

search in International Law in 1932 and published in a Supplement of this JOURNAL.<sup>7</sup> Under this draft, a state may permit orders or judgments of its courts to be enforced against the property of another state not used for diplomatic or consular purposes when the property is employed in connection with the conduct of private enterprise as therein defined.<sup>8</sup>

In view of the present settlement, it is interesting to observe that the Swedish Government, in its reply to the Committee of Experts, favored the conclusion of an international convention upon this subject. Indeed Swedish courts have displayed a tendency not to recognize immunity from suit in cases such as the present, and the Swedish Government is not itself immune before its own courts in connection with acts of business administration.<sup>9</sup> But the Swedish Government in the instant dispute drew a sharp distinction between immunity from suit and judgment, and immunity from execution against property, a distinction which our own courts, following the initiative of the Department of State, confirmed. The final settlement of the diplomatic claim against Sweden should serve as a reminder that the question of enforcement should be regulated at the same time as that of jurisdiction for suit and judgment, to the end that the entry of judgment in properly instituted suits against foreign states in national courts shall cease to be a futile procedure with at most a moral significance.

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#### BRITISH COMMONWEALTH RELATIONS CONFERENCE 1

While it cannot be said that the British Commonwealth Relations Conference which met at Toronto, September 11 to 21, 1933, finally settled the question of whether the Commonwealth is a state or a league of nations, its proceedings contain material of very great interest with respect to the tendencies within this extraordinary political organization. The meeting was unofficial, but included about fifty members from Australia, Canada, India, New Zealand, South Africa and the United Kingdom. The presence of India and the absence of the Irish Free State is to be noted. Among the members were ministers, parliamentary leaders, publicists, professors and business men. The opinions which prevailed, while wholly unofficial, will doubtless have much influence. It was proposed to have a second conference of similar type in the future. It may be anticipated that these unofficial conferences will precede and prepare for the official meetings of the Imperial Conference.

This conference discussed the nature of the British Commonwealth, its common policies and its organization.

On the first topic opinions differed as to whether "the Commonwealth was a

<sup>7</sup> Supplement, Vol. 26 (1932), pp. 455-736.

<sup>8</sup> *Ibid.*, see Articles 11, 23, 25.

<sup>9</sup> League of Nations Publications, A. 15, 1928, V, pp. 83-84.

<sup>1</sup> See Canadian Institute of International Affairs, British Commonwealth Relations Conference, Toronto, September 11-21, 1933, Report of the Conference Steering Committee on the Work of the Conference, and appended documents.

definite entity" involving legal and moral responsibilities among the member nations, or whether each member nation, being "master of its destinies," cooperation, however desirable, was "entirely voluntary." Opinion also differed as to whether there should be an effort toward greater economic unity, but all agreed that there was and could be no "cultural unity in the ordinarily accepted sense of that term." There was general opposition toward making the constitution of the Commonwealth more hard and fast. All wanted flexibility, several expressed the view that the only thing the members of the Commonwealth had in common was "common political ideas and the values emanating from these," such as the "rule of law" and the belief "that force does not control the law but that law controls force."

With this lack of uniformity among the members of the Commonwealth, it is not surprising that the opinion seemed general that "regional interests necessarily form a starting point for foreign policy" and that "foreign policy is in a large measure the extension of domestic policy." The reasons for this and for a certain "isolationist sentiment" in some of the dominions was thus explained by a Canadian speaker:

One of the hard facts of this world is that each of the British nations is a democracy, and that it has a parliament, and that back of that parliament there are parties and that parties are made up of politicians and that one of the prime purposes of political parties is to turn governments out of office and that there is no issue so useful for turning a government out of office as a suggestion that it is giving more consideration to external than to domestic interests.

This regional attitude even extended to the matter of defense. While consultation in defense and strategic problems was generally deemed desirable, the sentiment was against any binding plans, and certain Canadians pointed out that the Commonwealth is "in no sense a defensive alliance" and "the defense of Canada did not depend upon its relationship with Great Britain." Other Canadians, however, thought that Canada gained some benefit from the British Navy.

Along with this dominating regional interest, it was recognized that some coördination was necessary in the interests of each dominion as well as in that of the Commonwealth as a whole. The coördinating influence accepted by all those present was the supreme interest of all parts of the Commonwealth in maintaining the peace, not only within the Commonwealth (war between the members of the Commonwealth, it was said, has become unthinkable), but in the world at large. As the chairman said, summing up the conference, "Peace is the vital interest and its pursuit and maintenance should be the great objective of the Commonwealth."

For the preservation of peace, discussion centered around the collective system, the League, the Court and the Pact, and there appeared to be general agreement that the Commonwealth and the world collective system were not antagonistic but complementary, and that all the members should live up to

their obligations under these instruments. A special committee reporting on these obligations held that, in case of aggression involving a member of the League, "the members of the Commonwealth are all bound by obligations under Article 16 which exclude the possibility of their remaining neutral." If a member of the League is not involved, "the Council may take such measures and make such recommendations as will prevent hostilities and result in the settlement of the dispute." But in any case the belligerents would probably be parties to the Kellogg Pact "which has clearly modified old conceptions of neutrality, and the members of the Commonwealth would be agreed in desiring to act in accordance with the spirit of Mr. Stimson's declaration."

While emphasizing the Commonwealth loyalty to the world collective system, the conference also recognized "coöperation with the United States as a vital feature of Commonwealth foreign policy," not only because of the situation of Canada, but also "because the fundamental ideas of Americans and ourselves are really similar and often identical." While all were agreed upon the complementary relations of the Commonwealth and the collective system, there was some difference in emphasis, the New Zealanders and Australians, on the whole, inclining to the view that the Commonwealth was much the more important and the collective system little to be relied upon; while one Canadian took the position that "if collective action breaks down, in all probability that will bring about a situation where Canada's North American position as distinguished from its Commonwealth position would prevail."

Apart from foreign policy, it was considered that other matters of Commonwealth coöperation were principally in the intellectual field, scientific research, statistics, etc., although economic, shipping and communications problems might be discussed. A suggestion from a South African member that there should be intergovernmental consultations on native policy in Africa met with a sharp rebuff from an Indian member, who expressed "concern at any suggestion that white people were to concert a joint policy directed toward the subjection of native races." The United Kingdom delegation was certain that "public opinion in Great Britain would be incensed at such a course and that the British Government had no intention whatever of evading their mandatory responsibilities."

The inadequacy of Commonwealth organization, which consists mainly in exchanges of information, the presence of dominion commissioners at London and the periodic imperial conferences, was recognized. The elevation of the dominion commissioners to a diplomatic status, the provision for more adequate representation between the dominions, and the training of junior members of the staffs of dominion foreign offices in the London foreign office were suggested. There was also general agreement upon the advisability of a Commonwealth Tribunal. A minority favored bilateral tribunals between pairs of dominions, but the majority contemplated a single court, with one or two judges from each dominion with a jurisdiction not unlike that of the Permanent Court of International Justice. Some suggested that the Permanent

Court itself might be used, but the majority thought a tribunal with all its judges trained in British countries and with "a vivid consciousness of the nature and implications of the special relationships which exist between members of the Commonwealth" was desirable. Consequently those present agreed that the reservation of "*inter se* questions" made by all the dominions, except the Irish Free State, in signing the optional clause of the World Court Protocol should be retained.

It is interesting to note that, whatever may be the nature of the British Empire the suggestions of this conference would assimilate it closely to the League of Nations, with respect to its policy, the objects of coöperation among its members, and its organization. In spite of these resemblances of the Commonwealth to an international organization in external aspects, the historic fact of closer connection cannot be ignored and certainly influenced the proceedings of this conference itself. The remarks, it was noted, were "by no means insipid or colorless" but, on the contrary, were "marked by that outspoken frankness which properly characterizes discussions between members of one family. This happy informality and the complete candor by which it was accompanied produced an atmosphere very different from that of an international conference whether official or unofficial and added very greatly to the practical value of the discussion. For, to quote from a South African speaker, 'characteristic of the family outlook is sanity of aim and reasonableness in our method of approach to public questions.'"

QUINCY WRIGHT

#### THE ARGENTINE REPUBLIC AND THE LEAGUE OF NATIONS

The action recently taken by the Government of the Argentine Republic has cleared away the confusion which had existed since 1920 with reference to the Republic's membership in the League of Nations. The history of the problem to which a solution has now been given throws light both on the constitutional law of the League of Nations and on certain principles of international law in their application to the Covenant as an international instrument, and it seems to deserve a careful study.

The Argentine Republic is listed in the Annex to the Covenant as one of the "States invited to accede to the Covenant." The conditions of this accession are set by Article 1 of the Covenant, which provides for accession "without reservation" to be "effected by a declaration deposited with the Secretariat within two months of the coming into force of the Covenant." Soon after the signature of the Treaty of Versailles on June 28, 1919, the Government of the Argentine Republic moved to effect its accession. On July 12, 1919, the Minister for Foreign Affairs sent the following telegraphic instruction to the Argentine Minister in Paris: <sup>1</sup>

<sup>1</sup> For the text, see Juan B. Sivori, *La Liga de las Naciones, su origen y la obra realizada en la República Argentina* (Buenos Aires, 1928), p. 503. The translation is that appearing in Warren H. Kelchner, *Latin American Relations with the League of Nations* (Boston, 1930), p. 47.