

THE EMPIRE AT THE CROSS-ROADS

WARWICK CHIPMAN

FOR those who believe in the British Empire, these are anxious days. So many of our public men are not believers, or—if they are—they apologise for believing. Yet here especially it is true that those who are not with are against, and those who are not with the Empire heart and soul are daily adding to its difficulties all that they subtract from its power to face them. Who will question that those difficulties to-day are serious? But when common consultation is needed, we pour forth vain vapourings about our status, and under cover of the cloud we run away. Except for the expressed intentions of the Prime Minister of Australia, there is no great assurance that this will not be the history of the Conference shortly to meet in London to discuss what General Smuts has called “the most important and fascinating problem in political and constitutional government which the world has ever seen.”

If status must be the first discussion, is it possible in the maze of declarations about it to get not only at the truth of it, but also at what is its only importance, namely, the duties which it involves?

That there is a status capable of definition is assumed in the latest official document on the subject, the new constitution of Ireland, which begins as follows:—

Article I—Ireland shall have the same constitutional status in the community of nations known as the British Empire, as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand and the Union of South Africa, with a parliament having powers to make laws for peace and order and good government in Ireland, and an executive responsible to that parliament, and shall be styled and known as the Irish Free State.

Article II—Subject to provisions hereinafter set out, the position of the Irish Free State in relation to the Imperial Parliament, the Government and otherwise shall be that of the Dominion of Canada, and the law, practice and constitutional usage governing the relationship of the Crown or representative of the Crown and the Imperial Parliament to the Dominion of Canada shall govern their relationship to the Irish Free State.

It would be hard to find phrases which say so much and yet convey so little as this masterly reference. What can we get in the nature of interpretation?

The Imperial War Conference of 1917 passed the following resolution:—

The Imperial War Conference are of opinion that the readjustment of the constitutional relations of the component parts of the Empire is too important and intricate a subject to be dealt with during the war, and that it should form the subject of a special Imperial Conference to be summoned as soon as possible after the cessation of hostilities.

They deem it their duty, however, to place on record their view that any such readjustment, while thoroughly preserving all existing powers of self-government and complete control of domestic affairs, should be based upon a full recognition of the dominions as autonomous nations of an Imperial Commonwealth, and of India as an important portion of the same, should recognise the right of the dominions and India to an adequate voice in foreign policy and in foreign relations, and should provide effective arrangements for continuous consultation in all important matters of common Imperial concern, and for such necessary concerted action, founded on consultation, as the several Governments may determine.

That declaration in its turn does not tell us very much, and the reason is apparent from the speeches to the resolution. Mr. Massey, of New Zealand, on the one hand said "We are coming together as united nations of the Empire and on equal terms so far as the populations of the different parts of the Empire will allow." And he expressed the view and the hope that we were evolving towards an imperial parliament supreme over all these equals, and equally shared in by each. General Smuts, on the other hand, said "Whatever we may say and whatever we may think, we are subject provinces of Great Britain. That is the actual theory of the constitution, and in many ways which I need not specify to-day that theory still permeates practice to some extent." To him the real merit of the resolution lay in the recognition of the dominions as autonomous nations, and the negating of any idea of a super-parliament and super-executive. Each, then, had a different view of the facts as they were and a different hope for the facts as they should be.

When the Conference of 1921 came to deal with it, the resolution of 1917 met the following fate:—

The Prime Ministers of the United Kingdom and the dominions, having carefully considered the recommendation of the

Imperial War Conference of 1917 that a special Imperial Conference should be summoned as soon as possible after the war to consider the constitutional relation of the component parts of the Empire, have reached the following conclusions:

(a) Continuous consultation, to which the Prime Ministers attach no less importance than the Imperial War Conference of 1917, can only be secured by a substantial improvement in the communication between the component parts of the Empire. Having regard to the constitutional developments since 1917, no advantage is to be gained by holding a constitutional conference.

(b) The Prime Ministers of the United Kingdom and the dominions and the representatives of India should aim at meeting annually, or at such longer intervals as may prove feasible.

The existing practice of direct communication between the Prime Ministers of the United Kingdom and the dominions, as well as the right of the latter to nominate Cabinet Ministers to represent them in consultation with the Prime Minister of the United Kingdom, are maintained.

Putting the two resolutions together, we may take it that the Prime Ministers have made a joint statement to the effect that the trend of events since 1917 has resulted in a readjustment which recognises the dominions as autonomous nations in an Imperial Commonwealth, with a complete control over domestic affairs and an adequate voice in foreign policy expressed by means of continuous consultation. Before analyzing and criticising this statement let us see whether we can get any further light on the matter from the declarations of representatives of the various units in our Commonwealth taken in connection with such issues as the Peace Treaty, the Imperial Conference, the Irish question, the Washington Conference, the recent Fisheries Treaty, and so forth.

For the first, let me quote again from General Smuts:—

Until last year British Ministers had signed all documents and dealt with all matters affecting the dominions. But a change had come about in practice when representatives of the dominions had, on behalf of the King, for the first time signed the great documents on behalf of the dominions.

The change was a far-reaching one which would alter the whole basis of the British Empire.

As for the Imperial Conference, let me pick out these statements:

Here is Mr. Lloyd George in welcoming the various representatives—

I will give you my general conception of the mutual relationship in which we meet. In recognition of their services and

achievements in the War, the British dominions have now been accepted fully into the comity of nations by the whole world. They are signatories to the Treaty of Versailles and of all the other Treaties of Peace; they are members of the Assembly of the League of Nations, and their representatives have already attended meetings of the League; in other words, they have achieved full national status, and they now stand beside the United Kingdom as equal partners in the dignities and the responsibilities of the British Commonwealth. If there are any means by which that status can be rendered even clearer to their own communities and to the world at large, we shall be glad to have them put forward at this Conference.

Then here is Mr. Hughes of Australia—

We are a commonwealth of free nations, each dowered with full powers of self-government, but all united in matters relating to the outside world. As we proceeded to run the gamut of the great questions that were presented for our consideration, each one of us became more and more convinced that our interests, and indeed our safety depended upon unity, and that this unity in regard to foreign and inter-Empire affairs was to be obtained only by a frank recognition of the right of all the members of all the great dominions, as well as the motherland, to have an equal voice in the formulation of foreign and Empire policy.

At the same time, before and at the Conference, there seems to have been a certain amount of recognition of the fact that in spite of the talk of equal partnership and joint discussion in matters relating to the outside world, only one of the partners has the choice of the Foreign Minister, whose ultimate responsibility is not to the dominion Prime Ministers whom he consults, but to the British parliament and electorate; that is to say, that in the final analysis the King still gets his advice from the Ministers of only one of the several Governments of the Commonwealth.

General Smuts, for instance, before the meeting spoke of the need of devising new machinery to meet the new conditions; and after dwelling on the need for frequent meetings, together with the extreme difficulties in their way, he said:—

It has been suggested that, the theory being that the dominions are autonomous nations owing allegiance to a common Sovereign, they should each be able independently to tender advice to the Sovereign. That is, of course, all right. But I do not think the solution for which we are looking is to be found in that direction only. There would be far too great a danger that conflicting advice might be tendered, and that is what one wishes to avoid as far as possible. One thing, however, is clear. We must find a means of co-ordinating our several views to meet the common interests of all the component parts of the Empire.

Mr. Hughes, at the meeting, observed that the voice and share in the Council of the Empire in regard to foreign policy must be one of substance and not merely a shadow. This, he said, involved the creation of some kind of machinery by which the dominions would be consulted before, not after, the event.

Mr. Massey thought that the very use of the word "Conference" instead of "Cabinet" was a confession that the dominions, while having advanced in status in some respects, had lost the right to join in advising the sovereign. "A Conference", he said, "means consultation and consultation only, but a Cabinet also carried with it the right to recommend some definite course to the Sovereign". He was inclined to think that there had been a set-back in the development of a sound constitutional machinery dealing with the common interests in a manner that implied a united and a real responsibility.

Something of the same nature was dwelt upon by Lord Milner in his farewell to office, when he said:—

Everybody knows, without doubt, the part taken by the dominions in Paris in 1919, and the fact that they became independent signatories to the Peace Treaty has been commented upon and its significance emphasised until people must be weary of hearing about it.

It seems to me that our time would be better spent if, instead of going on affirming and reaffirming the independence of the dominions, which nobody disputes, we should concentrate our attention on the practical point, which is how six independent governments at different ends of the earth can give one another the greatest mutual assistance, and how they can most effectively uphold the interests which they have in common.

This question of machinery is not only a very practical one, but one that touches the very roots of principle, and we must return to it when we have concluded our selection of statements. Let me now quote again from Mr. Lloyd George—this time in his speech introducing the Irish Treaty to Parliament. Referring to the dominions, he said:—

Although they came to help the Empire in a policy which they had no share in fashioning, they felt that in future it was an unfair dilemma to put them in. They said—"You are putting us in this position. Either we have to support you in a policy which we might or might not approve of, or we will have to desert. Therefore in the future you must consult us before that event." That was right and just, advantageous to both parties and we acceded to it gladly. There are advantages in it for both parties.

The machinery is the machinery of the British Government,

the Foreign Office and the ambassadors. The machine must remain here. It is impossible that it can be otherwise, unless you have a greater Council of Empire, where you have got representatives elected for the purpose. Apart from that, you must act through some one instrument, and the instrument for the foreign policy of the Empire is the British Foreign Office. That has been accepted by all the dominions as inevitable, but they claim a voice in determining the lines of our policy, and at the last Imperial Conference they were there discussing a policy in Germany, in Egypt, in America, a policy all over the world, and we are now acting upon the general decisions arrived at with the common consent of the whole Empire. The sole control of Britain over foreign policy is now vested in the Empire as a whole.

Again we shall defer criticism and go on, this time to the Washington Conference which brought up the question whether the British Commonwealth was a unit or a mere collection of units; and whether we should be invited to go, and whether we should go as an Empire or as so many co-equal States. As a matter of fact, the invitation was addressed to and accepted by Great Britain; although the various dominions which had interests at stake, together with India, were represented in the Empire delegation when it went. About this, the New Zealand member, Sir John Salmond, wrote as follows:—

I desire to make it clear that New Zealand neither possesses nor claims any separate international status. The power which has been invited to this conference is the British Empire in its unity. The autonomous dependencies of that Empire have no individual recognition. Both in connection with this conference and in relation to other matters there has been some public discussion as to a claim by the British self-governing dominions to an independent international status. Such a claim, however, has, I think, no legal or logical foundation. Internationally and constitutionally, the whole British Empire is a single and indivisible body politic.

The opposite view he considers as a "disruptive claim."

It is a question how far the position taken by Sir John Salmond represents the actual one. It will be remembered that we all signed the Treaty of Versailles in the following manner:—

Under the general heading of "the British Empire":—

HIS MAJESTY THE KING OF THE UNITED KINGDOM OF GREAT
BRITAIN AND IRELAND, AND OF THE BRITISH DOMINIONS BEYOND
THE SEAS, EMPEROR OF INDIA, BY: ETC.
and for the DOMINION OF CANADA, by: etc.
for the COMMONWEALTH OF AUSTRALIA, by: and so on.

The quadruple agreement as to the Far East was signed at Washington in exactly the same manner, save that South Africa executed the treaty through Mr. Balfour. It would seem to be open to any one to draw what moral he pleases from this, but in some quarters at least the moral drawn appears to be different from that of Sir John Salmond.

General Smuts, speaking on December 8th, is quoted as follows:—

That he had not expected that South Africa would be invited to participate in the Washington Conference, because she was not directly affected as were Canada, New Zealand and Australia. He had taken the attitude, he said, that unless South Africa could attend the conference standing on her own legs, and not as part of the British Empire's delegation engineered from London, South Africa would not participate at all. His protest had had good results, as the other dominions were being represented in their own right. South Africa was ready to accept the signing of any treaty arrived at in Washington by its English representative. There had not been time for South Africa to send a direct representative to Washington.

Just what does this mean? Who is South Africa's English representative? And in what shape did he represent her? And did South Africa's protest result in New Zealand being represented in her own right, although New Zealand expressly disclaims such a representation? These questions will take some pondering.

Such points were presented from a different point of view in connection with the recent treaty signed by Mr. Lapointe at Washington. This proceeding was defended on the score that the treaty concerned Canada only, and it was asserted that Mr. Lapointe derived his powers from the King advised by the Dominion Cabinet. It would be interesting to know who advised the King to follow the advice of the Dominion Cabinet. It is fairly certain that a Cabinet in London did so, in which case down topples the house of cards so ingeniously set up, and we appear to come back once more to a supervising authority contradicting any claim to an independent international status.

Finally, as our last note before we attempt to digest the situation, let us recall the curious fact to be dwelt upon later, a fact which assisted American opposition to the League of Nations, that in the League each of the dominions is in the Assembly as a nation, while in the Council is a body sometimes styled Great Britain, sometimes the British Empire, but made up of delegates of the British Government only, not of the Empire as a whole.

Now in this maze of statements and considerations, of con-

clusions which sometimes hardly seem to fit the facts and of facts which sometimes seem to result in no conclusion, where do we stand? Is it true that we are absolutely free and autonomous nations? Is it true that there is a British Commonwealth, and that in regard to foreign and inter-Imperial affairs we have an equal voice in the formation of policy? Or does one of the units retain, in a technical way, a certain legislative power over the others or some of them, and in fact an active control, legislative and administrative, over inter-Empire affairs, foreign affairs, and dependencies?

Well, while the new constitution of Ireland rests mainly upon a treaty, the constitution of Canada rests upon a British Act. In a purely technical way it may be said that until and unless we can have a voice in the body that can amend this Act, we are not an absolutely autonomous nation. In practice, of course, we have the voice, since an amendment is passed only when and as we request it.

Then as to inter-Imperial affairs, matters that concern the Commonwealth as a whole, and all matters outside the territories of the particular dominions, it is the British parliament that legislates—as on the subject of merchant shipping; it is the British Executive that controls or that vetoes local legislation of a questionable nature. Let me recall the three classical cases:—

In 1883 the Queensland Government annexed New Guinea. Fearing a land-grabbing by all the Powers as a result, Great Britain repudiated this action. In the same year New Zealand's parliament authorized its Government to seize any unclaimed islands in the Pacific. This bill the Home Government disallowed. In 1910 the same parliament legislated to exclude from New Zealand ports any ships not registered in Australasia. This, as against Empire and foreign policy, and against the Merchant Shipping Act, was also vetoed by Great Britain.

Since those days, of course, the dominions have been accepting mandates, but otherwise the legal and constitutional position has not changed. The ultimate responsibility in these matters, and therefore the ultimate control, lies with one only of the members of the British Commonwealth. Until all the units have an equal share in the responsibility and the control, until the body in which they exercise that share—be it legislature, cabinet or conference—is either an ultimate body or a body responsible in equal measure to all the units, it is hardly correct to speak of a Commonwealth of equal nations; and an autonomy, well-nigh perfect as regards internal affairs, has yet to find its appropriate expression in these imperial concerns. However often Dominion Ministers may sign separate treaties, our problem still remains. We can either recognise a super-

vising authority as something outside us, and give up our verbal pretensions; or we can puzzle out ways and means whereby that authority, and the responsibility that goes with it, may be shared harmoniously with representative institutions.

The same may be said for the Government of dependencies. India has a seat at the Imperial Conference, and her status was arranged by consultation with the dominions. She is also represented in the delegation at Washington. But the legislature which finally decides upon her political development is the Government not of the Commonwealth but of one unit. The Crown colonies and the lesser dependencies are in the same position. In the mandates of Great Britain we have no share, though, by perhaps the strangest anomaly of all, certain dominions are getting mandates with regard to which they are apparently to be in the same position under the League of Nations and separated from the control of other units of the Commonwealth, as is Great Britain.

Lastly, we come to the matter of foreign affairs and defence.

Some thirteen years ago Mr. Asquith discussed this question. He stated in the most absolute way that the authority of the Imperial Parliament over foreign affairs could not be shared. He meant that the Foreign Minister was a member of the British Cabinet which was responsible to the parliament of Great Britain, and that in turn to the British electorate. The Foreign Minister could not be guided by the members of any parliament other than that to which his Cabinet was directly responsible.

There can be no doubt of the soundness of Mr. Asquith's position on any true theory of representative government. And the question is, have we got over that difficulty? Mr. Lloyd George tells us that though the Foreign Minister is still the British Foreign Minister, and though the machinery is still the British Foreign Office, and while these things must be unless there be a greater elected Council of Empire, yet the sole control over foreign policy is now vested in the Empire as a whole. If that be really the case, rather than a polite exaggeration, it means that Lord Curzon in 1921 set out the foreign situation before the Imperial Conference, took the sense of the meeting on questions of principle, and has since then been acting only in accordance with the general principles so accepted. And it means that until there be another meeting, or until the sense of the various dominions be taken by cable, and that sense be found in harmony with the views of the mother country, there will be no change of policy. But if this be the case, then why was it arranged that the proposed treaty of guarantee to France was not

to bind the dominion executives until they had expressly agreed? Here was a question, not only of the ratification of this treaty by the various dominion parliaments as well as by the home parliament, but also of the approval of it by the various Cabinets before it is presented for ratification. One dominion executive might have accepted responsibility, another might have declined it. Then if the treaty had ever been applied, and if the guarantee had ever come into operation, England would have to go to the support of France with the help of this dominion, not with the help of that. Or, if the situation were an impossible one, if it became as clear in fact as in theory that once England was at war all the Empire was at war, then we should only have had a repetition of the old anomaly, that a dominion could be involved in war without being responsible for the policy that brought war about. And if the British Empire has had a single foreign policy for the last two years, if all that has been done since 1921 was foreseen and provided for, a truly stupendous prevision, why did the Turkish crisis so startle us last autumn, and why is the British policy with regard to reparations so difficult to express? In spite of Mr. Lloyd George, it seems hardly correct to say that the sole control over foreign affairs is now vested in the Empire as a whole.

The trouble, of course, is to develop a common machinery, and that trouble is not diminished by the fact that while, ten years ago, the watch-word was—"If you wish us to share in your responsibilities, call us to your Councils", now in some quarters the disposition seems to be to say:—"Do not let us be called to common Council, lest we be involved in common responsibility."

Neither supported by those who avow this attitude nor greatly commending itself to some believers in Imperial unity, is the proposal to have a Canadian ambassador at Washington. It will be recalled that in Dublin it was a strong argument of some supporters of the Irish treaty that as part of dominion status Ireland also would have the right to send an ambassador to Washington. Are there then to be two or even three, possibly more, different and equal representatives of the King, reporting separately to separate Cabinets, and getting separate and possibly discordant instructions? Will this be one more of those ingenious arrangements of which our constitutional history is so full, and which so often prove themselves in spite of misgivings? Or is there risk of this scheme bearing us in unforeseen and dangerous directions?

If we decide in favour of a real control in common of foreign affairs, what machinery are we going to devise? It cannot for the present be a Ministry responsible to a single Empire-wide elected

body, as no such body exists or is considered feasible. Is there anything that we may devise short of that, and a due admixture of principle and constitutionalism on the one hand, with simplicity and the development of present materials on the other?

Perhaps the following suggestions may have some merit for discussion:—

(1) Foreign policy being to some extent controlled by permanent experts, the dominions should have the right to nominate persons for entrance to the foreign service subject to their passing the necessary examinations, these men eventually to rise according to merit to any position, including ambassadorships.

(2) The King should appoint an advisory committee of Privy Councillors for foreign affairs, one from each dominion.

(3) The Foreign Minister should be one of the King's Privy Councillors, chosen for the present by the Prime Minister of that Government which makes the greatest contribution to the cost of the administration of foreign affairs and expenditure for defence, the Prime Minister in question to consult the permanent advisory committee before making the appointment.

(4) Any objections based upon the view that constitutionally no dominion can be bound by the decisions of persons not responsible to it are met to a certain extent by the acceptance which may be generally expected of the convention that foreign policy is more or less out of partisan politics; this principle being tempered by the fact that the personnel of the advisory committee will reflect the fluctuations of domestic politics within each dominion, and that this advisory committee may be expected to exert a wide control over foreign policy itself.

(5) Once this constitutional position is reached, the question of a proper division of the expense of the foreign service and of defence is a minor matter.

(6) The presumable result would be to prevent any decisive conflict between the various British Governments as members of the Commonwealth and of the League of Nations, and to ensure that the position in the League Council would be an Empire position.

Of course these proposals are far from ideal. But, if we want the Empire, then they may be worth considering. After all, the important question is not so much what we are, as what we wish to be. And any candid examination of the Imperial problem shews this very clearly, that, as is the case with every living creature, you cannot define status without defining responsibilities. Our choice of status is the result of our choice of duty.

We all remember the saying that the British Empire was made "in a fit of absence of mind." I hope it may not be said that it was lost in a fit of muddle-headedness. And yet, if we are not clear as to what we want and what we really believe in, there is the danger that an immoderate readiness to placate those fashionable idols—"National status," "Self-determination," "Autonomy,"—may bring us to the pass where our Commonwealth and all our special means of co-operation have been turned to vapour while we talked.

I have mentioned that much-abused word "autonomy". Surely a right respect for autonomy means simply that each should have a share in controlling his political destiny, whatever be the limits in which that control may express itself,—city, province, dominion, empire or league. It does not mean that we should restrict our destiny, or narrow its compass to the smaller unit in order to avoid the responsibility which results from subordinating ourselves to a larger service and co-operation. And short of complete separation, autonomy cannot be achieved by avoiding united action, and united action cannot long be avoided by talking autonomy. We may be rightly desirous of remaining clear of foreign entanglements; but if we are to keep out of entanglements, we must keep in with policy, and the real problem before us is how to do that.

In Canada the warning is at last beginning to come from both sides of politics. Mr. Meighen, for instance, on returning from the last conference made the following statement:—

We must walk with the nations of this Empire or walk away from them. The gospel of isolation is the gospel of separation under a thin disguise. We enjoy the fullest self-government that the heart of a people could desire. That is our heritage—and I know of no one who wants to take it away. Under these conditions I am for co-operation and for unity. I believe in the British Empire.

And Mr. Fielding, speaking in the House of Commons in March, 1922, said:—

My view of the matter is this: in all that concerns the relations between Canada and the Mother Country and other portions of the British Empire, in what I may call the inner circle of our Imperial family, I want Canada to occupy, as she has occupied for many years, a position of ever-increasing weight and influence. When we come to deal with foreign affairs, I am not desirous that Canada shall play a part of her own, separate and apart from the British Empire. I want the British Empire, when we come to deal with foreign affairs, to enter every Confer-

ence as a unit, not as representing several places. I expressed the fear that this declaration on the part of the Dominions that they must have a separate existence in all these conferences, and a separate existence in the League of Nations was not making for that Imperial unity that we should desire, but was paving the way towards separation.

Of course, if we are united in our desires, our unity can survive, and even thrive upon surprising anomalies; but the more one examines the various tendencies and developments that have been discussed above, the more I think we shall desire to take care lest, in avoiding the dangers of too great a centralization, we play fast and loose with one of the world's noblest instruments of constructive service and liberal advance.