

THE TRUTH ABOUT THE STONE OF SCONE

By D. H. FERRIS

MOST of the comments on the Stone of Scone have missed the important historical aspects of the matter, and have completely failed to consider the legend of the Stone of Scone in any way. If the Stone of Scone has any meaning whatever, then it is in connection with its ancient legend of being the Stone of Destiny. The common statement that it is a symbol of Scottish sovereignty is quite inadequate; it is a symbol of Scottish sovereignty over any country that holds it. Thus, if you steal the Stone, you have a Lion Rampant by the tail, for the Scots will ultimately come to rule your country.

The legend of the Stone of Scone is that "The Scots shall govern, and the sceptre sway, Wher'er this Stone they find, and its dread sound obey." So wrote Hector Boece, a 16th century Dundee historian.

Wyntoun's 14th century "Original Chronicle of Scotland" gives it as "So long as Fate rules not in vain, Where this Stone rests, there Scots shall reign."

The Stone was stolen by Edward I about the year 1296, and the Treaty of Northampton of 1328, promising its return, was not honored. Any fictions or pretenses that the sovereignty of Scotland is compromised by the Stone being outside its borders is completely demolished, not only by the legend itself, but by this Treaty in which England acknowledged that she had been defeated in her attempts to overcome Scotland. But the Scots had the last laugh, for in 1603 the short-lived English Monarchy died out, and the much older Scottish Monarchy took over. James VI of Scotland ruled both countries, and by laws agreed to by English and Scotch alike, only his descendants can ever hold the British Throne. The prophecy came true. The Institution, Continuity, and Succession of the British Monarchy are purely Scottish. It is based on the heritable principles of Scottish Law, which recognize the validity of its numerous distaffian descents. English Law does not recognize the validity of distaffian descents, but English Law has no application to the matter.

Elizabeth of Windsor is, through George VI, a direct descendant of James VI - to use his senior Scottish title - and is in no sense an "English" Queen. This descendant of Mary,

Queen of Scots, Robert Bruce, Malcolm Canmore, and Kenneth MacAlpin, the founder of the Scottish State in 843 A. D., is historically "Elizabeth I of Scotland," and legally "Elizabeth I of Great Britain," but is sometimes colloquially called by the defunct 'title' of "Elizabeth II of England."

She holds the Throne under Article II of the Treaty of Union of 1707. The title "King (or Queen) of England" was abolished, and the Monarchs are now Kings or Queens of the "United Kingdom of Great Britain," under Article I of the Treaty of Union of 1707.* The daughter of George VI and his Highland Queen, Lady Elizabeth Bowes-Lyon, will be described on future British coins as of "Britannia Omnia Regina," or "Queen of All Britain," just as George VI was described as of "Britannia Omnia Rex," or "King of All Britain." Elizabeth of Windsor will be crowned over the Stone of Seone in another full realization of its ancient prophecy, while her son, Bonnie Prince Charles, inherits one of Robert Bruce's early titles, "Earl of Carrick," and certain other Scottish titles, under a Scottish law of 1469. He inherits no English titles.

True to its Scottish ancestry, the Royal family claims its Scottish tartans as of hereditary right, and not by courtesy. George V described the Royal Stewart tartan as "my personal tartan."

The sceptre is often 'swayed' by Scottish Prime Ministers like William E. Gladstone, Lord Aberdeen, Lord Balfour, Lord Rosebery, John Stuart, Earl of Bute (the confidante of George III who swayed the sceptre so much that the English became greatly aroused), Sir Henry Campbell-Bannerman, and J. Ramsey MacDonald. The diplomatic service and the military commands are always well staffed with Scots. In fact, in 1939, at the start of the Second World War, almost every diplomatic post and military command of consequence was held by a Scot. The list is rather too long to review here, although the names of Lord Lothian, Lord Linlithgow, Lord Perth, Sir Archibald C. Kerr (later Lord Inverchapel), Lord Tweedsmuir, the Earl of Gowrie, Sir Patrick Duncan, Generals Ironside and Wavell, Admirals Fraser, Cunningham, and Forbes, Lord Tedder, and Dominions Prime Ministers W. L. MacKenzie King, Peter Fraser, and Sir Robert Gordon Menzies will suggest a beginning. General MacNaughton and his successor, General Crerar, ought also to be mentioned.

* Article I gives the title of the realm, Article II the Succession.

So long as the common mis-statement that "Britain has no written Constitution" is current, no one can be expected to understand the Constitutional position or political integrity of Scotland, England, Wales, and Northern Ireland in relation to one another.

The 1603 Union of Crowns was followed by the 1707 Union of Parliaments. This was done under the Treaty of Union, whose 25 provisions and two Acts of Security attached come very close to being a "written Constitution." It is under this Treaty that the British Government and the British Parliament are created, and it is under the two Acts of Security that the Presbyterian Church and a branch* of the Episcopal Church are guaranteed their traditional Established positions.

Easily the most important document in English history, and one of the most important in the Scottish history, the Treaty of Union is the basic document in all British Constitutional history. Before 1707 there were two separate lines of Constitutional history—English and Scottish—but in 1707 they were welded together.

The great Daniel Defoe, who was an English negotiator in the preliminaries to the Treaty, unreservedly described it as a Constitution, and insisted that England was dissolving her old Constitution and adopting a new one, to the same extent as Scotland.

Since it does most of the things required of a Constitution, it is not surprising that Constitutional questions arising in Parliament today must often be considered in relation to the Treaty.

Under the Treaty and some subsequent legislation, Scotland retains inviolate, in addition to her ancient Monarchy, several institutions. They are:—

1. Established Church, dating from 1560, and equal in every way to the Church of England in British Law. No Union was possible until the Scots had been satisfied on this point, and the Act of Security for the Church of England was copied, in principle, from the Act of Security for the Church of Scotland. Historically, the English had reason to want this protection too, for in 1643 the English Parliament had accorded a superior position to the Church of Scotland. It had dis-established the Church of England and agreed to accept the Church of Scotland as the Established Church for the rest of Britain. Scottish and English clerics met at Westminster to compile a standard form of worship, and it is from this period

* The original Episcopal Church was Welsh, not "Anglican".

that the Westminster Standards, including Confessional, Catechisms, and Directory of Worship, date. Thus the Church of England would have been Non-Conformist—as it is in Scotland today—if it failed to meet Presbyterian requirements. However, the agreement was made while Scottish troops were on English soil, which might be considered “duress” from a legal standpoint. The troops were indemnified financially by the English—leave that to the Scots—but as the British Civil Wars continued, the Puritan adherents of Cromwell gained pre-eminence in English Church affairs, although the Presbyterians continued to hold Scotland. But to this day the Scottish Church honors its Westminster Standards, dating from this ascendancy.

2. Legal System and Courts. Inviolable for “all time coming,” according to the Treaty. No English court can presume to review a decision of a Scottish court, for they are absolutely co-equal, and no one can be tried outside of Scotland for an offence committed in Scotland. Appeals from the decisions of the supreme courts of Scotland and of England, that is, the Court of Session and the High Court of Justice, respectively, are in civil cases to the House of Lords, where both countries are represented; and in criminal cases to the Crown.

The three-way division between British National Law, Scottish Law, and English Law, closely parallels the divisions between American Federal Law and the Laws of the various States. None can hope to understand British Law unless they understand this three-way division. The Statute of Westminster of 1931 left the Scottish Law in a particularly exalted position in regard to Dominion legislation. While abandoning the right to declare any Dominion legislation unconstitutional where it conflicts with British National Law or with English provincial Law, it did not surrender the right to declare any Dominion legislation unconstitutional where it conflicts with Scottish Law. This fact is worthy of some study by the unbiased legal scholar. It is not difficult to imagine circumstances in which such an appellate judicial authority, retained by the British, might be very convenient. The principle of judicial review of Parliamentary Acts, virtually unknown in Britain's own legal history, might be applied to a statute of a Dominion Parliament.

3. Bank of Scotland. Pre-Union, founded 1695. Has the money-issuing power. Not nationalized like the Bank of England, because the Scots do not want it nationalized. An example of Scotland's Constitutional prerogatives being exercised. It is

also an example of the conservative, free enterprise predilections of the Scots.

4. Educational System. A much older system than that of her southern neighbor, both in its secondary education, dating from 1496 (instead of 1870!), and in its University system, even older than this, it is run quite differently, from Edinburgh.

5. Separate Departments of Home (Police), Agriculture, and Health. This explains why British criminal and vital statistics are never given in complete form, but always as two distinct compilations.

6. Lyon Office, or Lyon Court of Arms. A Government Office to guard and maintain the ancient heraldry of Scotland. No legal counterpart in England.

7. Secretary of State for Scotland. Another pre-Union Office, now much enhanced in responsibility, as Scottish Administration is largely consolidated under it. One of the most important Cabinet posts, being a part of the "inner Cabinet." The Secretary has the right to assume any other British Cabinet post in emergency. Mr. Churchill has added a Minister of State for Scotland, who, by spending most of his time in Scotland, will release the Secretary of State for Scotland to spend more time in London on national or world affairs. He has also asked that the number of Under-Secretaries of State for Scotland be increased from two, to four, an indication of the responsibility of the post. The Secretary of State for Scotland is always, of course, a Scot, and retiring Secretaries have often worked with the Scottish Grand Council for development of Scottish enterprises.

The headquarters for Scottish Administration are in St. Andrew's House, Edinburgh, but liaison with Parliament is maintained through the Scottish Office in London.

The Lord Advocate of Scotland, who formerly had many of the Secretary's responsibilities added to his own, is one of the most important Law Officers of the Crown. He divides his time between Edinburgh and London, and advises Parliament on legislation being considered, as to its possible bearing on Scotland. Many types of legislation apply only to England and Wales. If Scotland wants any of it, then separate Acts must be written and considered. For example, the English and Welsh divorce laws were revised in 1938. The Scottish divorce laws were revised in 1940. A separate Scottish Education Appropriation Act must be passed by Parliament every year. No one Act suffices for the United Kingdom unless it deals with

National, as differentiated from regional, affairs. Tariffs, War, international affairs, etc., come under this category, when the Parliament acts as a National entity.

The Scottish Covenant Group is urging the application of the Federal principle of government, already applied in Ulster, Northern Ireland, to Scotland, with the re-constituting of the Edinburgh Parliament, and the retention of representation in the United Kingdom Parliament. Ulster has her own Parliament in Belfast, and is also represented in the United Kingdom Parliament. The idea of a regional sub-Parliament to govern Northwest England has been advocated at Manchester University. Thus, such things as "Home Rule," or "Scottish Nationalism," ought not to be misunderstood to imply any inferior position. "Home Rule" for Scotland, indeed, implies "Home Rule" for England, too. Scots would not resent the rise of a native legislature there which would be separate from the United Kingdom Parliament, and which would consider purely English domestic matters without Scots, Welsh, Ulstermen, Cornishmen, and others voting on them. Scots would not resent Celtic Cornwall, Celtic Devonshire, and Celtic Somersetshire being re-incorporated into the political entity of Wales, no longer to sit in judgment on purely English matters. Strident English nationalism ought to welcome this.

The "Celtic Twilight" and the "Celtic Fringe" are unrealistic figments in the minds of the Teutonophile fabulists; the 'demise' of the Celt is greatly exaggerated. It has been wishfully dreamed of for so long that some minds fail to distinguish between fact and fantasy. What is real is that there is a very considerable Celtic element of the original British race still in the British Isles, and that it is a major factor in the destinies of these Isles. It is not in 'twilight' nor even in eclipse; neither is it an ethnological 'fringe' group. Rather, it is a basic racial strain which is, if anything, in resurgence. Matthew Arnold was not alone in considering the term "Anglo-Saxon" to be incorrect in describing British and American civilization, and that the correct term for such a double-harness enterprise should be "Anglo-Celtic." Viewed objectively, a Federalism that takes cognizance of the bi-ethnic needs of the British Isles does not for a moment envisage the dissolution of the United Kingdom Government. The United Kingdom Parliament would be retained, while the "sub-Parliaments" like the one now sitting in Belfast, Ulster, Northern Ireland, would correspond to American State Legislatures. They would deal with local pro-

blems, and do so more effectively than a National Parliament more concerned with world affairs. It is for this reason that the Scottish Covenant Group urges that the Edinburgh Parliament be re-constituted. This Group is composed of most of the moderate, conservative, believers in Union, and not of Separatists, who are a minority in Scotland. It seems to be thoroughly appreciated that Scotland and England by themselves would each be no more than a make-weight in world politics, whereas together they constitute a world power. Whether one be superstitious, or merely sentimental, could there be any more solid proof of their belief in Union and in the legend of the Stone of Scone than that their leader, Dr. MacCormack, claims to have arranged for it to be turned in at Arbroath, whence it went again to Westminster?

That the Scottish Constitutional position should be so misunderstood as it had been can be explained only by the fact that British history, *per se*, is not taught in our schools. One could not study the history of the United States by studying the history of merely one of its forty-eight parts. Similarly, a study of merely English history does not suffice for a knowledge of British institutions. It is an undeniable fact that many purely English "histories" have been written in the spirit of Houston Chamberlain, a kind of Paul Joseph Goebbels of an earlier day. Many English and Americans who ought to know better, and who would consider Goebbels' racial writings beneath their contempt, have most enthusiastically and gullibly absorbed Chamberlain's bias*. It shows through a good deal of supposedly reputable writing. Many English are fond of twisting the Lion's tail. (The Lion Rampant is the Royal Insignia of Scotland).

A perfect example of the desirability of a comprehensive knowledge of British history is found in the work of a great Scottish Constitutionalist, James Wilson, and its influence on early America. In 1774 he pointed out the British Constitutional limits on their power of legislating for the Colonies, and he urged the position, largely adopted in the Declaration of Independence, that the King, and not his Ministers nor the British Constitution, should be blamed for the excesses that had aroused the Colonists. This same 18th century Constitutionalist also urged the view, now incorporated in the concept of the British Commonwealth, that all parts of the Empire were equal states

* Nordicism erroneously based on mere Teutonism.

under one Sovereign. The final draft of the United States Constitution was written by James Wilson of Scotland and Robert Morris of England. There must have been many such students among the 56 in the Convention. Also, we know, of course, that Jefferson and Franklin understood the British Constitution, although Jefferson's part in shaping our own was indirect. He was not actually at the Convention, being Ambassador to France at the same time, but his views were well-known. After the United States Constitution was adopted, the clear thinking Wilson again came to the fore, as Associate Justice of the Supreme Court, to assert the sovereignty of the Federal Government.

Only the familiarity of such men with the faults of the British Constitution accounts for their studied elimination in the United States Constitution. The origin of such things as the checks and balance tri-partite governmental form, with its judicial review and executive veto, as well as proportional representation in the House, and equal representation in the Senate not based on wealth, must be traced to such men. None of these things exist in the British Constitution today, except proportional representation, and that only since 1867.

It is unfortunately true that although all members of the Peerage of Great Britain are equal, all could not sit in the House of Lords even if they wanted to do so. Some sit only as "Representative Peers" for their supposedly poor countrymen, of equal rank.

At the same time, and for the same reason—the studies of our early leaders in the British Constitution—the similarities of British and American Constitutional law are no mystery, and there is no use in Americans making it hard for themselves to understand British Constitutional law by refusing to recognize the same principles when they see them on each side of the Atlantic. Nor should they restrict their reading to provincial sources that can never be regarded as the full sources of British Constitutional law. In abjuring provincialism, let them take heed to study not only the English Bill of Rights of 1689, but also the at least equally important Scottish Claim of Right of 1689, which preceded the former by several months. If they would understand the present Constitutional Monarchy, let them study its ancestral prototype, the ancient Scottish Constitutional Monarchy which, easily antedating the Union, as well as any English concept, existed in form in the 12th century, and in practice in the 14th century. Instead of depressing themselves

Over the eleven years of Cromwellian dictatorship, which left no precedential patterns for anyone, except, perhaps, Adolf Hitler, let them study the long-range effects on Royal prerogative of the year-long Bishop's War in Scotland in 1638. The Scots compelled Charles I to acquiesce to the popular will. A long list cries out for objective, dispassionate, study of the highest order. English nationalism is not British history.

Viewing the Stone of Scone as the keystone, or Stone of Destiny in the British Union, it is easy to understand why many prominent Scots do not very keenly resent its being in England. After all, if England wants to be ruled by the taciturn and less volatile Scots, then Scotland must feel greatly complimented thereby.