

BOOK REVIEWS.

Responsible Government in the Dominions. BY A. BERRIEDALE KEITH. Three volumes. (Clarendon Press, Oxford, 1912.)

In the spring of 1912 Mr. Keith reissued his work on Responsible Government in the Dominions of Great Britain; published first in 1909 in one small volume, it now appears in three large volumes, covering over 1500 pages. The first work of this author was already well known to persons interested in the public and constitutional law of Great Britain, as a good and reliable text book. The new edition, covering the same ground in a much more detailed way, will be still more valuable and useful to the student.

It is to be highly recommended as a text book, as well as a reference book; it certainly surpasses all the previous works on the same subject and is much more up to date than, for example, the classical work of A. Todd. Thus it is sure to take a permanent place in all libraries of public law.

Yet the student of public law must also be warned in some respects of the shortcomings of this work. The new edition is certainly heavy reading, much more difficult to peruse, than was the first volume of 1909. The author has added much important and interesting data and yet one cannot, but feel, that there is too much padding in the work and that it is too diluted and could be condensed to great advantage. In chapter after chapter the reader will find dozens of pages given up to the reprint of documents, despatches, correspondence, etc., which can be easily found in Blue Books in any library; a simple footnote would have been quite sufficient; this is the more evident, as in the great majority of cases the author does not draw any conclusions of his own, leaving this to be done by the reader. In this connection another shortcoming must be mentioned. After minutely surveying in the first three parts the different institutions of the Dominions, the position of Governors, of Parliaments, etc., the author comes back in Part IV to "the Federations and Unions," namely to exactly the same subjects, and has to retrace his steps, and repeat all the same facts and details, which it would have been much better to collect in one place.

These repetitions are due to the deficient method of treating the subject; the author ought to have fused either the first Parts in Part IV, or vice versa. This coupled with the already mentioned love of the author for needless quotations makes the whole work much heavier than it would otherwise be.

Another methodological drawback is to be found in the system of the chapters themselves; the chapter usually begins with a few short remarks of the author and some of his own conclusions; then come the history of the case and the endless quotations; and, finally, the reader would expect a summary, but finds a period. A reversal of this system, would make the book much more intelligible to the student. Defects in method are, as a rule, not very important; these however in a work containing much valuable material, are, to say the least, disappointing.

Let us now see how matters stand with the subject of this treatise. Mr. Keith gives very interesting and trustworthy information concerning the history of the Dominions; this is by far the most valuable part of his volumes; the classical work of A. Todd is out of date; the student of English constitutional and public law has long needed newer and fresher data. Now he has at his disposal all the necessary detailed information concerning any special question in which he may be interested. Part I (Introductory) gives the reader a short account of the history of Responsible Government in the Dominions; Part II deals with the position of the Executive Government, the governor and his ministers, as well as the cabinet system; Part III is devoted to the Parliaments, their rights and privileges, their modes of working. The student will find here abundant material and reliable data, as well as necessary sources of information and bibliographical notes.

So far, so good. Matters however change when we come to the theory of the cases. Here, first of all, is noticeable a spirit of Imperialistic partisanship which cannot be easily explained. Secondly, we have to point out the disagreeable and overbearing tone of the author, often quite unjustified by his own facts in cases when he deals with other men's theories. Mr. Tarring, for instance, fares badly on page 114, vol. I; this is likewise the case with many others, Justice Higinbotham included; the names and *renommé* of these authors, with whom Mr. Keith has to deal, would, it seems, deserve more cautious treatment. Possibly an explanation may be found in the fact that the men our author attacks may nearly all be classed as poli-

tical opponents to his imperialistic ideas. However, his unjustifiable treatment of them cannot but undermine the value of his theoretical work.

We should also like to see in some places clearer proofs and statements concerning the author's own theories. For example, he is certainly right in asserting the dual position of the governor as head of the Dominion executive power and as an Imperial officer acting in Imperial interests (p. 173, vol. I); this point however could be much better and more closely defined when the author enters into polemics with Mr. Higinbotham and Mr. Blake; we do not think he is right, on the other hand, when he denies (p. 171) any possible parallel between a governor and a constitutional monarch; first, one does not know what type of sovereign the author has in view and can only surmise that it is the English monarch, and secondly, just such a resemblance in the position of these two organs of State is one of the most striking instances in English law of its influence and its spread outside of England proper; in minor details their positions certainly differ, but broadly speaking they have much in common.

The political ideals of the author come out clearly in another connection when he treats the position of the governor as an "Imperial officer" and his relations with his ministers. Here Mr. Keith asserts that it would be impossible to enforce the principle of full (?) ministerial responsibility, as the present constitution (?) of the Empire would in that case have to be abandoned (p. 288, vol. I). It is not clear (notwithstanding his assertion to the contrary!) where, and what limitations to ministerial responsibility could exist; in Canada, as well as in the Commonwealth no government would for a moment consider such a theory of limitations, which would be looked at as existing only in imagination. The author continues by giving an example of California and says that it is the duty (?) of the Dominions not to adopt any such policy; one does not quite know what sort of duty Mr. Keith has in mind, moral or legal. He forgets evidently that the unity of the United States Federation has nowadays become much stronger than the unity of the British Empire and yet this does not prevent a "Californian policy"; there can exist an interest of the Dominions not to adopt any such policy and we firmly believe there does exist such an interest, which tightens the bonds of Empire, but from a legal point of view one cannot find any "duty." This is proved in the clearest possible way by Sir W. Laurier's idea of helping the

Mother-country in times of war, which goes much further than anything Californian statesmen ever dared contemplate.

In the next chapter (VII) which treats the question of the cabinet system the reader will find a noticeable contradiction in the assertion (p. 301) that the number of experiments as regards the following of English conventions in this matter were "very small and have been unimportant in actual result," as the author himself on the following pages gives a considerable number of examples of very important changes and of their consequences. Notably on pages 302, 306, 310. If the author had chosen another method, giving the examples first and the conclusions afterward, such hasty assertions could have been easily avoided.

One must say that the whole work shows signs of haste, which is the reason why much of the matter treated in it remains raw and undigested.

Chapter III (Part III) dealing with the repugnancy of colonial laws is most disappointing, as one cannot find any conclusions in it at all; and yet this is one of the very important questions of public law of the contemporary British Empire; the old act of 1865 can hardly apply to many modern cases, but no new law and no new theory of law has yet been formulated and the student is left quite at a loss, not knowing how the new situation has to be met or how the old law has now to be interpreted. Neither does this chapter give any whole picture of the historical development of the question, which is one of the most interesting ones in English constitutional law.

In Volume II we find the end of Part III and Part IV which latter gives a comprehensive and detailed history of the three Federations of the Empire. We have already mentioned that this is really a repetition of the previous data. Part IV is however handier for a beginner than the previous parts.

Part V is devoted to Imperial control. The chapters dealing with the question are good ones; they are reliable and instructive, bringing forth some hitherto unknown details.

Parts VI and VII (Judiciary and Church) are also excellent and interesting. In Part VIII, Chapter I, we come to the weakest portion of the work, especially in paragraph 2, dealing with "Future Prospects." It is a great pity that political views and especially prophecies should be introduced in a serious scientific study; they are always and by their nature always must be vague, uncertain speculations, only harmful to scientific investigation. It seems rather strange, for example, to hear

the naïve assertion that Canada owes her independence to the vicinity of the United States and the Monroe Doctrine and that Australia will never achieve as much (p. 1459, vol. III). The methods of scientific research and of political prophecy do not go together; the author ought to choose between them and give either a scientific work or a political pamphlet.

Finally, Chapters II and III of this last Part give *in extenso* the proceedings of the Colonial and Imperial Conferences which the reader could easily find in the corresponding Blue Books.

Summing up we can say that excepting the padding, the endless references and reprints of official documents on one hand, and the theories of the author on the other, the work is a good and reliable text book and is quite up to date; it is by far the best work we have concerning the public law of the British Empire.

The political views of the author show him a staunch Imperialist; one cannot say however that he has very materially helped the cause he had at heart, as his theories are all very vague.

Mr. Ewart is perfectly right in noting the "confusing vagueness of imperialistic claims." Possibly that is their unavoidable characteristic.

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Kingdom Papers. By John S. Ewart, K. C. Issued by the author. Ottawa, Canada.

Parallel to the work of Mr. Keith appear the Kingdom Papers of Mr. Ewart. We take them as a striking contrast. The two authors stand at the two opposite poles of the question of the Constitution of the British Empire. Mr. Ewart's object in issuing the Papers is quite different from that of Mr. Keith; whereas the latter tries to give an exhaustive view of the situation, treating all the details, taking up all the data, etc., Mr. Ewart is interested only in the question of principle, having in view, not scientific study, but political propaganda and as applied to Canada only.

In Paper 1 Mr. Ewart states in clear language the pros and cons of Canadian independence from the point of view of contemporary law; he shows that Canada is limited as to her constitution, which she cannot cancel or even amend without the consent of England, nor can she abolish her Parliament and she is limited likewise as to her territory, outside of which she has no jurisdiction; on the other hand she is