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NOTES AND NEWS

WE reprint from the London *Times* of October 29 the following account of the commemoration of the bicentenary of the death of John Locke by the British Academy:

A special meeting of the British Academy was held on October 28, 1904, at the room of the Society of Antiquaries, Burlington House, to commemorate the bicentenary of the death of John Locke, who died at Oates, in Essex, on October 28, 1704. Dr. Edward Caird, Master of Balliol College, Oxford, presided.

Mr. I. Gollancz, secretary, read a letter from Lord Reay, president of the Academy, regretting that he was not well enough to travel from Scotland to attend the meeting.

The chairman said that when the Academy decided to celebrate the bicentenary of Locke's death they all thought it appropriate that the veteran philosopher, Professor Campbell Fraser, should be asked to deliver an address. Unfortunately the professor, owing to his old age and indifferent health, was unable to be present; but he had sent a paper, which would be read by the secretary.

Mr. Gollancz then read Professor Campbell Fraser's address, which was entitled 'John Locke as a Factor in Modern Thought.' The 'Instauratio' of Bacon and the 'Essay on the Human Understanding' of Locke were the most memorable works in English philosophy. The splendid vision of Bacon embraced exhaustive unification of knowledge as within the reach of a future age. The 'Essay' of Locke seemed to throw cold water on the sanguine conception of Bacon, and made him ready to resist the faith that human understanding could ever compass the ideal which inspired the 'Instauratio.' Instead of its expectation of complete intellectual empire, Locke announced that his sober purpose was to investigate the inevitable boundary of human knowledge, and the probabilities on which we have to rest when absolute knowledge was necessarily unattainable. The vain endeavors of philosophers in the past warned Locke of the need of a humbler ideal. Beginning at the wrong end, they took for granted, without preliminary criticism of possibilities, that the infinite extent of being was the possible intellectual possession of the mind of man. But we have no need to complain of the necessary limitation of our knowledge, if we could have what served all human purposes. At any rate, according to Locke, our intellectual empire must be finally measured by experience. In that all our knowledge was founded, and from that it all derived itself. The task of the philosopher was to analyze experience; at least, that

was his supreme duty in Locke's generation. In this he led the way, leaving much to be done by his successors. Our estimate of the philosophy of Locke depends upon the meaning to be associated with the word experience. Here Locke's ambiguity was his weakness as a factor in modern thought. But it led, through Hume, to the altered attitude of Kant, followed by Hegel, which had since modified theology and metaphysics. Yet the shyness of Locke when he approached the crucial instances, and the ultimate rational constitution of experience, was due to the enemy of truth that he thought he saw in ideas and principles called 'innate' favored by the speculative ambition of philosophers, and in common life by the indolence of man. Hence the empty verbalism of the philosophers and the hard dogmatism of the multitude who were too lazy to think for themselves, and who stopped inquiry about all that was called 'innate.' Locke was apt to be forgotten now, because long ago he so well fulfilled his office of awakening criticism of the limited human understanding, and diffusing the spirit of free inquiry, with its implied spirit of universal toleration in accommodation to the added limitations of individual experience, which had since pervaded the civilized world. He had not bequeathed an imposing system, nor even any striking discovery in metaphysics. 'If Locke made few discoveries, Socrates made none.' Both were memorable in the record of human progress.

The secretary said that Sir Frederick Pollock, who was in Paris attending the celebration of the centenary of the Civil Code, had sent a paper entitled 'Locke's Theory of the State,' which he would read.

Sir Frederick Pollock stated in the course of his paper that Locke's 'Essay on Civil Government' was probably the most important contribution ever made to English constitutional law by an author who was not a lawyer by profession. Certainly there was nothing to be compared to it until we came to Bagehot in our own time. The first thing to bear in mind about the 'Essay on Civil Government,' was that it was essentially an apologia for the Convention Parliament no less than Hobbes's 'Leviathan' and 'Behemoth' were an indictment of the Long Parliament. The doctrine which Locke had to confute was that of absolute Monarchy. The impossibility of a limited Government or 'Mixarchy' was the burden of Hobbes's 'Behemoth.' At the outset the object of inquiry was thus defined by Locke: "Political power I take to be a right of making laws with penalties of death, and consequently all less penalties, for the regulating and preserving of property, and of employing the force of the community in the execution of such laws and in the defence of the Commonwealth from foreign injury, and all this only for the publick good." The last clause, 'and all this only for the publick good,' gave the keynote of the whole essay. Princes and rulers held their power, whatever might be their legal form, not by an absolute right founded on grant, covenant, or otherwise, but on conditions in the nature of a trust, and under liability to forfeiture if the conditions were not fulfilled. Locke was no lawyer; but it was allowable to believe that the peculiar doctrines of the English Common Law as to conditional estates, and of English Courts of Equity as to the duties of trustees, although the latter was still in its infancy, had a distinct influence in moulding his dialectic. For absolute originality there was no room. Every kind of material for political construction was ready to hand in the polemics of the Reformation controversy, not to speak of the medieval writers who had become to Locke's contemporaries far more obscure than they were to us. The researches of modern scholars, among whom the first place was undoubtedly Gierke's, had shown that all possible theoretical combinations, except the much later system of Cabinet Government, which had democratized

our Monarchy, were anticipated, if not developed, by the political writers of the sixteenth century. Locke's work was inevitably eclectic, and must have been so even if it had not been conditioned by a definite practical aim. He was so far from professing to be original that he was almost ostentatious in following Hooker, whom he vouched at several points in fairly copious extracts. Hooker, of course, was an authority whom Anglicans were bound to treat with respect. The skill and judgment of Locke's performance were proved in the most conclusive manner by the commanding position which the doctrine formulated by him acquired forthwith and held for nearly a century. Locke's political system, like all such systems, for a long time before and a long time after him purported to be founded on natural law; that was, on rules of conduct which the light of reason, without aid of any special revelation and without assuming the existence or authority of any law of society, could discover as generally applicable to man as a rational being. This was what Locke's contemporaries understood by the law of nature. Locke thought it prudent to establish a natural right of property antecedent to political institutions. His solution of the problem was that appropriation was the reward of labor. A man acquired a right in that which 'he hath mixed his labor with.' The preceding assumption that 'every man has a property in his own person' appeared safe and easy to Locke, but it was not good law. The rights of every man to personal safety, reputation, and so forth were not marketable or transferable, and were wholly distinct in kind from rights of property. Property could not be made secure by natural right alone; and for the better securing of their properties men had entered into civil society. The will of the body politic, when formed, was determined by the will of the majority. A body politic, then, was formed by consent. The essential term of the agreement was that every member gave up his natural judicial and executive power to the community (not, as Hobbes maintained, to an irresponsible Sovereign); and this consent was renewed, tacitly if not expressly, in the person of every new member; for one could not accept the benefit of a settled government except on those terms on which it was offered. The legislative power, once constituted by consent, was the supreme power in the Commonwealth, but not arbitrary. The reason of its supremacy was given very shortly in the passage, 'What can give laws to another must needs be superior to him.' But the legislative authority was bound by its trust and by the law of nature to govern by established laws, to act in good faith for the common advantage, not to raise taxes without the consent of the people by themselves or their deputies, and not to transfer its power of making laws (being only a delegated power) to any other hands. This was the most meager and last satisfying part of Locke's work. He did not seem to conceive the possibility of a legislature having powers limited by express convention, but plenary within those limits; nor did he consider at all the partial exercise of legislative power by bodies having a merely delegated authority. He could not be expected to anticipate the constitutions of self-governing colonies, but he must have known that the University of Oxford and his own House had statutes; and he must have desired to see the latter, at any rate, better secured from arbitrary interference than they had been in his own case. Yet he did make a very apt reference, in distinguishing absolute from arbitrary power, to the example of military discipline, where the officer may have power of life and death over the soldier, but can not 'dispose of one farthing of that soldier's estate, or seize one jot of his goods.' Neither did Locke touch at all on what was now called constitutional amendment, except negatively. He seemed to assume that nothing of the kind can be done, in any form of

government, without express provision for that purpose. What made the omission of argument on this point the more remarkable was that Sir Thomas Smith, writing a century and a quarter earlier, in his *'Commonwealth of England,'* had enounced the unqualified sovereignty of Parliament in terms so full and explicit that Blackstone, after the lapse of just two centuries, could add nothing to them; while, on the other hand, the necessity of unalterable 'fundamentals' in any scheme of government had been much discussed under the Commonwealth, and maintained by Cromwell himself among others. The 'power of assembling and dismissing the legislature' might be vested in the Executive by the Constitution, but, like all governmental powers, it was held in trust for the public, and abuse of it might justify the people in recourse to their ultimate rights. On the other hand, Locke suggested that the representation of the people in the Legislature might, perhaps, be amended at the discretion of the Executive, provided that such action was taken in good faith. Parliamentary reform by Order in Council was not so obviously remote from practical politics two centuries ago as it was now; but what English princes down to Elizabeth had done in the way of creating new boroughs was not of encouraging example; and Locke's suggestion was not taken seriously by any one. The failure of Temple's plan to establish an efficient and independent Privy Council had in truth made it impossible beforehand. It was an important question, but a question of modern politics and far outside Locke's field of view, whether the latent capacities of the Privy Council might not yet be developed for the purposes of coordinating the resources of the Empire and giving the self-governing colonies an effective share—all the more effective for not being too rigidly defined—in the handling of affairs of common interest. The subsequent influence of Locke's *'Essay'* might be traced, as the President of Corpus had hinted, not only throughout the formal political philosophy of the eighteenth century, but in the doctrine received among English constitutional lawyers, and in the principles enounced by the promoters of American independence and the conductors of the French Revolution in its early stages. Blackstone substantially followed Locke, though he borrowed some ornamental phrases, not to be taken too seriously, from continental writers. He was prudent enough, indeed, to repudiate the assumption of mankind having actually lived in a state of nature, and proceeded to form society by a 'convention of individuals'; and, writing as a lawyer, he was naturally more anxious than Locke to vindicate the Revolution settlement as, not only justifiable, but legal. It was none the less true that Bentham when he sounded the note of destructive criticism in his *'Fragment on Government,'* was really attacking Locke's theory of the state through Blackstone. Again, Blackstone's *'Commentaries'* were a vehicle of Locke's doctrine (though not the only one) to a numerous and public-spirited audience in the American colonies; and that doctrine was at the foundation of the several Bills of Rights of the American States, among which Virginia gave the first example, and of the Declaration of Independence itself. More than this, it had been shown by modern American scholars that these instruments became well known in France, and served as precedents for the Declaration of the Rights of Man. On the whole, it seemed that Locke had as much to do as Rousseau with the *Principles* of 1789, or more. The fatal domination of Rousseau's ideas belonged to a later stage. It would be idle to consider what Locke himself would have thought of his latest spiritual posterity.

Votes of thanks were passed to Professor Campbell Fraser and Sir Frederick Pollock for their papers.