) Act, 1939, it is not necessary to fill any vacancy occurring among the judges of the Supreme Court unless the Lord Chancellor advises His Majesty that the state of business requires that the vacancy should be filled.

There is, as it appears from the current list, a very large decline in the number of causes and matters for hearing in the Chancery Division, namely from 160 last year to 75 this year. There is also a reserve of strength in the Court of Appeal where both Clauson and Luxmoore L.JJ. would be available to give assistance in the Division if the work of the Court of Appeal allowed. The Lord Chancellor happened to meet the Master of the Rolls yesterday and had a word on the subject. It appears that the number of appeals is also very greatly down, namely from 108 to 60 as compared to last year, and the Master of the Rolls thinks that he would certainly be able to get through the work of the Court even with his numbers depleted by the vacancy caused by Slesser's resignation and by the absence of Finlay, J. There are, therefore, arguments in favour of leaving the vacancy unfilled.

The Lord Chancellor, however, before he decides to take this course, would like to know your opinion on the subject. He realizes that as Simonds J. is unable

before the commencement of the war and in the consideration of questions arising out of the war and affecting subjects within

to give his whole time to the work of the Division, and as Morton is also engaged on extra judicial work, it may be difficult to carry on the work of the Division effectively without putting an undue strain upon yourself and your brethren.

Would you be good enough to let me know for the Lord Chancellor's information how the matter strikes you?

Yours sincerely,

CLAUD SCHUSTER

The Hon.
Mr. Justice Farwell.

To all to whom these Presents shall come Greeting:
Know Ye that We of Our especial Grace have given and

Lord Chancellor

This is obviously from Farwell though he has not signed it.

January 9th 1941

SEATON BURN,
SIDMOUTH.

10.1.41

Dear Schuster,

I thank you for your letter of the 7th inst. the position which has arisen owing to the death of CrossmanJJ. is not without difficulty but I have had to anticipate it to some extent already because I realized last sittings that even if he got over the operation, it would be a long time before he was fit for work and I had to arrange matters for this term accordingly. It should, I think, be remembered that there is a great deal of work to be done in the Chancery division in addition to the 75 matters which appear in the current list e.g. the Company work, the Bankruptcy work which entails two judges forming a divisional Court once in three weeks, and all the Chamber work which is at times quite substantial. There is also the work assigned to particular judges, such as the Patent Appeal Tribunal and the other special Patent work which are assigned respectively to Simonds and Morton, both of which take some considerable time. There is also the Guardianship of Infants Appeal cases which were assigned to Crossman and which I now suggest would most conveniently be assigned to me.

If Simonds were available to take his full part in the work there would be no difficulty and in the present state of the lists there is no doubt that four judges could cope with it, but as Simonds has to be otherwise occupied it is not easy. Mondays are the chief difficulty because that is the day when the Company work, the Bankruptcy work and the Chamber work are dealt with .

I spoke to Simonds about it at the end of last term and he promised to try and arrange to sit in Court on most Mondays next term and if he can arrange that it will ease the position considerablyand I think that the three of us could then dispose of the work with occasional help, if necessary, from one of the Chancery Lord Justices. If however any one of us were to go sick for any length of time, it would be impossible to carry on satisfactorily without the continous help of a Lord Justice during such time. Under the circumstances it seems to me that under some such arrangement as I have suggested it may be possible to carry on without a new judge for the present. If, however, the wotk were to increase, I think a new judge would be necessary unless Simonds returns to us for his whole time.

I am sorry to have written at such length but I thought it

...mmencement of the war and in the consideration of
...affecting subjects within

To all to whom these Presents shall come Greeting:
Know Ye that We of Our especial Grace have given and

13th 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, 1939, 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 Morton gives practically half his time, or somewhat more, to work connected with the Foreign Office. This leaves only Mr. Justice Farwell and Mr. Justice Bennett working full time in the Division. Mr. Justice Farwell'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 Morton 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