

A STUDY OF THE COMMONWEALTH.¹

The author, evidently of Boer descent, is described as of Gray's Inn, London, Barrister-at-Law and Advocate of The Supreme Court of South Africa. General Hertzog, Prime Minister of the Union of South Africa, has written an excellent Foreword.

The book is quite as interesting as its title is intriguing. To the student of Constitutional Law as well as to all those interested in that subject, Mr. Schlosberg presents a fresh point of view with great frankness and not a little skill. On the other hand his conception of the origin, purpose and service of the British Commonwealth will not be without appeal to all Canadians.

Unfortunately the volume lacks an adequate index and the list of quotations is seriously defective.

The author (p. 31) describes the Dominions as "in reality Republics with the King as their hereditary President." By implication he apparently excepts Great Britain from this category; but surely Great Britain is as much a Republic as any Dominion. The practical genius of the British race stripped the Crown of power but not of useful influence. The King is in truth a hereditary president. And there is much force in Professor Kenny's view (cited at page 106) that a sense of loyalty to a living person is stronger than even the attachment to historical or political ideas. It is difficult to imagine the Commonwealth continuing under elected presidents.

Many students may fail to find Mr. Schlosberg's opinions and arguments convincing on the subject of independence and sovereignty. If he has a clear conception of the extent to which constitutional right may over-ride and control legal power he does not always apply it. In his philosophical discussion of sovereignty he touches a subject that is rather elusive. Obviously the internal affairs of Canada, Australia and South Africa involve a divided sovereignty. In Canada the Federal Government and Executives are sovereign and paramount in respect of certain subjects; Ontario or Quebec is equally paramount and sovereign in its purely domestic affairs as indicated in the constitution. In her control of immigration and the tariff Canada has for more than half a century exercised sovereignty respecting such external relations.

It would not be difficult to make an effective criticism of Mr. Schlosberg's arguments respecting sovereignty and independence.

¹ *The King's Republics*. By H. J. Schlosberg, London: Stevens & Sons, Ltd.

His view that the Dominions are so absolutely independent that one of them might make war independently of the others is startling and will not find wide acceptance. And later he specifically states (p. 75) that the Governor-General cannot declare war. Not less perplexing is his suggestion that any Dominion has the technical right to remain neutral if a foreign power should declare war against the Commonwealth's Crown. It would be interesting to know the method by which any Dominion could thus declare war or thus establish its neutrality. On the other hand and singularly enough, the right of a Dominion to withdraw (or as the author expresses it, the right of secession) is denied. But neutrality in war, if it could be established, would in itself be secession, *pro tempore* at least. It is rather difficult to envisage a temporary as distinguished from a permanent secession. And would it not result from the author's view that one Dominion might declare war against another without destroying the frame-work of the Commonwealth? However Mr. Schlosberg explains later that his philosophic theories would have no practical application.

In discussing neutrality Mr. Schlosberg lays stress upon the illustration of Great Britain and Hanover when they were united under a common sovereign. The analogy is of slight relevance. The Crown in the British Empire is one and undivided. In the personal union of England and Hanover the King was king, "in two different capacities, and wore two different crowns."²

In dealing with neutrality skillful use is made of the anomalies created by membership of the British Dominions in the League of Nations. Concurrently and co-ordinately with this membership may we not discern the birth of a convention which renews and maintains the diplomatic and practical unity of the Commonwealth in all essential respects that concern its continued existence?

The complete and absolute independence and sovereignty which Mr. Schlosberg envisages are hardly consistent with the legislative control exercisable by the Parliament of Great Britain. Witness the committee of experts presently engaged in considering reservation of Dominion legislation, its extra-territorial operation, the Colonial Laws Validity Act and the Merchant Shipping Act. There is a curious passage at page 68:

The Dominions cannot in law be said to be equal in legislative power to Great Britain. But this inequality does not affect the status of the Dominions; for the Dominions are at liberty to adjust this inequality. That they take a considerable time to do so, or do not do it at all, is merely a matter

² Lowell & Hall; X, World Peace Foundation Pamphlet, p. 617.

of convenience, of understanding, of consent. It does not affect Dominion sovereignty in the political sense.

The comments upon the Locarno Treaty do not carry a just conclusion. In a war arising from violation of that Treaty any Dominion not acceding might be justified in withholding active aid; but it would not the less be in a condition of belligerency.

Mr. Schlosberg exaggerates, so far as Canada is concerned, the effect of the declaration of the Imperial Conference of 1926. At the conclusion of that Conference extraordinary reports were telegraphed to the United States and the American Press was in a condition of even unusual effervescence. In Canada there was a similar repercussion; but for reasons easily apparent the Canadian Delegates took immediate steps to explain that no change in status had been effected.

The chief result of that Conference was to sum up development consequent upon the practical equality of nationhood established at the Imperial War Conference by the Constitutional Resolution of 1917. It was most desirable and indeed essential that the results of such development should be set forth and estimated as they were in the report of the Balfour Committee; desirable in South Africa's interest, in the interest of the Commonwealth and for formal notice to the world. Further, it was most natural that Mr. Hertzog should magnify the results of the Conference. South Africa had really attained a higher status within the Commonwealth than the majority of her people realized. To impress them with what had been attained it was necessary to use emphasis and even hyperbole.

Mr. Schlosberg attaches immense but not undue significance to the change effected by the insistence of Canada, supported by the other Dominions and especially by South Africa, that the sister nations of the Commonwealth should become members of the League and should thus enter the Society of Nations. That each Dominion under the interpretation of the Covenant established by Canada at the Paris Conference is capable of election to the Council of the League is surely more significant than the actual election of Canada although the author does not so regard it (p. 24). Both before and during the war it is probable that Canada in her relations with the Mother Country reached a status not attained by any other Dominion. It was for this reason and not merely because she was the premier Dominion that her leadership in this aspect was so notable during the war and at the Paris Conference.

The views expressed in this volume are valuable because they provoke thought and inquiry. It is desirable to realize, so far as

we may, both the internal and the external relations of that astonishing political organism known as the British Commonwealth. It was born of Responsible Government and it has been nurtured by the spirit of liberty and justice. To interpret or even to adumbrate it within the limits of logic and legalism is and always will be a vain attempt. In constitutional relations it will continue to develop for its growth is by no means complete.

Mr. Schlosberg is of opinion that the right of legation which Canada claimed at the Paris Conference and which was recognized by declaration made in the British and the Canadian Parliaments in May 1920, is a token of independence. Apparently he is unaware that in the announcement of this right it was declared that the new arrangement would not denote any departure either on the part of the British Government or of the Canadian Government from the principle of the diplomatic unity of the Empire. The right of legation exercised by the Irish Free State is subject to the like consideration.

To the average reader the most interesting portions of the volume are those which express the author's conception of the Commonwealth, of its service and of its purpose. Besides the passages that I shall quote the author's estimate (pp. 106-8) of the ties that unite the Nations of the Commonwealth is worthy of attentive perusal:

As a political organization this association of States is the most novel, the most important and the most difficult experiment ever yet attempted. Whether it will succeed depends entirely on the restraint exercised by its statesmen in the conduct of foreign affairs. (P. 27.)

It is not to be assumed that because the Dominions possess this right of neutrality it will always be exercised. Undoubtedly, should the weary Titan ever stagger under a load too heavy, the Dominions will come to its aid, as they did in the Great War, pouring men and treasure when they could so little afford either. The Britannic States dare not allow one of their number, especially Britain, to be vanquished; for, should that happen, the British Empire will truly be disrupted, the world will lose its greatest instrument for peace, and the little brothers of a mighty Alliance will be left lonesome, unbefriended, swallowed up in the chaos of the Armageddon that must inevitably follow. (P. 50.)

The great problem for Empire statesmen will be to keep the Empire together and maintain its co-operation and unity. It is idle to imagine that there are no perils within the Empire endangering that unity and co-operation. Whatever idealists may say, it is not sentiment so much as reciprocal advantage in its more material aspects that must form the basis of co-operation and unity. Should the economic policy of any Britannic State offer no advantage, or rather, be injurious, to the other Britannic States; should there be isolated action in declaring war or peace, or in foreign policy generally; should there be any attempt on the part of one State in the Empire to exercise

force or compulsion towards any other State in the Empire; should racial antagonisms play a part in the administration or policy of any Dominion; above all, should the spirit of inter-Imperial friendliness and goodwill ever cease by reason of too constant bickerings and misunderstandings, the cohesion will be loosened "and everything will hasten to decay and dissolution." (Pp. 103-104.)

In foreign policy there is the most perfect co-operation between Britain and the Dominions. There is no fault to find and no criticism to make. It is impossible to contemplate the neutrality of a Britannic State in a dangerous war in which other Britannic States are involved.

It is also impossible to imagine the exercise of force by Britain toward any Dominion or Colony, or of one Dominion towards another. "Whether they are right or whether they are wrong—more, perhaps, when they are wrong than when they are right—they cannot be made amenable by force; mutual good feeling, community of interest, and abstention from pressing rightful claims to their logical conclusion, can alone hold together the Empire." (P. 105.)

The British Empire is an organization which secures permanent peace among one-quarter of the world's inhabitants. Invasion, which would not be improbable were the various States of the Empire to stand alone, by their unity and cohesion is rendered impossible. Never within the Empire, except in the case of the American Colonies, and in the case of Ireland, has one part raised arms against another. The causes which gave rise to the exceptions have now been removed. The very constitution of the Empire, its spirit and outlook, render forever improbable the calamity of internal strife. This is the one great justification for the existence of the Empire, for the wrongs that have been perpetrated in its name, for the sacrifices and suffering incurred in its maintenance. It is the one great justification in the belief of the Empire's future. While co-operation and goodwill are maintained, and they will certainly grow stronger and stronger, a resort to arms between the Britannic States is impossible.

In this co-operation there is also an example to the other nations of the world. Alliances for the preservation of peace must be sought among those who have common ties and common sympathies, for they render co-operation easier by reason of the goodwill always attached to sympathy. Sympathy nourishes understanding. Between no two mighty combinations of States do their exist so many ties of sympathy as between the British Commonwealth and the United States of America. In their veins the same blood, on their tongues the same noble language, in their great hearts the same impulses of liberty and progress and enlightenment, no two States have been more happily situated for an alliance of peace. The British Empire turns unconsciously towards, and extends the hand of friendship to, the United States of America. In the past the world has turned often enough and vainly enough to the great Republic of the West; so often has it turned, and not always in vain, to the British Empire. The one, even though it was because her world-wide interests necessitated peace, has always endeavoured to act the part of a moderating and mediatorial Power. She has held sacred the obligations of international treaties and of natural justice. Her conquests have been justified in the subsequent prosperity of the subject peoples. If trade followed the flag, science followed hard on its heels to aid in the

amelioration of disease, the draining of swamps, the education of savages, and the introduction of law and order. In the judgment of posterity the territorial expansion of the British Empire is a policy that cannot be condemned. In what other nation has there been an equal championship of the cause of the oppressed and the suffering than among the British? These are the things which proclaim the greatness of nations, and strengthen one's faith in the destiny of mankind. (Pp. 109-10.)

Such is the glowing tribute of a Boer to the world service, present and potential, of the British Commonwealth. There are Canadians to whom it should give food for thought.

Frankly critical of the international political morality of the United States in the past, he looks forward with a fine, if extravagant, optimism to a more auspicious era in which an alliance between the two Commonwealths in the cause of world peace will be consummated and he concludes as follows:

As members of the League of Nations the United States and the British Commonwealth must wield a power and an influence that would change the whole course of civilization. In a world of darkness, and intolerance and prejudice, the British Empire even now proceeds like a torch-bearer, ever advancing, elevating, instructing. But the Recording Angel leans thoughtfully over America's pages in the book of National Destinies and suspends his pen.

Canada and South Africa have in common one important and sometimes difficult condition. In each country there are two great pioneer races. The problem has been happily solved in Canada. There the two races work in harmonious and effective co-operation. It is the hope and trust of every true-hearted Canadian that the same condition will obtain in South Africa. Mr. Schlosberg's conception of what the Commonwealth means to its constituent nations and to the world is a happy omen for the future.

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