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BRITISH COMMONWEALTH RELATIONS

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Commonwealth Relations

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BRITISH COMMONWEALTH RELATIONS

PROCEEDINGS OF THE
FIRST UNOFFICIAL CONFERENCE
AT TORONTO, 11–21 September 1933

EDITED BY
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(*Both on the Sir Daniel Stevenson Foundation*)

WITH A FOREWORD BY
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G.C.M.G.

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FOREWORD

IN Great Britain and in several Dominions much thought and labour had been expended upon the arrangements for the British Commonwealth Relations Conference held at Toronto in September 1933. The agenda which had been prepared with great care was rather too elaborate. In my brief attendance as a Canadian delegate I was impressed with the excellence of the organization and with the admirable work of the Secretariat. The special thanks of the Conference are due to the Trustees of the British Dominions and Colonies Fund, established by the late Andrew Carnegie, for the generous contribution which they made towards the expenses of the Conference.

The visiting delegations were composed of men whose ability and experience and whose study of the problems arising for consideration gave firm assurance that the Conference would be fruitful in results. This expectation did not fail of fulfilment.

It was not intended or proposed that any conclusions reached by the Conference should be expressed in formal resolutions. The main features of its deliberations are set forth by the rapporteurs and are admirably summed up in the lucid and eloquent speech of the Chairman (Mr. Rowell) at its close. In these the purpose of the Conference and the character of the discussions sufficiently appear.

Apart from all other considerations, a gathering of this character is of immense value in the personal contacts it permits, in the fuller understanding it creates and in the wider outlook that results.

In the personnel of such a conference there are almost invariably men of ripe experience in the questions which it considers. Its unofficial character permits and indeed invites the fullest freedom of discussion, which is wisely accompanied by inhibition of formal resolution. By its stimulus to thought and to debate in the wider public arena, it tends to arouse public opinion to the consideration of important national and international aspects. It

such conferences are to be held in the future, the intervals should be of sufficient length to ensure a useful reaction from public opinion in the widest sense.

Necessarily and indeed happily there were at Toronto discordant voices within various delegations. Thus was the selection of delegates fully justified in the representation of diverse elements. On occasion I found myself in profound disagreement with views put forward by members of my own delegation.

Other engagements permitted my attendance on only the first three days of the Conference. The discussions were interesting and valuable but they impressed me as being somewhat meticulous in their survey of possible dangers and emergencies and of necessary safeguards. The Empire-Commonwealth would be much less worth while if it had no difficulties to surmount and no problems to solve. In the past it has demonstrated an unexpected and singularly effective faculty of solution. I do not believe that this faculty will fail it in the future.

During the World War the imagination of each Dominion was profoundly stirred. In the steadfastness of their purpose and the intensity of their effort a new consciousness arose. Then came the accolade of nationhood; and an ideal was fulfilled. Nationhood is theirs in terms that cannot be misunderstood. They have gained it within the continued unity of the Empire-Commonwealth. What will they do with it? It is but nominal unless its responsibilities are realized, accepted, and fulfilled.

With the same firm purpose that guided them along the path to nationhood, should they not wholeheartedly and insistently join in the endeavour to strengthen the structure they have helped to build? Unity could not have been preserved without their nationhood; but their nationhood will be a vain thing unless unity is maintained. If it should fail, the inspiring traditions of the past will have been shamed and the World will be the poorer. What consideration can compare with this?

In the structure of the Empire-Commonwealth, humanity witnesses a most daring, majestic, and successful adventure;

union in orderly governance of singularly diverse communities scattered across the Earth's continents, widely and strikingly divergent in race, creed, culture, development, tradition, and outlook; governance autonomous wherever possible and to the fullest extent practicable; union in amazing diversity through governance founded upon freedom and co-operation. In origin this system, if system it can be called, has been a growth rather than an ideal; for it has developed, not especially from design, but rather through the co-operation of a practical instinct impenetrated with the spirit of liberty and the sense of justice, an instinct that seems to characterize the stock from which the Britannic races have sprung. Unhappily its impulse has not always been manifest; but in most difficult conditions it has prevailed and has been fully justified in the outcome of its benign and splendid influence.

Whatever internal difficulties or external perils the Empire-Commonwealth faces or may face in a distracted world, let us be of good cheer. If, as we believe, the traditions of freedom and right out of which it has grown are imperishable, its peoples will not fail. Its ultimate value must be measured by purpose, endeavour, and achievement, by service and example, by world-worth, if one may coin a phrase; and for this its unity is a supreme essential.

ROBERT BORDEN.

PREFACE

THIS published record of the proceedings of the British Commonwealth Relations Conference, which met in Toronto from the 11th to the 21st September, 1933, is the result of a decision which was taken by the Steering Committee of the Conference on the 14th September, at its fourth meeting. On this occasion,

It was agreed that Professor Toynbee should be invited to be Editor of the Proceedings and that he should be Chairman of the Editorial Committee and that the following Members of the Conference be invited to serve on the Editorial Committee:

Australia.	Professor A. H. Charteris
	Professor Ernest Scott
Canada.	Mr. John W. Dafoe
	Professor W. P. M. Kennedy
India.	Diwan Bahadur Ramaswami Mudaliar
	Mohammad Zafrulla Khan
New Zealand.	Hon. W. Downie Stewart
South Africa.	Professor Eric Walker
United Kingdom.	Professor Arnold J. Toynbee
	Mr. G. M. Gathorne-Hardy

It was agreed that the Secretariat should render to the Editor and to his Committee such assistance as was required.

The plan of the present work is in accordance with the Editorial Committee's report, as accepted by the Steering Committee of the Conference and adopted by the Conference itself in plenary session. On the other hand, it has proved impossible (as was indeed foreseen) to submit the work itself, after its execution according to plan, to the Editorial Committee collectively, or to more than a minority of its members individually, since most of the members were obliged to leave Toronto and disperse to distant destinations immediately after the Conference closed. The Editor has had to content himself with submitting the work in draft to such members as have been within his reach. The only alternative would have been to delay the publication of the work until (at the rapid pace of

current events) it might already have begun to be out of date.

For the compilation of Part II B, the Editor has to thank his fellow-member of the Editorial Committee, Mr. G. M. Gathorne-Hardy, who most kindly made himself responsible for this exacting piece of work.

Parts I, II A, and Part II C have been written by the Editor himself.

In Part III, which deals with the actual proceedings of the Conference in session, the most satisfactory procedure would have been to print the *verbatim* report of the discussions (at least in part, even if limits of space forbade its being printed *in extenso*), and to put every statement of fact or expression of opinion in its true setting by publishing the name of the speaker. This would have given the student of Commonwealth affairs a wealth of information because the discussions were extremely outspoken and the differences of opinion were often sharply expressed. But the speakers spoke freely just because they knew that they were speaking *in camera*; and thus the very thing that makes the *verbatim* report a highly interesting document has also rendered its publication impossible. One possible alternative would have been to give a shadow of the discussions in précis with the names of the speakers omitted. But experience shows that, on this method, the anonymity of the speakers cannot be safeguarded effectively without taking almost all the life and colour out of what they have said, so that the record loses interest without acquiring conciseness. In view of this, a decision was taken by the Steering Committee, and was adopted by the Conference in plenary session, against attempting to reproduce the actual course of the debates of the Conference and its commissions and sub-commissions in précis. It was thought better to convey the substance of these debates by printing simply the inaugural speeches and the reports of the rapporteurs, in which the general sense of each discussion was summed up by one of the participants in it, in a report which was then submitted to the Conference itself for amendment and confirmation. In view of this decision,

the rapporteurs were requested to make their reports at greater length than they might have intended in the other event. The Editor believes that the reader will find the method here adopted the most satisfactory possible in the circumstances from the reader's point of view; and he wishes to take this opportunity of making his acknowledgements to the rapporteurs, who have rendered his work easier by their willingness to add to theirs.

As a basis for the discussions at the Conference, a digest was made by Mr. Gerald E. H. Palmer, the Honorary Secretary of the Imperial Committee of the Royal Institute of International Affairs, of the practical working arrangements of the British Commonwealth on the eve of the meeting at Toronto in September 1933. This digest, in which the facts regarding the existing system of inter-communication between the members of the Commonwealth have been collected together for the first time, has been revised by competent authorities in the United Kingdom, the Dominions, and India, and is to be published as a companion to this volume under the title of *Consultation and Co-operation in the British Commonwealth: a Handbook on the Methods and Practice of Communication and Consultation between the Members of the British Commonwealth of Nations*. The *Handbook* is prefaced by a statement on the constitutional development of the British Empire since 1887, by Professor Berriedale Keith, and it forms an essential background to the present work.

ARNOLD J. TOYNBEE.

HART HOUSE,
UNIVERSITY OF TORONTO,
22 *September*, 1933.

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PART I

INTRODUCTION

INTRODUCTION

THIS book is an attempt to make some permanent record of the work of the British Commonwealth Relations Conference, which was held in Canada, in the University of Toronto, at Hart House, from the 11th to the 21st September 1933.

This Conference was unofficial in every respect: in the initiative by which it was evolved, in the organization through which it was carried out, and in the personnel of its membership. The delegates were all of them people who at the time were in private stations, though many of them had behind them, and probably also in front of them, a long and distinguished experience of public life, while others were students of public affairs or experts in some department of politics, law, or economics.[1] They attended the Conference in a purely private capacity, bringing no mandates, passing no resolutions, representing many different varieties and shades of opinion in their respective countries, and agreeing to differ in their personal views; but these circumstances, which had their intended effect in producing a discussion which was friendly as well as frank, by no means condemned the results of this discussion to be without effect.

These considerations were set forth by the distinguished Chairman of the Conference, the Honourable Newton W. Rowell, in his closing speech at the last session:

> I would mention, as one positive result of the Conference, the opportunity which we have all had of ascertaining the points of view on important problems held by members of the Conference from the different parts of the Commonwealth. That is one of the great benefits of an unofficial conference. If we had been meeting

[1] A brief 'Who's Who' is appended to this volume in order to give the reader an opportunity of judging for himself how far the personnel of the Conference was representative of public opinion and how far the individual members were entitled to speak with authority. In the case of an unofficial conference of this kind, the personal standing of the members is obviously a prime consideration in any attempt to estimate the value and importance of the results achieved.

in an official conference, we would have had only the points of view of Governments of the day. It might have represented majority opinion in the country or it might not. But one would have heard only one point of view, and delegates attending such a conference would have gone away with the one point of view as representing, so far as they knew, the point of view of the whole country.

You have had the benefit—we have all had the benefit—by reason of the composition of our delegations of hearing, so to speak, a cross-section of opinion in the different parts of the Commonwealth on the questions under discussion. It enables us to understand each other better and to appreciate each other's problems more clearly. It enables us to form a better judgement in reference to the policies which our respective Governments may pursue, because Governments in all the member states must have regard to the varied opinions existing in their own countries.

The Conference is composed of men who are leaders of public opinion in their respective countries: in Parliament, in the Press, or in universities. All in a measure will be interpreting to their own people, when they return, the views and attitude of the other members of the Commonwealth. You have here had the opportunity of learning the views and attitude of the other members in reference to these vital problems which will enable you to interpret them to your own people in a way which would not have been possible but for this Conference. I can conceive of nothing which will Contribute more to real co-operation among members of the Commonwealth than a clear understanding and appreciation of the problems which the different members have to face in their own countries.

The members of the Conference who came together at Toronto from the ends of the Earth and who dispersed to the ends of the Earth again with these parting words in their minds, consisted of groups representing Australia, Canada, India,[1] New Zealand, South Africa, and the United Kingdom—that is to say, all the fully self-governing countries of the British Commonwealth except the Irish Free State and Newfoundland.[2]

[1] The Indian group included one representative of the Indian States as well as two representatives of British India.

[2] Distinguished citizens of the Irish Free State collaborated fully in the preparatory work for the Conference, and arrangements had been made for the attendance at Toronto of a representative group, but these had unfortunately to be cancelled at the last moment owing to the political situation in the Free State. Negotiations for the attendance of a group from

The purpose of the Conference was to provide an opportunity for the scientific examination and frank discussion of the problem of co-operation between the members of the Commonwealth—first and foremost, co-operation in the conduct of foreign affairs. The objects of the Conference were defined—by a Committee which met in London in July 1932 in the home of the Royal Institute of International Affairs at Chatham House, No. 10 St. James's Square—as:

(i) A survey of the existing system of communication, consultation, and action between the members of the British Commonwealth of Nations.

(ii) Consideration of the adequacy of the above system in the light of the existing constitution of the British Commonwealth of Nations and its problems, and all other relevant circumstances.

(iii) Consideration of specific suggestions, if any, for its improvement.

The origins of the Conference can be explained both briefly and authoritatively by quoting the opening paragraphs of this Committee's report:

At the Third Bi-Annual Conference of the Institute of Pacific Relations at Kyoto in 1929, a special meeting was held of the groups drawn from members of the British Commonwealth; and during this meeting a proposal was made by the leader of the Australian group attending the Conference that questions affecting the relations of the members of the British Commonwealth of Nations should be studied at an unofficial Conference. This proposal was approved by the meeting.

During the Fourth Bi-Annual Conference of the Institute of Pacific Relations held at Shanghai in 1931, at a similar special meeting, members attending the Conference from Canada, Australia, and New Zealand unanimously expressed the opinion that it would be in the interest of the British Commonwealth of Nations that an unofficial Conference such as that referred to above should be held at the earliest convenient date.

At a meeting of the Executive Council of the Canadian Institute of International Affairs held on January 26th, 1931, a resolution

Newfoundland were also conducted up to the eve of the Conference, but without success.

was passed to the effect that the Executive Council unanimously approved of the holding of an unofficial Conference such as that referred to above; the Executive Council further expressed the desire that such a Conference should be held in Canada and invited the Royal Institute of International Affairs to co-operate with them in organizing it if the idea proved acceptable in other parts of the Commonwealth.

At a discussion between representatives of the Royal Institute and the Canadian Institute, it was decided that it would be useful to convene a Committee which should determine the arrangements and prepare an Agenda for such a Conference.

This Committee, which duly met in London, as has been mentioned, in July 1932, proceeded to draw up a draft agenda and to make arrangements for the organization of groups to attend the Conference and for the writing of preliminary papers. During the period intervening between the meeting of this Committee in July 1932 and the subsequent meeting of the Conference itself in September 1933, a considerable body of preparatory studies was reduced to writing and circulated by groups which were carefully selected with an eye to making them truly representative of different shades of political opinion in each country. In the United Kingdom this preliminary work was undertaken by the Royal Institute of International Affairs through the agency of a committee under the chairmanship of the Viscount Cecil of Chelwood. In Canada, sundry groups were organized for the purpose from among the members of the Canadian Institute of International Affairs in various cities in which the Institute had established branches. These groups held regular meetings over a period of several months and drafted reports which represent, city by city or province by province, a serious study and a considered opinion in regard to the principal questions which the Conference was to discuss. Similar preparatory work was carried out in Australia under the auspices of the Australian Institute of International Affairs, and by individual enterprise in those countries in which no national institutes yet existed.

The reader will find that this order of procedure is re-

flected in the record which is presented in this book. The proceedings of the Conference while it was actually in session at Toronto in September 1933 are prefaced by a survey of the pre-existing points of view on questions of policy and on the practical machinery of intercommunication between the members of the Commonwealth, as revealed in the preliminary papers.

When the various parts of this record are examined on a synoptic view, certain general features stand out.

For one thing, the work of the Conference, from beginning to end, was almost entirely free (at least in the opinion of the present writer, who believes himself to be sensitive on the point) from that spirit of self-complacency and self-congratulation which has so often vitiated the discussion of Commonwealth affairs wherever two or three of His Britannic Majesty's subjects from different dominions of the Crown have been gathered together. This traditional vein of 'smugness' has notoriously had the unfortunate effect of attaching to the mental image of the British Commonwealth a mental association of annoyance and boredom, not only in the minds of the non-British three-quarters of Mankind, but also in the minds of no small number of His Majesty's own loyal subjects! The virtual freedom of the Toronto Conference and all its works from this taint was one of its admirable features.

Lest it be imagined, however, that the members of the Conference actually make themselves guilty of the self-complacency which they disclaim by taking credit to themselves for their freedom from it, they must be permitted to point out that the state of human affairs, at the time when the Conference met, made the cultivation of a humble and a contrite spirit more or less easy for them. The present writer happened to be one of those present at Toronto in September 1933 who had also been present at the first constituent meeting which was held, as has been mentioned, at Kyoto in the autumn of 1929, nearly four years earlier; and, if he may be allowed to report a personal reflection, it may perhaps not be irrelevant to mention the thoughts that passed through his mind (and perhaps simultaneously

through the minds of many others there present) during the opening session of the Toronto Conference in Hart House. He could not but recall the formidable changes for the worse in the international landscape which had taken place during the four years that had elapsed since the initiation of the Conference at Kyoto. At that moment, when the idea of a British Commonwealth Relations Conference had been first mooted at a representative meeting of British subjects from many parts of the Commonwealth in the ancient capital of Japan, the stock-market had not yet broken on Wall Street; the Pound Sterling and the United States dollar had not yet fallen away from the Gold Standard; the Japanese had not yet overrun Manchuria or carried out operations of war at Shanghai in despite of the Covenant of the League of Nations and the Kellogg Pact and the Nine Power and the Four-Power Washington Treaties; and National-Socialism had not yet become the ruling power in Germany! In the course of these four years, the international landscape had changed indeed; and while everything that had happened drove home the desirability of holding the Conference, everything that had happened also profoundly affected the atmosphere in which the Conference now finally met. Under the shadow of the international situation, the Conference assembled in no spirit of unctuous self-complacency, but rather in a spirit of sober foreboding.

More than that, the international background of the proceedings determined the course of the debate both in the preliminary exchange of views on paper and in the oral discussions at Toronto when the members of the Conference met face to face. The main theme, throughout, was a grand debate between the two rival political philosophies of Parochialism and Oecumenicalism; and the clear conclusion of the dialogue was that—in a 'post-war' world which was threatening to become a 'pre-war' world once again—Parochialism was not enough. While there was a marked divergence of view on the question whether the parochial unit was to be the individual member of the Commonwealth or the Commonwealth as a whole, there was an equally striking consensus in the view that the welfare of the mem-

bers of the Commonwealth severally and collectively was bound up with the maintenance of an effective collective system of international relations. The fact that the First Commission of the Conference, whose terms of reference were 'The Principles of Co-operation in Foreign Policy', should have appointed a sub-commission to consider what the members of the Commonwealth could do, for their part, to support the Collective System and to strengthen it, was a possibly unexpected but manifestly significant outcome of a Conference which had been convened to deal with Commonwealth affairs.

Another theme which ran through all the discussions was the question of how to reconcile the demand for full national self-government with the necessity for common action on a wider range, whether in the association of the British Commonwealth or in the association of the League of Nations (which embraced fifty non-British members[1] in addition to the Irish Free State and to the six Commonwealth countries whose names appeared on the roll of original membership). In this matter, the attitude of the national representatives was uniform and consistent. They invariably welcomed suggestions for more effective common action, whether through the Commonwealth or through the League, when these took the form of proposals for free co-operation between autonomous and equal partners. They invariably shied away from any proposals which savoured of a super-state or of super-national institutions. For example, the proposals to strengthen the diplomatic bonds between the members of the Commonwealth by giving the Dominion High Commissioners in London diplomatic functions and by exchanging representatives, charged with similar functions, between one Dominion and another, were received with notable cordiality, while the atmosphere of the Conference room instantaneously chilled at the suggestion that there should be any kind of unitary conduct of Commonwealth foreign policy either through a secretariat corresponding to the Secretariat of the League of Nations at Geneva or through a committee constituted

[1] Including Germany and Japan, now under notice of withdrawal.

on the pattern of the United Kingdom Prime Minister's Committee of Imperial Defence.

The definite concrete achievements of the Conference were summed up by the Chairman, the Honourable Newton W. Rowell, in a passage of his closing speech which may be quoted *verbatim*, since every word in it is to the point:

We have all cordially accepted, and our discussions have been based upon the acceptance of, the constitutional relationship of the members of the Commonwealth, as set forth in the Imperial Conference reports of 1926 and 1930. We have considered in the light of these relationships the adequacy or inadequacy of the existing machinery for consultation and co-operation. I think in respect to that phase of the matter we have come to some very important conclusions, which, if given effect, would be of great value to the Commonwealth.

I would put first the view, so strongly presented and generally accepted, that the High Commissioners representing the Dominions in London should have diplomatic functions, that these High Commissioners should have direct access to the Foreign Office and Foreign Secretary, that they should be able to get the atmosphere as well as the documents relating to matters concerning their own Dominions or concerning the Commonwealth as a whole. If that policy, which has been here accepted in principle, could be put into effect, I believe that it would mark a great advance in the machinery for consultation and co-operation between the members of the Commonwealth.

Another method of co-operation, accepted in principle, which I submit is also of real importance if it can be put into practical operation, is that the Dominions in developing their own staffs to deal with foreign affairs or external relations might have the advantage of having junior members spend a year or two in the British Foreign Office, and get the practical experience and knowledge which comes from participation in the handling of foreign affairs in the larger field. I recognize that there may be grave practical difficulties in the way, but I am sure this Conference considers that it would be a real contribution to the work of consultation and co-operation in connexion with foreign affairs if it could be put into effect.

A third method of real importance is more adequate Dominion representation in the capitals of each member of the Common-

wealth. I am sure we all realize that co-operation between the different members will be greatly facilitated if we have adequate representation by each Dominion in the capitals of other Dominions.

The fourth point that I shall mention is the general agreement that a Commonwealth Tribunal or Tribunals should be established to deal with justiciable disputes. While a great majority of the Conference thought that one Commonwealth Tribunal would be desirable, a minority thought that it would be better to set up, by bilateral agreements, tribunals as between any two members of the Commonwealth. My point, however, is that there was unanimous agreement as to the need to supplement existing machinery by some permanent method of adjusting justiciable disputes arising between members of the Commonwealth. I look upon that as a great advance. These four matters, I suggest to you, are matters which, if they can be carried out in practice, will have a very important bearing on the future relations of the Commonwealth.

In connexion with foreign policy, while we had much discussion, there were certain matters of fundamental importance upon which, I believe, we all agreed. We recognized that peace is the most vital interest, and that its pursuit and maintenance should be the great objective of the Commonwealth, and that to obtain that objective we should:

(*a*) Co-operate in helping to remove causes of international friction and misunderstandings between nations, and promote international good will.

If the Commonwealth can contribute to that end, and we all believe it can, it will be making a very real contribution towards peace and a good understanding among the nations.

(*b*) Support wholeheartedly the Collective System of promoting international understanding and the preservation of peace, as expressed by the League of Nations, the Permanent Court of International Justice and the Kellogg-Briand Peace Pact.

There can be no question of the general attitude of this Conference and its members towards the wholehearted support of the Collective System, as expressed in these organizations. There could be no better commentary on the importance the Conference attaches to this conclusion than the report of Commission B on the importance of developing the Collective System.

(*c*) Support all measures designed entirely to eliminate force as a means of settling international disputes, by the substitution therefor of conciliation, arbitration, or judicial determination.

(*d*) Support the substantial reduction and limitation of armaments by international agreement.
(*e*) Support efforts to bring all nations into the Collective System for the preservation of peace.
(*f*) Recognize that co-operation with the United States is a vital feature of Commonwealth foreign policy.[1]

You may say these are very general principles. That is true, but I venture to submit to the members of this Conference that these deal with the principles affecting international understanding, world peace, and world progress to-day. And on every one of these vital questions this Conference is in complete agreement, and supports wholehearted co-operation.

While we recognize the importance and value of the Collective System as it exists to-day, we are anxious—very anxious—to see it improved. That anxiety has found expression in the report of Sub-Commission B, Commission I, which is to be followed up by the appointment of a committee to give further study to the problem.

As a result of our discussions, we have been impressed with the view that our own peoples in the several members of the Commonwealth are not sufficiently informed or impressed with the character and extent of the obligations that they have assumed under the existing international agreements, the Covenant of the League of Nations, the Kellogg-Briand Peace Pact, and the Nine-Power Treaty, and one of the most important things that we can do when we return to our homes is, so far as lies within our power, to inform public opinion of the nature and extent of these obligations.

The more fully the people are informed, the more readily will they co-operate and the more willingly will they discharge the obligations if the time should ever arrive when these obligations should have to be discharged.

We are all agreed that there is no conflict between the Commonwealth and the League of Nations. The great objective of both is peace.

In conclusion may I say that I feel I am expressing the view of every member of the Conference when I say that we can render no better service to our own countries, to the Commonwealth or to the world at large, than by devoting ourselves to promoting the ideals

[1] These six points put forward by the Chairman of the Conference repeat six out of the nine points formulated by the Chairman of the First Commission, which will be found at the end of the report on the work of the First Commission by its rapporteur, Professor Zimmern.—*Editor.*

for which both the British Commonwealth and the League of Nations stand.

The reader must judge for himself whether the Chairman of the British Commonwealth Relations Conference and his colleagues were justified in their belief that these achievements were sufficiently important to have made the holding of the Conference very well worth while. Yet, however much the members of the Conference might be impressed with the worth of their meeting, there can hardly have been more than one or two out of these seventy-one persons who did not realize—profoundly all the time, and at moments acutely—that they were meeting there, in the magically sequestered precincts of Hart House, with the Sword of Damocles suspended over their heads, and over the heads of their children. For the greater part of the time, no doubt, this ominous truth remained in the penumbra of the members' consciousness; yet it repeatedly came out into the full light of the debate, though even then it was rarely expressed in the spoken word. At these moments one observer was vividly reminded of the sensation which he had known, some fifteen or sixteen years back, when, on moonlight nights in the later months of the Great War, the streets of London echoed with the cry 'Take cover'.

While the members of the Conference were taking counsel, with all their heart and all their mind, on ways and means of serving their society by promoting peaceful co-operation between the nations through the British Commonwealth or through the League or through whatever the appropriate association might be for each particular purpose, in their heart of hearts they were aware all the time that a world-order based on these spiritual foundations might prove, after all, to be an aim beyond the moral capacity of a human race which was still in its infancy, and which had entered upon the enterprise called Civilization a mere 6,000 years since. In the alternative event of a catastrophe, in which the great society of the modern world might be first done to death and then posthumously unified by an uncontrolled outbreak of physical violence, it was evident that the several members of the British Common-

wealth of Nations might find themselves at the mercy of their respective regional situations—the United Kingdom as a small island fast moored to the great continent of Europe; Canada and South Africa as part and parcel respectively of North America and the Dark Continent; Australia and New Zealand as ships of state adrift alone in 'a wide, wide sea' which had been ironically named 'the Pacific'; India as the uneasy neighbour of the Soviet Union and the Islamic World. If a breakdown of the attempt to establish a humane and reasonable world-order ever did bring these diverse regional factors into active play, who could tell how far the countries now associated in the British Commonwealth might drift apart on their way to encounter their diverse fates, whatever these fates might respectively prove to be? To a well-attuned ear, the proceedings at the British Commonwealth Relations Conference which met at Toronto in September 1933 had a tragic as well as an assuring note.

Absit omen. And, indeed, the proceedings of the Conference also showed that there were certain saving features in the situation which might perhaps mitigate the disruptive and destructive effects of a world-catastrophe, if that great disaster were to occur. It was noticeable, for example, that the very members of the Conference who were most insistent in drawing attention to the diversity in the regional situations of the several members of the Commonwealth, and in asking their colleagues to face this hard fact and to take due account of it in their deliberations, were equally insistent in making it clear that they were actuated by no 'separatist' proclivities. (In fact, if 'Separatism' had been a live issue in the debates at Toronto, these debates would assuredly not have been conducted with the complete frankness by which they were actually distinguished.) Those who advocated certain modifications and alterations of some of the formal links, inherited from the past, which still subsisted between the members of the Commonwealth, declared again and again in the course of the proceedings—and unquestionably in all sincerity—that their intention was not to destroy but to fulfil, and that they were acting on the precept 'The letter killeth but the spirit giveth life'—

a truth of religion which had been applied, in British practice, to politics and which had been long enshrined in British hearts and minds as one of the *arcana imperii* of the Commonwealth.

Again, in the event of a critical emergency, the great deeps of public feeling would undoubtedly be broken up; but the particular 'psychological reaction' which would be evoked was utterly unpredictable beforehand. Manifestly, it would have been folly in 1933 to take it for granted that, if one member of the Commonwealth ever found itself again in the situation which the United Kingdom had had to face in August 1914, the other members would again spring to arms in the sister-country's support with the same spontaneity that had been shown on that historic occasion. At the same time, it would have been unwise in 1933 to make forecasts and frame policies on the supposition that, upon a repetition of the situation of 1914 *mutatis mutandis* (either in Europe or in the Pacific), each member of the Commonwealth which was not directly and immediately concerned would pass by coldly on the other side and feel no sense of being his brother's keeper.

The truth is that the nicest calculations and the most skilful prognostications of coming events are apt to be falsified by the unknown quantity which so often proves itself to be the governing factor in human affairs. When the future passes over into the past and can be surveyed in retrospect, it becomes manifest, perhaps more often than not, that human destinies have been decided by some new force which the wise and prudent have overlooked before it eventually took them by surprise in giving the lie to their forecasts. This consideration, which is disconcerting in times of prosperity, may become a source of comfort and hope in times like those in which the British Commonwealth Relations Conference met at Toronto in the autumn of A.D. 1933.

PART II

A SURVEY OF PRE-EXISTING POINTS OF VIEW

PRE-EXISTING POINTS OF VIEW

As has been previously mentioned, a survey of the facts of the existing system of inter-communication between the members of the Commonwealth, compiled by Mr. Gerald E. H. Palmer, as a basis for the discussions at the Conference, is to be published as a companion to the present volume under the title of *Consultation and Co-operation in the British Commonwealth*. Other relevant facts of equal importance are states of mind and points of view; for the facts of social life are to be found in the Microcosm as well as in the Macrocosm. In the following section, therefore, an attempt has been made to present a corresponding survey of contemporary mental attitudes. Abundant material for this purpose was provided in the papers prepared in advance of the Conference. It has been found convenient to subdivide this 'subjective material again into one section for points of view on practical arrangements and another section for points of view on policy.

A. POINTS OF VIEW ON POLICY

(i) INTRODUCTORY NOTE

THE present chapter is an attempt to survey the points of view on questions of policy which appear in the papers circulated to the members of the Conference, in advance of their meeting, by various individuals, or groups of individuals, in various countries that were afterwards represented at Toronto. It should perhaps be made clear that in this chapter no account is taken of political opinions expressed in the Conference itself, or 'on the margin of the Conference', after the discussions at Toronto had begun. For opinions expressed at that stage, the reader must turn to the following Part III, while some attempt to embrace the sense of the preliminary papers and the sense of the Conference itself in one synoptic view is made in the Introduction to this volume. In the body of the book, it seems better to keep the opinions expressed before the Conference and during the Conference apart from one another, in order that the reader may have some opportunity of judging for himself how far those opinions that happened to be in conflict were eventually modified and perhaps at least partially reconciled as a result of being brought together in the give-and-take of a debate in which their respective exponents had the advantage of exchanging views by word of mouth, face to face, and no longer on paper at an immense distance from one another.

The present section, then, has been compiled from the preliminary papers and from these only; and the compiler must confess that he has found his task difficult and that he feels no assurance of having accomplished it adequately. The views which appear in these papers are frankly expressed; they are interesting in themselves; and they undoubtedly had an important effect, first upon the agenda, and afterwards upon the course of the Conference. At the same time their absolute importance is perhaps not easy to assess; for this depends partly upon the amount of thought that has gone into them and partly upon the degree in which

this thought is representative of an effective and resolute public opinion in the particular countries or localities to which the authors of these papers belong.

Some of the papers were worked out by study groups in a series of meetings, while others present the mature views of distinguished individual experts. On the other hand, there are certain papers which the authors themselves confess to having written, perforce, on the spur of the moment, without the time to incorporate second thoughts as well as first; and such papers are obviously of a different value from those aforementioned—though their very hastiness may have preserved a spontaneity which is sometimes nearer to the average opinion of 'the man in the street' than any statement that has been laboriously and conscientiously reconsidered and revised.

Again, some of the views expressed in these papers are manifestly 'majoritarian', while others are just as manifestly 'minoritarian'; and although it is quite impossible to assess the strength of the respective majorities and minorities numerically in terms of ratios or percentages, it is also impossible to ignore the psychological effect, upon the mind of the exponent of any given opinion, of feeling himself to be in a majority or in a minority, as the case may be. The conscious representative of a minority is apt to be eager to express his view in order to make sure that it shall not be overlooked or extinguished, whereas the conscious 'majoritarian' is apt to take his view for granted and consequently to allow his case to go by default, just because he is already sure in his own mind (though not necessarily with good reason) that this view is already familiar and predominant.

It should also perhaps be mentioned that virtually no material for the present chapter was forthcoming from the papers contributed by the United Kingdom group, because the 'majoritarian' opinion in this group, at the time when it was making its preliminary studies, had been to the effect that the discussion of the machinery of communications was the proper business of the Conference—with the corollary that the preliminary studies and the agenda should

be confined to this topic. Before the United Kingdom group sailed for Canada, its original views on this point had been somewhat modified in the light of the papers which had been circulated by that time by groups in other countries. But the original attitude of the United Kingdom group is still reflected in the papers which it circulated on its own part; and the silence of these United Kingdom papers on fundamental questions leaves a very serious gap in the picture which the preliminary papers, taken as a whole, present.

The truth seems to be that public opinion can never be assessed with any confidence from statements—and especially written statements—that are made in advance of the contingencies that are avowedly or tacitly contemplated. The only certain test of public opinion is the observation of what action is actually taken in response to the challenge of critical events. And if this is true of public opinion in general, it is eminently true of opinion on international affairs; for this was a field of politics in which, notwithstanding the belated recognition of its crucial importance, the mass of the people in all countries still remained uninterested and therefore uninformed and undecided in this year 1933.[1]

On this showing, many of the opinions which are echoed in the preliminary papers, and which are cited from that source in the present survey, must be listened to by the reader as voices heard crying in the wilderness. Were these the voices of prophets? It was impossible that they should all prove to have spoken with prophetic authority, since they did not all speak to the same purpose. Time alone would judge between them, and that time had not yet come in September 1933.

In this rather puzzling situation, perhaps the best thing that a compiler can do is to pick out from this large body of papers the principal topics on which political opinions were expressed and then attempt to convey some notion of the variety of opinion under each head—as far as possible through textual quotations.

[1] For illustration of this point see p. 72 below.

The countries which, in 1933, were associated with one another as fully self-governing members of the British Commonwealth of Nations were scattered all over the face of the Earth, and many of the papers are racy of the soils on which they were respectively produced. Regionalism therefore seems the natural topic to take first, and on this topic the voices of Canada, marooned on the North American Continent with the United States, and of Australia, marooned in the Western Pacific Ocean with Japan, are loud, though neither harmonious with each other nor even entirely self-consistent. The regional outlooks of the other members of the Commonwealth do not happen to be set forth in this collection of papers; but in this case there is no legitimate *argumentum ex silentio*. The New Zealanders may be assumed to share the Australians' views about their situation *vis-à-vis* Japan; while the representatives of the United Kingdom seem to have regarded it as a truism, not worth recommitting to paper, that, in spite of their world-wide interests and commitments, their country had a regional concern with Continental Europe which was comparable in intensity to the Canadian concern with the United States and to the South Sea Dominions' concern with Japan

Regionalism, however, is not the last word, even in those papers that deal with it at length. While the United Kingdom's interests have been oecumenical for more than two centuries, the overseas members of the Commonwealth confess, in their papers, to being drawn out of their shells and compelled to take cognizance of a wider world by various potent considerations: the Canadians in defence of a young but vitally important export trade; the Australians in expression of a traditional sentiment; the South Africans in virtue of a European culture which they hope to keep alive with the whole Continent of Africa interposed between them and the European homeland of their civilization. And all alike give weight to their membership in the British Commonwealth and in the League of Nations as an influence which extends their associations and enlarges their horizon.

In so far as, on these various grounds, the policy of

parochialism is recognized to be inadequate, the question arises whether the parties are to feel and think and act as members of the supernational but less than universal association of peoples to which they find themselves belonging as members of the historical British Commonwealth, or whether they are to put their treasure in a collective system which can only become completely itself if it becomes all-embracing. On the question of whether there should be a British Commonwealth *bloc*, with some measure of unity, or at any rate of concert, in diplomacy and in war, the papers display a deep interest and a marked diversity of opinion. At the same time, the most energetic advocates of a British Commonwealth *bloc* do not seek to present the Commonwealth system and the wider collective system as mutually exclusive alternatives. The views expressed in regard to the relation between these two systems of association for constructive purposes provide the final topic with which our present survey has to deal.

(ii) REGIONALISM

The vast diversity of the geographical positions of the several members of the Commonwealth, and the bearing of this geographical consideration upon local policies, is vigorously set forth in a minority report from a study group in one of the Prairie Provinces of Canada.

Owing to the enormous success of the British people in accumulating territory in the days when they did not choose to regard that process as immoral, there are very few corners of the Earth in which Great Britain has not some direct territorial interest; but the direct interests of the daughter nations, while by no means confined within their own borders, are limited to certain specific areas. Australia and New Zealand, for example, are concerned primarily with certain Pacific areas. Likewise the attention of the other members is directed chiefly to their own neighbourhood, though that term sometimes needs a rather liberal interpretation. Thus in South Africa the native problem is part of the general racial problem of the continent, and South African statesmen must very properly be concerned with, say, the type of black and white relationship which British colonial authorities are developing in distant Kenya.

Those regions on which Canada must keep her eye in common

with other parts of the Empire are few. She has a direct interest in Newfoundland; for Newfoundland lies across her front door, the St. Lawrence. She has some interest, though not nearly as much, in the West Indies. She also must take note of what happens on the other side of the Pacific. But the only direction in which an imperialistic urge on her part could find its outlet would be northward, in which direction it has in fact already manifested itself, so that she now claims possession of her due segment of the North Pole.

Even such an elementary survey as the preceding, indicating as it does the diversity of interests which render a close-knit common foreign policy impossible, shows that there must be almost as many policies as there are self-governing states, and that it is only the mother country's wide interests which give the present semblance of unity to Imperial foreign policy. Great Britain may be able to work out a common foreign policy with each of her Dominions in turn, thus arriving at a sort of greatest common denominator of foreign policy—though there is too great an area in which she alone is concerned for that to be likely—but the Dominions among themselves will hardly find much ground in common. What matters are there, for example, of sufficient importance between Canada and South Africa to associate them in any other than ordinary friendly relations?

The inference here drawn is that this geographical consideration ought to be the chief determinant of foreign policy for any country, and this inference is applied to Canadian foreign policy, in particular, in other Canadian contributions. There are notable differences, however, between the degrees to which different Canadian exponents of regionalism are inclined to push the application of this regional principle.

A Canadian who is attempting, in one paper, to define the common ground between six different papers emanating from four different Canadian provinces finds in all six papers the view that

> Co-operation implies the full preservation of the autonomy of each state and a due consideration of its geographical situation and its special interests.

One of these six papers, which comes from a study group in one of the Maritime Provinces, submits that

> Any change which may be made in the existing machinery for

co-operation in the conduct of Commonwealth foreign policy should not of itself commit Canada to undertake political or economic obligations in matters in which this country has merely a remote and indirect interest.

In the same paper, a distinction is worked out between the regional interests of Canada and those of the United Kingdom:

Although it is recognized that international issues affecting any part of the Commonwealth are *ipso facto* potentially of direct and immediate interest to Canada, the obligations undertaken by this country should be measured by the actual and foreseeable degree of interest existing at the time when they are undertaken. This conclusion is the result of a survey of the post-war policy of the British Government and Canada's attitude thereto in the light of the general international situation:

(*a*) There was some disagreement among members of the Group as to whether or not the United Kingdom is directing her policy toward disentanglement from European commitments. But there can be no doubt that those commitments have increased substantially since 1919 and that, due to the geographical position of the British Isles, there must on the part of Great Britain continue to be a vital and direct interest in maintaining the political and military stability of Western Europe.

(*b*) In the Near East the rise of nationalism since the Great War has come into conflict with British commercial and strategic interests resulting in a change in the political and diplomatic situation. These interests, particularly in supplies of cotton and oil on the economic side, and in maintaining a barrier against possible Russian aggression and in communication through the Suez Canal on the strategic side, will force Britain's political commitments in that area to persist. Canada has not and is not likely to have any substantial stake in the Near East.

(*c*) As a country bordering on the Pacific Ocean, Canada's interests in the Far East are more direct than in certain other spheres with which British foreign policy is vitally concerned. Canada's interests there, however, because less immediate than those of Britain, Australia, New Zealand, and India, and because of neighbourly relations with the United States, sometimes vary sufficiently from theirs to dictate a different policy—for example, concerning the Anglo-Japanese alliance and recognition of the Union of Socialist Soviet Republics.

(*d*) Canada should be careful to make no commitments at variance with her geographical and strategic position as a North American country relatively remote from both Europe and Asia.

The obverse of this distinction between the regional interests of Canada and those of the United Kingdom is an exposition, which is to be found in the same paper, of a certain identity of interest between Canada and the United States:

Many Canadians regard membership in the League of Nations as a guarantee of international recognition of Canada's status as a nation. But it should not be forgotten that membership in the League involves responsibilities which may prove to be out of proportion to the rights and privileges. If the United States of America had entered the League there would have been a likelihood that the policy of Canada in foreign affairs might coincide more closely with that of the United States. This identity would have afforded further security to Canada. The United States has not entered the League, and although Canada's membership in the League has not yet done so, it may conceivably press her into a policy which would not accord with that of her powerful neighbour. Thus some of the members of the Group expressed a fear that membership of Canada in the League and adherence to the League's policy at a given time might create friction in American-Canadian relations. There may be occasions when it will be in Canada's best interests that her statesmen should regard her primarily as a North American power. It is suggested that Canada's delegates to the League should be carefully instructed by the Canadian Government and not allowed a freedom of action which may involve Canada in commitments at variance with her position as a continental neighbour of the United States.

A similar view was expressed independently in a minority report from a group which met in one of the cities of the Province of Ontario:

In relation to the predominant issues of foreign policy Canada must be regarded primarily as a North American state, enjoying the defensive advantages conferred, not merely by geographical detachment, but also by a topographical formation relatively impervious to attack. From any serious possibility of extra-continental invasion she seems, indeed, likely to remain practically exempt, even allowing for further broad developments in military aviation. Her continental frontiers must be regarded as resting upon the long established assurance of good relations with the United States.

(iii) FRIENDLY RELATIONS WITH THE UNITED STATES

The necessity for the members of the British Commonwealth, both severally and collectively, to preserve friendly relations with the United States is not contested in any paper from any country; but Canadian voices are naturally those which proclaim this common axiom of foreign policy with the most anxious insistence. On this point there is an illuminating passage in the minority report, already quoted, from a study group in one of the Prairie Provinces:

> Most Canadians when they think in terms of foreign relations at all think in terms of economic relationships. The question of defence, political relationships, which absorbs such an inordinate share of the energies of the European peoples, rarely enters their heads. The reason for this is obvious: there is only one possible potential enemy who could threaten national existence, the United States, and no one ever thinks of that country as a potential enemy. If unfortunately the United States were to become an enemy, the great disparity in population and wealth, the proximity of Canadian cities to the frontier and the lack of a natural boundary from the Lake of the Woods to the Rocky Mountains would render any protracted defence impossible. Such considerations, incidentally, give quite a different significance to those well-worn phrases 'the hundred years of peace' and 'the three thousand miles of undefended frontier'.
>
> Nor could any help which might be obtained from overseas greatly alter the situation. If the very worst came to the worst and the Empire found itself at war with the United States, it is very likely that the scattered components of the Empire would each have to look after themselves, for, with approximate naval equality as between the two principals, there would be little chance of the British fleet being able to keep up effective world-wide communication. In such a war Canada would be the battleground and the British fleet, operating three thousand miles from an effective base, would probably be quite ineffective against the nearby navy of the United States. But if the trouble arose between Canada and the United States, as it might have, say, over the Alaska Boundary award of 1902, it is difficult to believe that the British fleet would be available to Canada. In all probability such an eventuality would see the Empire broken, for it would require a great deal of sentiment indeed to cause the people of Great Britain to fight for the sake of

Canada a war with the United States, and in any case, as just stated, they could not fight it successfully.[1]

So Canada can never afford to take any high-handed attitude towards the United States, whether she could rely for support on other members of the Empire or whether she could not. The friendship of the United States must always form the cornerstone of Canadian foreign policy, for it is the merest common sense, when one lives in a house with a giant, to attempt to keep on good terms with him.

The view set forth in this passage is the presupposition of a concrete proposal which is made by a study group in one of the Maritime Provinces:

As the United States has since 1922 ceased to be considered by the British Government as a possible enemy in war, *a fortiori* the possibility of war between the United States and Canada must be placed outside the realm of Canadian policy. Consequently the following suggestions are submitted as being both necessary and desirable, especially as the United States is not a member of the World Court:

(*a*) A standing arbitration agreement of an 'all-in' character, providing for (i) compulsory jurisdiction in specified classes of cases susceptible to judicial settlement; (ii) alternative methods of settlement for other disputes, such as procedure by commission of inquiry and conciliation as well as arbitration.

(*b*) A permanent judicial tribunal.

(*c*) A standing code of procedure for judicial process and other methods of settlement.

The proposed arbitral agreement would merely institutionalize the habit of pacific settlement of disputes already established between Canada and the United States. This agreement should be in addition to the present International Joint Commission, which, although empowered to settle by arbitration any dispute referred to it by the parties, is scarcely suitable for dealing with disputes other than those arising from boundary waters problems.

[1] In the editor's belief, public opinion in the United Kingdom has never yet envisaged the situation, here imagined, in concrete terms. It is true, no doubt, that if this situation ever did actually arise, it would provide an immediate and most effective touchstone for the traditional assumption in the United Kingdom—an assumption based on sentiment and taken for granted out of long habit—that, as a matter of course, the United Kingdom would come to the assistance of any other member of the Commonwealth with all its strength in any contingency.—*Editor.*

In view of Canada's special interests in North America it might not be out of place on her part to urge other members of the Commonwealth and particularly Great Britain to conclude general arbitral agreements with the United States. At present there is no general arbitral agreement between any member of the Commonwealth and the United States except the treaty of 1909 with respect to the International Joint Commission.

The importance, for Canada, of friendly relations between the United States and the members of the British Commonwealth other than Canada herself is emphasized, again, by a study group in Ontario:

Without in the least derogating from Canada's adherence to the Britannic system, and allowing for Canadian public opinion in favour of that adherence as against any closer political association with the United States, we submit that it is of the utmost importance to Canada that no policy should be pursued by the Commonwealth or by any of its members which would tend seriously to disturb or impair the friendly political relations which exist between the United States and herself. If any such policy were suggested, Canada should strongly oppose its adoption or pursuit. The Conference should realize that, apart from all sentiment, given friendly relations between Canada and the United States, Canada is one of the most secure nations against foreign attack in the whole world.

(iv) FRIENDLY RELATIONS WITH JAPAN

This Canadian attitude in regard to relations with the United States is reproduced, *mutatis mutandis*, in at least one Australian expression of opinion in regard to relations with Japan—the writer being a lawyer who had spent some years in responsible posts in the public service in both the military and the diplomatic sphere:

It would be to the interest of Australia if Japan could find an outlet for population, an assured source of sufficient raw materials and an assured market for sufficient manufactures on the mainland of Asia. Her increasing hold on Manchuria and Northern China is therefore not to the disadvantage of Australia, at least in the immediate future.

Alternatively, it would not be to the disadvantage of Australia if Japan exhausted herself in the attempt to hold Manchuria and Northern China, except in so far as this would damage the market in the Far East for Australian exports.

As far as the present compiler's knowledge goes, the view expressed in this passage was not unrepresentative of one current of Australian opinion which had been strong, and perhaps even prevalent, ever since the outbreak of the Far Eastern crisis just two years before the Toronto Conference met. It may be well to add, however, that this Australian policy towards Japan would not at any time have commanded that general assent, in the other countries of the British Commonwealth, that was manifestly commanded by the Canadian policy towards the United States.

(v) COUNTER-WEIGHTS TO PAROCHIAL POLICIES

These regional outlooks are partly balanced in the papers by certain broader considerations which have been mentioned towards the beginning of this chapter.

In the passage just quoted from an Australian source, there is an allusion to the Japanese market for the Australian wool-clip. The World Economic Crisis brought it home to all the exporting countries of the Overseas World that, whatever might be the practicability or impracticability and the merit or demerit of a policy of *political* isolation, the peoples of these countries were dependent for their very existence upon an international system of *economic* relations. What was true for Australian wool was equally true for Canadian wheat; and the Canadian papers reveal not only an acute consciousness of this truth but also a recognition that, in this matter of economic dependence upon export trade, the position of Canada presents a contrast to that of the United States, however great the similarity of the two North American countries' positions may be in the matter of political risks and military defence.

In a discussion which took place in one of the principal commercial cities of Canada, it was pointed out that

> Of the economic influences bearing on Canadian foreign policy, foreign trade is by far the most conspicuous. In 1928 Canada had the second largest *per capita* export trade of any country, and ranked fifth in absolute volume of goods exported. Eighty per cent. of her main product—wheat—is grown for export. One-third of her total production is normally sold abroad, a startling proportion

as compared with the 10 per cent. of total production exported by the United States.

In the same discussion, it was pointed out that this development in Canada's economic structure was already having an effect on the Canadian outlook.

While the War made immediate changes in the extent both of our interest in external affairs and of our participation in British foreign policy, it is noteworthy that no one of the tariff policies of the four parties in the 1921 elections emphasized the fact that trade was an international matter; and our first legation was established only in 1927. It was really the changed world after the Peace that gave importance to Canada's quasi-international recognition in 1920 and the subsequent constitutional developments. The necessity of selling our products in markets only available in a stable and peaceful world forced our attention to things outside. The rainfall in the Argentine and the temper of a man in Moscow had become vital to a country so dependent for its prosperity upon the international exchange of commodities and money. Our newly awakened interest in international questions was, therefore, largely economic. The history of the last few years has done nothing to arrest the growth of that interest.

On the same showing, the minority report of a study group in one of the Prairie Provinces makes specific suggestions for a co-operative, as opposed to an isolationist, Canadian foreign policy:

Since Canada is mainly a producer of raw materials and has not the population or industrial structures to absorb its own production of these things, Canadian national economy is marked by a high degree of dependence upon the foreign or overseas market. Canada ought never to pursue the rigorously isolationist policies which have in the main suited the United States, but should always cultivate active relations with the countries constituting her chief markets. To the prosperity of these countries her own growth is finely geared. Her chief interest is very obviously peace and the removal of nationalist trading restrictions.

A different consideration, likewise militating against parochialism, which was as broad as, and at the same time deeper than, the question of foreign trade, may be illustrated from one contribution to a paper written in South Africa:

There is a serious danger that the purely political aspect of

Commonwealth relations may be emphasized at the expense of the more human and spiritual aspect, and in the long run this is the only aspect that counts. . . . Politics and economics taken together by no means fill the whole field, and . . . a whole set of other considerations, which may be called cultural, have to be taken into account. *And it is just exactly these cultural relations on which the only kind of unity that is now possible, or has ever been worth while having, depends.* . . . What lies before us now is a cultural struggle. Are the Dominions going to build up local, self-sufficient, self-inspired cultures which owe comparatively little to other cultures elsewhere? Or are they going to acclimatize and adapt to meet local conditions the culture of Europe, and particularly that of England, so that this remains unchanged in all essentials, however much the particular form of its expression may alter? Or (a much more formidable possibility), whilst retaining the outward forms and the political machinery of a British Commonwealth, are they going to establish in their own areas a culture which owes all its inspiration to the United States of America?

It would, no doubt, be interesting to know whether a century hence the Union Jack will be flying anywhere in South Africa, whether Ireland will still have a Governor-General, and whether Canada will have embassies in all the capitals of Europe. But it would be really much more interesting and a great deal more important to know whether people in Capetown and Melbourne and Ottawa will still be reading *Punch*, and whether cricket will still be played under the same rules at Lord's and in Sydney. . . .

Personal contacts and the fostering of common beliefs, traditions and practices are the only forces that in the long run can counteract the effect of the thousands of miles of salt water which Burke pointed to as the *causa causans* of the regrettable incident of 1783.

Again, there is the consideration of traditional sentiment, which may be illustrated by quotations from a set of papers which were written in Australia in answer to the question: 'Why the Empire?'[1]

[1] In this connexion, it may be noted that, while the nuclei of the English-speaking communities in Australia and in Canada had been established in their respective countries at approximately the same date, the first English-speaking settlers in Australia came straight from the British Isles, whereas their contemporaries, the United Empire Loyalists, who colonized Upper Canada and the Maritime Provinces on the morrow of the American Revolutionary War, came from the *ci-devant* Thirteen Colonies, where their forefathers had been established on North American soil already over

We may begin by quoting a distinguished legal authority who is quoted further below in another connexion:

First, I proceed by way of psycho-analysis: my reaction to the 'British Empire'. It is something of which I am a part, but even more something which is part of me. I do not ask myself whether I am English or Australian in any sense which excludes the one from the other, or sets one above the other. Circumstances have not set up any conflict of loyalties; I have not been called on to make any choice; to be called on to make a choice—to feel that the acceptance of the one was the rejection of the other—would be deeply painful as a disintegration of my own personality. A 'foreign country', a 'foreigner', evoke associations of 'differentness' which would thrust themselves into old relations from which they had been absent. I should have to re-form myself, to re-orientate my being. Aware of tendencies and forces which threaten this disturbance, I am sensitive to them and resentful of them.

No doubt the feeling I have described may be peculiarly characteristic of the migrated Briton, one with deep personal roots in Great Britain and a Dominion. But it is a matter of degree; the community feeling is part of the spirit of most people in some of the Dominions, and a great part in all of them.

The second paragraph of this passage is borne out by the personal testimony of another Australian who is Australian-born:

To a good many Australian citizens the question would seem to be only another way of asking: 'Why patriotism'? For their national sentiment is British or Imperial rather than specifically Australian; and similarly many residents in Britain have a national sentiment which is 'Imperial' rather than 'United Kingdom'. This body of people is doubtless a diminishing factor in Australian life, though it still comprises a great many Australian-born citizens. For those in whom this British national sentiment persists, the question 'Why the Empire?' scarcely arises. But the widening range of specifically Australian national sentiment and the march of the Dominions into the international sphere forces some consideration of that question even upon the people here referred to. Once you have in sentiment a British nation, a Canadian nation and an Australian nation, you

as long a period as they and their descendants have spent, since then, in their second American home. On this showing, the Australian English-speaking community was only about half as old as the Canadian in the year 1933.

find yourself necessarily asking why there should be some constitutional bond of union between these nations.

A paper produced by a New South Wales study group points out, however, that as opposed to this attachment to the Empire,

there is, especially in Labour circles, a corresponding feeling of aversion. In the past, this feeling has probably owed much to the large Catholic-Irish element in the Australian population. Those very symbols which were (and are) most dear to the sentimental loyalist were to the Irishman reminders of tyranny and misrule; he had come to Australia to find or to build a new and better world, not to place himself once more under the dominance of England. Even to-day, many Irishmen feel that the average Englishman thinks of the Empire somewhat as George III thought, and that he finds it hard to accept the Dominions on a basis of equality. It seems, however, that Catholic leaders in Australia oppose the view that English policy in Ireland should for ever determine the Irishman's view of any society of which England is an important member. Native-born Irish-Australians are learning to think of Imperial problems from an Australian rather than from an Irish point of view. But if Irish-Australian aversion from the Empire is decreasing, it seems that the Labour movement's suspicions are increasing. This appears in the arguments of the extremists that the Empire means imperialism, that British capitalism fights in the disguise of Imperial solidarity, and that appeals to sentimental loyalty may cover a multitude of sins. A growing suspicion of 'capitalistic' warfare plays its part. Labour leaders point to 'Jingo' speeches at Empire Day celebrations, and complain of the glorification of British military achievements of the past. In short, side by side with sentimental loyalty, there is in Australia a line of thought which is definitely critical; which refuses to accept the Empire without careful scrutiny. Labour sentiment is by no means averse from friendly relations with kindred nations overseas. But it stands on guard against overseas interference or 'entanglements'. Indeed, it appears that one of the most important factors is Labour's strongly nationalistic point of view. Before the War of 1914 the Labour Party always insisted that Australia was a nation and should be allowed a nation's privileges and responsibilities. It urged that Australia should maintain and control her own navy. It strongly supported the demand for compulsory military training and the establishment before the War of the Citizen Forces. It was probably in part the national sentiment fostered by the Labour Party which during the War prevented the Australian Imperial

Forces from becoming submerged in the British Army. It was the influence of the Labour Party which defeated the proposal made in 1916 and 1917 to recruit that force by conscription. In recent years since the War, Labour has sought the appearance rather than the substance of national independence. It, at times, expresses strong objections to 'imported Governors', especially if they seem to play any part in local politics. It was a Labour Government which recently secured the appointment of an Australian Governor-General. It asserts that the High Court should be the final Court of Appeal in all Australian cases. But the Labour Party has in recent years perhaps been less insistent than it was on Australia bearing the responsibilities of nationhood. It was a Labour Government which abolished a compulsory military training and the Labour Party resents any suggestion that Australia should spend moneys on naval bases in the Pacific.

(vi) A 'BRITISH COMMONWEALTH *Bloc*'?

Is there, or ought there to be, a 'British Commonwealth *Bloc*' acting as a single unit and wielding its united force with a singleness of aim in international affairs? An Australian writer proceeds to take this question up:

Political union implies that for some political purposes at least the united peoples operate as a community—i.e. they have certain purposes for which they act as one. In view of the development of Dominion status, one has to ask what these purposes are. As to government in general, the answer is definitely, No. Trade is widely regarded as one of the vital purposes of empire. For myself, I doubt it. In any case, the argument is not so much 'because we have common trading interests we must have an Empire', but rather 'because we have an Empire we must develop common trading interests'. Defence is, I suppose, a consideration which appeals most strongly to Australians as justifying, or requiring, the preservation of the political union between Great Britain and the Dominions.

This last-mentioned reason for the existence of the British Commonwealth is contested by another Australian-born Australian:

The Empire is described as the greatest force in the World for peace. This contention demands careful consideration. If it means that the British Navy remains so powerful that other nations will not willingly attack the member states of the Empire, or consciously

interfere with Imperial policy for fear of consequences, such a view is nothing more than a chauvinistic fallacy. Fear never was, and is not now, a stable basis for the maintenance of peace. Fear begets insecurity. Insecurity promotes the organization of force as a cure. Organized force promotes answering organized force in other nations for a like purpose. The process continues until the whole international atmosphere grows inevitably towards some upheaval. That is the history of the pre-War world. The same philosophy will lead to the same results again. Insistence, then, upon the British Empire as an instrument of peace through organized force displays an ignorance of the lessons of experience, and an inability to appreciate the facts of the present situation.

An identical view is taken by a study group in one of the Prairie Provinces of Canada, which has worked its beliefs out into their further implications. This group lays it down that 'Empire foreign policy' must

be such that world opinion generally may be reasonably expected to accept it as being subservient to the greater cause of international understanding and world peace. This latter consideration rules out any attempt at a unified Commonwealth foreign policy having as its aim the creation of a British *bloc*. This the World would look upon as an effort to create what in effect would be an offensive and defensive alliance, and would inevitably tend to bring about other groupings, the ultimate result of which history makes clear. In our own interests as well as the interests of the World, the first obligation of each British nation should be to the greater cause of international co-operation generally and the League of Nations as its expression. Our conduct must conform to this fundamental and our loyalty to it will soon become generally recognized.

It surely follows that as members of the League of Nations we should avoid all attempts at British solidarity or unity at the expense of the compromise of convictions. On many major questions, as the result of our common traditions, we shall probably hold views in common; but, where we do not, no British nation should suppress its own convictions in order to maintain the solidarity of the British group. It should unhesitatingly under such circumstances disagree with a British nation to the same extent and in the same way as it would disagree with any other nation, and should throw its influence in the gatherings of the League with those nations with whom it is in agreement. If this is not clearly and honestly the policy of the British nations, gradually coming to be understood as such by the

other nations, the Commonwealth will ultimately menace international understanding and world peace. . . .

On the other hand, as a group of nations in the World who, by reason of common tradition and sentimental ties, are able under conditions of strain and nervous tension to co-operate with a view to increasing the volume of trade as a beginning toward co-operation on a much larger scale with other nations willing to co-operate on a basis of mutual advantage, we may not only help ourselves but aid in the re-establishment of world prosperity.

We are at a critical stage in Commonwealth development. The autonomy of the unit is now both established and generally recognized, and the way is open for effective co-operation. The British nations may co-operate to our mutual benefit in the political, economic, scientific, and cultural spheres. In the development of methods of co-operation, however, it is much more important to provide for disagreement, without resentment and friction, than it is to strive for unanimity. Any member of the group must be able to follow its own interests and convictions without arousing antagonism and being thought a renegade. At any given time let those who desire co-operate, but with genuine and not merely technical freedom to the others to stand aside. Diversities of interests and outlooks are such that on any other basis unity cannot conceivably be lasting.

This statement of opinion from the Canadian West coincides with a statement from a group in a great commercial city in the East, which declares, 'most emphatically', that 'the Commonwealth is not an offensive-defensive alliance or an Empire aiming to be economically self-sufficient'; and the same view reappears in the minority report of a study group in an Ontario city:

The assumption that the British nations have certain interests in common which they do not share with other nations seems to us to be quite unproved and to be a very dangerous starting-point for Canadian foreign policy.

On the other hand, in another Canadian group in another city in the same province, Ontario,

The view was expressed that we are part of an Empire which must at almost any cost be maintained; that we are in this sense vitally interested in the maintenance of the British position in India and in the Near East; that the Empire is so great a power for good in the World that it would threaten an incalculable disaster should

it be endangered or weakened by our deliberately adopting a policy opposed to that of Great Britain on any major issue.

If this view be accepted it follows that, except when we have direct sources of information, we must accept and support British policy; and that where we have direct sources of information on which to form our own views, these views should be urged on Great Britain as strongly as possible, but on all essential matters the Empire must have a single policy.

A comparison of these last two passages, which both emanate from serious students of Commonwealth affairs and international affairs in the selfsame Canadian province, is a classical illustration of the difficulty of assessing the relation between these papers and public opinion. When the English compiler of the present survey made some inquiry from his Canadian colleagues on this particular point, he received equally emphatic assurances from different quarters that either view was representative of a majority of the Canadian people.

The following passages from the majority report of the first-cited of these two study groups in Ontario do, however, appear to follow a middle path between the two extremes:

Canadian national sentiment unmistakably approves of Canada's present status and position in the Britannic Commonwealth, and recognizes the fundamental importance to Canada of the maintenance of friendly relations with the United States. . . . We are of opinion that co-operation in foreign policy in matters of common interest is advantageous to the various members of the Commonwealth. We realize that there are certain disadvantages in such co-operation, e.g. that it is difficult to decide what is a matter of common interest; that the obligation to consult other members of the Commonwealth may hinder a member state from acting quickly when quick action may be of value; and that it is sometimes difficult to assign responsibility for action or inaction by member states since they are able to plead that their action or inaction was necessitated by their desire to maintain a common foreign policy for the Commonwealth.

We believe, however, that the disadvantages are outweighed by the advantages, e.g. that co-operation in foreign policy enables a Dominion to influence directly the opinion of a Great Power, the United Kingdom; and that it materially increases the influence

and prestige of the individual units in international conferences through their association with the other members.

We are of opinion that such co-operation must be fully consistent with the autonomy of the self-governing states and must have regard to the geographical situation and special condition of each state.

The report from which these passages are taken evoked the following comment from an individual student of international affairs in the same Canadian province:

By examining certain periods of the past it is possible to deduce therefrom a series of principles which have served to determine the constitutional, political, and defensive evolution of Canada within the British Commonwealth of Nations. These principles may be summarized as under:

(*a*) That no British people will submit to be taxed except by themselves or by their own representatives.

(*b*) That no outlying section of the British people can be compelled to accept just as much freedom as the Home Government is willing to concede.

(*c*) That, since 1859, the complete fiscal autonomy of the self-governing portions of the Empire has never been seriously challenged.

(*d*) That responsibility for local armed forces lies with the local elected legislatures concerned, which alone can determine their strength, the method by which they should be raised, and the means of defraying the cost.

(*e*) That a Dominion will decide whether or not it would take part in a war initiated by the Government of the United Kingdom, and, if so, the extent of its participation.

(*f*) That, whatever Governments may say or do in advance, when the security of the Empire or any important part is felt to be in danger, popular opinion in Canada will be the deciding factor in the action to be taken.

The significance of these principles is that the first five [(*a*) to (*e*)] have particular reference to those periods of peace when the element of sentiment is inoperative. But as soon as an emergency arises which may threaten the existence of any important part of the Empire, the last moral principle comes into operation and governs all other issues. It has done so in the past and there is no overwhelming reason which suggests that it will not continue to do so in the future.

Prior to the Great War a feeling prevailed in certain quarters throughout the Empire that the decentralized control consequent to the progressive application of the first five principles I have outlined constituted a definite severance of Imperial ties. This school of thought failed to appreciate the significance of the sixth or governing moral principle, and, irrespective of the lessons of the Great War, some do not yet understand its true implications. The British Empire is not a political but is a moral entity, and the all important tie which binds the Empire together finds expression in the governing moral principle.

It may, of course, be argued that this principle is no longer applicable. Such an argument, however, can be based on opinion only. The counter-argument is based on the facts of the South African War and the Great War, and on the fact that, within forty-eight hours of the Chanaq appeal, offers representing a potential force of some 80,000 troops had been received by the Department of National Defence.

It is obvious, then, that the greatest danger to Empire solidarity is to be found in any event or act which might cause the severance of these moral ties. It is also clear, in view of the fact that these moral ties only begin to make themselves felt in the event of war or a threat of war, that the one act which could bring about the severance of those ties would be a war entered into by one portion of the Empire, to further its own interests, without an adequate consideration of those of the sister nations.

Should the remainder of the Commonwealth refuse support to any one member whose existence was threatened, then the one unifying tie will have disappeared and the Empire, as we know it to-day, will have ceased to exist. Thus, a need not only is evident, but is essential, that a common Empire policy be followed on all major issues which may contain seeds of future conflict. It is appreciated that the minor and local issues of to-day, which of necessity must be subject to local control, may become the major and common issues of to-morrow. This difficulty, however, is not insurmountable; and, given a good measure of mutual understanding, co-operation, and common sense, it could be overcome.

So much for the Canadian views on the question of a 'British Commonwealth *bloc*'. It will be seen that they differ considerably from one another; yet they are all in substantial agreement with each other in their common contrast with the attitude adopted by a New Zealand writer in asking and

answering the question 'How can we preserve, or rather recover, the unity of the Empire?'

We can only answer this question by getting down to the bedrock of fact and elementary principles instead of losing ourselves in the mists of make-believe. This involves an investigation of the manner in which the unity of the Empire was maintained in the past, of the truth or falsity of the statements in the Balfour Formula, of the effect of the Statute of Westminster, of the danger of the present system, in which the several parts of the Empire are tending to assume the habit of the disregard of Imperial unity, and of the best method of restoring the effective unity of the Empire, and—this is where the machinery comes in—of securing the harmonious co-operation of the Dominions composing it. The conclusions at which I arrive are as follows:

That until the Balfour Formula we had an Empire in reality, whose unity was maintained not by allegiance to the King of the United Kingdom but by the supremacy or sovereignty of the Imperial Parliament with the British Cabinet as its Executive, and that we ought to have upheld the technical right of the Imperial Parliament to legislate for the Empire as a whole, the sole right of that Government to conclude treaties, to disallow acts and so forth where necessary for the whole Empire.

That by that Formula and the Statute of Westminster we have taken away that technical right and therefore prevented the machinery that still exists from functioning for the benefit of the Empire as a whole.

That the statements in the Balfour Formula are in essence incorrect, for each of the Dominions is not *in fact* autonomous, equal and *independent*, and that by pretending that those fictions are true and acting upon the pretence we are deluding ourselves and endangering the very existence of the Empire. Independence, autonomy, and equality may theoretically exist in law but they certainly do not in fact.

For our very existence as independent nations or states we are dependent on the British Navy, to which some of us make an inadequate contribution and others no contribution at all.

So far as the common defence of the Empire is concerned, we did before the Great War have a consistent harmonious and practical scheme for co-operation, but, in the reaction after the War and in consequence of the necessity for economy since the depression, we have jettisoned that, and become in consequence more dependent

than before on Great Britain. We have the raw material, but not the equipment and sinews of war.

Our existence, physical and commercial, depends largely upon effective dealing with the problems of and crises that arise in Europe, India, Egypt, China, and Japan, and possibly later in Africa. Here Great Britain must take action for the whole Empire in the long run on her own responsibility, either administrative or legislative, and that action will practically bind the units of the Empire, no matter what the Statute of Westminster says. The statesmen of the other units of the Empire have their hands and heads too full of their own troubles to study thoroughly and effectively those wider questions, and Great Britain must in the last resort act on her own initiative. Although by the Statute of Westminster we purport to have abolished the powers of the Imperial Parliament and Cabinet, legislative and executive, to act for the whole Empire, in fact England will have to exercise them and the Dominions will in effect be bound by such exercise.

The writer assumes it to be—

obvious that you cannot have a group of autonomous communities within an Empire. To constitute an Empire there must be sovereignty somewhere, a supreme body which in the last resort can speak for the legislative, in fact for the whole Empire. If the Empire is to continue in existence as an Empire one of two courses must be adopted:

(*a*) The continuation of the present system by which the Imperial Parliament is the supreme legislator for the whole Empire and every part of it.

(*b*) Federation with a federal parliament and executive, in reality easier to work than co-operation of a series of sovereign states.

But if we decline to adopt either of these courses, then we must act as independent sovereign states and, to what we agree, bind ourselves by a series of treaties or written agreements.

(vii) THE BRITISH COMMONWEALTH AND THE COLLECTIVE SYSTEM OF INTERNATIONAL RELATIONS

Whatever might be the greatest common measure of opinion in regard to an Empire *bloc*, there was in 1933, on the showing of these papers, a striking consensus of opinion —and this not only in Canada but in other British countries, including the United Kingdom—as to the intimacy of the

connexion, in the post-war World, between the British Commonwealth and the Collective System of International Relations. It is true that this intimacy is viewed by different observers in a number of different lights.

There were voices—though these appear to have been in a minority—which proclaimed the Commonwealth and the Collective System to be rivals which would be unable to coexist in perpetuity in the same world just because they occupied so large an extent of common ground. There was another and apparently stronger chorus of voices which proclaimed that the intimacy between these two great systems of international association was not a hostile but a harmonious relation; that they displayed a remarkable conformity with one another in structure and principle and ideal—the Collective System being *in posse*, on a world-wide range, what the Commonwealth was *in esse* as between a number of peoples scattered all over the face of the Earth and representing most of the principal regions, races, and religions of 'the Great Society' which had been called into existence in modern times through the ubiquitous expansion of the Western Civilization. In the eyes of most of the observers who took this second view, the Commonwealth and the Collective System, so far from being antithetical to one another, were manifestly interdependent. On this view, the special relation between those states members of the League of Nations and signatories of the Kellogg-Briand Pact who were also members of the British Commonwealth, was one of the most valuable assets which the Collective System possessed—partly because the Commonwealth relation which actually existed in the contemporary world between half a dozen fully self-governing states offered an ideal of what the relation between all the sixty or seventy such states in this world ought eventually to be; and partly because this happily associated Commonwealth group of states members of the League and signatories of the Pact was capable, through practical co-operative action, of doing more than any equivalent number of juridically sovereign independent political atoms to ensure that the Collective System should be an effective and abiding reality

in a Society for whose well-being, and perhaps even existence, a Collective System of international relations had now become indispensable. Conversely, the effective and permanent establishment of a world-wide Collective System was regarded, on this same view, as a valuable and perhaps indispensable security for the preservation of the British Commonwealth in the new world that had emerged from the Great War.

All these views may be illustrated by quotations from the collection of papers which the preparation for the Toronto Conference evoked.

The view that the Commonwealth was antithetical to the Collective System, and that in certain circumstances the two systems of association might become definitely incompatible, is to be found in the minority report of a study group in one of the Prairie Provinces of Canada:

It is in international control that Canada must find the basis of its foreign policy. While the World consisted of sovereign states, each intent on its own interests and willing to co-operate with others only for the advancement of those interests, she perhaps acted in her own interests in remaining a member of a group of states which, at the cost of some surrender of sovereignty, had achieved the substitution of law for force; but now that a beginning has been made in securing the abandonment of complete sovereignty on the part of nearly every state and something approaching the reign of law is at least subscribed to, it is doubtful if there will be much longer any necessity for a group-alliance within the World Order. The League has its obvious defects and limitations, but it at least is the partial realization of an ideal, and the probability is that, despite setbacks and failures such as we are now witnessing, as the size of the World goes on decreasing, the power of the League will increase and will eventually become large enough to establish the reign of law. This may be too optimistic a doctrine, but when one reflects on how far the World has moved since pre-war days, how infinitely far it has moved within, say, the last century, there seems to be ground for optimism. Tremendous changes in human organization, such as the limitation of the sovereignty of the sovereign state, are not to be brought about in a day.

Law, despite its defects and despite the ability of the rich and the powerful to warp its processes to their own advantage, might be defined as the means by which the weak control the strong; conse-

quently Canada, as a comparatively weak state, must take up its position securely upon the reign of law. It may well be that, in so doing, she will find herself on opposite sides from Great Britain. . . . In fact, the present Manchurian imbroglio in some measure constitutes such a case. . . . Despite the confusion of thought evidenced by certain of her statesmen, who, quite without regard to the real bearings of the case upon Canadian interests, have seemed inclined to share the British point of view unthinkingly, Canada would have nothing to gain and a great deal to lose by countenancing the Japanese law-breaker. Not only would she be affording encouragement in aggressive action to a power whose aggressions might some day be turned in her direction, but also, and chiefly, she would be ranging herself as a weak nation, whose safety lies in the rule of law and in the creation of opinion against a potential law-breaker, with a strong nation which dares break the law.

It is thus definitely dangerous for Canada to associate herself very closely in foreign policy with a country whose actions may diverge widely from her own best interests. Moreover, apart from the specific question as to the attitude towards the law-breaker, Britain, from her position, can hardly escape participation in Continental affairs; and, should another European war emerge from the present clouded relations of France and Germany, it would be very difficult for her to remain neutral. There would, on the other hand, be no reason whatever for Canadian participation; indeed, the Canadian people would be mad if once more they helped, as they did in 1914, to pull the French chestnut out of the fire.

Now the neutrality of part of the Empire, with parts engaged in war, could mean nothing less than the excision of that part from the Empire; consequently, the affairs of the British nations must take one of two courses: either the Empire must disappear and its place be taken by a number of British states having merely friendly relationships with each other—a course which, on purely sentimental grounds, the English-speaking populations of the Dominions would be reluctant to follow—or, if it is to continue and to maintain a certain unity in a world not yet under the reign of law, which implies a common foreign policy, at least in matters involving peace and war, a course to which this writer is opposed, then the dominating voice in the determination of that foreign policy must no longer be left with that section of the Empire which is most likely to embroil the remainder, that is, Great Britain.

In the Balfour Declaration of 1926, it was laid down that Great Britain, as the principal part, must for some time to come continue

to exercise the preponderant influence. So far as foreign policy is concerned, the time is fast approaching when (if a common foreign policy must be maintained) Great Britain, far from exercising the preponderating influence, must be prepared to give up the power of decision. If the Empire is to continue, and until the secure establishment of the reign of law, Great Britain must at all costs be kept out of European quarrels in her own interests.[1] Now that the Channel has, for practical purposes, disappeared, and London, from one of the most secure, has become one of the most exposed, of European capitals, Great Britain's policy, in her own interests, must come unpleasantly close to peace at any price. Still more so in the Empire's interests; for it is scarcely probable that mere sentiment could again stand a strain of the same magnitude that it stood from 1914 to 1918. Rather is it probable that another war, involving Great Britain, would see certain of the Dominions at once declare themselves neutral, that is, no longer British, and the others sooner or later follow their example. Thus, quite possibly in bad blood, the Empire would disappear.

The contrary view that the Commonwealth and the Collective System were not in conflict with one another, but in conformity, is expressed both by a contributor to a South African paper and by an Australian writer. And this pair of passages offers an amusing illustration of the extreme difference of emotional colour which it is possible to give to a substantially identical proposition.

The South African contributor presents the proposition in the following terms:

It appears to me that the search for any purpose common to the members of the Commonwealth which is not also common to the members of the League or indeed to the family of nations is a vain one. To my mind the Commonwealth is but a microcosm of the

[1] The same point is made, in rather more diplomatic language, by another Canadian commentator (already quoted on pp. 39–40, above) who, on almost every other question, stands at the opposite extreme of the political gamut.

'It is generally recognized that Great Britain, due to her geographical position, cannot, in her own interests, afford to ignore the possible implications of European events. It follows that one of the greatest threats to Empire solidity is to be found in the possibility of Great Britain intervening, on her own behalf, in the orbit of European politics, and that one of Canada's major tasks in the realm of inter-imperial affairs is to use every influence to dissuade Great Britain from intervening, without Commonwealth support, in the political affairs of other groups: in particular, Europe.'

League and as such a valuable one. Such machinery as it possesses may with profit be directed towards attaining the purposes of the League within the smaller body and outside it. It will thus serve the double purpose of defence and peace preservation. The introduction of fresh machinery within the Commonwealth would, however, only be justifiable on the failure of the machinery provided by the League. The energies of the members of the Commonwealth should be directed, therefore, to perfecting and supplementing the Covenant, a more far-reaching and praiseworthy ideal than the revival of an association whose primary purpose has vanished.

The Australian statement of the same proposition is so different in tone that it is not obvious at first sight that the writer is making the same point as his South African fellow student:

The starting-point of any consideration of the relations of these two entities is a realization of the surprising identity in form and principle of the Empire and the system established at Geneva. Since the War it has year by year become clearer that the essence of the Imperial relationship is to be found in the free association of its nation members co-operating together because of an agreement upon general principles based upon identity of language, tradition, constitutional usage, and community of interest. No coercive force exists to compel adhesion to any one policy. For practical purposes, unanimity of members is essential. Furthermore, the decisions of the collective whole (the Imperial Conference) must be ratified and carried out by the Parliaments of each part. Now this description applies equally to the League of Nations. The League is in fact the application on the international plane of precisely those principles which our own experience and history have gradually evolved as the guiding lights of the Empire. Britishers should realize that they have a particularly close concern with the success of the League, because it represents the application of their own great political discoveries to the world of states. If we believe the idea of free association to be a fruitful political principle, we should be proud to see this wider manifestation of it.

As a matter of fact, the paper in which the outcome of the preliminary discussions in South Africa is summed up shows that the Australian writer's attitude also had its South African exponents—

There was a very general attempt to set the Commonwealth up against the world background and, especially, in its relation to the

League of Nations. Two bodies of opinion emerged in the discussion. One saw in the Commonwealth the forerunner of the League and the necessary complement of it, and one or two holders of this view even maintained that for a time at least the interests of the Commonwealth must be put first; the other saw in the League the residuary legatee of the Commonwealth and desired that it should enter into its inheritance with all possible speed. But both groups would agree with the Australian correspondent who saw the chief value of the Commonwealth in the fact that it was 'a convinced experiment in practical internationalism',[1] and its citizenship the nearest approach there is to world citizenship. Both again agreed that nothing but good could come of an attempt to bring the Dominions into a closer fellowship and a better understanding of one another's problems, thereby setting an example to the rest of the World, an example which might lead to regional co-operation. At the same time hardly any of those who looked to the long-continued existence of the Commonwealth as the counterpart of the League had any sympathy with the idea of an economic or political *bloc*, even if, as Rhodes once saw it, the object of the *bloc* was to secure perpetual peace. Any such attempt must provoke antagonism within and without that might well be fatal to the Commonwealth.

A similar view is set forth in a paper written in the United Kingdom:

Co-operation between the self-governing units of the British Commonwealth is desirable for two reasons. It is of value, first, to the peoples of the Commonwealth for whom membership in a world-wide association of free political communities brings increased assurance of peace and well-being together with the dignity and moral enrichment resulting from enlarged experience and responsibilities. It is of value also to the World as a whole. For the unity in diversity of the Empire is at once a bulwark of peace and a working example of political method.

One quarter of Mankind is comprised within a single political system between the parts of which war has become unthinkable. How great an element of stability this contributes to world politics it is impossible to measure. It can perhaps be dimly realized by trying to imagine what would be the prospects for the peaceful development of civilization if the tie linking the various communities of the British Commonwealth had been dissolved and each of these was revolving within its own particular orbit.

[1] The Australian paper from which this phrase is quoted is not the paper in which the passage, just cited in this survey, occurs.—*Editor.*

The British Commonwealth in the form which it has assumed since the World War is indeed a unique political experiment. Never before in history have liberty and order, the two rival but complementary principles inherent in every political society, been so successfully blended over so wide an area. . . .

The significance of the British Commonwealth is that it represents a political system which is in the strictest sense ethical. It consists of a group of independent nations 'in no way subordinate one to another' which have known how to enlist the free energies of their citizens in the public service. Co-operation between individuals and between groups within the state has made co-operation in external relations natural and easy. Hence it has come about that the possibility of war between the free British communities has become as incredible in reality as the Kellogg Pact has sought to make it between all the states of the World. Hence too has come about a general agreement as to the desirability of working out a system of co-operation in matters of common concern both within the British Commonwealth and in the World as a whole. The attempt to evolve a system of this character has seemed so natural that one is tempted to overlook the fact that in its harmonious blend of liberty and order it represents an entirely novel contribution to the political experience of the World.

The value of the Commonwealth to the World as a possible pattern for a satisfactory international order is discussed by an Australian-born Australian writer who has been quoted in this survey already:

I regard the existence of the British Commonwealth of Nations as affording (perhaps as its most significant aspect) favourable conditions for the development of a genuinely international order—in other words, as a symbol of a convinced experiment in practical internationalism. These British nations suffer from almost all the conflicting elements of policy which distract the international community as a whole, and likewise have all the common interests which members of the international community have to draw them together; and at the same time they have in their common origin a powerful reinforcement of those common interests, and a check (more or less powerful) on the elements of conflict which they have among them. The preservation of the Empire affords favourable conditions not only for the attainment of uniform standards in the handling of matters of common concern (like shipping or the treatment of resident foreigners), or drugs or for co-operative effort in

research, or for the development of genuinely international administrative machinery; but also for the solution in microcosm of such international problems as migration, currency, and tariffs. The British Commonwealth of Nations, by its very existence, symbolizes the common interests that nations have in the modern world one with another, and a determination on the part of the member nations to develop these common interests without the compulsion of superior force. And here, I suppose, one comes upon the capital fact of Empire. The existence of the British Commonwealth of Nations affords favourable conditions for an experiment in internationalism because one can say confidently (or I suppose one can now say confidently) that as between the member nations war has definitely and genuinely and effectively been outlawed.

The view that the preservation of the Commonwealth depends on the effective establishment of the Collective System may be found expressed both in a paper from Australia and in a paper from Canada; and, here, again, there is a difference of tone and colour in the presentation of an identical point.

The Australian writer makes his point in the following language:

It is time we began to see that the pre-eminent position which Great Britain occupied for so long during the nineteenth century belongs to an age that is past. Recognition of this kind is not 'defeatism'. A variety of historical factors led to the emergence of Great Britain first among the industrial countries of Europe and America. But the World has grown up to ourselves. If we still desire to be first, we must remain first among equals. Economic facts, financial influences, and industrial growth all alike prevent us from maintaining that primacy based upon predominant force which we occupied for so long. Similar situations have occurred frequently enough in history before. Generally, a predominating power has learnt its lesson of changing circumstance by ultimate defeat in war alone. If we persist in clinging to theories no longer consistent with facts, the only upshot will be a repetition of the same disaster. But the wider possibility is open to us: to recognize the new world situation, to adapt ourselves to the changed circumstances. And by taking the lead in an organization of a new system of freely associated nations we should demonstrate again what is the proudest boast of British people, namely, the practicality and common sense with which they have developed their political institutions. Voluntarily to perceive

the need for a new policy, to slough off the worn-out scheme labelled 'predominating power', and willingly to take our place as predominating partners with the other Great Powers would be no sign of weakness. It would be the crowning glory of that political leadership by which British self-government has become the model for the whole World.

Substantially the same point is made in the Canadian paper (the majority report of a study group in one of the Prairie Provinces) in the following terms:

As the great experiment of the British Commonwealth faces the future, it is reasonably apparent that its disintegration or permanence, reduced to simplest terms, is disintegration in a War World, or continuance in a Peace World. It is not necessary to labour this point; for, given a Peace World, we have no insurmountable problem; but, given a War World, such problems are many and disintegration becomes merely a matter of time.

This being so, the establishment of a Peace World becomes the dominating necessity for the Commonwealth as such, and our idealism as world citizens. Empire foreign policy, therefore, should be unalterably dominated by the objective of a Peace World, and Commonwealth co-operation in every sphere should never be such as to be detrimental to the cause of international understanding and World Peace.

It follows that our primary concerns are the development and observance of international law, the observance of international obligations, the development of international machinery for removing injustices which changing conditions create or disclose, international co-operation in every sphere, and the upholding and strengthening of the League of Nations as the greatest potential influence for the accomplishment of these ends. Any Empire conduct or Commonwealth co-operation which is detrimental to these greater interests should be unhesitatingly avoided, not only because it is right that it should be, but because, taking a long view, it is in the interests of the Commonwealth that it should be.[1]

In the opinion of the Australian writer above quoted, the dependence of the Commonwealth upon the maintenance

[1] This passage was commented upon by a Pacific Coast group as follows: 'Some of the contrasts between a Peace and a War World seemed ludicrous. Of course the break-down of the League in the Far East has occurred since the memoranda sent to us were compiled. We are not clear whether those who think that the British Empire cannot survive in a War World classify the present world as a Peace World or as a War World.'

of World Peace has been realized as vividly, and has been acted upon as consistently, in the United Kingdom as in Australia and in Canada:

As Foreign Secretary has followed Foreign Secretary at Downing Street, we have had pronouncements from Conservative, Liberal, and Labour Ministers alike that the foundation stone of British foreign policy is to be found in co-operation with the League. Australians tend to think of these statements as mere generalizations not expressive of any real or substantial view points. This is not so. The real substance of the matter is this. The Empire depends upon the maintenance of World Peace. This means not merely that it gains prosperity from peace, but that the system of co-operation itself can only develop and reach its highest form in a world in which the constant comparison of force and the multiplication of insecurity is eliminated. The Empire is not a satisfactory organization viewed as an instrument of power. Its freedom and looseness of organization and marked independence in its parts are positive disadvantages viewed from that point of view. Hence the great truth of the British perception, inadequately recognized as yet in some of the Dominions, of the value of Geneva for our own political family.

The importance of the Collective System for the well-being of Canada in particular, as well as for that of the Commonwealth as a whole, is emphasized in two Canadian papers.

In the report of a group which met in a great Canadian commercial city, it is found that:

The problem of peace is a world problem, not a Commonwealth problem, and the League of Nations, despite obvious weaknesses, is the most hopeful attempt yet made to introduce law and order into world politics. It follows that the maintenance of the collective world system for securing peace is more important to Canada than the maintenance or extension of an Imperial defence mechanism.

Fortunately, this view is not at all incompatible with Imperial co-operation; indeed, it increases the scope and possible benefits of co-operation. The immediate purpose of such co-operation should be to achieve a more general understanding of and wider agreement upon every subject of mutual concern. Commonwealth co-operation would also serve as an interesting example of what could be done in one form of association between different states; but its ultimate aim should be the promotion of the peace and steady

progress of its members and of Mankind through all appropriate forms of intellectual and economic co-operation between nations both inside and outside the Commonwealth.

Another report of a series of discussions which took place in the same city drives the same point home:

The League of Nations naturally claimed recognition as an instrument for maintaining peace and as our most important point of contact with Continental Europe. In the past, Canada has been at Geneva a last-ditch defender of individual sovereignty. She has scouted any idea suggestive of a super-state, chiefly on two grounds —first, that this concept of a super-state has been one of the main obstacles to American participation in the League, and secondly because she has shared the reluctance of the United States to become too closely committed to European responsibilities.

It was felt that Canada should modify this attitude which had tended to prevent the League from being more effective. Indeed, Canada's generally passive attitude towards Geneva was frequently commented on. Despite the practical importance to her of the principles for which the League is working, Canada had failed to make the useful contribution she might have made as the only North American or British-American member, and it was frequently suggested that she should co-operate more whole-heartedly in the activities of the League and assume a greater share of responsibility for its work. Reference was also made to the desirability of some continuity of representation, the early and careful selection of and preparation by delegates, and of fuller discussion of League questions in Parliament and by its Committees.

(viii) THE HEART OF THE MATTER

The compiler hopes that this survey may give the reader some notion of the diverse points of view on policy which find expression in the Toronto Conference preparatory papers. It would be almost certainly misleading and quite certainly officious to attempt anything in the nature of a summing up; but it is possible that the heart of the matter may be found in the following passage from a paper written in Australia:

Ultimately the purpose of the Empire must be found, and is to be found, in the moral or spiritual sphere. And this too seems confirmed by our actual experience and consistent with the quality of

our feelings. What distinguishes this group from the closest of military alliances or the most expedient of economic relationships? The distinction is to be found not in the *content* of the actual relations between the partner communities, but in the *quality* of them. They are, in short, in the ultimate sense, moral relationships. It is not only that the partners would not willingly depart from law in the conduct of their policies as regards each other but that they are actuated to no small extent by those higher feelings which we call moral—which developed individuals display to other members of the community by the kind of standards in which they live. Charity is conceivable between them—free gifts. Is this conceivable between nations strictly foreign to each other—nations which would be astute to observe any relevant law scrupulously? Governments do not as a rule feel capable of acting towards other governments upon any basis higher than expediency. Let it not be forgotten that expediency may dictate an adherence to law and recognized forms, that it may point to co-operation. Nevertheless, whatever ought to be the case, international relations in fact to-day are at their best the product of an enlightened self-interest—but essentially of a nationally ego-centric psychology. There is a difference in quality —in feeling-tone—between the relations between states and between the Imperial partners.

Is not all this, it will be said, remote, idealistic, unpractical? Surely not. It is crucial for the modern world. If ultimately developed states, reasonably identical in structure and organization, cannot achieve some such moralization of their relationships, our civilization is doomed. Is this impossible? The Empire suggests it is not. It is true that between the constituent communities of that unity there is much similarity in political structure and law (with marked exceptions in Canada and South Africa), a common language (again with exceptions), and common history and traditions. But in the last resort are these common elements different in kind from the common elements in the advanced states of Western Civilization? They are not. They differ only in intensity. They thrive and develop because no opposing forces of fear, insecurity, and traditional antagonism check and distort them. The Empire is significant because it shows not what Englishmen are but what human beings can be.

B. POINTS OF VIEW ON PRACTICAL MACHINERY

Compiled by G. M. GATHORNE-HARDY

1. CO-OPERATION IN THE CONDUCT OF FOREIGN AFFAIRS AND IN OTHER BUSINESS

(i) INTRODUCTORY NOTE

THE facts of social life are never static, since life consists in action. On close inspection this is always found to be true of the institutions and ideas of even the least mobile societies, and it is true, *a fortiori*, of the peoples of the British Commonwealth in the post-war years. Like some troupe of performing animals who are so eager to do their tricks that they can barely wait for the showman to stretch the tissue-paper across the hoop before they leap through it and tear it to ribands, the peoples of the Commonwealth in this age of change and growth were apt to turn each successive *status quo* into an anachronism almost before it was established, and this habit is illustrated by the contents of the papers that were contributed to the British Commonwealth Relations Conference of 1933.

As a matter of fact, comparatively few of these papers concerned themselves to any appreciable extent with machinery. Some papers, however, which gave descriptions of various parts of the existing system went on to suggest the possibility or desirability of changes; and when these suggestions are collated and analysed, they present an interesting picture of the alternative possibilities of development to which the institutions of the Commonwealth are open at this moment.

A paper prepared by the United Kingdom Group in London contributed a valuable summary of the conditions requisite for the adequate application of the principle of free co-operation:

(i) That each Government should have at its disposal all the essential information relevant to the question, both in its origins and in intermediate and most recent developments; it may often

occur that, just previous to the moment when decisive action has to be taken, the conditions and atmosphere of an affair undergo more or less subtle changes, which it is indispensable that all the Governments should appreciate. An ideal system of information therefore requires that there should be available for each Government:

(*a*) Adequate material relative to the background of any questions likely to demand decision at any time;

(*b*) Constant communications with regard to the most recent developments in any question as the time for decisive action approaches.

(ii) The second chief requirement is that the Governments should be able to consult and, if they wish, co-operate as to their respective lines of action in any given case with an absolute minimum of delay. The degree of delay necessary depends on:

(*a*) The adequacy of the information at their disposal and the machinery they have for the purpose of making use of it.

(*b*) The degree of personal contact possible between responsible representatives of the Governments and the extent to which they enjoy the confidence of their Governments; or, failing such personal contact, the adequacy or inadequacy of communication between the Governments direct by cable, wireless, or telephone.

(*c*) The extent to which a lead given by any one of the Governments can be effective in enabling the others to formulate a policy.

But the proposals with regard to Commonwealth machinery which it is the object of this section to preserve will be found to have emanated, to a very large extent, from two Dominions only, Canada and Australia, and indeed are mainly drawn from two of the numerous papers submitted. It was possibly due to the absence of such an organization as is represented elsewhere by an Institute of International Affairs that South Africa was found to have put forward no views on this topic. New Zealand confined herself to wistful expressions of preference for the old régime. And perhaps constructive suggestions on co-operation were hardly to be expected, in the midst of an acute local political crisis, from the Irish Free State, which did, however, make an important contribution on the question of the Privy Council.

It must be added that the points of view which were put forward in preliminary papers in regard to the existing facts were not solely concerned with suggestions for change. The situation was so fluid that on certain points—e.g. on the question of the position in international law of individual members of the Commonwealth in the event of war—there was a sharp difference of view as to what the existing facts actually were. An instance of this was the discussion of the problem of the juridical unity or plurality of the British Commonwealth of Nations *vis à vis* foreign Powers, which is dealt with in the annex to this section. It has seemed wiser to exclude these fields of controversy from the handbook on *Consultation and Co-operation in the British Commonwealth* which is to be issued as a companion to this volume, in order that it may be as non-contentious and as objective as it is possible for any statement of human facts to be; and accordingly these exceptional topics, in which the facts themselves were in controversy, have been included in the present section, in addition to the survey of views as to whether any of the uncontested facts called for change.

Although for the convenience of the reader it seems desirable to follow as closely as possible the order given in the factual handbook, the conspicuous position of some headings by no means represents their importance as subjects of discussion. For example, it was logical, in surveying the existing system, to lead off with the Governor-General, as the technical representative of the common Sovereign. But, in the exchange of opinion on questions of improvement in machinery there was practically no discussion under this head, since, as a channel of communication, the Governor-General had—except in New Zealand, where the earlier system was maintained—ceased to function.

(ii) THE IMPERIAL CONFERENCE

To some extent, a similar lack of interest was natural in regard to the Imperial Conference. The machinery advisable to make good its main defect—absence of continuity—was felt to fall under other heads, while the Conference itself, so far as it went, and within its necessary limitations,

was generally regarded as an admirable instrument of consultation and co-operation. As an Australian paper expressed it:

The Imperial Conference from its constitution fulfils in the highest degree the requirements for co-operation among Governments. The persons are those who, more than any other members of the Ministry, personify the Government and can speak most authoritatively in its name, and in the name of their country. They are for the time being in contact, not only with the British Ministers, but also with each other: the Conference, as has been often affirmed, is a Conference of Governments. For foreign affairs, as for all other matters, the Imperial Conference, as Sir Tej Bahadur Sapru pointed out in 1923, is not to be measured merely by its success in devising methods of co-operation in particular subjects; it has a great function to perform in preserving and promoting the conditions necessary to a willingness to co-operate. For matters of foreign affairs pending or impending, at the moment, upon which action or attitude must be taken, there are present those who hold in their hands agreement and co-operation, and such has been the crisis in international affairs that almost at no time since the War could a Conference have been held without finding some urgent matters of the first importance to engage its deliberations, so that the meeting would be most opportune for their discussion.

The same contribution does indeed express a doubt whether the Conference, while in session, is always exercising the functions appropriate to it:

The crowded agenda of the Conference, its miscellaneous character, the multitude of engagements and ceremonies which rightly mark such a gathering, the special interests with which Ministers come charged (e.g. the constitutional questions which have dominated South Africa and the Irish Free State, the insistence by Australia on economic issues) are all factors hostile to a concentrated attention upon any one thing, and are fatal to attention to anything which is not plainly urgent. The idea of the Imperial Conference as the source of great principles which shall guide and direct policy involves a misconception both of the Conference and of foreign policy. There are indeed many matters, including some of the first importance, in which policy should be examined in relation to agreed principles, or principles themselves reviewed—long term problems such as the Open Door, the implications of the equality of races, immigration, matters such as Zimmern speaks of

as outside the zone of agreed principles of international relations. Principles in this sense are the last things that can engage the Imperial Conference in its crowded hour, though formulas may. But the notion that principles and policy can be determined and laid down at the Conference, subject to such subsidiary or supplementary arrangements as their execution may involve, is based on a false analogy to those matters in which all the major factors are known and fixed, where firm agreements may be come to, liable only to possible variations and adjustments in execution in matters of detail.

But the general attitude implicit in many of the papers, and expressed in that above cited, was less one of criticism directed against the Imperial Conference in itself, than an appreciation of the growing necessity for continuous personal contacts, which the Conference, meeting only at long intervals, did not and could not provide.

The very glamour of the Imperial Conference itself has encouraged a view which depreciates the intervals between Conferences, and treats them as something subsidiary. Actually, of course, foreign affairs is a sphere in which major facts are constantly emerging and have to be dealt with in a rapidly changing situation, the facts and the situation consisting in the events and policy of foreign countries and our own. These are the conditions in which those in charge of a country's foreign policy have to live and work and in which decisions have to be made. If, in Mr. Dafoe's words,[1] the British Empire is to function as a diplomatic unit when large questions of common interest emerge, and if effective understandings are to be arrived at, a quadrennial or even an annual meeting, or any system whereby people have to be summoned from long distances and after prolonged negotiations, is inadequate in view of the subject matter and the character of the responsibilities of Great Britain and the Dominions alike.

(iii) NECESSITY FOR CONTINUOUS PERSONAL CONTACT

There seems, in fact, to be no serious problem with regard to the Imperial Conference itself; the difficulties arise during the long intervals when this means of consultation and co-operation is not available. The point is

[1] In *Canada and the British Empire.*

concisely made in a contribution from a group in the United Kingdom:

Sessions of the Imperial Conference have in the past proved the most fruitful occasions for the laying down of broad lines of policy to be pursued with regard to the major issues current at the time. But it is not to be expected that within a few months of the close of the sessions the conditions of the problems discussed at them should not have changed; and, as a result, modifications in policy become necessary.

It is therefore during the long periods between sessions of the Imperial Conference that the problem becomes most urgent.

During these intervals there are, as the same paper points out,

two main channels of consultation available, either or both of which may be used to deal with any one case, namely:

(i) Correspondence between Governments or Prime Ministers by cable, wireless, or telephone.

(ii) Personal contact between representatives of the Governments in each other's capitals.

The first of these channels has been the most used in the past. But it suffers from the very great drawback that personal contact is eliminated, and when it is a case of consultation between all the Governments, this fact must have paralysing consequences, even if any one of the Governments can give a lead.

With this view as to the paramount importance of personal contacts the Australian paper already cited is in agreement:

So far as concerns means that can be provided by the British Government, probably these have now been exploited to the full in the present conditions of telegraphic, telephonic, and postal communications. . . . Mr. Bruce declared that as Prime Minister of Australia he was better informed in matters of foreign relations than any British Cabinet Minister except the Prime Minister and the Foreign Secretary.

But, as the same paper points out, 'arid facts are not information; they must be interpreted and their significance ascertained before they have value'.

The necessity for personal contacts is thus evident even for the effective exchange of news, but this, after all, is a

comparatively small part of the field of intra-Commonwealth communication which the new status of equal partnership renders it essential to cover. The Australian writer continues:

> Negotiation between Empire Governments upon matters of policy is an essential part of the new system—co-operation through agreement. But the value of personal contact extends far beyond specific negotiations, and particularly in such an association of states as the British Commonwealth. To each government it is the opportunity for engaging the attention of the other, of enlisting its sympathy, of removing misapprehensions and presenting its own view of impending events and tendencies, of learning and pointing out their bearing, of gauging the conditions within which each in its own country has to form its policy, and of bringing all this to bear upon such a shaping or modification of policy as is most likely to secure mutual approval and support.

We have already departed to some extent from the strict lines of the arrangement adopted in the factual *Handbook* published with this volume, and from this point the trend of the arguments to be extracted from the preliminary papers makes such a classification increasingly difficult to apply.

Even where a remedy on the lines of an Imperial secretariat was touched upon, there was a tendency to merge the problem of intra-Commonwealth consultation between Conferences at a common centre with that of the machinery for day-to-day communication between individual Dominions and Great Britain, nor was any hard line drawn between the functions of communication and consultation.

Moreover, the constructive suggestions made for the solution of these overlapping problems were too diverse to be considered under one head. There was the proposal, in some form or other, of an Imperial secretariat; there was a proposal for the appointment of resident Ministers seconded from the Dominion Governments; and finally there was the more modest, but perhaps more generally acceptable, suggestion that the situation could be adequately met by a change in the status, or function, or both, of the Dominion High Commissioners in London.

(iv) IMPERIAL SECRETARIAT

The principal advocacy of something on the lines of a central secretariat came from an Australian paper.

There are now [said the author of this document] in the hands of every Dominion Government, as of the British Government, the views of every other Dominion Government so far as it has made them known on every matter of importance: these are sent from London, or sometimes communicated directly by a Dominion Government. What is required is that these should be discussed in common, not at long range by mail or cable, but in personal conference by the representatives of all as the occasion required. The result of the deliberations—the reports or recommendations—would be communicated to the several Governments. No conclusion would be more than recommendatory to the several Governments, and the representative of a Government would, of course, communicate to his Government his comments and personal opinion. The course of events would determine the occasion and the frequency of such meetings. Beyond that, it should be the right of any Government to refer any matter for consideration; the dissent of any Government from such reference would mean that it did not agree to its representative taking part in it.

There is other work of a 'staff' or 'intelligence' kind to be done; and if co-operation is to be achieved this work should be pursued in common. Facts and situations have to be studied, principles and their translation into policy, including the long-term matters to which reference has been made, and including also the reactions that may be expected in the policy of foreign countries to phases of the domestic policy of Great Britain or the Dominions, or to conditions and changes there, as well as the effect on policy, whether of the foreign country or of ourselves, from conditions abroad. This is expert work, and would call for preparatory studies, explorations, and discussions by officials among themselves, prior to review by the political representatives.

Briefly, there seems to be required a flexible organization which would act in foreign affairs in a manner comparable with the Committee of Imperial Defence in its sphere, and it might well have the same flexibility of constitution, its meetings consisting of technical experts or advisers, or of Ministers, or of both as the matter required. Recent years have provided a good deal of experience in international conferences, in the Imperial Conference, and in the Committee of Imperial Defence, of the methods of co-ordinating political and

technical work in the co-operation of political units, and this body of experience would aid in determining the matter and the occasion for the politician and the expert and their relation to each other.

Such an organization as has been described (it might be known collectively as the Committee of Foreign Affairs) would in addition to what has been already stated effect or promote the following services:

1. For the Imperial Conference it would in foreign affairs perform the preparatory functions of a secretariat.

2. Its proceedings would suggest to Governments themselves, or on reference from the Committee itself, matters for which discussion in the Imperial Conference was most essential.

3. It could consider the essentially political matters of general interest likely to arise in the Council or the Assembly of the League of Nations and in the associated conferences or bodies. Following such meetings, it is often useful to make up what is sometimes called the political 'balance-sheet'; that would be work of the Committee.

4. Each member of the Commonwealth would commonly be represented at the Assembly of the League as delegate or adviser by some one closely associated with the work of the Committee; frequently its principal representative on the Committee would be its first delegate to Geneva. This should promote co-operation there.

5. At meetings of the Council of the League, a Dominion with a seat on the Council would probably be represented by the person who was its chief representative on the Committee. Dominions not having a seat on the Council and not maintaining a permanent representative at Geneva could with advantage often send an officer connected with that work in the Committee to act as observer during sessions of the Council.

6. What applies to proceedings of the Assembly applies also to other international conferences at which Dominions are represented, thus facilitating the consultations prescribed by the Imperial Conference.

7. In all cases, whether at Geneva or elsewhere, officers associated with the work of the Committee could serve as trained *liaison* officers to delegations.

The scheme suggests, of course, a comparison with Mr. Lyttelton's 'Imperial Council' and subsidiary commission of 1905, and Mr. Lewis Harcourt's Standing Committee of the Imperial Conference of 1911. It will not do to dismiss a proposal merely because it recalls some features of schemes of yesterday. In the first place

we have arrived, as we had not arrived then, at a stage in which the existing machinery is inadequate and as such endangers both the conduct of foreign policy and Empire co-operation. Contrasted with Mr. Harcourt's observation in 1911 that his scheme did not represent any conscious want on the part of the Home Government, we had in 1924 the almost plaintive and certainly insistent assertion by Mr. Ramsay MacDonald and Mr. Thomas of the need of some new arrangement, as a condition of carrying the responsibilities cast on them under the new régime. The objection that no such conference was called for because the Dominions could each of them discuss its own business with the British Government ignores the obligation if possible to work out a policy accepted by all. The fear that a continuous conference in London might prejudice responsible government in the Dominions has no place in view of the established status of the Dominions. The supremacy of the British Government in foreign relations, the immediate subordination to it of any machinery for foreign affairs, the tenuous hold that the Dominions had on information and consultation in foreign relations, made the Dominion Governments reluctant to see any organization interposed between the British Government and themselves. There is now, of course, no question of subordinating an organization to the British Government in any sense in which it is not subordinate to the Dominion Governments; it would be advisory to each and no more than advisory to any; decision would be with Governments. It was in fact commonly said that when the road was cleared of constitutional difficulties with their suggestion of superiority and inferiority, the way would be open for constructive measures of co-operation.

As against this plea must be set the conviction of one Canadian group

that the creation of any formal body in London which would have even the appearance of an attempt to determine a foreign policy for Canada would fail to carry with it Canadian public opinion;

and a confident assertion from a Prairie Province of the same Dominion as to the 'inadvisability' of the solution proposed.

Put to a similar test the suggested formation of a central Commonwealth secretariat for foreign affairs, and/or the appointment by the Dominions of members of their respective Governments to be resident in London, for the purpose of developing unity of action in foreign affairs, and we must surely recognize their inadvisability.

Leaving aside altogether the matter of their probably leading to misunderstanding among the British nations themselves, we must surely admit that the effect of any such development upon world opinion would be detrimental to the cause of international understanding. It would be puerile to expect the World to believe that such centralization was motivated by a desire to promote international understanding and world peace, but on the other hand it would naturally be interpreted as a move to serve primarily interests of Empire, with only secondary regard to the effect upon the greater cause.

(v) RESIDENT MINISTERS

It was on the same grounds of policy that the Canadian paper last-but-one cited also rejected the alternative proposal favouring Resident Ministers from the respective Dominion Governments. On these two matters Canadian opinion as expressed in the preparatory documents seems to have been practically unanimous and is thus stated, as an 'agreed conclusion', in the general introduction prepared for the series of papers contributed by this Dominion:

That co-operation and consultation among the states of the British Commonwealth must not imply the creation of any formal or informal body aiming directly or indirectly to determine a foreign policy for Canada. With this in view there is agreement in opposition to the idea that the Canadian High Commissioner in London should be a member of the Ministry in office in Canada.

The argument in favour of this attitude, so far as it relates to the proposal for Resident Ministers, was developed in one of the Canadian papers already referred to:

In favour of political representation it may be urged that what would be in effect a Resident Minister of the Dominions at London would carry more prestige in dealing with the Government of the United Kingdom, and would be more closely in touch with the administration at home, than would be possible for a diplomatic officer. These appear to be the only advantages in such representation. But on the other hand political representation is an innovation and as such raises some curious problems. Could such a representative be considered to be part of a responsible Ministry at home? If so, could he bind his fellow Ministers and country or is he merely the agent of the Ministry and as such responsible to them?

There are difficulties in working out exactly the status that such

a representative would occupy, and his position could be easily misunderstood by the Government of the United Kingdom, and this misunderstanding or misconception might result in confusion and error when serious issues were in the balance. Moreover, as a political figure the dispatches of such a representative sent from the United Kingdom to the home country would be likely to be coloured more by party considerations and by courses of action profitable to the party than would be the case with a permanent diplomatic officer. The impersonality of the permanent official would be lacking. Further, the presence of political representatives of the Governments of each of the commonwealths in London would provide the setting and encourage the development of a kind of Imperial Cabinet working in conjunction with the Ministry of the United Kingdom. The trend would be towards the centralization of authority of affairs in connexion with the British Commonwealth of Nations in London which it would be very difficult to combat did it prove unsatisfactory to the Dominions.

And the matter was summed up by a group from one of the Maritime Provinces in the following words:

Some members of the Committee were of the opinion that if a resident Canadian Cabinet Minister were in London who had the confidence of his Government the functions of exchanging information and consultation with the British Government could best be performed. The majority were convinced, however, that this would be less satisfactory than an exchange of High Commissioners for the following among other reasons:

(*a*) A Cabinet Minister, being engaged in active politics, would be handicapped by being subject to the counter-pull of party politics.

(*b*) Such a system would tend to centralization of power in London.

(*c*) The scheme would involve virtually building up a second Canadian Department of External Affairs in London.

(*d*) Unlike a Cabinet Minister whose tenure of office would be subject to the exigencies of party politics, a High Commissioner could be a 'career man' and kept at his post indefinitely.

(*e*) A Cabinet Minister would be equally apt to become out of touch with the attitude of his colleagues at home as would a High Commissioner, and unauthorized commitments by the Cabinet Minister would be both more likely to occur and more serious than in the case of the High Commissioner who would be only a diplomatic agent.

While recognizing certain practical difficulties, the attitude of the United Kingdom group to the appointment of Resident Ministers is, on the whole, more favourable.

It is evident [they say] that, from the United Kingdom point of view, it is a great advantage to have a Resident Minister in London who can rely on the fullest support of his Government in all political matters, and it seems probable that an increase in the interest and responsibilities of the office of the High Commissioner would tend to attract more men of ministerial potentialities and capacities. On the other hand, it must always prove difficult for at any rate some of the Dominions to find many such men who can be spared from domestic politics or who wish to be absent from them, and, in the case of a Minister, from their constituencies for long periods.

There is the further consideration that a Minister who is long absent from his colleagues may embark on a policy which will lead to dissension in his Cabinet.

Still more definitely in favour of this device is the reasoning embodied in the Australian paper which has already been cited in other connexions:

The question whether the High Commissioner of a Dominion should be assimilated to a diplomatic representative at a foreign court, or should be a member of the Dominion Ministry resident in London, has been discussed.[1] For Australia, Mr. Bruce in 1925[2] declared himself against the 'Minister' and in favour of the 'Ambassador'. Earlier discussions of this subject, and the views expressed against the system of a Government being represented in London by one of its own members, are somewhat vitiated by the fact that they took place in conditions differing substantially from that which has been reached to-day. For one thing, the Dominion Governments are direct advisers of the King and constitutionally should be in personal relations with him through one of their number. For another, their responsibilities are vastly greater, and that has imposed new responsibilities on the British Government. The position is very different from that in 1905, 1907, or 1911 when the British Government's proposals did 'not represent any conscious want of the Home Government' (to use Mr. Lewis Harcourt's words). Even under the old régime, the discussions with Sir Robert Borden in 1912 came near to the institution of such a system so far as

[1] See articles on 'The Dominions and Foreign Policy' in *The Times*, February 1925, especially February 6th, 1925.

[2] *Melbourne Argus*, August 26th, 1925.

Canada was concerned. It is significant that in times of stress, in foreign or other affairs, Dominions have been represented in London by a member of the Ministry. The identification of the Ministry with an absent colleague and their feeling of loyalty to him, as the assurance of his loyalty to them, would give much greater weight to his representations than any that a Dominion Government would be likely to give to any one holding any other status. The 'Ambassador' is in some respects, perhaps, a false analogy. He is one of many tentacles of a Foreign Office which receives reports from its representatives in all parts of the World and is itself in personal contact with the representatives of many other countries. A British or French or German Foreign Minister can claim to be better informed and in a better position to form a judgement of all the factors in a situation than any of the diplomatic representatives abroad. No doubt the presence of a British representative in the Dominion and an extension of foreign diplomatic representation there may improve the position in the Dominion capital. But in general the Government's representative in London is likely to be in a better position than his Government to gauge all the factors of a situation except those which belong to the internal condition of his own country. It may of course be difficult to detach a Minister for a period, but similar difficulties have been experienced in regard to a High Commissioner. The difficulty might be diminished if Ministers took the position in turn, say for a year. The disadvantage of the absence of a particular Minister at a general election is no doubt a thing which weighs. Is it too much to hope that a 'gentleman's agreement' might secure the absent Minister immunity from opposition at an election?

(vi) USE OF HIGH COMMISSIONERS

A more substantial measure of agreement may, however, be traced in the preparatory papers in favour of the proposition that continuous personal contact between responsible representatives of the Dominions and the United Kingdom Government is desirable. This, as the Australian contribution suggests,

demands first of all a status in the Dominion representative in London sufficient to give him ready access to British Ministers and officials, and to enable them to feel that while he could speak with a freedom greater than that of any permanent official, he was speaking not as a mere intelligent citizen but with the responsibility of position.

He must have status also to be able to convey matters to both the British and Dominion Governments with weight, to insist on attention to his information or views; while he may on occasion be the medium of communicating a direct message or instruction, his general usefulness will depend much more on a combination of position and personal qualities.

Negotiation implies a certain flexibility in the matters which the representatives of the Governments—whether at the British or at the Dominion end—present, and therefore an authority which, while short of binding a Government to the result until it has definitely agreed to it (even a signed treaty between foreign states requires ratification), does not leave the matter at large between them.

As a *pis aller*, even the author of this document appears ready to accept the Dominion High Commissioner, if carefully selected, though he expresses the view that

there are in fact few men who have held the office of High Commissioner who were peculiarly fitted for the role now envisaged.

The greatest common measure of Canadian opinion appears, on the other hand, to put this solution of the problem —that is, a change in the functions of the High Commissioner in London—in the foremost place. As a Nova Scotian group puts it:

It appears obvious that the actual conduct of foreign policy in so far as it is general will be carried on for some time primarily by the British Government. It has the machinery, personnel, and experience. Most difficulties which may arise may be foreseen. It is, therefore, suggested that efficient machinery for the interchange of adequate information, rapid consultation, and full discussion between the Governments of the Dominions and Great Britain is of the utmost importance. It is further suggested that in addition to the other methods now in use greater emphasis should be placed upon the functions of the respective High Commissioners. To this end, men of the highest calibre and diplomatic experience should be appointed to the position and, in particular, immediate steps should be taken by Canada to strengthen the higher staff of this country's office in London.

A contribution from one of the Prairie Provinces, while not expressly excluding the High Commissioner, lays the

chief stress on the necessity for diplomatic status and function:

The advantages of relying upon a diplomatic representative in London are clear-cut and appear to be decisive. The status and responsibility of a diplomatic representative have been established in all countries by centuries of diplomatic usage. The diplomatic representative, in informing his home country of the trend of affairs, has no incentive to play politics other than to be accurate and clear. The type of man chosen to be a diplomatic representative usually brings to his task special qualifications and training not as likely to be had were the post considered as 'in politics'. Moreover, in so far as Canada builds up a diplomatic corps with men moving by promotion from rank to rank and from country to country, the highest class of diplomatic representative would possess detachment, experience, and continuity in outlook in dealing with other Governments. These are qualities almost bound to be lacking in the case of a political appointment. Finally, a diplomatic representative would fit in with the logic of the British Commonwealth of Nations as being co-operation between equals where questions may arise and points of view may be different which have to be resolved in the ordinary diplomatic way. Similarly the representative of the United Kingdom in Canada should be an officer of the diplomatic type. Gradually in the course of time similar representation would take place between the Dominions themselves, so that the ultimate objective would be the creation of mutual representation throughout the Empire on a diplomatic basis.

On the same point, a group in Ontario makes the following observations:

Reciprocal communication between the United Kingdom and Canada in respect of foreign policy should be full, continuous, and frank. Such communication would be to the advantage of both Governments. The method of representation of the Government of the United Kingdom in Canada appears to us to be satisfactory since the High Commissioner is accredited to the Department of External Affairs. With regard to the position of the Canadian representative, the High Commissioner in London, the situation is different. While the status of the two High Commissioners is the same, the Canadian Department of External Affairs is concerned with both intra-Commonwealth and foreign affairs. But in London the Dominions Office and the Foreign Office are separate, and the practice has been that the Canadian High Commissioner has on

important matters been in direct communication only with the Dominions Office, with the result that he has not been directly in touch with the daily conduct of foreign affairs.

In order that the Canadian Government may be fully informed of the views of the Government of the United Kingdom on questions of foreign policy, and that the Government of the United Kingdom may similarly be fully informed of the views of the Government of Canada on questions of foreign policy, we recommend that the High Commissioner for Canada in the United Kingdom maintain direct communication with the Foreign Office.

This view was echoed by a study group from one of the great commercial cities in Eastern Canada as follows:

We believe with the majority of the other reporting committees that the appointment, status, and functions of the High Commissioner in London should be of a diplomatic rather than a political character. He should represent Canada, not the Canadian Government, just as do the ministers at Paris, Washington, and Tokyo. It follows that a change of administration in Canada should not necessitate his replacement. The post should be one to which the members of the Canadian Department of External Affairs and Diplomatic service may aspire in the course of their diplomatic careers. We do not see any reason for changing the formal status or name of the High Commissioner as these now show that he represents and enjoys a special relationship.

We feel that the High Commissioner should keep in touch with the Foreign Office in London as well as with the Dominions Office, so as to be fully informed upon all aspects of British foreign policy.

Any one studying these views as a whole would probably arrive at the conclusion that the most promising lines of reconciliation would lie in the utilization of the office of High Commissioner, modified in status and qualifications in such ways as to suit his proposed quasi-diplomatic and politically responsible functions.

(vii) TRAINING OF PERSONNEL

But an individual High Commissioner, however highly qualified, is no adequate solution of the whole problem. It is essential that knowledge of foreign affairs should be diffused over a wider circle in each Dominion.

If the time has come [says an Australian paper] when Australia has

to have views on certain aspects of foreign policy, this necessitates forming its views and expressing them. Now to do this there must be a department and staff charged with this special duty. The necessary functions fall under two heads. First of all there must be always ready to hand adequate information on any area or subject with regard to which matters may arise affecting Australian interests. You will understand that if this is necessary the work of keeping such information up to date is a continuous one, for neglect over a period of a week might well result in some vital item of interest being missed. But the most complete supply of information is of little use unless it can be interpreted. Hence there must be a staff capable of appreciating any situation that may arise and of putting the necessary facts and alternative lines of policy before the Government.

There is, indeed, to be detected in several papers the realization that men possessed of the necessary high qualifications—and, still more, staffs to assist them—are not readily obtainable in peoples as new to the tasks of foreign policy as those in the Dominions. For this reason, the suggestion is repeatedly made that some satisfactory system should be provided for the training of Dominion personnel.

What the Dominions probably suffer from [says the Australian paper] is less lack of information and sources of information than the lack of staff to digest and assimilate it, and the inability or indisposition of Ministers continuously to follow it and consider it. A sufficient staff of men selected for ability, with high educational attainment and special training, is urgently called for. The training in the case of Dominions with foreign Legations or permanent representation at Geneva should include a period with one or more of the Legations; the interchange of legation and external affairs officers should be considered. Where there is no diplomatic representation and no permanent representation at Geneva, as in the case of Australia and New Zealand, some period in the Foreign Office in London, or with the Dominion representative in London, or with some British Legation, should be a part of the system. This is in accord with the suggestion made by Mr. Coates (New Zealand) in 1928.

Later on, the same paper makes the practical suggestion that a Dominion might be greatly assisted by sending a suitable member of its own staff, with proper qualifications, to serve in the British Minister's office in countries in which it is peculiarly in-

terested. In the case of junior officers, this would be with a view to training for a career either in the External Affairs Department of the Dominion, or its services in London or in foreign countries. In the case of officers of standing and experience, whose presence was rather to aid immediately in co-operation, they would no doubt be given suitable rank.

Expressions of opinion to the same effect may be quoted from at least four of the papers prepared by groups in different parts of Canada, and the view is implied even where not expressed. The quotations which follow are all extracted from different Canadian documents:

Hitherto, since she has not long passed the colonial stage, a stage in which a kindly parent took all the responsibilities, Canada can hardly be said to have had a foreign policy. It becomes increasingly necessary for Canadians to clarify their ideas on the realities of the international position of their country. . . .

Canada is not developing any over-abundant supply of men who could be considered intellectually equipped for diplomacy. The chief suggestions thrown out, therefore, were that a non-partisan parliamentary committee on foreign affairs might usefully be established, its members being selected with regard to their personal qualifications and not their party affiliations—that parliamentary candidates, in some cases at least, might be selected with more regard to their competence for work on such a committee—that the universities might give specific attention to the training of certain graduates for diplomacy and that there should be a general effort to awaken a wider public intelligence on international affairs. . . .

The discussions as a whole suggested that Canada's interest in foreign affairs has hardly kept pace with her recent rapid development. They also made it very plain, however, that the international relationships of this Dominion are swiftly increasing in importance and that there is a pressing need for closer attention to them, both in the sphere of government and among the Canadian people at large. . . .

The success of the preceding proposals, as of the whole conduct of Canadian foreign policy, is dependent upon an adequate Department of External Affairs and Diplomatic Service. We realize that these services are of such recent origin that their numbers and experience are necessarily limited, but we regard as essential an extension in numbers and a rigorous insistence upon a personnel of high capacity and proper training. . . .

It was very strongly urged that most serious attention be given to improving the quality of the personnel of our Diplomatic Service. In this connexion it was recognized that additional Legations would provide experience for larger numbers, and would provide reasonable prospects of positions that would encourage first-class young men definitely to prepare for diplomatic careers. It was further suggested that a scheme be considered whereby the British Foreign Office, over the next ten or fifteen years, should accept a few first-class young Canadians each year to be trained in the British Diplomatic Service, in the expectation that Canada would draw upon these men as positions became available in the growing Canadian Service.

The necessity for better training of Dominion personnel in diplomacy and external affairs may therefore be said to have been realized and admitted on all hands.

(viii) INTER-DOMINION REPRESENTATION AND CONSULTATION

It seems, further, to have been very generally recognized that the new conception of Dominion status and function called for a development not only of the centripetal lines of communication with the mother country, but also of the machinery for consultation and communication between one Dominion and another. This view was perhaps most clearly expressed by some of the Canadian study groups:

A good deal of importance was attached to the need for better and more continuous means of consultation between Empire countries on foreign affairs and all other matters of mutual interest. For instance, it was suggested that there might be great advantage in a direct exchange of High Commissioners between the Dominions.

And in advocating an interchange of diplomatic representatives between members of the Commonwealth, a group in Ontario maintained that

there are manifest trade advantages as well as political advantages to be gained by the adoption of this proposal.

Similarly, a group in one of the Maritime Provinces

deems it essential to a proper understanding between Governments and between peoples of the member states of the Commonwealth that Governments be permanently represented at each other's capitals. This development is merely the logical completion of the

appointment by the Government of the United Kingdom of High Commissioners to Dominion capitals. The group considers it scarcely less essential that the Dominions should be adequately represented *inter se* with a view to better understanding in matters of foreign affairs, and in inter-Dominion matters such as trade agreements.

While this point is not stressed in papers emanating from other Dominions, it is nowhere disputed, and seems indeed to be recognized by implication in a number of passages.

(ix) SEPARATE DIPLOMATIC REPRESENTATION

A far greater divergence of opinion is expressed in these papers on the question as to whether and how far it is advisable for Dominions to have their own separate diplomatic representatives in foreign countries. An Australian legal authority suggests dangers, and adopts a guarded though by no means entirely hostile attitude to the practice:

> Concerning diplomatic representation as between Dominions and foreign states, that may be either valuable means for co-ordinating policy, or means of friction in Empire relations. Whether it is the one or the other must depend partly on the relations of the Governments represented and partly on the men themselves. Where there is some m tter of actual negotiation with the Government to whom these representatives are accredited, the presence of two or more representatives from the Empire should facilitate the effectiveness of the consultations provided for in the Imperial Conference Reports of 1923, 1926, and 1930. Eulogies contained in Imperial Conference Reports may be discounted. But other reports speak well of the arrangement, and the writer is unaware of any adverse statements. Mr. Vincent Massey, it appears, paid a preliminary visit to London before taking up his appointment at Washington. This was not unnatural in the inauguration of a new system; it need not be supposed that it will be usual, or that any adverse conclusion can be drawn when it is omitted.
>
> As to the representatives of foreign states in a Dominion, there are in the peculiar case of Canada obvious reasons for such representation of the United States. For the rest, the presence of representatives of one or two states may tend to colour the Dominion Government's outlook on affairs over much by the views of those states; it is or was considered that the work of the League of Nations at Geneva was considerably affected by the practice of several states

in sending their Paris representatives to represent them in the Council.

A paper devoted solely to this question, though avoiding its controversial aspects, was prepared for the Conference by a distinguished English diplomat. He emphasizes the point that the attitude of His Majesty's Government (presumably in the United Kingdom) should be one,

neither of encouragement nor discouragement, but of real willingness to accept the situation, if the Dominion Governments think it to their interests to establish their own Missions.

He then adds:

If and when, however, such Missions are established, I think it most essential that there should be no hard and fast rules laid down to govern the details of procedure and no attempt should be made to lay down such rules, which will in the long run shape themselves.

And he concludes that

there is no reason why the system should not work harmoniously provided that the attitude of the British Embassy towards the Dominion Legations is one of sincere friendliness and readiness to co-operate when co-operation is asked or seems desirable. It is especially important that this latter condition be carefully observed.

A second Australian paper, emanating from New South Wales, points out that the system adopted by those Dominions who prefer separate representation 'is at best partial, and that for all other information they must rely on the Foreign Office and Dominions Office'. For this reason the author of the paper expresses

grave doubts as to whether it is as satisfactory as the third course which Australia adopted when, in 1924, the question arose what policy Australia was to adopt with regard to information and consultation relating to External Affairs, [and] the Commonwealth Government decided that they would not appoint diplomatic representatives abroad but would continue to obtain information and carry on negotiations through the Foreign Office and the existing British diplomatic representatives.

A trenchant writer on behalf of New Zealand goes further than any other critic in his condemnation of the new practice, which he includes with other products of the new

Dominion status as an element involving 'dangers of friction not only between the component parts of the Empire and foreign states but also between the individual members of the Empire'. Though this writer has a way of expressing himself which is peculiarly his own, it can hardly be doubted that on this topic, as well as in his criticism of the whole situation recognized in the Statute of Westminster, his view is representative of a large body of opinion in the Dominion for which he speaks.

On behalf of Canada, on the other hand, a student of constitutional law includes among the points on which he thinks there is a consensus of Canadian opinion the view 'that there should be a progressive extension of Canadian diplomatic representation in foreign capitals'. A study of the documents certainly confirms the impression that Canadian opinion on this matter approaches very near to unanimity in its conclusions, though it may have reached those conclusions by widely separated and indeed inconsistent roads. Thus the majority group in a Prairie Province, in urging that

> the experiment by Canada of appointing representatives to the United States, Japan, and France should be enlarged, as time and conditions warrant, to cover as large a world territory as possible to the end that Canada look after its own affairs internationally,

seems to base its support of such a policy on the ground that 'the creation of machinery to bind the different parts of the Empire in a unified foreign policy is to be avoided'. But a group from Ontario considers

> that since we understand that the present system of diplomatic representation of Canada in foreign capitals tends rather to inter-Commonwealth co-operation in foreign policy than to disunity, we suggest that such foreign representation might in due course be extended to other countries in which Canada has special interests.

This view, that the step taken is rather a unifying than an isolationist policy in Commonwealth affairs, is further elaborated by another Ontario group already quoted in a preceding section.[1] The passage there quoted proceeds:

> We must, therefore, continue to extend our direct sources of

[1] See pp. 37–8.

information by extending our Diplomatic Service. It is felt, however, that apart from strengthening the size and quality of our present legation staffs (including Canada House in London), the only extensions in the near future should be to Berlin and Buenos Aires.

The conclusion would seem to be that the mechanism is less important than the use which is made of it.

(x) REPRESENTATION AT GENEVA

The discussion of this question provides a conspicuous example of the difficulty of dissociating machinery from policy, or indeed of considering the various topics tabulated in this chapter in water-tight compartments. To a Canadian group in Ontario, for example, it appeared desirable to make consultation between Commonwealth representatives at Geneva the mechanism for filling the lapse in communication occurring between meetings of the Imperial Conference. On the other hand, the passage in their memorandum devoted to this subject contains more definitely practical suggestions than are put forward in any other contribution. For this reason it should, we feel, be quoted in full.

That the Canadian delegations to the League of Nations should be composed of influential men with an adequate knowledge of international affairs. These delegates should be appointed sufficiently far in advance to enable them to make a proper study of the questions on the agenda of the Assembly. Where possible some measure of continuity should be ensured by the reappointment of one or more of the delegates, and in all cases the leader of the delegation should be an important member of the cabinet of the day. The delegation should be adequately supported by a select group of advisers, chosen in part from the civil service and in part from the community at large.

The purpose of insisting on a strong delegation to Geneva is not only that Canada may be well represented at the League, but also that, both before the Assembly and during its sessions, meetings may be held in Geneva of all the Commonwealth delegations to consider the problems of the Commonwealth and especially those questions which are likely to be discussed or ought to be discussed at the Assembly or in the Council. This procedure does not imply

unanimous agreement on all issues in the Assembly or Council, but rather a knowledge of the various points of view of the Commonwealth Governments. We feel that these Commonwealth gatherings at Geneva could be of the nature and fulfil the purposes of annual Imperial Conferences, and so supplement the less frequent and more formal Imperial Conferences.

A group in one of the Maritime Provinces of Canada, with a more hesitant attitude towards the question of League co-operation, while it makes a suggestion for domestic control of delegates which properly falls under the head of machinery, combines it inextricably with their views of the proper policy to be pursued, as may be seen from a study of the passage quoted on p. 26 above.

On this subject the only contribution from another Dominion comes from Australia:

The permanent representation of three Dominions—Canada, South Africa, and the Irish Free State—at Geneva raises questions of its own. Secretariat views at Geneva were favourable to representation there in the case of distant states and small states unable to maintain a widespread diplomatic organization. The social intercourse, including (in 1928) a monthly dinner of the representatives of all states there, and the constant going and coming of important persons and delegations, gives great opportunities of learning if not of influencing the 'Geneva atmosphere', and of helping delegations to the Assembly. There is of course the possibility that a representative may be mainly engaged in running an office, collecting and filing documents and getting 'snowed under' by such routine. There was not as far as I could judge any special relation between the Dominion representatives at Geneva.

(xi) NEGOTIATION AND RATIFICATION OF TREATIES

This subject is hardly touched upon in the preparatory papers, only one suggestion for the modification of existing practice being made. This, which emanates from a group in one of the Maritime Provinces of Canada, is put forward as follows:

The machinery for representation at international conferences and for treaty-making enunciated and approved by the Imperial Conferences of 1923 and 1926 does not appear to require modification, with one exception. In order that the position of Canada shall

be clear to the Government of the foreign state which may be a party to a treaty in which the British Crown undertakes obligations upon the advice of His Majesty's advisers in Great Britain only, in matters in which Canada has no immediate and direct interest, it is recommended that a formula similar in effect to Article IX of the Locarno Treaty of Mutual Guarantee, 1925, be included as a routine practice.[1]

The suggestion appears to have given rise to a difference of opinion in the group itself, as to the constitutional implications and results of the change proposed:

Some members of the study group argue that such a reservation would not have the legal effect of putting any Dominion in the position of not being a party to any treaty made by the Crown, as the Commonwealth is not a mere personal union with several crowns uniting in one king. The Imperial Conference, 1926, report affirms the legal position enunciated in 1919 by Lord Haldane that the Crown is one and indivisible throughout the Empire and Commonwealth. Constitutionally it would require a statute to change the position of the Crown, and no such statute has been enacted. The autonomous status of the Dominions has in this respect been attained within the existing law. The Statute of Westminster, 1931, in the preamble recites that 'inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the succession to the throne or the Royal style and titles shall hereafter require assent as well of the Parliaments of *all* the Dominions as of the Parliament of the United Kingdom'. The Crown being the treaty-making party for the Commonwealth, all Dominions are therefore bound by the terms of all treaties. With the suggested reservation in a treaty, they would, however, be freed from its positive obligations and bound merely passively.

Other members of the group advance the argument that the cumulative effect of at least the following factors is to make the Dominions fully sovereign states: (*a*) the constitutional development recognized by the Imperial Conferences, 1923 to 1930 in-

[1] Art. IX reads: 'The present Treaty shall impose no obligation upon any of the British Dominions, or upon India, unless the Government of such Dominion, or of India, signifies its acceptance thereof.'

clusive; (*b*) the recognition of a right of a Dominion to have and employ its own Great Seal; (*c*) freedom of the Dominion from control by Great Britain in the conduct of foreign relations; and (*d*) the effect of Section 4 of the Statute of Westminster, 1931. On this ground it is concluded that the intra-Commonwealth relationship is now a personal union, that there are now six kingdoms which have the same King, and no other legal or political tie.

The group is of the opinion that the Toronto Conference cannot avoid consideration of the constitutional situation and should explore both points of view, and if possible reach a conclusion. The use of the above Locarno formula as suggested by the group would be suitable whichever conclusion is reached, although the continued use of such formula might imply that all Dominions would be bound if the formula were omitted from a treaty. For this reason it is suggested by some members of the group that the continuance of the present practice, whereby in the making of treaties the King is declared to be acting in respect of the member or members of the Commonwealth concerned, would achieve the same end, although possibly this would not make the constitutional position as clear to foreign states.

Full consideration of these interesting constitutional speculations would take us too far from the province which this chapter seeks to cover, and this aspect of Commonwealth machinery may be concluded with a reference to the fact that the New Zealand writer already referred to classifies 'the power given to the Dominions of making treaties' among elements making for friction and disintegration.

(xii) MISCELLANEOUS CO-OPERATION FOR PURPOSES OTHER THAN FOREIGN POLICY

Only one of the papers contributed deals with problems under this head, namely that expressing the views of the majority of the group from a Canadian Prairie Province. Its treatment is, however, so thoughtful and suggestive that it seems desirable to append it in full:

There is a further question of the miscellaneous inter-Imperial bodies which have been set up to deal with various problems of inter-Commonwealth interest. In connexion with these there appear to be two schools of thought about the form the organization should have. One group favours centralization and one group

favours co-operation. Those who favour centralization have in mind organizations set up and functioning in England with representatives from the Dominions sitting thereon, the expenses of such an organization to be allocated between the various members of the Commonwealth. The first objection to this type of organization is that the bulk of the personnel tends to be drawn from the United Kingdom, with the result that there is some lack in comprehension of Dominions' problems and reactions that would not be apt to occur were there organizations in each Dominion. The second objection is that the Dominion representatives who sit on such executive boards tend to lose touch with their home land and become subdued to the medium they work in. Almost infallibly this type of organization gives the dominance to the United Kingdom, even though in the matter of financing all parts of the Commonwealth are expected to contribute their share.

The other set-up contemplated is for each part of the Commonwealth to organize its own bodies dealing with such matters as defence, research, communication, &c., and then by means of correspondence and conferences to work out as large a degree of co-operation as is possible. Such a set-up would leave the financing of organizations in the United Kingdom to the United Kingdom, and organizations in the various Dominions to the latter. It would not involve the financing, by the members of the Commonwealth, of organizations located and centralized in the United Kingdom. Such a set-up also fits in with the logic of co-operation between equals rather than dominance by the United Kingdom.

The way a scheme of centralization works may be illustrated by the Executive Council of the Imperial Agricultural Bureaux which dates from the Imperial Conference of 1926. The executive council consists of eleven members. The chairman at the moment is the High Commissioner from Australia. The vice-chairman is the representative of England and Wales. The membership, apart from the vice-chairman, includes one representing the Colonies, Protectorates, and Mandated Territories, one representing Northern Ireland, and one Scotland. The Canadian representative is or has been the Deputy Minister of Agriculture in Canada. Under this organization eight bureaux are located in various parts of England and Scotland with Old Country men at their heads, and staffs largely consisting of citizens of the United Kingdom. The Board is financed with a grant of £20,000 of which the United Kingdom contributes £3,750, the Colonial Office £3,750, and the balance comes from the Dominions.

It seems that in the matter of agricultural research a good bit of its effectiveness depends upon its being done close to the environment where the problem arises. Thus it seems rather odd that, with Canada and Australia heavy exporters of wheat, the head-quarters of the study of plant genetics should be at Cambridge. In the same way such problems as agricultural parasitology and soil science, &c., can be most effectively done on the spot. Moreover, if money is to be allocated to research, Canada and other parts of the Commonwealth have established at considerable cost their own institutions of research which need all the support they can get. There is no reason why there should not be the liveliest co-operation by conferences between research institutions located in Great Britain and those located in the Dominions. Overlapping of studies could be avoided and co-operative schemes of research could be worked out. But this is a far different programme from centralized Commonwealth research at stations located in the United Kingdom, and paid for in good part by the Dominions.

When we turn to the Empire Marketing Board a somewhat similar situation arises. The Empire Marketing Board has been financed by the United Kingdom in lieu of granting a preferential position in the British market in return for preferences granted in the Dominions. A considerable staff has been built up and some valuable work has been done, particularly in making grants for research, also in organized advertising. Now that Great Britain has given a preference in the British market to the Dominions, the United Kingdom rightly holds that the logical basis of her financing the Empire Marketing Board has disappeared, but that instead of abolishing the Board there should be grants from each of the self-governing Dominions to maintain it. Much that has been said with respect to the centralization of the Imperial Agricultural Bureau applies to this situation. It might be further added that in certain instances it has been held that the Dominions who wish to advertise their goods in the British market are really more competent to do so than the Empire Marketing Board, and indeed wish to control their own publicity.

In the case of the Imperial Airways, this semi-official Board has had a really remarkable development in building up airways communicating with the different parts of the Commonwealth. But even here competent authorities in this field hold that the proper solution of the Canadian aspect is for Canada to develop her own Canadian airways company taking care of all Canadian airways development and co-operating where desirable with the Imperial Airways in

London. It is pointed out that Canadian lines have found no difficulty in co-operating with American systems of airway transportation.

The question comes up of Imperial communications, which is admittedly a difficult one and has been before the Imperial Conference for many years. The latest development has been the organization of Imperial and International Communications which centralized control of cables and wireless in one body. The relationship of this organization to Canada has not been altogether satisfactory, and it is proposed that instead of endeavouring to centralize this problem wholly in London there should be formed a Canadian company controlling Canadian communications, which should work with Imperial and International Communications both with respect to Canada herself and with Canada as a link in the system of communications between Great Britain and the Antipodes.

In the case of inter-Commonwealth broadcasting, the placing of radio in Canada under one central authority paves the way for co-operating with the British Broadcasting Corporation and with other parts of the Commonwealth.

It must be emphasized that these subsidiary bodies, though they may not occupy the same position in the public eye that the High Commissioner's office occupies, are still of the very greatest importance in connexion with the development of a system of intercommunication between the various parts of the Commonwealth.

2. ASPECTS OF COMMONWEALTH RELATIONS IN THE SPHERES OF LAW AND JUSTICE

(i) INTRODUCTORY NOTE

Besides the references above collated, dealing in the main with co-operation in foreign policy, there were considered, in the papers circulated to the Conference, three topics sufficiently related in subject to be embodied in a section of this report, but at the same time hardly susceptible of the treatment which has been accorded to the preceding matters: (1) the Judicial Committee of the Privy Council, (2) a Commonwealth Tribunal, (3) uniformity of Merchant Shipping Legislation and Admiralty Jurisdiction. The views expressed on the machinery for co-operation in regard to foreign policy consisted for the most part of comparatively brief and widely scattered utterances which it

seemed advisable to collect and to rearrange. In respect of the matters now to be considered, the material consists, on the contrary, of a few continuous essays, each of which is devoted to a single subject. In the case of the proposals in regard to a Commonwealth Tribunal, two independent papers of remarkably similar content were submitted from Great Britain and Canada respectively; the substance of these it has been our endeavour to combine into a single document, but, with regard to the other two subjects classified under the above head, the only appropriate treatment seems to be to print the material in full, or with very slight and unimportant abridgements. This has, accordingly, been the course pursued.

(ii) THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

The Irish Free State[1]

In order to appreciate the position of the Judicial Committee of the Privy Council in the framework of the British Commonwealth one must first examine its history and antecedents. The United Kingdom Privy Council, of which it is a Committee, was originally the principal advisory body of the Crown, and the United Kingdom Cabinet was in its inception, and is still in some sense, a Committee of that body, which was found too large and cumbersome for practical purposes. The Cabinet is, in fact, a term still unknown to law, and unrecognized by any English Act of Parliament. The jurisdiction of the Judicial Committee of the Privy Council, which was constituted in 1833, is therefore the jurisdiction of the Sovereign of the United Kingdom in Council arising out of the English common law and the royal prerogative. The Committee consists of the President of the Council, the Lord Keeper or first Lord Commissioner of the Great Seal of England, and all Privy Councillors who have held these offices, or hold or have held high judicial office, that is to say who have been Lords of Appeal in Ordinary, or

[1] Quoted from a preparatory paper received from the Irish Free State. This paper is based on the detailed discussion of this question in Dr. Kohn's valuable book on *The Constitution of the Irish Free State* (1932, London: Allen & Unwin, 8vo, xvi+423 pp., 16*s*.).

judges of the Supreme Court in England, or of the Court of Session in Scotland. The Sovereign may also by sign manual appoint two other Privy Councillors to be members of the Committee. Privy Councillors who are or have been judges of Dominion Supreme Courts are also members, and there are usually two Indian High Court judges. It is clear from these facts that the Judicial Committee is therefore a Committee of the United Kingdom Privy Council, and as such it heard appeals from the Courts of the old Colonial Empire.

The first alteration of this position is to be found in Section 74 of the Constitution of the Commonwealth of Australia Act, 1900, which provided that the Commonwealth Parliament might make laws limiting the matters in which special leave to appeal from the High Court of Australia to His Majesty in Council might be asked, but that proposed laws containing any such limitation should be reserved for the signification of His Majesty's pleasure. It is, however, the attitude of the Irish Free State towards this right of appeal to the Privy Council that has now made it a vital question for consideration. Article 66 of the Irish Free State Constitution provides that the decision of the Free State Supreme Court is in all cases to be 'final and conclusive', and not 'capable of being reviewed by any other Court, Tribunal, or Authority whatsoever'. Nothing in the Constitution, however, is to 'impair the right of any person to petition His Majesty for special leave to appeal from the Supreme Court to His Majesty in Council, or the right of His Majesty to grant such leave'. There is no parallel for such formal self-contradiction in any of the Dominion Constitutions. The provisions of the South Africa Act of 1909, on which the Irish Article was apparently modelled, excluded any appeal as of right except under the Colonial Courts of Admiralty Act, but maintained the right of the King in Council to grant special leave of appeal, subject to the proviso that the South African Parliament might limit the matters in respect of which application for special leave could be made. In the British North America Act the prerogative was maintained

in its full extent as part of the general preservation of the existing law. The Australian Constitution, as already mentioned, similarly preserved the right of appeal to the Privy Council, both as of right and by special leave, but imposed the requirement of a certificate of the High Court in all questions relating to the limits *inter se* of the constitutional powers of the Commonwealth and the States. The provision of Article 66 of the Free State Constitution implicitly excludes any appeal as of right, while its phrasing makes it, in the words of Lord Buckmaster, 'quite plain upon the face of it that as far as possible finality and supremacy are to be given to the Irish Courts'.[1] The introduction of the right of appeal to the Privy Council was, to the Irish Government, the most obnoxious feature of the Constitution. Acceptance of membership of an association of states might indeed involve an obligation to submit disputes with others of the associates to a joint tribunal, but the jurisdiction of the Privy Council was clearly not of such an inter-state character. Both historically and in practice it was that of a Supreme Court of Appeal for the whole British Empire available to private litigants, and though the scope of such appeal had been progressively restricted, no general rule defined its precise extent, and each successive Board of the Committee retained a wide measure of discretion in the delimitation of its judicial powers. Moreover, despite a tendency during recent years to widen the representative basis of the Judicial Committee by the invitation extended to Colonial Judges to sit on its bench, it remained predominantly a Court composed of United Kingdom lawyers, many of them of strong political antecedents, presided over by the actual or former Lord Chancellors of the United Kingdom. Finally, the procedure of the Committee emphasized its essentially local character. Though in fact a Court of law, its judgements were given in the form of an advice to His Majesty, and put into operation by an Order in Council issued under the authority of the United Kingdom Government. It was obvious that such enforcement represented, in form at least, an infringement of Dominion

[1] *Hull* v. *McKenna*, [1926] I.R. 409.

autonomy, and that it was incompatible with the new conceptions which underlay the Irish articles of agreement (commonly called the Treaty) of 1921. In the legislative and executive spheres external interference had been effectively excluded by the formal adoption of Dominion practice. In the domain of the judicial prerogative it could not, in view of the undesirable reality of this power in the other Dominions, be so excluded. The most that could be achieved was to restrict its exercise within the narrow confines of the South African practice. Moreover, in the negotiations which took place between the representatives of the Irish Provisional Government and of the British Government in 1922, the Irish negotiators were, according to the subsequent declarations of Mr. Kevin O'Higgins, assured that 'the preservation of the prerogative would be very much more a theory than a fact and a practice', and that in so far as the latter was concerned 'the practice that would be observed in relation to the Irish Free State would be strictly analogous to the practice observed in the case of South Africa rather than in the case of other non-unitary Dominions'. Under that practice, according to the same authority, 'an appeal would not lie in the case of ordinary routine domestic legislation, but only in cases where international issues were raised'.[1] This interpretation was fully upheld by the Judicial Committee in the first three applications for leave to appeal. In a preliminary statement of unusually comprehensive nature Lord Haldane, after having stressed the purely judicial and Imperial character of the Court in spite of its connexion with the United Kingdom Privy Council, emphasized the progressive restriction of its jurisdiction. It had become the practice to grant leave of appeal only in such cases as involved great principles or questions of very wide public interest. This applied particularly to unitary Dominions like South Africa, where the practice had become increasingly strict, and only exceptional cases were admitted for appeal. The position of the Irish Free State, though it was strictly not analogous to that of any other Dominion, was more in conformity with the

[1] *Dail Debates*, vol. xiv, cols. 116–17.

latter category, and the Judicial Committee would, therefore, have to give a very restrictive interpretation to its power to grant leave of appeal from decisions of the Irish Supreme Court. A suggestion by counsel for the petitioners that the application of South African practice to the Free State would be contrary to Article 2 of the Treaty, which assimilated the constitutional status of the Free State to that of Canada, was waived aside by Lord Buckmaster as devoid of 'any real substance' in the light of the express wording of the Article. The first three applications from the Free State for leave to appeal were accordingly dismissed.[1] In view of this restrictive definition of its competence, it is the more surprising that the Judicial Committee should, two years later, have granted leave of appeal in a case which centred on the construction of an Irish statute of purely domestic import, the Land Act of 1923.[2] It involved no great principle, nor any problem of wide public interest, but the interpretation of a technical provision on which the Irish High Court had given a decision which had been upheld by the Supreme Court. The Irish Government regarded the admission of the appeal as a breach of the assurances which it had received in 1922, and, before the appeal was heard, it introduced and passed a measure in the Dail—the Land Act of 1926—declaring that the interpretation placed upon the Act of 1923 by the High Court and affirmed by the Supreme Court was, and be deemed always to have been, the law. The petitioners thereupon withdrew the appeal. The retrospective character of this measure was the subject of adverse criticism in the Irish Parliament, and subsequently in the House of Lords, but the Free State Government, whilst admitting the unusual form of the procedure, maintained that it represented the only method by which the Free State could register its protest against that encroachment on its judicial autonomy and preclude an unconstitutional exercise of an admittedly obsolescent prerogative. The admission of the

[1] *Hull* v. *McKenna*, the *Freeman's Journal* v. *Fernstrom*, and the *Freeman's Journal* v. *Traesliberi*, [1926] I.R. 402.

[2] *Lynham* v. *Butler*, [1925] 2 I.R. 231.

appeal was defended by the Lord Chancellor of the United Kingdom on the ground that the issue affected a number of cases and that it was therefore of general interest, a view which Professor Berriedale Keith describes as 'curious and rather amazing' as 'it was clear from the Constitution that constitutional issues alone were really intended to be safeguarded, since they alone are of Imperial interest'.[1] The Irish Free State Government, characteristically, did not oppose the simultaneous admission for appeal of a case involving the interpretation of the Treaty itself—the famous case of *Wigg and Cochrane* v. *The Attorney General of the Irish Free State*.[2] The decision given in that case by the Judicial Committee reversed that of the Irish Free State Supreme Court; but, in the subsequent discussions which arose on the matter in the House of Lords, two of the judges admitted that it had been given under some misapprehension as to the effect of a relevant administrative rule, while it was similarly stated by Lord Birkenhead that the former Lord Chancellor, who had presided over the Court, had since 'authorized the Prime Minister to state that in his opinion the conclusion which he had drawn was probably wrong in law', and 'that, this being so, the Irish Free State in his opinion had a constitutional right to amend the error by Irish legislation agreed with the British Parliament'.[3] The Dominions Secretary simultaneously stated in the House of Commons that the interpretation placed on Article 10 of the Treaty by the Judicial Committee was not in conformity with the intentions of those who had framed the Settlement. The Irish Government, on its part, refused to accept the decision of the Judicial Committee, and, after a further reference of the matter to the Committee, the dispute was settled by agreement between the two Governments. The right of the Privy Council to admit appeals from the Free State was formally challenged in the case of *Performing Rights Society* v. *Bray Urban District Council*.[4] In its material aspect the case turned on the interpretation

[1] *Responsible Government in the Dominions*, 1928, p. 1090.
[2] [1925] 1 I.R. 149; [1927] I.R. 285; [1927] A.C. 674.
[3] House of Lords Debates, April 25th, 1928. [4] 1930] I.R. 509.

of the British Copyright Act of 1911 which, under the terms of the proviso excluding its application to the Dominions, had been held by the Irish Supreme Court to have ceased to be in force in the area of the Free State when the latter was constituted and assumed Dominion status. The Judicial Committee in this case reversed the decision of the Irish Supreme Court. Prior, however, to the hearing of the appeal, legislation was passed by the Irish Parliament providing for the maintenance of existing copyrights. In the course of the arguments before the Judicial Committee, counsel for the respondents pleaded that inasmuch as Article 66 of the Constitution declared that 'nothing in the Constitution shall impair the right of any person to petition His Majesty in Council or the right of His Majesty to grant such leave', and as no such right had ever existed in Ireland —appeals, as in England, being, before the Treaty, to the House of Lords—the Judicial Committee had no competence to admit appeals from the Free State. If there was a right of appeal to 'His Majesty in Council', it was only to the Irish Privy Council that it could lie. The Judicial Committee rejected this plea as a misconstruction of the proviso of Article 66. Under Article 2 of the Treaty the position of the Free State in relation to the Imperial Parliament and Government and otherwise was to be that of the Dominion of Canada. This, it was argued, involved the acceptance of the appellate jurisdiction of the Privy Council, which was accordingly preserved by Article 66 of the Constitution. By the same reasoning the proviso could only be said to refer to the Judicial Committee of the Privy Council on whose advice the King acted in dealing with appeals from the Dominions. The Judicial Committee could hardly have decided otherwise. Though the phrasing of Article 66 of the Irish Treaty revealed the intention of its framers to confine the grant of leave to appeal within the narrowest limits, it was clear that in view of the fact that, however limited, the judicial prerogative of the Crown was still in force in all the Dominions, the restrictive phrasing of Article 66 could not, as in the case of the restrictive clauses attached to the legislative and executive provisions, be

interpreted as implying the total exclusion of its applicability to the Free State. The contention that the introduction of the appellate jurisdiction of the Privy Council in Ireland, to be operative, should have been effected by express words, and that, conversely, the absence of such words rendered the provision ineffective, seems untenable. It would, on the other hand, appear that the decision of the Judicial Committee in this case did not imply, as has been suggested, a departure from the earlier dictum of the Court that the South African practice was to govern the admission of appeals from the Free State. The Privy Council, challenged as to its right to hear appeals from the Free State, could clearly base its power to do so on no other authority than that of Article 2 of the Treaty, in which the constitutional status of the Free State was defined as corresponding in general to that of Canada. There is, however, nothing in the judgement of the Judicial Committee to suggest that beyond a recital of Article 2 as the general basis of its right to admit appeals from the Free State, it was implicitly maintained, contrary to the Committee's earlier view, that the exercise of its appellate jurisdiction in regard to the Free State was to be governed specifically by Canadian and not, as declared in the earlier judgement, by South African precedent.

The foregoing analysis indicates the practical ineffectiveness of the power in relation to the Free State. Of ten cases in which an appeal had been lodged judgement was given only in two. In the first of these—that of *Wigg and Cochrane*—no effect was given to the judgement, the issue in dispute being settled by agreement between the Irish and British Governments, while, in the second case—that of *Performing Rights Society* v. *Bray Urban District Council*—the findings of the Judicial Committee were forestalled by Irish legislation. At the Imperial Conference of 1926 the representatives of the Free State raised the issue of the conditions governing the admission of appeals from the Dominions in connexion with the re-definition of inter-Imperial relations. They could not secure the abolition of the appeal, but they obtained a declaration to the effect that 'it was no part of the

policy of His Majesty's Government in Great Britain that questions affecting judicial appeals should be determined otherwise than in accordance with the wishes of the part of the Empire primarily affected'. But the Conference simultaneously enunciated the general principle that no changes in the existing system, which, while primarily affecting one part, raised issues in which other parts of the Commonwealth were also concerned, ought to be effected except after consultation and discussion, which in this connexion ruled out the abolition of the appeal by unilateral action of one of the member States. The Irish delegates did not press for any immediate change in the practice, but reserved the right to raise the question again at the next Imperial Conference in relation to the facts of their particular case. The statement has been repeatedly interpreted as reflecting the failure of the Free State to secure the support of the Dominions for the abolition of the appeal. But such comment would seem to ignore the positive significance of this declaration. It clearly implied an admission on the part of the British Government that the exercise of the judicial prerogative of the Crown was as much subject to the will of the people in each part of the Commonwealth as that of its legislative and executive functions. The declaration was essentially in accordance with the principle laid down by Lord Haldane in *Hull* v. *McKenna* that the Judicial Committee, in granting leave of appeal, must be guided by the wishes of the Dominions concerned, and that it became 'with the Dominions more and more or less and less as they pleased'. The issue was raised again at the Imperial Conference of 1930, and though no formal result was achieved it would seem that the Irish plea for the elimination of the appeal met with a greater measure of sympathy than at the preceding Conference. The support obtained, and the abolition by the Conference of the last remaining restrictions on the legislative autonomy of the Dominions, encouraged the Free State Government to a definite move towards the formal elimination of the appeal. From ministerial statements in the Dail it would appear that a measure to that effect was prepared and formed the

subject of negotiations with the British Government.[1] The defeat of the Cosgrave Government and the subsequent emergence of more fundamental and serious issues for a time relegated this question to a secondary place, but this without changing the outlook for the future.

It seems [writes even so conservative a jurist as Professor Berriedale Keith] that if the pressure continues the appeal must be renounced formally as it probably has been in practice. It is clearly inconsistent with autonomy, [and] while the other Dominions may not deem it wise or desirable thus to stress the point, they cannot be held to fetter the action of a Dominion that entertains a strong dislike to the Court.[2]

In the Irish view the appeal to the Judicial Committee is a relic of the old Colonial Empire which is no longer justified or desirable in its application to the free and autonomous states of the British Commonwealth, and so far as the Irish Free State is concerned it has now been completely abolished by a statute of the Parliament of the Free State to which the Royal Assent was given on November 16th, 1933.

New Zealand[3]

It can be said quite definitely that in 1933 informed opinion in New Zealand was unanimous that the Privy Council should be retained as a Court of ultimate decision not only for New Zealand but for the Empire. New Zealand opinion to that effect had been, it is said, quite definitely expressed at recent Imperial Conferences. The question arose in relation to the claim of the Irish Free State to abolish the right of appeal to the Privy Council so far as the Irish Free State was concerned. It was pointed out that trade between the various Dominions of necessity subjected the construction of contracts made in one Dominion and to be performed in another to the interpretation of Courts outside the Dominion of one of the parties to the contract, and that confidence in the interpretation of contracts would

[1] *Dail Debates*, vol. xxxvi, col. 1229, and vol. xli, col. 976 et seq.

[2] *The Sovereignty of the British Dominions*, p. 262.

[3] Quoted from the documents submitted by the New Zealand Preparatory Committee.

be undermined if there were no appeal to a Court, the decisions of which would bind all the Courts of the Empire. Uniformity of principle in the construction of contracts is of the highest importance in promoting trade; but, in addition, the advantage to the administration of a Dominion of having its legal decisions subjected to the ripe judgement of a body of men free from local prejudice and with an experience in litigation involving large interests—an advantage that cannot possibly be obtained locally in small Dominions—is very considerable. Where constitutional questions are involved, the advantage is invaluable. Many of the subjects of legislation in the British Isles and in the Dominions are the same, and the language in the Statutes dealing with them is the same, whole sections, and indeed, whole Statutes being adopted from England in Dominion Statutes. It is a great advantage that decisions on such language should be uniform. If a decision of the highest Courts in England on the interpretation to be placed upon the language of a Statute could not be relied upon when the same question was submitted to a Dominion Court, the community would lose the advantage of that certainty of the law which is so valuable.

The subject of appeal to the Privy Council was dealt with at the Third Annual Legal Conference held at Auckland in April 1930, and arose out of a paper on the question read by Mr. J. B. Callan, a well-known barrister. It is sufficient to quote the concluding paragraph of that article:

> I am in danger of exceeding my time limit. I offer one more thought. I have quoted that great and good man, the late Sir Joshua Williams, as saying: 'That the decisions of this Court should continue to be subject to review by a higher court is of the utmost importance. The knowledge that a decision can be reviewed is good alike for judges and for litigants.' This was said in the Court of Appeal. What precisely Sir Joshua had in his mind, we do not know. But he may well have remembered that we New Zealanders live in small communities, in which litigants, witnesses, counsel, and judges tend at times to know each other inconveniently well; in which disputes are apt to arise in which all of us take sides; and in which heated feelings altogether disproportionate to the occasion

may be generated. In such circumstances a court at a serene and Olympian distance is an invaluable safeguard. The Privy Council once erred in our affairs from lack of local knowledge, but there is a variety of local knowledge that hinders and does not help a tribunal. There are occasions when complete aloofness is the one characteristic pre-eminently required in a tribunal, if it is to command unquestioning confidence. At present we New Zealanders have the right of recourse to such a tribunal. We would be singularly unfortunate if we lost that right. And if we lost the right because of a failure to value it, we should neither receive sympathy nor deserve it.

Speaking to the paper, the Right Honourable Sir Francis Bell, P.C., G.C.M.G., K.C., who had himself taken part in discussion at the Imperial Conference on the question of the retention of the Privy Council as a Court of ultimate appeal, said:

We have adopted the law merchant in such a large degree from England—for instance, the Sale of Goods Act and Marine Insurance Act—we have adopted so much of the law merchant that it is of the utmost importance that we in New Zealand should not forgo the advantage of the exposition of the law merchant by the greatest lawyers of the Empire. It is so great a privilege that I have been unable to understand why any Dominion wants to abandon it.

The Chief Justice, the Right Honourable Sir Michael Meyers, in delivering the inaugural address of the Conference referring to the question, said:

I do not believe anybody in New Zealand wants to get rid of the Privy Council. I hope it will forever remain, and remain as it is. It is, I consider, the finest tribunal in the World, the greatest of all tribunals. You receive from it not only the judgement of the finest minds in the Empire, but you receive the greatest courtesy, and you know there is a freedom from that unconscious local bias which, sometimes, try how he will, the man in a small country cannot avoid.

In the end, the Conference passed unanimously the following resolution:

THAT this, the Third Annual Conference, representative of the whole of the Profession for New Zealand, resolves that the retention of the final right of appeal to His Majesty-in-Council is in the best interests of the Dominion of New Zealand and of the administration of justice therein.

Australia[1]

In 1933, the right of appeal from the decisions of Australian courts to the Judicial Committee of the Privy Council was subject to certain important conditions and limitations. The nature and history of these restrictions had an important bearing on Australian opinion, at the time, in regard to the right of appeal. Before the federation of the Australian colonies in 1901, an appeal lay from the Supreme Courts of each of the Colonies, as of right, in cases where the amount involved was over £500, and by leave of the Privy Council in other cases. At the time of federation there were very many persons in Australia who did not regard these appeals with favour. This opposition arose partly from the expense and delay involved, and partly because some appeals had been heard by Boards, the personnel of which did not inspire confidence among members of the legal profession in Australia. It was said that the Judicial Committee had, at times, reversed decisions of the Colonial Supreme Courts on grounds which showed a lack of appreciation of local law and local conditions. One instance of this was the well-known decision in *Macleod* v. *A. G. of N.S.W.*, [1891] A.C. 455. No one, of course, questioned the statements of the Privy Council that crime is local and that the legislature of New South Wales had no power of extraterritorial legislation. But it was said that the Privy Council had not noticed that Section 22 of the Imperial Act, 9 Geo. IV, c. 31, was still in force in the Colony. Some judgements of the Privy Council reversing long-established decisions of the Supreme Court on the policy and effect of the Crown Lands Acts of New South Wales, under which most of the pastoral lands of the Colony were acquired and held by various special tenures, were said to show an ignorance of local conditions. They certainly produced uncontemplated results which had to be at once corrected by the Colonial Legislature.[2]

[1] Quoted from a preparatory paper by an Australian barrister.

[2] See *Barton* v. *Muir* (1874), L.R. 6 P.C. 134, where the Board said that 'the circumstances of climate and soil and produce in the Colony of

It is said that in an unreported case the Privy Council remarked that a man who had been on a Queensland station for a day must be taken to know the number and classes of cattle on the run. It was not only in Australia that complaints were made. In 1903 the Chief Justice of New Zealand declared that certain decisions of the Judicial Committee had shown 'that it knows not our statutes, or our conveyancing terms, or our history'.[1]

It was strongly urged in the Conventions which met at the end of last century to frame the Commonwealth Constitution that the opportunity should be taken to make the decisions of the High Court of Australia, as the new federal court was to be called, either completely final and conclusive or at all events subject to appeals only in special circumstances. When the draft constitution was taken to England, in the form of a Bill to be submitted to the Imperial Parliament, it contained in Section 74 a provision which prohibited all appeals in constitutional cases unless the public interest of some other part of the Queen's dominions was involved.

There was, however, in the business community, in the legal profession, and among members of the public generally another very strong body of opinion which urged that no restrictions should be placed on the existing right of appeal. The Colonies of Queensland and Western Australia, especially, desired that a full right of appeal should be preserved. This view had the support of the Chief Justices in all the Colonies. Representations were therefore made in England with a view to having Section 74 amended. The debates on the Bill in the Imperial Parliament turned very largely on this question. The proposal to retain appeals was supported by Mr. Chamberlain, then Secretary of State for the Colonies. While the Bill was before Parliament a compromise was arrived at, and the result is the

New South Wales are essentially different from those of Queensland'; and *O'Shanassy* v. *Joachim* (1876), L.R. 1 App. Cas. 82; and the comments on these decisions in *Tooth* v. *Power* (1889), 10 N.S.W. L.R. Eq. 143, on appeal to P.C., [1891] A.C. 284.

[1] Clarke (A. Inglis), *Australian Constitutional Law*, 1905, p. 347.

present Section 74 of the Commonwealth Constitution, which reads:

No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question, howsoever arising, as to the limits *inter se* of the constitutional powers of the Commonwealth and those of any State or States, or as to the limits *inter se* of the constitutional powers of any two or more States, unless the High Court shall certify that the question is one which ought to be determined by Her Majesty in Council.

The High Court may so certify if satisfied that for any special reason the certificate should be granted, and thereupon an appeal shall lie to Her Majesty in Council on the question without further leave.

Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. The Parliament may make laws limiting the matters in which such leave may be asked, but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty's pleasure.

Down to 1933 the power given by the Section to restrict further the right of appeal had not been exercised, and at that time there did not seem to be any probability that it would be exercised.

The High Court of Australia had then three main functions. It was the principal federal court and, as such, it was at the head of all Courts exercising federal jurisdiction; it was an appellate Court from the Supreme Courts of the States; it was the Court which was mainly concerned with the interpretation of the Commonwealth Constitution.

The Constitution did not directly affect the right of appeal to the Privy Council from the Supreme Courts of the States. That remained as it was before federation. In an ordinary action at law or suit in equity, therefore, an appeal still lay directly to the Privy Council as of right when the subject-matter involved was of the value of £500, and by leave of the Supreme Court or of the Privy Council in other cases. A dissatisfied litigant in the Supreme Court had, therefore, a choice of appealing either to the Privy Council or to the High Court. If he elected to

established a tribunal for the solution of disputes, or at any rate some disputes, between Governments members of the British Commonwealth of Nations will hardly be challenged. Where there is a society there must necessarily be a law, and if there is a law there must, or at any rate there should, be some authority competent to declare the law.

The question of the establishment of a Commonwealth tribunal may be discussed under three main heads:

(1) In what classes of disputes, and between whom, is the tribunal to have jurisdiction, voluntary or obligatory?
(2) How is the tribunal to be constituted?
(3) What law is the tribunal to apply?

In what classes of disputes, and between whom, is the tribunal to have jurisdiction, voluntary or obligatory?

The proposals of 1930 answer these questions by saying that the disputes are to be 'such as are justiciable', that Governments only should have resort to the tribunal, a point with which both papers submitted to the Conference are in agreement, and that the resort should be the voluntary act in each case of the two Governments parties to the dispute.

The Conference did not attempt to define 'justiciable' disputes. The Canadian paper regarded this as an important objection to its proposals, suggesting that 'it remains, therefore, for the Parties, in the event of a dispute, to decide whether or not the dispute in question is "justiciable", and therefore suitable for settlement in this manner'. The British group felt, however, that it is not likely that any serious difficulty would arise in practice from the absence of precise definition. A justiciable dispute is one capable of settlement by the application of law; there may be a difference of opinion as to the interpretation of the law, or as to the facts to which that law is to be applied, but the law itself is not objected to. Of course, as the everyday experience of our courts exemplifies, there are many justiciable cases turning almost wholly on fact, but in these, as in the others, the decision is ultimately based upon fixed legal principles. In a non-justiciable dispute, on the other

hand, either there is no applicable rule of law, or one party may in effect be saying: 'I quite agree with you that such is the law, but that is just what I complain of. It is a bad law, and I am not prepared to put up with it.' There may also be borderline cases, where the attitude of a party is: 'I don't agree that you are right about the law, but, if you are, then I want the law changed.' In such cases, however, there would seem to be no objection in principle to submitting the legal point to a judicial tribunal, thus narrowing and defining the issue.

But it is probably undesirable to refer justiciable and non-justiciable disputes for settlement to the same tribunal. A good judge is inflexible in applying strict law, whatever the consequences; it is a weak one who is deflected by those hard cases which proverbially make bad law. A good conciliator, on the other hand, shows a genius for persuasiveness and compromise. A tribunal partaking of the attributes of a law court and a conciliation commission is liable to develop one of two defects: either the legal training of its members will cause them to apply the existing law in cases where the whole issue is whether it should be changed or modified, or their practice as conciliators will so atrophy their legal sense as to make them prone to substitute compromise for a strict legal decision in every case.

It is, therefore, desirable that justiciable disputes should be tried before a court with no other function, and indeed a tribunal is hardly the appropriate machinery for the solution of other differences.

The Imperial Conference of 1930 was, however, more open to criticism in suggesting that the jurisdiction of the tribunal should not be obligatory, but that either party might, at will, defeat the attempt of the other to bring him before it.

If either party can refuse to have a justiciable point decided by the appropriate tribunal, law is at once ousted, and bargaining efforts at conciliation take its place in every case. This defect is clearly seen in the case of the Anglo-Irish dispute over the Oath and Land Annuities which the Government of the Free State has declined to settle in this

manner.[1] The Court should therefore have power to decide the question of its 'competence' in any particular case.

It may be urged that a recalcitrant party can always evade the jurisdiction of the court by adding a non-justiciable point to his case, but the two aspects of the case will in practice be found to be severable, and, as already suggested, the legal point may usefully be settled, even though it does not conclude the dispute.

Constitution of the tribunal.

Under this head, the conclusions of the 1930 Conference cannot be regarded as altogether satisfactory. It might be urged that the existence of a permanent tribunal might tend to encourage the raising of disputes, but an *ad hoc* tribunal exhibits most of the defects which a court of law should avoid. This system inevitably promotes delay in settlement, and represents, indeed, the earlier form of judicial or arbitral institution; it is characteristic of a primitive stage of society, when law has not yet begun to take shape as something more than a set of isolated pronouncements, and when no clear distinction has yet been drawn between the conciliator who has to reconcile two disputant parties and the judge who has to decide a dispute according to law. Judges on an *ad hoc* tribunal are less likely to develop a professional ethic and the technique which a permanent Bench develops.

A judicial tribunal should, moreover, possess considerable elements of continuity in its practice and procedure, even if its decisions are not regarded as inflexibly binding precedents. In this last respect, a human desire for consistency will be found in practice, whatever the technical ruling on the subject, to attach considerable and growing weight to previous decisions, and this is all to the good, since the parties then know where they stand. But the decisions of an *ad hoc* tribunal inevitably tend to be incon-

[1] In the Canadian paper which is the basis of the passage it is expressly stated that no reflection upon the Free State is here intended. It was clearly under no obligation to use the procedure outlined by the 1930 Conference.

sistent and capricious, and whatever value these qualities may possess for purposes of conciliation they are clearly out of place in a legal tribunal.

An *ad hoc* tribunal consists as a rule—and the tribunal suggested by the Imperial Conference of 1930 is, as already appears, no exception—of judges or arbitrators appointed by each disputant with a chairman whom these nominees of the parties appoint. The result is, in effect, that the majority of the tribunal tends to be composed of advocates of either side, and the chairman is the one really judicial person. The appointments are made when the dispute has already arisen, by Governments who themselves are apt not to be able 'to conceive it possible that they may be mistaken', and under the pressure, if the case excites popular interest, of a heated public opinion. On occasions, no doubt, the wisdom and moderation of Governments has risen superior to temptation, but history records incidents suggesting that the *ad hoc* tribunal produces the practical results which might be expected from the fundamental defects of its constitution.

The essential requisites for a satisfactory tribunal for the settlement of justiciable cases are, therefore, that the tribunal should be permanent in its composition, that the members once appointed should not be revocable by their own Governments, and that the majority of the members of the tribunal should not be the nominees of the disputants, in each particular case.

The Imperial Conference of 1930 further suggested that the court should be limited to five members, four of whom were to be appointed by the two parties, though two of these were to be drawn from some state of the Commonwealth other than the appointing state, and were to possess high legal qualifications. This arrangement is obviously inapplicable to a permanent court. It is open to criticism in other respects also. The chairman was to be chosen—with no special regard to judicial qualifications—by the four remaining members, whether by a majority or unanimously is not clear. If the former, he would probably be more acceptable to one side than the other. If the latter, agreement,

where feeling ran high, might be difficult of attainment. Four of the five members would tend to be partisans, whether open or disguised, and the decision in most cases would really rest with the chairman. Three of the five judges might have no judicial qualifications or experience, a state of things hardly desirable in a tribunal whose decisions should command general respect.

For a permanent tribunal, it would seem in the first place preferable that the court should be enlarged so as to include judges appointed by each of the Dominions. This is not as impracticable as a similar provision would prove in the case of a world court, for, while states are distrustful of a tribunal to which they have not nominated any judge, where some sixty nations are concerned it is clearly impossible to satisfy all of them in this respect. But the Governments of the Commonwealth are only eight in number, so that it is possible to constitute a court consisting of one or two nominees from each of them, together with a chairman—to provide a casting vote in case of need—who might be elected by the remaining judges. Appointments should be for long tenure and on good behaviour, say not less than ten years. Appointees should not during their term of office hold administrative office, or be members of parliament, or hold any public office in their respective states. In providing the judiciary for a permanent court, there would be little risk that judicial qualifications would be deferred to political or other considerations, as there might be in the case of an *ad hoc* tribunal, chosen to adjudicate upon a dispute already in existence. This being so, it might be inadvisable to insist upon a technical qualification the existence of which might be challenged in a particular case, thus raising a point of some delicacy.

Further details it is premature now to discuss in any fullness. The court might be left to make its own rules as to all such matters as assessors (specially mentioned in the Report of the Imperial Conference of 1930), quorum, and procedure.

As to the salaries of the judges, as it is probable that the court would only sit occasionally, a small salary in the nature

of a retainer would suffice, to be increased in proportion to the actual work. The payment should be made from some central fund, specially constituted out of the contributions of the several members of the Commonwealth; individual judges should not be paid by the Treasuries of the states which appointed them. To preserve the continuity of the tribunal, one ordinary judge might retire every year (the order of the first batch of retirements being determined by lot), the vacancies in each case being filled by the appointing Government, and retiring judges being eligible for re-appointment. Membership of the court would obviously not exclude the performance of other duties, especially of a judicial character. It might, indeed, be deemed consistent with membership of the tribunal that its judges might hold high judicial office at the same time in their respective states.

What law is the tribunal to apply?

The question what principles are to be applied in the settlement of disputes referred to the tribunal is not explicitly discussed in the recommendations of 1930. Nor indeed was discussion needed. The tribunal must necessarily act on legal principles as the only disputes to be referred to it are 'justiciable', and therefore, as has already been indicated, disputes in which both sides are asking for their legal rights. It is thus implied in the very constitution of the tribunal, and in the definition of the issues submitted to it, that its decision must be based on law.

The definition and elaboration of the law must be the task of the tribunal, except in the case of special agreement of the parties beforehand. It may be anticipated that in the main the disputes brought before the tribunal will be concerned with the interpretation of written instruments—a matter on which the legal principles prevailing in the Commonwealth are not always identical with the law of other communities—and the drawing of inferences from accepted constitutional principles. Contemporary international law will not be without influence, but a law which is world-wide in its application and which regulates the relations of communities slowly drawing together for the

first time may well not be applicable as it stands to the mutual relationships of members of the Commonwealth. The whole of that division of international law which relates to war will be outside the province of the tribunal; it may be found that much of international law which has been influenced by the existence of war as a legal institution —as, for example, the law relating to measures of hostility falling short of war—is or may become inapplicable, or would be in need of drastic modification, in the relations of members of the Commonwealth, *inter se*.

It may be added that it might be wise to leave to the tribunal itself to determine whether it is to regard its own decisions as absolutely binding precedents—as with the House of Lords—or is to be at liberty, as is the Supreme Court of the United States, even if by way rather of exception, not to follow a previous decision.

Subjects Suitable for Compulsory Jurisdiction.[1]

The following subjects are suitable for compulsory jurisdiction:

1. Disputes respecting the interpretation of formal agreements between members of the Commonwealth; the determination of facts as respects the alleged breach of such an agreement, and reparations for such a breach.

By 'formal agreement' is meant agreements such as the Ottawa Agreements, which were signed by representatives of Governments and formally accepted by the parliaments concerned. In order to obviate any disputes as to whether any future agreement is included in this category, it is suggested that any such agreement should include a clause providing for submission of disputes arising out of the agreement.

2. Disputes as respects the treatment of the 'nationals' or their property of one member of the Commonwealth by the Government of another.

The field of compulsory jurisdiction should not be considered closed but it should be added to from time to time as experience indicates.

Disputes in Group One above—those respecting agreements between Governments—cover possibly the largest potential field of disputes and obviously the most easily

[1] What follows is drawn exclusively from the Canadian paper.

settled by judicial process. Moreover, such disputes should be susceptible of settlement, even without complete agreement beforehand among the members of the Commonwealth as to the nature of the Commonwealth relation whether constitutional or international.

Admittedly disputes respecting the treatment of nationals or their property form a more controversial field, since it might include such matters as deportation, discrimination in immigration laws, public policy as respects the ownership or use of private property, &c. All these questions lie on the borderline between the domestic jurisdiction of a state and its obligations to other states, but they are for this reason peculiarly provocative of friction in international relations, and they may be no less so in intra-Commonwealth relations. It might as yet be too soon to include them under 'compulsory jurisdiction', but from the point of view of preserving goodwill between peoples of the Commonwealth it would be highly desirable.

Constitutional Questions and a Commonwealth Tribunal.

A peculiar situation may arise from the Statute of Westminster. It seems perfectly clear that any Dominion may now cut off appeals to the Privy Council except possibly in so far as their constituent Acts are expressly safeguarded by the Statute itself (British North America Act, Commonwealth Act, New Zealand Act). If this should happen, it will virtually deprive the Privy Council of the power to interpret the Statute of Westminster itself. There may thus arise conflicting interpretations of the Statute, since the interpretations of the courts of the different members of the Commonwealth will have equal validity—a situation which might, to say the least, be highly inconvenient, and perhaps even dangerous to the unity of the Commonwealth. So long as the jurisdiction of the Privy Council continues as at present, this difficulty would not arise in the case of Canada, or Australia, or New Zealand, but it might easily arise in the case of the Union of South Africa or the Free State. And even under the present situation different interpretations may obviously arise.

In the light of this situation it might be advisable to provide for 'advisory opinions', by way of reference by any Government in the Commonwealth to the Commonwealth Tribunal on any point involving the interpretation of the Statute of Westminster.

Disputes not Suitable for Judicial Settlement.

It is generally recognized that not all disputes between states are suitable for arbitral or judicial settlement and this is also the case between members of the Commonwealth. In general, such disputes may be called 'political' disputes, that is to say, they have to do with public policy rather than legal rights or interests. Constitutional questions between the United Kingdom and the Dominions have often been of this nature, as, for example, the series of disputes which culminated in the grant of responsible government. It might conceivably be of advantage to provide special machinery to facilitate the settlement of 'political disputes' between members. One of the most practicable means is that of investigation by a commission of inquiry. Another is procedure by conciliation. Whether or not the Commonwealth needs to have such machinery constituted in advance of disputes is an open question. It is, however, suggested that if any machinery for the settlement of political or non-judicial disputes is provided in advance, this machinery would be more appropriate if it were of a bi-lateral rather than a multi-lateral character.

(iv) UNIFORMITY OF MERCHANT SHIPPING LEGISLATION AND ADMIRALTY JURISDICTION THROUGHOUT THE BRITISH EMPIRE[1]

By CHARLES J. BURCHELL, K.C.

The Statute of Westminster came into force on the 11th day of December, 1931. The general effect of the Statute

[1] This paper was submitted as one of the Canadian contributions to the Toronto Conference on British Commonwealth Relations and is reprinted by permission from *The Canadian Bar Review*, March 1932.

Mr. Burchell was Chairman of the Committee on Merchant Shipping Legislation at the Conference on the Operation of Dominion Legislation and Merchant Shipping Legislation which was held in London in 1929.

is that the Colonial Laws Validity Act, so far as it applies to any law made by a Dominion after the commencement of the Act, is repealed; that hereafter, instead of the legislation of the Imperial Parliament overriding repugnant Dominion legislation, Dominion legislation, within its sphere of operations, is supreme; that each Dominion has the right to repeal or amend Imperial legislation extending to such Dominion, including legislation relating to Merchant Shipping and Admiralty Courts; that each Dominion has power to make laws having extraterritorial operation; that each Dominion has full power over its own ships both extraterritorially and intraterritorially and also complete jurisdiction over all ships which enter its harbours or territorial waters; that each Dominion has full control over its own Admiralty Courts, including power to define the jurisdiction and procedure of such Courts.

The Statute was passed by the Parliament at Westminster on the recommendation of the Imperial Conference of 1930, approving and adopting the Report of the Conference on the Operation of Dominion Legislation and Merchant Shipping Legislation of 1929.

The fact should be kept prominently in mind that the Report of the 1929 Conference made recommendations, which were approved by the 1930 Imperial Conference, as to the necessity for uniformity in shipping and Admiralty Court legislation, which are in the highest degree important in the interests of Empire unity and which should be implemented before any of the Dominions enact new laws relating to shipping or to Admiralty Courts.

With respect to Admiralty Courts, the Committee of 1929 strongly emphasized

> that so far as is possible there should be uniform jurisdiction and procedure in all Admiralty Courts in the British Commonwealth of Nations, subject, of course, to such variations as may be required in matters of purely local or domestic interest.

The only way to obtain such uniform jurisdiction and procedure is to appoint a British Commonwealth Committee, composed of representatives from Great Britain and

the Dominions, which should be entrusted with the task of preparing the necessary legislation and rules of procedure.

With respect to Merchant Shipping legislation the Committee of 1929, after pointing out that shipping is a world-wide interest in which uniformity is from the nature of the case desirable, indicated in their Report a number of matters in which uniformity of laws throughout the British Commonwealth would be of great importance in the interests of all. Their recommendation was that, in respect of these matters, an agreement should be prepared, covering a term of years, for execution by Great Britain and all the Dominions. A shipping agreement along the lines indicated was approved by the 1930 Conference and was executed on December 10th, 1931, by Great Britain and by all the Dominions. The Report of the 1929 Committee also indicated that legislation would be necessary in order to implement that agreement. This is quite obvious, but it is further quite obvious that if it is left to each Dominion separately to translate the agreement into a statute, the result will be anything but uniformity. Even a layman appreciates the fact that a very slight difference in the wording of a statute may change its whole meaning.

Here again, therefore, it is necessary to have a British Commonwealth Committee whose duty it would be to prepare model sections for a statute covering the many matters dealt with in the shipping agreement.

It is rumoured that Canada is to take the lead in suggesting the appointment of a British Commonwealth Committee to deal with both shipping and Admiralty Court legislation. The appointment should not be long delayed, and in the meantime each Dominion should agree not to introduce any legislation in any way changing the present position. Any Committee entrusted with the task of drafting a new Merchant Shipping Act for adoption throughout the British Commonwealth would naturally follow the model of the present Imperial Act. That Act, however, dates back over seventy-five years, or to the year 1854. It has frequently been amended but never revised or rewritten since that date. The Act was drafted in the days of sailing

ships and before the cable, radio, and other modern aids to navigation and shipping were in use. The present Act with its amendments has served its purpose well, but there is no doubt that for these modern days it can be greatly improved. Here then is an opportunity for a well-selected committee to prepare a modern Act to regulate and protect Merchant Shipping throughout the British Empire in all general matters, but not, of course, including regulation in matters of merely local or domestic concern.

The Statute of Westminster is entitled 'An Act to give effect to certain resolutions passed by Imperial Conferences held in the years 1926 and 1930' and was based on the Balfour report defining the status of Great Britain and the Dominions. This report describes 'free institutions' as the life-blood of the British Empire and 'free co-operation' as its instrument. Uniformity of legislation with respect to shipping and Admiralty Courts is important in itself, but the free co-operation of Great Britain and the Dominions in bringing about uniformity of laws in these and other matters will be an instrument to assist in cementing the unity of the Empire. If, on the contrary, the nations composing the British Commonwealth neglect to co-operate freely in the important matter of uniformity of legislation in such essential matters as shipping, it will be an indication that the ties of Empire have not been strengthened by the enactment of the Statute of Westminster.

C. THE PROBLEM OF THE JURIDICAL UNITY OR PLURALITY OF THE BRITISH COMMONWEALTH OF NATIONS *VIS-À-VIS* FOREIGN POWERS

THE references to this question in the preliminary papers have been reserved for this separate annex, since the points of view which they express do not refer either to policy or to machinery, but to a controversial question of juridical exegesis.

The two sides of this inconclusively debated question may perhaps be indicated sufficiently by quoting one passage from a paper produced in the United Kingdom and another from a paper produced in South Africa.[1]

The United Kingdom paper deals with the question as follows:

There is one consequence of the unique organization of the British Commonwealth which is of great importance. The British Commonwealth consists of a group of autonomous nations in no way subordinate to one another, united by the Crown. Internally the various elements of the Commonwealth are entirely distinct. But externally and in relation to Foreign Powers they constitute an international unit. As a matter of international law, foreign Powers are entitled to treat the action of one of the Commonwealth nations as the action of them all. And conversely, if a foreign Power attacked the territory or interests of one of the Dominions, the latter would naturally and rightly expect the moral and material assistance of British diplomacy, and, if need be, of the Royal Navy. No doubt in any international controversy in which the British Commonwealth or any part of it is involved, it is open to any of the Dominions to stand aside. But, even so, the matter could hardly be one of indifference to the Dominion in question. Apart from all matters of sentiment, experience shows that when one member even of an alliance becomes engaged in international controversy, the other members are apt to become involved. And, however the British Commonwealth may be classified, it is certainly more than an alliance. So that from this point of view also intra-Commonwealth consulta-

[1] See also passage quoted on p. 80 above.

tion and co-operation may at any moment become of vital importance to each member of it.

The South African paper deals with the problem under the heading 'Neutrality and Secession':

1. *Neutrality.* The problem of neutrality is an old one in South Africa. To go no further back than 1899, the then Premier of the Cape Colony, on the eve of the South African War, startled the High Commissioner and won the hopeful approval of many Cape Colonists by talking loosely of colonial neutrality. All that he meant was that the Colony should hold aloof as far as possible from the coming struggle; but when the time came he held himself bound to give the Imperial authorities every assistance in his power.

The issue was raised unmistakably immediately after Union. A leading pro-Government newspaper, in 1911, took alarm at Sir Wilfrid Laurier's warning that Dominion consultation might mean Dominion participation in a 'British' war, and insisted that 'an express declaration' by the Dominion Government would be necessary 'before the neutrality of any one of them can be disturbed'. It was already fully recognized that no Dominion need participate actively unless it wished, but this was a very different thing: a claim to non-belligerency. In spite of recent developments, international law knows of no form of non-belligerency other than strict neutrality which carries with it political obligations towards all combatant states. General Botha, in 1911, silenced the discussion by observing that neutrality would depend in practice on the enemy rather than on the Dominion or Great Britain.

The quarrel between Generals Botha and Hertzog in 1913 arose fundamentally over the relations of the Union to the Empire. General Hertzog's Nationalists were anxious to avert anything that might be the smallest check on the Union's freedom of action politically, and, above all, the risk of being dragged into a 'British' war. One of the chief causes of the Rebellion of 1914 was precisely that the Botha-Smuts Ministry had allowed itself to be thus drawn in. After the War, however, the South African Party adopted an attitude that was in practice very little different from that of the Nationalists, as the Chanaq incident sufficiently proved, and then the Dominions formula of the 1926 Conference promised to end the long controversy. Yet it was during the debates on that Conference's Report in March, 1928, that the neutrality issue came to the front once more.

In spite of General Smuts's oft-repeated warning that in the British Commonwealth 'we are up against something new,

something to which the categories of judicial science do not apply', General Hertzog and the majority in the House held that any Dominion, including, of course, Great Britain herself, could not only remain passive in a war in which other members of the Commonwealth were engaged, but had a *right* to claim that the World should recognize and respect its neutrality. This claim was repeated by the then acting Prime Minister on the eve of the Imperial Conference of 1930 and accompanied by a denial of the unity and indivisibility of the Crown. (On the Personal Union vide *Rex* v. *Christian*, South African Appellate Division Reports, 1924, p. 101.)

In other words, the claim is that His Majesty can be at peace in one of his manifestations and at war in another. Analogies are drawn with the relation of the Crown of Great Britain to the Crown of Hanover, and the relations of the English to the Scottish Crown between 1603 and 1707. At this stage the debate becomes Athanasian: not one Crown but seven Crowns, coequal, consubstantial.... War alone is likely to test the realities that lie behind it.

2. *Secession.* There have been plenty of local wars, long before the days of Dominion status, in which large areas of the Empire enjoyed a practical state of non-belligerency. But it cannot be doubted now that a first-class war with naval and aerial forces engaged on both sides would face the Dominions with a choice between participation or secession in order to preserve, if it might yet be, neutrality. There has been secession and talk of secession in plenty throughout South Africa's history; the right of secession has been steadily upheld by the National Party; and after the Great War the claim to the right was the chief obstacle to a reunion of that Party with the Afrikander section of the South African party.

After a long period of quiescence the issue came up in a debate on the Sankey Committee's Report in 1930. General Smuts asserted, by the way, that the proposal that any alteration in the succession to the Throne or the Royal title would require the assent of all the Dominion parliaments, as well as that of Great Britain, did away with the *right* of secession. No member, he claimed, could withdraw from the common allegiance to the Crown without the consent of all the others.

Quieta non movere. In reply to the challenge, General Hertzog moved a proviso that was carried to the effect that nothing in the section should be 'taken as derogating from the *right* of any member' to withdraw from the Commonwealth. After the Premier had sailed for the Imperial Conference, avowedly taking this resolution as a mandate, the acting Prime Minister elaborated the thesis of

the right to secede along with the cognate problems of neutrality and the divisibility of the Crown.

At the Conference General Hertzog was content to have his statement registered. Since then the Hertzog-Smuts Pact Ministry has taken as its first point of agreement the maintenance of the Union as a national unit on the basis guaranteed to it by the Statute of Westminster. That agreement, however, leaves the twin problems of neutrality and secession unsolved. General Hertzog and those who think with him are still free to argue that the *right* to secede is implicit in the Statute of Westminster, while those who differ can still hold that allegiance cannot of right be dissolved by a unilateral act, and that in any event Dominion Ministries and Parliaments cannot claim rights higher than those of the Ministry and Parliament at Westminster, which certainly cannot as of right throw off allegiance at will. In practice the thing may be done, and English history witnesses to the fact that it has been done. It may even be done without a struggle; but that will not alter the fact that it would be a revolution and not the exercise of a constitutional right.

PART III

THE WORK OF THE CONFERENCE

A. THE AGENDA

I. THE PRINCIPLES OF CO-OPERATION IN FOREIGN POLICY

1. Interests of the members of the British Commonwealth in external relations:

(*a*) What individual interests exist as regards

Geographical and strategical position.
Commercial and political interests.
Privileges and obligations under the League Covenant and the Pact of Paris; Treaty Commitments; Neutrality (Military and Economic aspects in both League and Non-League Wars).
Sectional domestic opinion.

(*b*) What common interests and obligations emerge from the above, particularly in regard to

Maintenance of World Peace.
Effective operation of the Collective System for the maintenance of peace.
Peaceful settlement of disputes between nations.
Defence.
Commerce (in peace and war).
Sentiment for British Commonwealth.
British Commonwealth as a form of international co-operation.
Culture.

2. Constitutional Relationship of members of the British Commonwealth to one another:

Position of the Crown as regards
Declaration of War.
Neutrality of non-belligerent members and probable attitude of foreign Powers thereto.

3. Conclusions to be drawn from (1) and (2) above:

(*a*) Is co-operation desirable, and if so to what extent?
(*b*) Do the principles of co-operation in foreign policy agreed upon at the Imperial Conferences in 1923, 1926, and 1930 meet the situation?

II. MACHINERY REQUIRED FOR CO-OPERATION IN FOREIGN POLICY

1. Channels of Information:
   - (*a*) The Imperial Conference.
   - (*b*) The supply of information forwarded by the Foreign Affairs Department of the Dominions Office.
   - (*c*) The interchange of information between the Dominion Diplomatic Representatives and their Government Departments.
   - (*d*) The interchange of information between Dominion Government Departments and their permanent representatives in Geneva.
   - (*e*) The supply of information from Dominion Governments to other Governments of the Commonwealth.
   - (*f*) Methods of handling the information received by the Department concerned:
     - (i) The Departments of External Affairs and Prime Minister's Departments and the Governor General of New Zealand.
     - (ii) The offices of the Dominion High Commissioners in London.
     - (iii) The offices of the United Kingdom Representatives in Dominions.
   - (*g*) The supply of information to Governors General.
2. Methods of Consultation:
   - (*a*) The Imperial Conference.
   - (*b*) Consultation by correspondence (by wireless, cable, telephone, or mail):
     - (i) Between Prime Ministers direct.
     - (ii) Through Government Departments.
   - (*c*) Consultation by personal contact:
     - (i) Representation within the British Commonwealth:
       Dominion Representation in London.
       United Kingdom Representation in Dominions.
       Dominion Representation in other Dominions.

(ii) Representation in Geneva and at International Conferences:

Special Representatives for the League.
Assembly and International Conferences.
Permanent Representation in Geneva.

(*d*) Consultation between Diplomatic Representatives in capitals where Dominions are separately represented.

(*e*) Consultation with regard to Defence.

3. Representation Abroad:

(*a*) Representation of the Dominions by United Kingdom Diplomatic Representatives.

(*b*) Dominion Diplomatic Representatives and their relation with United Kingdom Ambassadors.

(*c*) Representation in Geneva and at International Conferences.

III. COMMONWEALTH COURTS AND UNIFORMITY OF LEGISLATION

1. Proposals for a Commonwealth Tribunal for the settlement of justiciable disputes between Governments:

Need for a Tribunal.
Arrangements made by the Imperial Conference in 1930.
Scope of jurisdiction, e.g., inter-governmental and constitutional disputes.
Whether jurisdiction be voluntary or obligatory.
Constitution of Tribunal, procedure, &c.
Law to be applied.

2. Machinery for the settlement of non-justiciable disputes between Governments.

3. Uniformity of legislation, particularly as regards Air, Merchant Shipping, Admiralty Jurisdiction and Nationality; advisability of a Common Appellate Tribunal for interpreting such legislation.

IV. CO-OPERATION FOR PURPOSES OTHER THAN FOREIGN POLICY

1. In what fields other than foreign policy is machinery for Commonwealth co-operation desirable?

2. The adequacy of existing machinery available for communication in general.

3. Special inter-Imperial bodies for the purposes agreed to be desirable under (1) above, e.g.,

Co-operation for Scientific Research and Statistics.
Co-operation on Economic and Monetary questions.
Co-operation on any other matters, including Air and Shipping.

4. Administration of Mandated Areas.

B. THE INAUGURAL SPEECHES

I. THE OPENING SESSION

THE opening session of the Conference took place in the Debates Room at Hart House, University of Toronto, at 11 a.m. on Monday, the 11th September, 1933. The Rt. Hon. Sir Robert Laird Borden, G.C.M.G., K.C., Hon. President of the Canadian Institute of International Affairs, presided.

Sir Robert Borden, on behalf of the Canadian Institute of International Affairs, welcomed the members of the Conference, and the Hon. W. Downie Stewart and the Rt. Hon. F. S. Malan replied on behalf of their fellow-members of the Conference.

Sir Robert Borden then called upon Viscount Cecil of Chelwood, who proposed that the Hon. Newton W. Rowell be elected Chairman of the Conference. The Diwan Bahadur Ramaswami Mudaliar seconded this proposal, and the Hon. Newton W. Rowell was unanimously elected Chairman of the Conference.

At this point Sir Robert Borden vacated the Chair, and his place was taken by the Hon. Newton W. Rowell.

After a speech from the Chairman of the Conference, the proceedings terminated at 12.05 p.m. A record of the speeches is given below.

SIR ROBERT BORDEN: Ladies and gentlemen: I have been asked to say a few words at this opening session of the Conference.

You are already assured of a warm welcome to Canada; and as Honorary President of the Canadian Institute of International Affairs it is my privilege in bidding you doubly welcome to say how highly honoured is our Institute by your presence. Distinguished in public service, you have come from Great Britain and from sister nations of our Commonwealth, India among them, to sit in this informal council, and, taking into account a long series of

developments, to consider and estimate the nature and permanence of the relations that have ensued, the most acceptable means of increasing their efficiency, and the probable tendencies of the future.

Perhaps as much as any living man I have striven for the right of full nationhood which the Dominions now enjoy and toward which a great step was taken in the constitutional resolution of 1917. In Great Britain eminent statesmen, unrivalled in ability and experience, whose opinion commanded fullest consideration and respect, were at first perplexed and alarmed by a development that was inevitable. To one of them who imparted to me at Paris in 1919 grave fear that the path we were pursuing would lead to the disintegration of the Empire, I replied with complete sincerity and equal earnestness that along this path and not elsewhere would be found its permanent and real unity, than which nothing was or is dearer to my heart. On the other hand, perhaps we of the Dominions did not at first fully realize that nationhood can only be consummated by acceptance and fulfilment of its attendant responsibilities.

In endeavouring to foresee the tendencies of the future we may perhaps be assisted by study of the past. In that retrospect one cannot fail to be impressed by the influence of constitutional convention and by its power to mould effectually inter-Imperial relations. Let one illustration suffice. Not by statute, order-in-council, or other formal act, but by the establishment of a recognized convention Canada was first endowed with the faculty of self-government. Upon the firm foundation of that convention the stately structure of the Commonwealth has been raised. Even upon the written constitution of the United States the influence of convention, coupled with extraordinary subtlety of interpretation, has been remarkable. An ex-Solicitor-General of the United States (the Honourable J. M. Beck) has recently declared that, in striking contrast to the desire and intention of the framers of its constitution, that country is tending more and more to become a unitary rather than a federal state. It would be difficult to illustrate more vividly the incapacity of human intelligence to foresee

or to estimate the play of future forces upon the most ingenious safeguards and devices that can be enshrined in a written constitution. And I venture to believe that, notwithstanding the Statute of Westminster, convention will continue to exercise an important influence upon the relations between the Commonwealth's self-governing nations.

May I diverge for a moment to remind you that the designation 'British Commonwealth of Nations', which I thought of very modern origin, was employed by a distinguished statesman, the late Lord Rosebery, nearly half a century ago—I think in a speech in Adelaide, Australia, in 1884. The expression has been challenged as illogical but it has persisted.

The present constitution (I use the word in its widest sense) of our Commonwealth is a tremendous experiment in governance. To imperil its unity would invite disaster to Humanity; for how can the League of Nations, in whose service to the World I am a resolute believer, how can such a League survive if our Commonwealth may not endure? Is not its continued existence the most vital of all considerations affecting our future destiny?

In a recent instructive study of the period and personality of Metternich, Algernon Cecil refers to a truth which Metternich recognized and Lord Acton later emphasized: that a commonwealth raised upon a diversity of racial genius is especially endowed with the rationale of a high civilization. In its diversity of race, language, creed, custom, interest, outlook, our confederation of nations, at first sight a phenomenon verging upon the impossible, is invested with a significance of vital moment to the wider community of the World's nations.

In the spirit of our discussions and in the principles to which we shall give adherence, may it be our endeavour to consolidate, or, as Mr. Gladstone once expressed it, to 'corroborate', the Empire's essential unity, the inspiring unity of its infinite diversity. In these troublous times the conception which it presents of liberty and co-operation, united by goodwill in the pursuit of peace, is more than

ever a priceless possession not only to its scattered nations but to the World. Let it not fail.

I pray that your deliberations may be fruitful. And I trust they will not conclude without our heartfelt tribute to the late Viscount Grey, elder statesman of the Empire, servant of Humanity, whose passing we so deeply deplore.

I now call upon the Honourable W. Downie Stewart to reply.

THE HON. W. DOWNIE STEWART: Sir Robert, ladies and gentlemen, the delegates of this Conference desire to thank you for your words of welcome; and they count it a most happy augury that you are presiding at their opening session.

Your long and illustrious public career—the great and overwhelming responsibility you carried as Prime Minister of the senior Dominion during the long strain of the Great War and the leading part you played in dealing with the new and difficult constitutional problems that arose in the post-war period—all combine to lend a prestige and authority to your words and actions that it would be hard to duplicate in the record of any living Dominion statesman. Therefore your wise words of counsel will be a guide and an inspiration to us in the discussions upon which we are about to enter.

It is also peculiarly fitting that the scene of our labours should be on Canadian soil. For it was here that the great principle of self-government combined with continued allegiance to the Crown was first successfully wrought out in the body politic. It was Canada that laid the foundation of the Commonwealth as we know it to-day; and, as one of your own historians has truly said, all subsequent achievements are trivial in comparison with it.

Therefore we of the younger Dominions are glad to acknowledge the deep debt we owe to Canada because on the foundations she laid we have each in turn built up a form of government based on the model first devised in this country but modified and altered in each case to suit our special circumstances. One may say therefore without

exaggeration that this conference is one of the fruits of the pioneer labours of Canadian statesmen. You have pointed out that those who enjoy the privileges of nationhood within the Commonwealth must also accept their share of its responsibilities. Many aspects of those privileges and responsibilities will come under review at this Conference, and from the varying opinions expressed in the data papers it is safe to assume that the discussions will be by no means insipid or colourless. On the contrary, they will be marked by that outspoken frankness that properly characterizes discussions between members of one family.

We are grateful also for your reminder that the Commonwealth conception of liberty is a priceless possession of value to the whole World. In these days when despotism, dictatorship, and autocracy find favour in so many quarters, we feel that we should hold fast to the British ideals of liberty, freedom, and democracy that are our heritage, and under which alone free scope exists for men to learn to govern themselves, to accept responsibility, and maintain their own individuality. We recall the prophetic words of the great French political philosopher De Tocqueville written a hundred years ago when he said: 'Despotism appears to me peculiarly to be dreaded in democratic ages. I should have loved freedom I believe at all times, but in the times in which we live I am ready to worship it.'

Elsewhere in your remarks you have emphasized the vital importance of the continued existence of the League of Nations, and the faith and hope that you have expressed in it will be found to be echoed in many of the studies that have been written for this Conference.

Although Canada and some of the older provinces go further back in constitutional experience than the other Dominions, yet we are all young when compared with the mother country, which has grown grey with centuries of experience in the art of governing men. She long since learned the paradoxical truth that if you wish to bind men to you, you must leave them free—free to live their own lives, to follow their own customs, to develop their own institutions—all this on the one condition that they can

and do maintain law and order within their own boundaries. It is this sovereign and peculiar virtue of the British ideal that draws all her people to her with a passionate attachment.

It was this ideal which led Great Britain and the Dominions to be companions in arms during the Great War. We have all been companions in distress during this long and weary depression. But through all these vicissitudes what we value most is that we count ourselves to be companions in good fortune in the fact that we all live within the wide orbit and the august prestige of the British Commonwealth of Nations.

SIR ROBERT BORDEN: I shall now call upon The Right Hon. F. S. Malan.

THE RIGHT HON. F. S. MALAN: Sir Robert Borden, ladies and gentlemen: I have very much pleasure in associating myself with what my colleague from New Zealand (The Hon. W. Downie Stewart) has so eloquently said in regard to the welcome which you have extended to us this morning. Coming from different parts of the World, we welcome the opportunity of discussing our common interests. We value, even more, the opportunity of meeting one another personally and exchanging views, and in that way creating contacts between the different parts of the Commonwealth which we represent.

In this connexion may I voice just one word of regret, namely that the delegates from a sister Dominion, the Irish Free State, were at the last moment prevented from attending this Conference. We regret their absence, but we understand that it is due to political circumstances and exigencies, which are not unknown to those of us who have had any experience in parliamentary government.

Sir Robert, I believe that you have wisely, if I may say so, emphasized the fact that the British Commonwealth of Nations is the creation of a natural growth, a vital organism which is continuing to grow.

Taken from that point of view, the Statute of West-

minster of 1931 crystallizes the results which have so far been attained, rather than lays down a hard and fast constitution for the British Empire. In this Statute of Westminster which, I take it, is the starting-point from which this Conference will proceed, there are two very far-reaching and important principles laid down. I do not say that they are new, but nevertheless they are laid down more definitely and emphatically in that declaration than they have been laid down before. One is the voluntary character of the relations between the different Dominions. Whatever the past history of these Dominions may have been, and whatever may be the relations to-day between one Dominion and some of its subordinate territories—whether Crown Colonies, mandated territories, or otherwise—the Dominions as such, in their relation to one another, form —if they do form a unit—a voluntary unit. And, when you associate yourselves voluntarily you must know the objects for which you are so associated. I take it that one of the objects of this Conference will be to give us a clearer idea as to what the common objects are, for which we are voluntarily associated.

The second principle which is very clearly and, perhaps for the first time, laid down in the Statute of Westminster, is that control is given to the Dominions of their external affairs. True, the Dominions had external relations before 1931, or rather, before 1926, when the Balfour Declaration formula was found by the Imperial Conference of that year. But, the full extent of the control which is now vested in each Dominion separately to carry out its own foreign policy through its own representatives, plenipotentiaries, or otherwise, in foreign countries—that marks a new step in the constitutional development of the Empire. The consequences of this power given to individual units to carry on a foreign policy for themselves may, or may not, exclude the possibility of a Commonwealth foreign policy. Certainly it excludes anything which is not done by consent. If a united Commonwealth foreign policy has to be developed and to be followed in future it will have to be by consent. I am not going into details of that now, but the principle has

already been recognized—just to mention one instance, where it is not common—in the Treaty of Locarno. There the Dominions who do not wish to adhere to it stand out. In this most important instance the foreign policy of the United Kingdom was not shared in by the Dominions.

Well, I say that in the Statute of Westminster this idea of the principle of giving control of foreign policy is laid down, and it is for this Conference to follow it, and explore what the consequences and effects of that principle may be.

Sir Robert, I do not wish to take up your time any further. Again I thank you for the words of welcome, and I wish to say in conclusion that the hospitality of Canada is well known. We had high expectations, but the hospitality which the Institute of International Affairs in Canada has tendered to us has far surpassed our most sanguine anticipations.

SIR ROBERT BORDEN: I have now very great pleasure in calling upon The Right Hon. The Viscount Cecil of Chelwood, to make a proposal.

THE RIGHT HON. THE VISCOUNT CECIL OF CHELWOOD: Sir Robert Borden, ladies and gentlemen, I have a very simple and pleasant duty assigned to me, and one which I hope will not detain you at length. My business is to propose the Chairman of the Conference. I do not think there will be any one in this room who would nominate any one except the gentleman I am about to propose for that office. That gentleman, I need hardly say, is Mr. Rowell.

Something has been said about the purpose of this Conference by the speakers who have preceded me. I am not going to go into that matter at any great length. The purpose, as I understand it, is not to indulge in any attempt to review or re-write the Statute of Westminster, or indulge in speculations as to the exact relation of this or that Dominion to a sister Dominion. Our business is a simple, and a more practical one. As I understand it, our object is to say how we can best promote the great principles in which we all believe. I agree entirely with what Senator

Malan has just said, namely that the Empire must continue to be founded on consent. A good many people nowadays are questioning the very foundations of the democratic principles on which the Governments of all the Dominions, and that of the mother country, are based. I met a young man from Germany the other day who was a conscientious believer in the Nazi creed. During a little discussion he said to me, 'How can you possibly believe that the whole people of the country, many of them poorly educated, can arrive at just decisions on great questions?' I replied, 'Well, I do not wish to discuss theoretical considerations with you, but our experience in our country—my country—is that in point of fact they do arrive at right conclusions'. And that, after all, is the only test of good or bad systems of government. No doubt each Government, in my country and yours, is founded on consent, and that principle has been carried very wisely and rightly into the organization of the British Commonwealth of Nations. It is an organization. I quite agree that it is a voluntary organization depending upon consent.

I should like to associate myself, too, with what has been said with reference to the League of Nations. The whole point in that, too, is that it is an organization of the nations, founded on consent. These are two great voluntary organizations for many purposes established with the same object, and indeed to a very large extent on the same principles and the same model. The conception is that the nations shall meet together and voluntarily, and with absolute freedom, discuss and determine that which they believe to be best for the advancement of international co-operation and the maintenance of peace. I do not know that we could define much more correctly or accurately the great purposes for which the British Commonwealth exists. Perhaps I need not go farther into that—beyond just to say this, that in view of the matters to which I have referred, and the questions to come before the Conference, we could not possibly have a better chairman than Mr. Rowell. I am not going to attempt a eulogy of his good points, nor shall I discuss the many services he has rendered. I need only

remind myself of the immense pleasure I had in working with him during the early days in the League, and the great reputation he has left at Geneva as an international statesman.

Now one word on a different subject, before I take my seat. This subject is different, but not, I believe, really irrelevant. You have referred—and I thank you for it—to the great loss which we have suffered through the death of Lord Grey. I had the great privilege of close acquaintance with him, and working with him on more than one occasion. He had immense qualities of mind. It has already been said in the Press that he was perhaps the most persuasive parliamentary speaker—certainly that I have ever heard. I have heard more eloquent men, men with greater command of language, but I have never heard any one who was capable, to the extent that Lord Grey was capable, of changing opinion by his speeches. He had great judgement—immense experience. He was foreign minister longer, I believe, than any other foreign minister of our history. He had great integrity of character, great truthfulness to himself and to others. And, above all, perhaps, as a quality in a public man, he was completely destitute of personal ambition. Indeed, some of us had at times to regret that he was so unwilling to push himself forward and take the lead in the great questions which agitated our country. These qualities were of enormous value to him as a foreign minister. I, myself, am quite satisfied that he was one of the greatest of our foreign ministers. Because he was a man of great truthfulness and great integrity, he believed that the old view of diplomacy which consisted in any kind of chicanery by which you could 'take in' foreign representatives, was absolutely futile and fallacious. I remember very well the tone of complete scorn with which Lord Grey was accustomed to refer to what he called 'clever diplomacy'. His attitude towards diplomacy was different. He had great purposes and he simply advocated them in the most persuasive and clearest way that he could. His great purpose, no doubt, was to preserve the peace of the World. Owing to circumstances which were certainly beyond his

control he failed in that purpose. But his qualities, the confidence which he inspired, enabled him not only to carry into that great struggle the united people in my country, but also to impress upon all the World the fact that the cause which he was prepared to advocate and obviously believed in must have a large measure of justice behind it. That great service which he did for us, and for the whole Empire, is not perhaps always sufficiently appreciated. But if Napoleon was right in saying that success in war depended four-fifths on what he called imponderables, then the great architect of victory, more than any other single man, was Lord Grey.

Ladies and gentlemen, I am aware that this is a little outside the ambit of the purpose behind my speech, but I cannot help thinking that when we look for those who will carry on the great traditions that Lord Grey established, there are few men whom we should prefer to the gentleman we are now asking you to elect as Chairman of this Conference—Mr. Rowell.

SIR ROBERT BORDEN: I have now much pleasure in calling upon Diwan Bahadur Ramaswami Mudaliar.

DIWAN BAHADUR RAMASWAMI MUDALIAR: Sir Robert, ladies and gentlemen, I have much pleasure in seconding the motion which has been made. You will pardon me, I trust, if in the course of my remarks I yield to the desire to thank you for the splendid welcome which you have extended to us from India. As the most junior member of the British Commonwealth of Nations, we are most grateful to have this opportunity of co-operating with the representatives of the sister Dominions, and those of the mother country, at this great and informal Conference. We are pleased to be afforded the opportunity to speak our minds on the various questions connected with the Commonwealth and to have this personal contact which Senator Malan has so properly valued at a very high degree, and to try to understand your problems and have you understand ours.

It may not be out of place if I should refer to the position of India in the Commonwealth of Nations. I find that many are under the impression that a Commonwealth of Nations can exist only of those who have common interests of race, religion, culture, and language. We who come from India cannot for a moment suggest that we have a common interest in race or religion. And, although in my country there are perhaps as many millions of people speaking the English language as there are in your Dominion, I still cannot venture to put forward the claim that owing to common interest in language or culture we have a place in the Commonwealth of Nations. In the course of observations this morning it occurred to me that I should say that we do desire to remain in the Commonwealth of Nations. The heart of India is sound for the Commonwealth of Nations, and the people of India are drawn more now than ever before to the idea that within the Commonwealth of Nations lies the real salvation of the country and the people of India.

Why have we this aspiration to be within the Commonwealth? Why not cut off or secede, and think of independence? Those moral values which the British Government and the United Kingdom have established in this world, throughout its chequered history, those great lessons in the principles of co-operation, standing up for oppressed nationalities and oppressed minorities—ideals which have been constantly pursued by the United Kingdom, despite here and there a few shaky foreign ministers who may not have pursued them so rigorously—going into a penumbra and yet always emerging triumphantly—these have drawn India towards the United Kingdom, and these are really responsible for that great community of interest which India embraces and still feels for the Empire. To the extent, therefore, that the Dominions adopt the principle for which the mother country has stood throughout the centuries, to that extent will there be the same common interest between India and the other Dominions.

Referring to the papers which have been placed before us, may I say that I came across a statement written by a gentleman, no doubt in perfect good faith, to this effect:

'How can I be coupled with India? What does India mean to me? I can understand other Dominions having some sort of common relations, but what is India to me?'

I venture to say that at this Conference we will try in our own way to work for co-operation, so that those model principles may be established time after time, not merely in one Dominion but in the whole of the Commonwealth of Nations. It is difficult to speak about the League of Nations in the presence of the honourable Viscount who has taken such a great part in its deliberations, but I believe without derogating from the position of the League it is true to say that the position the Commonwealth of Nations will occupy in the future will be no less important, if in fact it is not practically more effective.

Mr. Chairman, I have only this to say: We have come here to discuss quite informally and frankly the many problems which are facing us. There is one principle which, I venture to suggest, we would do well to follow. I refer to the motto of The Three Musketeers—'Each for All and All for Each'. Working in that way, trying to keep the bonds of Empire together, we must realize that in unity of purpose lies not merely the safety of the Commonwealth, but even individual safety. I venture the opinion that on those lines, really, will the ultimate solution of the problems of the Commonwealth turn.

I must apologize for having spoken at length. I realize that I may have been trespassing upon ground which, as a junior member, I should not have touched. But I have attempted to put forth at this Conference the views which the vast majority of my countrymen hold. I have great pleasure in seconding the motion of the Right Honourable Viscount Cecil.

SIR ROBERT BORDEN: Gentlemen, you have heard the motion which has been moved and seconded, that Mr. Newton Rowell shall be elected Chairman of the Conference. Before putting the motion I wish thoroughly to associate myself with all that has been so well said by Lord Cecil with regard to Mr. Rowell's eminent public service. It is a mere

formality to put the motion, but I ask you to stand as a token of its unanimous acceptance.

By standing vote, motion carried unanimously.

SIR ROBERT BORDEN: I declare Mr. Rowell Chairman of the Conference. I congratulate him, but especially the Conference, upon his election, and I ask him now to take the chair.

THE HON. NEWTON WESLEY ROWELL: Sir Robert Borden, members of the Conference, ladies and gentlemen: I would be very ungrateful—and I am not ungrateful—if I did not most deeply appreciate the more than kind terms in which my name has been proposed by Viscount Cecil and seconded by Diwan Bahadur Ramaswami Mudaliar and referred to by my old and honoured friend, the Right Hon. Sir Robert Borden. I appreciate also the manner in which you have received this motion and I thank you most sincerely for this expression of your confidence and goodwill. I recognize, however, that this honour comes to me because I happen to be for the time being the Chairman of the Canadian Institute of International Affairs, and on behalf of the members of that Institute I beg to thank the members of this Conference for this honour.

Before proceeding with the work of the Conference I am sure you will wish me to express on behalf of the Conference what I know is in the minds of all of us, and to which Sir Robert Borden and Lord Cecil have made such fitting reference—our sense of the great loss the Commonwealth has sustained through the death of the Right Hon. Viscount Grey of Fallodon. Sir Edward Grey was Foreign Secretary from 1905 to 1916. No other man served as His Majesty's Secretary of State for Foreign Affairs for so long or through so trying a period. In those years his duties covered the foreign affairs of the Dominions as well as of the mother country; he was our Foreign Secretary as well as yours. All friends of Humanity and Peace will hold in grateful

remembrance his long struggle to preserve the peace of Europe and the heroic efforts he put forth, in the days preceding the outbreak of the World War, to avert that awful calamity. They will recall the calmness and courage with which he faced the issue when war became inevitable and the studied moderation of his great speech in the House of Commons which carried the whole Empire with him.

I fear we do not yet fully realize all we owe to him for maintaining peace and a good understanding with the United States while United States' ships were being searched and seized on the high seas on the ground that they were carrying goods which Great Britain had declared to be contraband of war and which Great Britain believed were really destined for Germany although shipped to neutral ports. We in Canada owe Lord Grey a special debt in that regard. You will recall Ambassador Page's estimate of him made at that time, 'He is the biggest Englishman I have met'.

His great experience in the conduct of foreign affairs and his deep appreciation of the tragedy of war led him to seek some other method for the settlement of international disputes. He recognized that some organization was essential to secure a conference of the Powers to meet such emergencies as faced him as Foreign Secretary. He supported the organization and work of the League of Nations with all his great ability and influence—a support which never wavered to the day of his death. A great Englishman has fallen and we all are richer for his life and poorer by his death.

The Conference is called to consider matters of vital interest and concern to the whole Commonwealth. We of the Commonwealth are undertaking a new and great experiment in the governance of over four hundred millions of people owing allegiance to a common sovereign. With the member states all equal in status, if not all equal in function, and without any central authority exercising jurisdiction over the whole, and in the midst of a disturbed and almost distracted World, we are endeavouring through consultation and co-operation to maintain the unity of the

Commonwealth so essential to the strength and security of the whole, as well as of the several parts.

Our problem is well illustrated by an incident related to me last year by His Majesty's Ambassador to Madrid. Until the recognition of the new Spanish Republic, the recognition of a new government or a new state had always been by one instrument signed by His Majesty on behalf of the whole Empire. When the Spanish Republic was recognized His Majesty's Ambassador deposited not one instrument, but six, one for each member of the Commonwealth. Upon depositing the sixth he said to the representative of the Republic, 'These constitute recognition by the British Commonwealth'. With six nations each entitled to conduct its own foreign policy, how can we maintain the unity of the whole? That is the problem.

We are to consider at this Conference questions of fundamental importance to the future of the Commonwealth. These questions include:

1. The principles of co-operation in foreign policy.
2. The machinery required for co-operation in foreign policy.
3. Commonwealth courts and uniformity of legislation.
4. Co-operation for purposes other than foreign policy.

It is difficult to suggest questions of more far-reaching significance than these. An effort has been made to secure in each group attending this Conference representatives of the principal currents of political opinion in each country, and I believe we have in a large measure succeeded. Almost all shades of political opinion are represented here, and undoubtedly there may be marked differences of opinion among us on some of the important questions to be discussed. We are here for a frank exchange of views. I am sure I am voicing the sentiment of every member of the Conference when I express, not only the hope but the confident belief that as a result of our deliberations we may all reach such an understanding of the problems involved and of the most practicable methods for their solution that we may be of real service to those who in the future

must deal with these problems in the actual conduct of inter-Imperial and foreign affairs.

A distinguished citizen of the Irish Free State was a member of the committee which a year ago framed the agenda and made the preliminary arrangements for this Conference. It is a matter of great regret to us all that the representative group from the Irish Free State which had planned to be with us and take part in this Conference have, owing to the exigencies of the present political situation in the Free State, advised us that they are unable to come. I am sure we shall greatly miss them in our deliberations and wish them a happy issue out of all their political troubles.

I am sure our Indian fellow-members will be pleased to know that Sir Robert Borden, who extended the welcome to the Conference to-day, was the member of the Imperial War Conference of 1917 who moved the resolution to amend the constitution of that Conference so as to admit India as a full member, a resolution which was unanimously adopted by the conference.

It was my privilege to be a member of the Imperial War Conference of 1918 at which India participated for the first time as a full member. It was also my privilege in 1920 to be a member of the First Assembly of the League of Nations of which India was an original member and to participate with the representatives of India in the work of that Assembly. I have followed the developments of your political institutions with the deepest interest, and it is a matter of real satisfaction to me that our Indian fellow-citizens have accepted our invitation to become members of this Conference. Although India has not yet reached dominion status, it is the goal towards which she is moving, and the participation of our Indian members in the deliberations of the Conference will be appreciated by all.

2. THE BANQUET GIVEN BY THE CANADIAN INSTITUTE OF INTERNATIONAL AFFAIRS

On Monday evening, September 11th, 1933, the Canadian Institute of International Affairs gave a Banquet in honour of the members of the Conference at Hart House.

The following speeches were made by the Hon. Newton W. Rowell, who presided, and Viscount Cecil of Chelwood.

THE HON. NEWTON WESLEY ROWELL: Ladies and gentlemen, in rising to propose the toast to the British Commonwealth may I, for the benefit of our guests who are not members of the Commonwealth Relations Conference and of our radio audience, say a few words in reference to the Conference which our Canadian Institute has the honour of entertaining this evening?

While this Conference is not official, it is composed of representative men from Great Britain, the Dominions and India belonging to different political parties, who have had practical experience in the conduct of inter-Imperial relations or of foreign affairs, or have been students of these problems. They have come to Toronto on our invitation to consider certain aspects of our inter-Imperial and foreign relations, more particularly the questions, 'How can members of the Commonwealth, each of which is entitled to conduct its own foreign affairs, so conduct them as, on the one hand, to preserve the freedom and autonomy of the several members and at the same time maintain the unity so essential to the strength and security of the whole, and thus promote the peace of the World?'

During the past year groups in each country have been engaged in the serious study of these questions, and the results will be presented to the Conference. The Conference will not pass any resolutions in reference to any of these matters. Its object is to pool the thought of all sections of the Commonwealth in order to arrive at the clearest possible understanding of the character of these problems and of the best methods for their solution. As these questions affect the governance and well-being of over four hundred millions of people and, through them, the welfare of the World, you will at once recognize the significance and importance of the questions to be discussed at the Conference.

We are living in one of the most interesting and possibly one of the most critical periods of human history. Nothing

is static to-day. Political, social, and economic unrest and change are evident everywhere. New and revolutionary forces are at work which are changing the very structure of society in many lands, and in no realm are these changes more striking than in that of government. The most notable of these changes are in Russia, Germany, Italy, and the British Empire.

The political, economic, and social theories of the Communist Party as they are now being applied to Russia are contrary to the principles, and even to the instincts, of the great majority of our people; the whole system of government is a negation of democracy, but the success or failure of the Soviet system must have a far-reaching effect upon the lives of the peoples of Europe and Asia and, to a lesser extent, upon all other nations of the World.

The complete suppression of democratic institutions in Germany and the other fundamental changes in the German constitution brought about by the National Socialist party, and the policy of extreme racial nationalism which is now being applied there, have arrested the attention and awakened the apprehensions of the World. No one can at present foresee the results, or how far they may affect the course of European history—and even that of the World.

The success or failure of the Fascisti system of government in Italy will undoubtedly have a marked effect upon the history and conditions of the peoples of Europe. It is already having a marked effect.

While there are fundamental differences between the systems of government and methods of administration in these countries, they all are autocracies established and maintained by force, though no doubt with a large measure of popular support, and in all of them there is such a curtailment of personal liberty, of freedom of speech and of the Press, and of the other rights which we, as citizens of the Commonwealth, are accustomed to enjoy, that no citizen of the Commonwealth would voluntarily accept or willingly submit to such systems of government.

The fourth great change is the very antithesis of these. It is the development of the British Empire from a group

of nations dependent upon Great Britain and subject to the legislation of the Imperial Parliament, into the British Commonwealth, composed of a group of autonomous nations, equal in status, united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations.

I am in entire agreement with the statement, made by Sir Robert Borden in his address this morning, that such a development was inevitable. This development has been so gradual that relatively few, even of the people of the Empire, have recognized its fundamental importance or its far-reaching effect. It is the newest and greatest experiment in democratic government which the World has witnessed, and witnessed at the very time when other nations are turning from democracies to autocracies. The grave problem it presents is this: Are these democratic communities capable, not only of managing their own affairs, but of co-operating so as to preserve the strength and security of the whole Commonwealth and of its several parts?

As the Commonwealth embraces about one-fourth of the Earth's surface and contains one-fourth of the World's population, representing many races, religions, and degrees of civilization, the success or failure of this experiment must have a profound effect upon the history and welfare of Mankind. A great American statesman and jurist, referring to this constitutional development, and apprehensive that it might loosen the ties that bind the Dominions to the Mother Country, once stated as his opinion that the disintegration of the Empire would be a catastrophe to our Humanity. If what he then stated was true, and I believe it was, it is doubly true to-day in view of the developments of the past ten years.

What are some of the principal characteristics of the political institutions of this democratic Commonwealth? In referring to these characteristics I shall not attempt any comparison with the other two great democracies, the United States and France; each possesses some of the characteristics to which I shall refer; neither possesses all.

1. The Commonwealth is the home of parliamentary government, and within it parliamentary government has attained its highest development. Notwithstanding all the criticisms levelled against parliamentary government, it remains the best guarantee of the survival of democracy as a living and vital force in the conduct of human affairs. When parliaments and representative institutions are being suppressed or superseded by autocracies in other lands we, of the Commonwealth, do well to cherish and maintain our own system of representative and responsible government which safeguards and protects the rights of the people and ensures their control over their own affairs. Is it not a noteworthy tribute to our parliamentary institutions that the labour and socialist parties in all parts of the Commonwealth have constantly turned away from the Communist doctrine of force, and have made their appeals for support through constitutional agencies?

2. Another characteristic of the Commonwealth is the supremacy of the civil power. When one witnesses to-day governments dominated by military authorities, and world peace disturbed or imperilled because of it, one cannot be too thankful that in our Commonwealth adequate safeguards have been provided to ensure that the civil power will always maintain its supremacy over the military.

3. The Commonwealth is ruled by law and not by force. By the 'rule of law' I mean the absolute supremacy or predominance of the law as opposed to the influence or the use of arbitrary power which we see exercised in so many countries to-day. Under the 'rule of law' life, liberty, and property are protected from arbitrary spoliation, and none may be condemned to forfeit these save by the lawful judgement of his peers or the law of the land. Within the Commonwealth a man can be punished for a breach of the law, but he can be punished for nothing else. It also means the subjection of all classes, including the officers and officials of the Government, to the law of the land administered by the ordinary law courts. The strong and the weak are all judged by the same law. In view of the return of so many lands to the exercise of arbitrary and autocratic power,

where personal liberty is dependent, not upon law but upon the will of the ruler, and where freedom of the Press, freedom of speech, and freedom of assembly are either entirely denied or seriously curtailed, we of the Commonwealth should prize this priceless boon of the 'rule of law' which our fathers have handed down to us.

4. The fourth characteristic is the rights granted and the measure of protection afforded to racial and religious minorities.

It has been said that if one took a cross-section of our Humanity, one would find a British subject in every layer, and among all the diverse races and creeds inhabiting the Commonwealth no one is persecuted or made to suffer in estate by reason of either his race or his religion. There is everywhere freedom of conscience and freedom of worship, without which there can be no real freedom.

In Canada we are celebrating next year the four hundredth anniversary of the arrival of Jacques Cartier at Quebec, symbolizing the French settlement of Canada. Next year we also celebrate the hundred and fiftieth anniversary of the first settlement of the United Empire Loyalists in this province, although one or two earlier settlements had been made in Nova Scotia. In the French and Loyalist settlements you will find the key that unlocks much of our Canadian history. Canada is fortunate in having two mother countries, Great Britain and France, and from these two national strains our Canadian nation has been built up, and upon their strength and stability our Canadian confederation rests.

5. The last characteristic feature to which I shall refer is the unique and commanding place of the Crown in our Commonwealth constitution. The executive authority is vested in His Majesty, but it is exercised on the advice of his responsible officers in each state of the Commonwealth. The Crown is the keystone of the arch of the Commonwealth, and so long as the keystone remains in place the Commonwealth will endure. Should the keystone ever be removed, none can predict the consequences.

What of the external relations of the Commonwealth?

The World War and the World Depression should certainly have taught us the interdependence of all nations and that a policy of isolation is impossible—I believe it has so taught us. The great objective of the Commonwealth is undoubtedly peace—peace based upon justice and regard for the rights of other nations. It believes in and supports the collective system for promoting international co-operation, for composing international differences. All its members are members and supporters of the League of Nations. They all adhered to the Permanent Court of International Justice when it was organized in 1920. They all, in 1929, signed the Optional Clause giving the Permanent Court compulsory jurisdiction in justiciable disputes. In the same year they all adhered to the Kellogg-Briand Peace Pact renouncing war as an instrument of national policy. They have all, with the exception of South Africa, signed the General Act, under which they agree that all international disputes, no matter of what character, shall be settled by either conciliation or arbitration or judicial determination.

The Commonwealth has extended a friendly hand to all other nations in a serious effort to secure the elimination of war and the peaceable determination of all disputes between nations. This is further evidenced by the progress made in unilateral disarmament by Great Britain—the only member of the Commonwealth with substantial naval and military forces—and the Commonwealth stands committed to further reduction of armaments in co-operation with all other nations. Some of us may think these great objectives might have been pursued with greater energy; that there might have been more constructive leadership. We may deplore the fact that greater progress has not been made, but we can console ourselves at least with the reflection that no other Power has moved as fast or as far as we. We should ever remember that among the communities of the Commonwealth living on all the continents and many of the islands of the seas, there is no war or thought of war. World stability is not disturbed by threats of conflict between these communities. That in itself is a great contribution to world peace and world stability. The inhabitants of the Britannic

Commonwealth enjoy all the blessings of peace which the Imperium of Rome conferred upon an unsettled world. Of those blessings of peace, the *Pax Romana*, the poets have sung, and justly sung, but the *Pax Britannica* means peace over an area five times as great as that of Rome in the height of her power and over four times as many people as Rome ever governed: peace, preserved not by force but by liberty and the 'rule of law'.

With parliament as the safeguard of democratic self-government, with complete freedom from fear of military domination, with the 'rule of law' guaranteeing personal liberty, with freedom of conscience and freedom of worship the heritage of all, with peace as its great objective, we have a Commonwealth in which the human mind is free to pursue its search for truth without restriction or restraint; where the human spirit is free to pursue its search after God—if, haply, it may find Him—and where Man can attain his highest and fullest development, not after a pattern ordered by any Government, but as God gives him the light to see the path which leads to higher things. To the service of this Commonwealth we dedicate ourselves anew.

I give you the toast of the Commonwealth.

LORD CECIL: Mr. Rowell, ladies and gentlemen, I count it an honour to have the opportunity of addressing this gathering, and particularly to be called upon to respond to the British Commonwealth toast. And certainly, in my case, added to the honour is the pleasure of replying to my esteemed friend, Mr. Rowell.

He has told us something of the purpose of our meeting here. I am not going to repeat what he has said so admirably. He stressed, and rightly stressed, the fact that this was an informal and unofficial gathering. I do not think it is any the worse for that. We are here to discuss the problems not only of the British Commonwealth but of the British Empire. For the British Empire is, as you all know, a unique organization. It consists of two parts—one part, the old type of other empires, consisting of great possessions administered by the Government of the mother country,

which includes something like six-sevenths of the whole population of the Empire; and then there is in addition to that the Commonwealth of free British nations. As Mr. Rowell has well said, those Dominions by common aspiration, common traditions, and largely by common culture have been inhabited very largely by people of our race. And in addition, of course, there is the great Dominion of India, again in an entirely unique position, which, we all hope—and certainly I am one who hopes—will shortly attain full Dominion status.

It is not infrequent when this topic comes up in gatherings of this kind for the speaker to dwell very much upon the power, the glory, and the strength of the Empire. I am going to ask you to allow me to direct your attention not so much to that topic as to the responsibility of Empire. I speak of responsibility in two respects—the Imperial responsibility, the fact that we are members of this great world-wide organization, and the international responsibility of which I shall say more in a moment.

As to the Imperial responsibility I know you will say to me, and rightly so, that the direct responsibility for the administration of these non-self-governing territories rests with the mother country. It is so. Administration is in the capital of my country. But I think it a very narrow view, if I might say so, to say that no responsibility for the administration rests on those who dwell in other parts of the British Commonwealth. For, after all, we do belong—all of us—to this Commonwealth, and the relations between us are close and intimate. I am one of those who wish they were closer and more intimate. But the effect of culture, the opinion and the aspirations of those who dwell in these great self-governing Dominions upon the opinions and the culture of the mother country, is very great. And not only is this indirect effect considerable, but we are proud to recognize and acknowledge that sons of these Dominions have come to our assistance in the administration of these great matters. I have always paid my tribute to the great Cecil Rhodes, and to his great conception of the interchange of the youth of the Dominions and the mother country, in

the educational establishments of the two. That, alone, means direct participation in these great responsibilities. And, as I have said, individuals have given even more direct help. Surely when you consider how vital it is that we should keep up the supply of these administrators in all parts of the World, in view of the great tradition of English justice and English freedom, so eloquently described by our Chairman—surely we in the old country should welcome, and do welcome, any assistance which you can give us in that respect.

In a way, your ultimate responsibility for this great Empire is more important than ours. You belong to new countries. Your history is largely before you. In the years to come there is every reason to believe that you will grow in strength, and importance, and power in the World. I hope and believe that England will retain her position, but it cannot have the same future of expansion before it that you, in the newer Dominions, must necessarily have. And if your responsibility exists in the strictly Imperial sphere, it is even greater and more obvious in the international sphere. I will not say 'your' responsibility; I should say 'our' responsibility. I am not going, on this occasion, to enter into a discussion about the constitutional relations of the different parts of the British Commonwealth. I am content to accept everything that Mr. Rowell has said on that subject.

We are, all of us, nations—components of the great community of nations all over the World. We are all of us bound to bear our share in the responsibility for the good order, good conduct, and progress of the World at large. We, in the British Commonwealth, must surely desire that those sentiments which we each and all ought to have, sentiments so admirably described by Mr. Rowell, shall have their full effect in the government of the World. And we should be able to co-operate voluntarily and freely on the basis of those principles in order to forward the well-being of Humanity.

What is this responsibility of one nation for another? There are many people who deny its existence. They say,

'There is none at all'. They say each nation is responsible for its own inheritance, and for nothing else. When I was young there was a school in my country called the 'Little England' school, and its tenets were just that—that all that mattered was the happiness and welfare and prosperity and riches of the inhabitants of England. It advocated withdrawing from all the Dominions. As for the rest of the Empire, it was quite prepared to say that if any part of it became a nuisance or a burden it should be turned adrift. That school of opinion no longer exists, so far as I know. But it does seem to me that those who may be called isolationist imperialists are very much the same, with the exception that they substitute Empire for England. They hold, also, that each part of the Empire may live entirely for itself. If you take a man whose only conception of his life is that he is to have a comfortable life, and be as happy and prosperous and rich as he can, we say that he is a selfish and unsocial animal. I cannot help feeling that a severe moral judgement must be passed on those who advocate this complete isolation from other countries. One might say of such men that they have everything except happiness. I believe it may be equally said of a nation which pursues a similar course.

And the other objection to this theory of national life is that which is being put forward by Mr. Rowell, namely that, in point of fact, it is quite unworkable. Even if we were desirous of living entirely unto ourselves, experience shows that it cannot be done. How can anybody conceive of a great nation with enormous natural resources and a great and energetic population which would set out with the view that it would keep aloof from all other nations. Indeed, that is but a caricature of the policy which used to be professed by your great neighbour to the south. However, in point of fact they never carried it out. They could not carry it out. In point of fact they found themselves bound to take their part; they were forced by the circumstances of the case to take their part in the great movements and struggles and problems of Mankind. It cannot be done. I do not know what might have been conceivable

possibly five hundred years ago, but with the World shrinking day by day, hour by hour, with communications becoming more and more complete, and a continual interchange of every intellectual and spiritual interest, the idea of living an isolated life is quite impossible.

I have no desire to be a native of a country living only for itself, having narrow interests and narrow objects in life. I prefer—I say so freely—to be a citizen of a great Empire with great ideals and great powers of service to Humanity. I believe that such a one has an opportunity of growing up to a stature which can never be achieved by a nation with a smaller view of its responsibilities.

It seems to me the duty of a nation is just the same as the duty of an individual. To try to leave the World a little better, if he can, than he found it—that is the duty of the individual and of the nation. I do not mean that we should go about fussily trying to interfere with and improve other people. I was brought up in a school that believed that intervention in the internal affairs of other countries was very often dangerous and nearly always useless. That is not what I conceive to be the duty of a social nation; I conceive it to be its duty to maintain its international relations on a high standard of justice, to give protection where it is worthy of being given in the case of the weak against the strong and, above all, to participate in collective action for the maintenance of peace.

It is quite true that I stated just now that I was brought up in a school which deprecated intervention; but it must be remembered that at that time intervention, if it took place, meant intervention by one or two countries. That, no doubt, was hopeless and was out of date before the conception of collective action through the League of Nations had become a practical fact. We have a duty to take care that the disposition of our neighbours does not generate war. All of us have a solemn duty which says that any war or threat of war is the concern of every member of the League. That imposes upon us even more than before the duty of doing our utmost to preserve the peace of the World.

The question may be asked: 'How is that to be done?

What are we to do? How are the nations that compose the British Commonwealth to act and what action are they to take?' One thing seems to me quite clear. If we conceive that we have this duty to the World, the duty of preserving peace and everything else that may be necessary in order to accomplish it, we should be able to do more if we act together than if we act quite separately. That seems to me but common sense. If there is any doubt about it, just look at some of the groups of nations which have undertaken common action of that kind. Take the Scandinavian group, Norway, Sweden, and Denmark. They have agreed to act together for peace and international order and justice between the nations. They do act together, and those of us who have been to Geneva more recently than others have seen them acting together and have noted how greatly increased their strength is by reason of the fact that they do act together in defence of these common ideals. I think the Geneva example is worthy of your consideration.

As I said just now, I am not going into any constitutional questions, but I may perhaps be allowed just to remind you of the kind of thing that goes on in Geneva. All the nations that attend the Assembly at Geneva are, of course, absolutely free and independent. They make up their own minds and take their own lines according to what they think is right and just in the circumstances. That applies to each member of the British Commonwealth which is a member of the League of Nations. They have absolute freedom, they are entirely free to take any line they like in the discussions that go on. But they do take, in fact, very generally the same line. The representatives of the different nations involved consult together, they talk things over, but they are quite as free after the discussion as before to take their own line, and sometimes they have done so. But, generally speaking, since their paths are the same, since their political culture and political institutions are largely the same, they approach these questions from the same point of view. My experience has been that they generally come to a common view as to what had better be done in the particular circumstances of the case.

Undoubtedly that gives them great power. I have no doubt at all that if in any great question the Commonwealth as a whole acted together, and if it got the support of the other great English-speaking nations in or outside the League, what they advocated, generally speaking, would be accepted by the other nations of the World.

For instance, take the question of disarmament. I cannot doubt myself that that is a case where the interest of the World and of the United Kingdom is the same. The reduction and limitation of armaments by international agreement is one of the great reforms which ought to be carried through. If it is in the interest of the World at large and of the United Kingdom, in my judgement it seems to be even more clearly in the interest of every member of the British Commonwealth.

Suppose that view is accepted. Is there any doubt that if the Dominions and the mother country, and, as I think would be almost certainly the case, the United States, were to combine in a common policy and push it forward with all our strength, does any one doubt it would be successful? I certainly have no doubt about it. I am quite sure it is in the hands of the British Commonwealth to carry this great reform through.

It would be a great effort towards setting the faces of the people of the World away from this continual spectre of war, this continual anticipation of what was to happen if war took place. Turn them from that to something more rational and more reasonable, to see not how they would prepare for war but what they would do to prepare for peace. That is the kind of policy which I should be glad to see assumed by the Empire in such a matter as this.

I do not know whether or not it is said here—perhaps not, but it has been said in my time by people who pose as great imperialists—that the League of Nations is a menace to the Empire, that the support of the League in some strange way means injury to the Empire. I would venture to say that precisely the opposite is true. The support of the League is a great advantage to the Empire. It gives to the Empire the opportunity of carrying into effect jointly and

by voluntary co-operation the great purposes which each Dominion in the Empire sincerely desires to see carried out. It gives them the power to satisfy what I believe to be the genuine longing of the people all over the World for peace.

I have spoken a great deal about the responsibility of Empire—some of you may think perhaps that I have spoken too much—but there are two conceptions of the Empire. There is one conception which deals with the glories of the Empire. And underlying that sentiment is something big and splendid. It is a fine thing to remember that you are a citizen of no mean city. We belong to this great Empire and we have the opportunity of being great and doing much for the service of Mankind. It is a fine ideal; but it must not be forgotten that it has to be used for the service of Mankind. That side of the Empire should always be in our minds.

I have spoken of its responsibilities. Yes, they are great; but I should be guilty of hypocrisy if I pretended that I thought the carrying out of those great responsibilities would do other than add to the happiness of the Empire. I believe that the great secret of happiness is service; I believe that is true of nations as it is of men. I believe that this British Commonwealth has no right to existence unless its existence is to the advantage of Mankind. I believe that if we set before us those ideals, if we say that we are convinced that nations like men have not their happiness in the abundance of things that they possess; if we accept that and discharge our duty to Civilization and Mankind, we will have fulfilled the purpose of the Empire.

HON. NEWTON ROWELL: Ladies and gentlemen, I am sure that you would not wish to disperse without my saying to Viscount Cecil on your behalf how greatly we have appreciated his presence here and the address he has delivered to us this evening. You may think the statement I am about to make is a broad one, but I am perfectly convinced it is true. No man in the Empire, no man in the World, has laboured so unceasingly, so unselfishly, and so influentially since the

end of the War to promote international co-operation for the preservation of peace, to secure a measure of disarmament among the nations, to bring about a better understanding among the peoples so that the wounds of the War might be healed and a better spirit developed among the nations, as has Lord Cecil. To him we owe a great debt of gratitude for the fine and commanding leadership he has given to this great movement of international reconciliation.

C. THE REPORTS OF THE RAPPORTEURS

COMMISSION I

THE PRINCIPLES OF CO-OPERATION IN FOREIGN POLICY

Report by PROFESSOR A. E. ZIMMERN (*adopted by the Conference*)

THE Commission, which consisted of all the members of the Conference, under the Chairmanship of Viscount Cecil of Chelwood, held six meetings, in the course of which 38 out of the 41 members of the Conference present took part.

The discussion which took place on the three separate points on the Commission's Agenda can be conveniently classified under the following four heads:

1. The Commonwealth.
2. The Commonwealth and Foreign Policy.
3. The Nature and Importance of Regional Interests in the Commonwealth.
4. The Relationship between the members of the Commonwealth and the Collective System for the Maintenance of Peace.

1. THE COMMONWEALTH

Underlying all the discussions of the Commission, and implicit in the statements of every member who took part in it, was a sense of the value of the Commonwealth, both for its own members and for the World as a whole, and of the need for the promotion of its influence in world affairs. Full and appropriate expression of this universal view was given in the speeches made at the opening of the Plenary Conference, upon the basis of which the Commission entered upon its work.

The question of the unity of the Commonwealth as such did not fall in with the Commission's assigned scope. Nevertheless it could not fail to make its appearance from time to time in the speeches of members, and this report

would be incomplete and perhaps even misleading if such references were not set in their proper place at its outset.

An underlying family feeling has been a marked feature of the discussions in the Commission. As the Hon. Downie Stewart predicted in his remarks at the plenary opening session, they were 'by no means insipid or colourless', but on the contrary 'marked by that outspoken frankness which properly characterizes discussions between members of one family'. This happy informality and the complete candour 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 discussions, 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'.

The Conference was unanimous in taking as the basis of its work the resolutions of the Imperial Conferences of 1926 and 1930. There was, however, a certain divergence among its members as to the nature of the bond uniting the different members in the Commonwealth. On the one side were those who held that the Commonwealth was a definite entity, and that this involved certain legal and still more important moral consequences and a certain responsibility to one another between the different nations. On the other, stress was laid on the fact that, since every nation in the Commonwealth was now 'master of its destinies', co-operation between Commonwealth members was entirely voluntary, though such co-operation between them, especially in the pursuit of peace, was highly desirable.

The discussion also brought to light certain underlying conceptions as to the character of the Commonwealth which may be briefly indicated.

A Canadian speaker referred to the 'rule of law' as a fundamental principle of the Commonwealth, and to the belief, common to its members, 'that force does not control the law, but that law controls force'. On the basis of this union of order with civil liberty has been reared a structure of democracy, as expressed both in the form and spirit of

the institutions of its several members, and in their mutual relations. The 'voluntary' co-operation, referred to by Senator Malan in his address at the opening session as the keynote of the relations between Commonwealth members, is an expression of the spirit of democracy. This aspect of the Commonwealth relationship, as exemplified in the Statute of Westminster, is so axiomatic that it is not necessary to elaborate it farther.

Another characteristic of the Commonwealth which found expression in the Commission discussions was its durability in a changing world. 'The morale of the British Commonwealth', remarked a New Zealand speaker, 'has remained unchanged by war, unchanged by depression, and by the despair that has almost come in peace-time.'

Together with this may be set the view, several times expressed in the Commission, that it was not enough that the Commonwealth should survive, and should have high ideals and institutions satisfactory to its members; it should also be strong enough to be an active power for good in the World.

Another characteristic of the Commonwealth, to which allusion was made by several speakers, was its capacity for growth by adjustment to changing circumstances. Expression was given to this in the plenary session by Sir Robert Borden. But perhaps the most striking exemplification of it was the statement made by Senator Malan in the opening session when he disclaimed the idea that the Statute of Westminster, to which he attached so much importance as a landmark in Commonwealth development, laid down 'a hard and fast constitution for the British Empire'. Against this indeed may be set an *obiter dictum* by a Canadian member, who, in deprecating excessive stress upon consultation, remarked that 'he would almost rather have a written constitution for the Empire, which could be interpreted and argued over, than a vague increase of moral obligations'. But perhaps even this utterance may be regarded as exhibiting no excessive partiality for the written word.

Another feature of the Commonwealth, on which stress was laid in the discussions, was its diversity—political,

economic, social, and cultural. This was brought out by Sir Robert Borden and Diwan Bahadur Ramaswami Mudaliar in their speeches at the plenary session; and it was repeatedly referred to in the discussions, particularly by members from India and Canada. It is not in the domain of culture, in the ordinarily accepted sense of that term, but in common political ideas and in the values emanating from these, that the principles which constitute the fundamental unity of the Commonwealth are to be looked for.

Apart from these permanent characteristics of the Commonwealth, some discussion took place as to ties which could be devised to bind its members more closely together. In this connexion reference was made by a New Zealand speaker to the importance of developing economic interdependence as a bond of union between parts of the Commonwealth; he saw no reason, however, why such agreements should not be entered into with other countries, thus strengthening the Collective System on its economic side. As the subject of trade agreements was not on the agenda of the Conference, this particular matter was not further dealt with. Two speakers, however, registered their opposition to the conception of economic arrangements as binding the members of the Commonwealth more closely together.

Little discussion took place on other possible means for effecting this, since it fell rather within the scope of Commission IV. A South African speaker, however, referred to 'moral and intellectual bonds' as 'permanent questions' and urged the need for co-operation on 'a common version of history'.

Apart from these particular suggestions, mention must be made at this point of the stress laid by a number of speakers, especially from the Canadian side, on the desirability of cultivating a 'positive' rather than a critical and 'negative' attitude towards the Commonwealth. One Canadian speaker formulated this opinion in the following proposition:

that the underlying attitude should be that we shall tend to look upon any co-operation for constructive purposes between two or

more of the group as accomplishments rather than that we shall consider the lack of unanimity as failure.

Other Canadian speakers stated emphatically that this positive attitude existed and that in this respect there had been no change in the fundamental attitude of the Canadian people in recent years.

This section of the Report would be incomplete if mention were not made at this point of the words of welcome and good wishes addressed to the Indian Group by a Canadian member embodying the feelings of the whole Conference in regard to what he termed 'the majestic task' of Indian Federation. The presence of the Indian Group and its active participation in the work of the Conference were not only of great value to the Conference, but were an outward and visible sign of that full equality of status and of reciprocal co-operation which form the goal of the constitutional evolution towards which India is now so rapidly moving.

2. THE COMMONWEALTH AND FOREIGN POLICY

The discussion on foreign policy, which was the general subject before the Commission, covered a wide range and introduced many points of detail. Most of these can best be dealt with at a later stage of this report. Certain general conclusions, however, emerged from the debate.

The report of the Inter-Imperial Relations Committee of the Imperial Conference of 1926 seeks to establish a connexion between the foreign policy of the Commonwealth and the nature of its institutions. 'The British Empire', it says, in memorable words, 'is not founded upon negations. It depends essentially, if not formally, on positive ideals. Free institutions are its life-blood. Free co-operation is its instrument. Peace, security, and progress are among its objects.' It is round these three themes of peace, security, and progress that the discussions in the Commission centred.

Since peace and security lead up to the relations between the members of the Commonwealth and the 'Collective System', it will be best to deal first with the conception of

'progress'. The Imperial Conference report expressly disclaims any formal adherence of the Commonwealth to specified positive ideals, and the Commission was equally reluctant to place itself formally on record in this regard. But there was a general consensus of opinion that the foreign policy of the Commonwealth was not confined to the support of peace and of agencies for peace but involved responsibilities for other causes. These could be summed up under the comprehensive heading of 'progress'. In other words, it was recognized that peace by itself, however indispensable to the World's life as a condition precedent for other policies, was a negative rather than a positive watchword and that the Commonwealth had a part to play in positive movements corresponding in our own day to those in which British initiative has been noteworthy in past generations.

In general, it was assumed by members of the Commission that support of the 'Collective System' included support not only of the work of the League of Nations for the maintenance of peace, but also of other activities carried on at Geneva; and this was emphasized by the desire expressed by several members that the Governments of the Commonwealth should be more familiar with them and should take more care in the selection and instruction of their delegates for League Assemblies, Conferences, and Committees. Two aspects of the League's work were particularly stressed, disarmament and arbitration.

But it was peace itself which figured throughout the discussions of the Commission as the central point in foreign policy. This theme was so repeatedly emphasized by speakers from every group, representing every shade of opinion, that it is unnecessary to illustrate it by particular extracts: moreover, the references to the subject in the speeches at the plenary session are in themselves sufficient. There was unanimity in the Conference that the peoples of the Commonwealth not only desired peace and policies tending towards peace, but also wished to give their fullest support to the Collective System, established since the close of the World War for this purpose. No doubt, as is

shown in a later section of this report, there was considerable difference of opinion as to the effectiveness of this system and therefore as to its exact bearing on foreign policy. But as to the object to be pursued there was a complete consensus.

There was one other aspect of foreign policy almost as central as peace itself, on which an equal unanimity was manifested in the Commission. This was the desirability of maintaining the closest possible association with the United States. Here again there were differences of appreciation according to the geographical position of individual Dominions, and to varying opinions as to the place of the United States in the Collective System; but on the policy itself there was no hint of a discordant note: it was accepted as fundamental and self-understood. Perhaps the fullest and most representative statement on this point was made by a member from the United Kingdom:

> Co-operation with the United States of America in general matters of world policy is essential to the peaceful and satisfactory continuance of Commonwealth relations. Not only is this desirable for the sake of the well-being of the members of the Commonwealth generally, and for the United States, not only for the sake of Canada, which is vitally concerned in the maintenance of friendship between Great Britain and the United States, but also because the fundamental ideas of Americans and ourselves are really similar and often identical. By close co-operation between the Commonwealth and the United States we may enormously increase our influence for good in the World at large. The combined influence of the Commonwealth and the United States is immensely greater than their influence exercised separately.

3. THE NATURE AND IMPORTANCE OF REGIONAL INTERESTS IN THE COMMONWEALTH

Within this broad framework of policy there are differences of approach due to the particular circumstances in which individual members of the Commonwealth are placed. It was to the better understanding of these and to the adjustment of any difficulties which might arise out of them that a large part of the Commission's discussions were

directed. It was indeed to ensure the fullest and frankest discussion on this subject that the topic of 'individual interests' was placed at the head of the Agenda paper and that the first business session opened with prepared statements under this head.

The conception of regional interests within the Commonwealth, as was repeatedly stressed in the Commission, is a necessary and inevitable corollary to the Imperial Conference resolutions of 1926. If, as the 1926 report declares, 'every self-governing member of the Empire is now the master of its destiny', it follows that every self-governing member of the Empire must look at the World through its own eyes and from its own angle. In other words, every Dominion Government is free to work out its own foreign policy and has not only the right but the duty to its own people to do so. Indeed, as a Canadian speaker pointed out, foreign policy is merely 'the sum of these dealings or relationships or policies which a Government of one country carries on in connexion with other countries: it is, therefore, in a large measure, the extension of a domestic policy': the two cannot be disentangled.

Thus, as the same speaker reminded the Commission, questions of foreign policy may at any moment be brought prominently into the arena of party politics, since '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'. In this way, the freedom secured by the Dominions in recent years for the conduct of foreign policy may itself be a cause for the manifestation of what this speaker described as 'isolationist sentiment'. It is not so much that this sentiment is growing as that it has survived from older conditions but finds new occasions for revealing itself in connexion with issues of external policy. Sometimes these issues may not even be

in the region of foreign policy proper, as when 'the political ship of state in a certain Dominion suddenly struck a reef of New Zealand butter and forthwith foundered, with hardly a soul saved'.

The right course then, as was generally agreed in the Commission, was not to evade or belittle these regional interests, nor to seek to override them, but rather frankly to accept them as elements in the situation which confronts the Commonwealth. 'You have to begin regionally', as another Canadian member remarked, 'and see if you cannot get the lines converged to some common point, and if there are not any further common points than those which exist to-day.'

The conception of regional interests was a considerable topic of discussion in the Commission. The regional point of view greatly influenced the opinions of certain members of the Commission on specific issues. Thus the view was strongly expressed by certain Canadian members, and supported by one South African member, that the Commonwealth is in no sense a defensive alliance. This found particular application in reference to the British Navy; for it was held by this section of Canadian opinion that the defence of Canada did not depend upon its relationship with Great Britain and that Canada therefore was under no obligation to Great Britain in this matter. Other Canadian members, on the other hand, expressed the strong conviction that Canada had derived and was deriving great benefit from the protection afforded by the British Navy to her coasts and trade-routes. In this connexion there was some debate as to the relative security of the various members of the Commonwealth and as to whether a sentiment of complete security was really justified by the facts of the case in any Dominion.

The argument for and against a purely regional system was well put by an Indian member. 'Why', he asked, summarizing the position taken by certain Canadian members, 'shall we not be free to work out our problems on regional lines? There are many issues in the Empire which do not interest us at all. Why should we be dragged into

the complications of the Empire?' Speaking as 'the youngest member of the Commonwealth', his reply to this argument was that 'if we all worked for regional development, abandoning the idea of co-operation in any shape or form', the inevitable result would be to promote 'new sets of alliances' and to set in motion 'forces which those who can see ahead will realize might lead anywhere'.

Thus the conclusion to be drawn is that, whilst regional interests necessarily form the starting-point for foreign policy, for the members of the Commonwealth, as for all other self-governing countries, great and small, they must be co-ordinated in some larger framework, as much in the interest of each Dominion as in that of the Commonwealth as a whole. There is a distinction to be drawn between ordinary matters of policy, in which local and regional interests are rightly entitled to the first consideration, and questions involving the issues of peace and war, which involve not only the future of the Commonwealth but that of Civilization itself. Thus the Commission was led on to grapple with the problem of the Collective System for the maintenance of peace and of the relationship to it of the Commonwealth as a whole and of its individual members.

4. RELATIONSHIP WITH THE COLLECTIVE SYSTEM FOR THE MAINTENANCE OF PEACE

If, as was the unanimous opinion of the Commission, the dominating factor in Commonwealth policy is the maintenance and promotion of peace, then it follows that there must be a close relationship between the Commonwealth and the Collective System which has been set up since the War, upon an international basis, with the same object in view. This relationship was early introduced into the discussions of the Commission, and occupied a large part of its deliberations. It is difficult to summarize these as they covered a wide range and dealt with many incidental points; but an attempt has been made in what follows to deal in logical order with the chief points raised.

The natural starting-point, in considering the relations

between the Commonwealth and the Collective System, is the similarity of their ideas. 'The great significance of the British Commonwealth to its people and to the World', said a Canadian member, 'is to be found in the fact that it does ensure peace within one-fourth of the World's territory, and between four hundred millions of its people.' Peace is not ensured within the Commonwealth by repression—as one speaker remarked, 'a prolonged reign of coercion under British rule would excite serious dissatisfaction throughout the Commonwealth'—it is ensured by the fact that war between its members has become unthinkable. This was convincingly and even amusingly brought out in the discussions on the subject of the prerogative of the Crown in the declaration of war; for the possibility of a conflict between groups of His Majesty's subjects was felt to be a *reductio ad absurdum* on the political if not on the juridical side of the argument.

Thus there was universal agreement in the Commission that the two systems—the Commonwealth system and the International system—were complementary and in no sense alternative. The discussion did not turn on the question of a choice to be made between the two, but on the nature and conditions of their interdependence. The view of the Commission on this point was perhaps best expressed by a Canadian member when he declared that he dissented entirely from the trend of thought which suggests that there is something antagonistic between the League of Nations and the British Commonwealth. 'I believe', he continued, 'that the Collective System offers the best guarantee for the permanence of the British Commonwealth and for the maintenance of world peace.'

The close connexion, both in the realm of ideas and in actual world-politics, between the Commonwealth and the Collective System led various members of the Commission to discuss their relative strength and authority at the present time. Were the two systems, it was asked, strictly interdependent? If the Collective System were to break down, could the Commonwealth hope to survive? Conversely, if the Commonwealth were to be disrupted, what hope would

there be for the maintenance of the more comprehensive and heterogeneous system?

On this subject opinions ranged between two extremes. On the one hand there were those which, whilst sympathetic to the ideals of the League of Nations, felt that it had not yet become an effective factor in world affairs, and therefore looked rather to the Commonwealth to give practical effect to these ideals in the world of to-day. Thus a New Zealand member compared the aspirations expressed through the League of Nations to the 'golden rule' or the 'ten commandments', and doubted whether they 'get us any farther in the solution of practical problems'. Similarly, an Indian member stated that 'those of us who have followed the work of the League of Nations for the past ten years have not been over-impressed. We do not feel that it has been or will be a strong factor in solving the problems of the World'; and he went on to say that this was, 'broadly speaking, the opinion of the Indian public' on the subject. The feeling towards the Commonwealth, on the other hand, was 'entirely different, and a united effort on the part of the Commonwealth was therefore the best means for carrying the ideals of the League into effect'. He illustrated his criticism of the League by comparing its expedition in the matter of the trouble in 'Irāq, where a small state was involved, with its procrastination in dealing with Japan in the Manchurian issue.

Diametrically opposed to this was the opinion of a Canadian member, a keen supporter of the Collective System, who declared that 'if collective action breaks down, in all probability that would bring about a situation where Canada's North American position as distinguished from its Commonwealth position would prevail'.

Returning to solid earth after this excursion into the hypothetical, the Commission directed some time to a consideration of the actual working of the Collective System at the present time. An Australian member asked the question 'Is there in fact a Collective System? Is it not rather an aspiration than a practical fact?' Taking up this point, a member from the United Kingdom drew attention to

the fact that the system, as contemplated in 1919, had never come into existence owing to the abstention of the United States. The general opinion, however, was that, even so, the Collective System had been of great value to the World.

This led the Commission to consider the obligations of Commonwealth members under the Covenant and what could be done by them to strengthen the Collective System. On this latter point a special Sub-Commission was appointed.

A Canadian member explained the position taken up by Canada in regard to Article 10 of the Covenant, which made clear that action taken to fulfil League obligations would require the assent of Parliament. Some discussion took place as to whether Commonwealth Governments were armed with the necessary legal powers to carry out their obligations under Article 16 of the Covenant. It was agreed that whether this was so or not—and the position varied as between Dominion and Dominion—action could only be taken, politically speaking, with the assent of Parliament, or at least of the overwhelming bulk of public opinion.

Attention was also devoted to methods for the enforcement of international obligations—in particular, of the economic sanction. The problems involved in applying this in particular cases were raised by an Australian member, but another Australian speaker declared himself strongly in favour of its use, predicting that it would 'prove a not unworthy successor to our armed forces'. Several Canadian speakers also concerned themselves with this point, which involved the question of sea power.

From the problem of the prevention of war, the Commission was led on to consider the conditions attending a possible outbreak of war. Two distinct hypotheses were envisaged—a war, or sanction, carried through as part of the Collective System, 'a League war', and secondly an outbreak of war independent of that system or following upon its break-down.

The second alternative provided interesting matter for juridical discussion, since it raised the problem of the right

of Dominion neutrality, on which strongly opposing opinions were held in the Commission. It was referred to a special Sub-Commission.

Thus the general opinion of the Commission may perhaps fairly be summed up in the statement of a United Kingdom member that it is impossible to-day to discuss these problems 'along pre-League lines'. Whatever view may be held as to the authority of the Collective System at the present time, as to the best means for strengthening it, and as to the nature of its interdependence with the Commonwealth, the moral forces which have brought about its establishment remain in existence—at least in the British Commonwealth. Inside its borders, they find their expression in the common outlook and ideals which form the closest bond between its members. Thus, without seeking to predict the course of future events, it is clear that in the strengthening of these forces lies the best hope not only for the future of the Commonwealth but for the preservation and peaceful progress of our civilization.

The following points formulated by the Chairman appeared to him to express the general opinion of the Commission, particularly on the matters referred to in Sections 2 and 4 above.

1. Peace is the most vital interest, and its pursuit and maintenance should be the great objective of the Commonwealth.
2. To attain this objective we should

   (*a*) Co-operate in helping to remove causes of international friction and misunderstanding between nations and in promoting international goodwill.

   (*b*) Support whole-heartedly the Collective System for promoting international understanding and the preservation of peace, as expressed by the League of Nations, the Permanent Court of International Justice, and the Kellogg-Briand Peace Pact.

   (*c*) Support all measures designed entirely to eliminate force as a means of settling international disputes, by the substitution therefor of conciliation, arbitration, or judicial determination.

(*d*) Support substantial reduction and limitation of armaments by international agreement.

(*e*) Support efforts to bring all nations into the Collective System for the preservation of peace.

(*f*) Freer intercourse between the nations in economic matters is important for good understanding between them.

(*g*) Maintenance of a high standard of justice and liberty in all nations should be advocated.

(*h*) International efforts to improve social and industrial conditions should be supported.

(*j*) Co-operation with the United States is a vital feature of Commonwealth foreign policy.

ALFRED ZIMMERN
Rapporteur.

HART HOUSE,
UNIVERSITY OF TORONTO,
September 19th, 1933.

COMMISSION I: SUB-COMMISSION A

WAR AND NEUTRALITY

Report by H. V. HODSON (*adopted by the Conference*)

Your Sub-Commission's terms of reference refer to the questions of war and neutrality.

This involves the consideration of the circumstances in which war can arise having regard to the Covenant of the League and the Kellogg Pact. Every nation of the Commonwealth has signed and is bound by both these instruments. There is no nation of international importance which has not signed one or both of them.

In what follows we have excluded the hypothesis that any nation of the Commonwealth will desire to resort to war in breach of the solemn obligations thus undertaken.

It is necessary under the Covenant to consider three possibilities:

(1) Aggression by a member of the League against another member.

(2) Aggression by a non-member against a member or vice versa.

(3) Aggression by a non-member against a non-member.

In the first case the members of the Commonwealth are all bound by obligations under Article XVI which exclude the possibility of their remaining neutral.

In the second case the same situation arises if the non-member refuses to accept the obligations of membership in the League for the purpose of settling the dispute and persists in its aggression (Art. XVII).

In the third case there is machinery under Article XVII for endeavouring to secure a peaceful settlement; but, if both parties refuse to avail themselves of this machinery, the Council 'may take such measures and make such recommendations as will prevent hostilities and result in the settlement of the dispute'.

The Committee consider that in all probable cases of this kind the members of the Commonwealth will desire to act through the machinery of the League and in accordance with its recommendations, if any.

If, however, this machinery should unfortunately fail, it is worth recalling that under Article XI any war or threat of war, whether immediately affecting any members of the League or not, is 'declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual'.

There is the further consideration that in all these cases the aggressor will have committed a breach of the Briand-Kellogg Pact. Mr. Stimson's declaration as to the effect of this on neutrality is well known, and is entitled to great consideration.

It may be difficult to formulate the exact legal effect of the Pact on old conceptions of neutrality. It has, we think, clearly modified them, and we believe the nations of the Commonwealth would be agreed in desiring to act in accordance with the spirit of Mr. Stimson's declaration.

This survey, based on the realities of the modern world, makes it clear that old conceptions as to declaration of war and as to neutrality can have little if any place in the policies of the law-abiding nations. It seems clear to us that in perhaps every case that can be imagined the machinery of the League or the obligations assumed under the Kellogg

Pact will make clear to the nations of the Commonwealth the course that they should all pursue.

It seems to us academic and unprofitable to consider legal constitutional difficulties which might arise if there were no Covenant and no Kellogg Pact. The principles of freedom and co-operation and the 'agreed anomalies' on which the Commonwealth is based may create difficulties in many fields; and we feel, therefore, that it would serve no useful purpose to try and foresee problems in one field, that of war, which we are entitled to hope are never likely to arise, and to seek to apply to them legal conceptions as to war and neutrality appropriate to the pre-League world.

H. V. HODSON
Rapporteur.

HART HOUSE,
UNIVERSITY OF TORONTO,
September 21st, 1933.

COMMISSION I: SUB-COMMISSION B

THE COLLECTIVE SYSTEM

Report by DEAN P. E. CORBETT (*adopted by the Conference*)

Sub-Commission B agreed that the League of Nations as a collective system for the settlement of international disputes had in some instances failed to live up to the expectations attached to its establishment. The Manchurian crisis of 1931–2 was repeatedly cited as an instance of definite failure on the part of the League in its main purpose, namely the elimination of arbitrary force as a mode of ending conflicts between nations.

The opinion was unanimously expressed that where failure had occurred it was not due to defects in the machinery, but to two main causes. These were the non-membership of certain Great Powers, and the failure of members of the League and parties to the Kellogg Pact to face the full implications of the Covenant and the Pact, and to give effect, in circumstances involving risk to their individual interests, to obligations voluntarily assumed.

It was agreed that a firm determination of the British nations to enforce the Collective System would greatly

strengthen the system, and that the risk involved would not be greater than the risks necessarily incident to the breakdown of League machinery through lack of the support without which it cannot function.

It was suggested that the want of resolution shown at times by members in regard to enforcement of the Covenant was due in part to the absence of informed public opinion pressing upon the Governments, and some consideration was given to the question how such opinion could be formed. Two proposals were put forward. The first was that the various British Governments should in all cases have their delegates to the League Assembly and Conferences submit reports on their work and provide for adequate debate in the legislatures on such reports. The second proposal was that in view of the vital importance of the Collective System to the Commonwealth, steps should be taken to establish, where they do not now exist, unofficial organizations, like the League of Nations Unions, to keep the public informed as to the progress of the League's tasks. It was felt that an essential function of such organizations was to explain frankly to the public the full meaning of their obligations under the Covenant, since there could be no assurance of the effective operation of the League in crises until the people became fully aware of the part expected of their Governments when disputes arose. The work of voluntary educational institutions of the type suggested must be performed with care and discretion, but when well done it was of the utmost value to the Commonwealth.

After a discussion of steps that might be taken to associate more closely with the Collective System certain states not now members of the League, the Sub-Commission agreed that it was desirable that the Commonwealth countries should take the initiative in recommending the re-study, by the League, of Article XVI, with a view to facilitating the application of the economic and financial sanctions. It was strongly felt that greater certainty of the application of those sanctions, in the circumstances which they were designed to meet, would materially improve the prospects of co-operation on the part of non-member states.

Under the heading of more effective arrangements by Commonwealth Governments to implement their obligations, the members of Sub-Commission B expressed a *prima facie* agreement with the following proposition:

It should be a standing principle of the foreign policy of each of the Governments of the British Commonwealth to exercise their rights under the Covenant of the League of Nations to prevent war by securing the pacific settlement of international disputes, whether they are themselves parties to such disputes or not.

To this end, the Governments of the Commonwealth should make it known that it is their intention:

(1) To exercise their rights under Article XI to bring any dispute or other circumstance threatening peace or good understanding before the Council of the League of Nations at an early stage.
(2) To urge in the Council that such a dispute, if it is suitable for judicial decision or arbitration, should be referred to the Permanent Court or to an arbitral tribunal.
(3) To urge upon parties to a dispute to deal with the matter under Article XV of the Covenant at an early stage, in order that commissions of inquiry may be established without the consent of both parties.
(4) To propose the establishment of such commissions of inquiry at the earliest possible moment.
(5) If, while the Council is dealing with the dispute, aggression should occur, to urge upon the Council that it should call upon the aggressor to withdraw its troops to its own territory, and to abstain from any other form of aggression.

Several members expressed their acceptance of the principle that such action should be taken by Commonwealth countries when international disputes occur, but it was felt by others that this programme should be made the subject of more detailed examination than was possible in the time now at their disposal.

The suggestion was made and unanimously concurred in that the Conference might constitute some continuing body which, by correspondence, might exchange considered views on the many complicated questions arising out of the

very vital relations between the Commonwealth and the Collective System as a whole.

P. E. CORBETT
Rapporteur.

HART HOUSE,
UNIVERSITY OF TORONTO,
September 22nd, 1933.

COMMISSION II

MACHINERY REQUIRED FOR CO-OPERATION IN FOREIGN POLICY

Report by PROFESSOR ERIC WALKER (*adopted by the Conference*)

Commission II, which consisted of all the members of the Conference under the chairmanship of the Hon. Vincent Massey, held five sessions between the afternoon of Thursday, September 14th, and that of Monday, September 18th. Its business was to consider, in the light of the general discussion of ideas and policies by Commission I, how the British Commonwealth could best be made to function, in the words of the Chairman, 'as an instrument for world peace and for the benefit of its component parts'. To that end, it dealt with each item of the agenda from two points of view: (*a*) existing machinery for co-operation; and (*b*) improvement of that machinery. As ample information was already available in the Conference data papers on most heads under (*a*), discussion arose as a rule under (*b*). In my report I have followed the order of the agenda paper as far as possible, but where occasion demanded I have not hesitated to depart from it.

Beyond a Canadian comment on the high value of the Imperial Conferences as an instrument of co-operation, no discussion took place on the conference system as such, but a considerable debate arose on the proposal put forward by the Australian group for a permanent secretariat. Without claiming to speak for any large section of their public, the Australians urged the need for a flexible body which should undertake preparatory work and discharge secretarial duties during the session of each conference.

While admitting cordially the need for such preparatory

work, members of the United Kingdom, Canadian, and South African groups expressed themselves against a single permanent secretariat, however flexible in personnel, mainly on the grounds that such a body would give the impression that the Imperial Conference was in some sense an instrument of government, and that it might tend to dominate the conference itself. They favoured, rather, secretariats in each of the British States, which should act in collaboration with one another.

The debate then broadened out into a discussion of the Australian proposal that there should be regular meetings, purely for consultative purposes, between the Secretary of State for Foreign Affairs and Dominion High Commissioners or responsible Ministers. One Canadian member indeed deprecated any such consultation, since it might lead to commitments, and further expressed distrust of the system of Commonwealth co-operation because of its very flexibility, which might lead to unforeseen and possibly undesirable developments. United Kingdom and other spokesmen urged in reply that fears such as those were the best argument for close and frequent consultation. As one Australian put it, the best way to check an unruly member was for all to hear and be heard as often and regularly as possible.

The general effect of the debate was a widespread recognition of the fact that crises might well arise which would call for swift action and that, while there should be nothing in the way of formal machinery in London, the habit of discussion between the Foreign Secretary and Dominion representatives as occasion arose should be encouraged. In other words, reliance should be placed on convenience and practice rather than on formal institutions.

There was general agreement that the supply of information furnished to Dominion Governments by the Foreign Affairs Department of the Dominions Office was full and regular, communications passing from the Foreign Office daily to those Governments through the Dominions Office. Copies of these documents were also supplied regularly to all the High Commissioners in London, except to the High

Commissioner of New Zealand who is content to receive only such documents as he asks for specially. An Australian member noted that the Australian Liaison Officer was able to perform a very useful function in amplifying and interpreting information by daily personal contact with the officers of the Dominions Office, Foreign Office, Service Departments, and other offices.

There was an equally general admission that the information forthcoming was neither passed on to nor discussed adequately by Members of Parliament, the newspapers, or the public. It was recognized that some of this information was necessarily confidential, but it was believed that much of it might profitably be passed on to Parliament and the Press. It was suggested that classification of Foreign Office information as confidential, discretionary, or free might facilitate its dissemination, but it was objected that classification might make it easier for a harassed Minister to shelter himself behind confidential despatches. The trouble went deeper than that. It was noted that interest, in the Parliaments of South Africa and New Zealand at all events, in the work of the International Labour Office was much greater than in the political work of the League and external affairs generally, partly at least because regular reports on the work of the International Labour Office were laid on the table. Generally speaking, in all Dominions it was admitted that too often information on external affairs could only be extracted by questions in the House.

A New Zealand member suggested that each parliament should set up an External Affairs Committee, drawn from all parties and charged with studying Commonwealth and foreign affairs and insisting on debate in the House. Some support was forthcoming for this proposal, but there was much more general approval of the idea of informal committees with much greater freedom of action than would be possible for a parliamentary committee. Further suggestions were that fuller use should be made by members and ex-members of the various legislatures of the meetings and publications of the Empire Parliamentary Association;

or, to reach an even wider public, of the similar facilities offered by the Royal Institute of International Affairs and its allied Institutes in various Dominions.

It was agreed that the interchange of information between Dominion diplomatic representatives and their own Governments was voluminous and, as far as was known, adequately used, and that the same might be said of communications by the Permanent Representatives of Canada, South Africa, and the Irish Free State at Geneva. Note was taken of the fact that the United Kingdom did not need such an official owing to its proximity to Geneva, and that the appointment of such officials was engaging public attention in Australia and New Zealand. Note was taken of the excellent United States system, well financed and staffed, for circulating League information to United States diplomatic representatives in the various parts of the World directly concerned. It was suggested that it would be well if information forwarded by Dominion diplomatic representatives to their respective Governments could be circulated on these lines to other members of the Commonwealth.

It was stated by a United Kingdom member who had first-hand knowledge of the facts that while, except in the case of New Zealand, there could now be no question of the Foreign Office communicating with a Dominion Government through the Governor-General, His Excellency was frequently furnished with copies of despatches for his information. In passing, a Canadian member hazarded the suggestion that instructions to Governors-General were now unnecessary, but another member of the Canadian Group pointed out that the Canadian Instructions were the work of the Canadian Ministry and that such anomalies as appeared were in accordance with the British North America Act. The point was not pursued.

The question of the supply of information by Dominion Governments to other Governments of the Commonwealth, and the methods of handling the information received, were dealt with as one problem. South African and Canadian members noted that the great mass of intra-Commonwealth

information still came from the United Kingdom, so great in mass that good material was apt to be snowed under, while too little came from the Dominions. Australians then noted that their Liaison Officer 'filtered' this mass of material for the Minister of External Affairs; but the Canadians and South Africans repeated their opinion that if the High Commissioners in London had an enhanced status, they would be in a better position both to interpret the information received by their Government and to play a full part in consultation between the Governments concerned and also to serve as direct links between their Governments and the Foreign Office.

All agreed that personal contacts were essential to give life to otherwise dead documents. A New Zealand member stated, however, that his Government was disinclined to use the High Commissioner as a diplomatist, except on special instructions, since his duties were really commercial. An Australian member then stated the case for a Resident Minister, who, having high personal standing as well as the complete and intimate confidence of his Government, could, in his opinion, do all and more than all that a High Commissioner could do. He admitted, however, that the appointment of an Australian Resident Minister was only an experiment.[1] Another Australian, indeed, noted the danger of a minister's position far away from his constituency, while a United Kingdom spokesman observed that he might be immobilized by opposition from home. A South African member suggested further that it might be dangerous to have a Minister in London who could bind his colleagues, and at the same time have no better means of keeping in touch with home public opinion at the end of a few months than a good permanent official would have. The first Australian speaker, however, held to his position and suggested that United Kingdom ministers found it easier to get into closer and more understanding contact with a parliamentarian than with a permanent official. To

[1] The termination of the appointment of Resident Minister in Great Britain for the Commonwealth of Australia was announced on the 2nd September, 1933—*Editor*.

this, however, a United Kingdom member replied, with the approval of his colleagues, that in their opinion there could be no question of the United Kingdom indicating a preference one way or the other, and assured all concerned that Dominion representatives of whatever name and status would be assured of the warmest welcome and co-operation.

Two further allied points arose; (*a*) security of tenure, and (*b*) status and precedence. United Kingdom opinion was decidedly in favour of the French and British systems of no change of personnel with a change of ministry, since a diplomat should be outside politics and represent his country, whatever party might be in power. Ultimately, there was general assent to the Canadian view that the High Commissioner should be a man of the highest standing and that he should not change with a change of ministry, but only if he failed to adapt himself loyally to a change of policy. There was also universal agreement that questions of precedence should be left alone since they lay in His Majesty's personal discretion, and that any change in the status of the High Commissioner should still indicate clearly the special relationship which the British States bore to one another and to the King. Further, to meet New Zealand objections that any over-logical pursuit of identity of status might embarrass the smaller Dominions, there was general concurrence with the view expressed by United Kingdom, Canadian, and South African members that function was the really important matter. The precise form which its representation should take must be a domestic matter for each Dominion. It was for each to give its representative a status and title commensurate with his duties.

To sum up, it was generally agreed that, where Dominion Governments so desired, the status of the High Commissioners in London should be raised so as to enable them to discharge diplomatic duties if they were so instructed. Further, that High Commissioners of the new status should communicate freely with the Foreign Office directly so as to receive personally information on foreign affairs. If desired, the High Commissioners of two or more Dominions should have joint interviews at the Foreign Office.

Further, on special instruction from their respective Governments, High Commissioners should enter into consultation with the Foreign Office. There was also a considerable body of opinion in the Commission which doubted the necessity of continuing the practice by which the Dominions Office serves as intermediary between Dominion Governments on the one hand and the Foreign Office and other Departments on the other.

A discussion of Dominion Departments of External Affairs arose naturally out of these considerations. There was general agreement with the principle that, if at all practicable, the portfolio of External Affairs should be held independently of any other, certainly independently of that of the Prime Minister. To-day, Prime Ministers either strained themselves in the attempt to discharge their multifarious duties or were forced by their heavy load of responsibility to give External Affairs inadequate attention. Not only was inadequate attention dangerous, but inadequate discussion deprived the public of a necessary part of its political education.

With reference to representation at Geneva, it was generally agreed that since the work of the League was parliamentary in character a responsible Minister, preferably the Minister for External Affairs, should head each Dominion delegation rather than, as had too often been the case hitherto, the High Commissioner. A United Kingdom speaker, who had special knowledge of the facts, further asked Dominion members to recognize that, if the Collective System were to function at all well, Ministers must be prepared to spend several months of each year away from home just as did the Foreign Secretaries of France, the United Kingdom, and many of the influential smaller states of Europe. For the rest, a Canadian suggestion was approved that delegations should include the High Commissioners or similar officers, who, from frequent visits to Geneva, would know League personalities and thus assist their political chiefs immensely.

All that had passed in the discussions so far had emphasized the importance of *continuous* personal contacts and con-

sultation. Various aspects of the vital problem were then dealt with.

Faced with the fact that foreign states in certain cases had better representation in Dominion capitals than other Dominions, group after group dwelt on the desirability of much fuller inter-Dominion communications in every respect than existed at present. The appointment of Dominion Trade Commissioners was already paving the way, and the importance of trade as a bond of empire was stressed, in the opinion of some even unduly stressed, but there was a widespread agreement that something more than Trade Commissionerships was needed, something on the lines of the Agency which India had established in South Africa. The Indian Agent's duties were mainly political, and both South African and Indian spokesmen testified to the value of his work in easing strains, promoting mutual understanding, and relieving the United Kingdom Government of heavy burdens. These arguments were reinforced by reference to the invaluable personal co-operation between the Canadian Minister Plenipotentiary and the British Ambassador at Washington. Some members, notably Canadians, looked forward to the time when there should be a group of representatives of all the British states at each other's capitals. On the other hand a New Zealand spokesman objected that separate Dominion representation of a diplomatic nature must be expensive and might be embarrassing. This reminder was accepted cheerfully by the other groups, who agreed that the rule had better be 'Go slow', and that in any event each state must be left free to work out its own ideas in this matter.

Discussion on the allied questions of consultation between diplomatic representatives of the British states in capitals where Dominions were separately represented, and the relations of Dominion representatives to the United Kingdom ambassadors and consuls, centred round a first-hand and most interesting description by the chairman of the relations that had subsisted from the first between the Canadian Minister at Washington and the British Diplomatic and Consular Services. Two main points emerged.

First, that it was well that the original idea that the Canadian Minister be second-in-command to, and in the latter's absence, substitute for the Ambassador had been abandoned. Apart from the fact that this arrangement would bear hardly on the officer of the Embassy who would normally become Chargé d'Affaires, there were the objections that the Canadian Minister would receive instructions from two Governments, and that foreigners would find the mysteries of Dominion status even more incomprehensible than they found them already. Secondly, that formal and, still more, informal co-operation was of the closest and most fruitful kind, extending even to access to each other's files and occasional joint representations to the United States Department of State. Further, United Kingdom Consuls in the United States, as a matter of courtesy, took instructions from the Canadian Minister, and discharged an immense amount of work gratuitously in Canadian interests.

Running through much of the foregoing discussion was an acceptance of the principle and practice that where Dominion representatives exist, they should act for their nationals, but that elsewhere the United Kingdom representatives should act for all British subjects.

The further fact was faced frankly that the Dominions at present lacked a sufficient supply of adequately trained men for the staffing of large diplomatic or consular services.

During the discussion that ensued, members of the Indian group reminded those who held that titles and status were matters of small moment, that these things did count for a good deal sentimentally and even from the point of view of the utility of the officers concerned, and suggested that a new nomenclature might have to be evolved to describe High Commissioners, who would be more than consuls, but, though performing diplomatic duties, would be on a different footing from foreign ambassadors, and possibly also for certain officers subordinate to the High Commissioners. These suggestions were welcomed, but on other major points there were considerable differences of opinion. Canadian and South African speakers favoured

distinct Dominion diplomatic services, in closest touch with that of the United Kingdom, trained in its admirable traditions, and, in the early formative years at least, stimulated by occasional exchanges of junior personnel with that service where possible. The Australians indicated clearly their preference for a single diplomatic and consular service for the United Kingdom and such Dominions as did not elect to establish their own services. This, they held, would facilitate the training of young men from the Dominions, and enable, e.g., Australia to receive a diplomatic mission from a foreign state without reciprocating.

The United Kingdom group made it quite clear that any objections to separate Dominion services that might have existed at one time were now things of the past. Nevertheless, the Australian proposal clearly found favour with one or two of the United Kingdom members, on the two grounds that it would make for simplicity and coherence, and that it would overcome the difficulty of training Dominion men. It might be advisable, some thought, for the Dominion High Commissioners to have each a Department of External Affairs to which young men could be attached to learn their work in close touch with the United Kingdom service. It was, however, noted that this whole problem was a domestic matter which was engaging the attention of the individual Dominion Governments.

The conclusion of the whole matter was that the choice between a complete system of Dominion diplomatic representation on the one hand, and exclusive reliance on a United Kingdom or Commonwealth organization on the other, was an unreal one. While it would be unreasonable (and highly expensive) for a Dominion to appoint representatives on principle, each should be free to appoint where its special interests demanded. *Solvetur ambulando.*

One last point remains to be noted under this head. One Canadian member suggested that the United Kingdom service was paid in fees for what it did for Dominion nationals, but when another member of the Canadian delegation, speaking with authority, pointed out the immense amount of work which that service performed

without any payment, there was a very widespread opinion expressed by certain members of all the Dominion groups that some payment should be made in recognition of services rendered. The United Kingdom group, in reply, stated that the United Kingdom service was there to be used by all, that there was no shadow of criticism of the Dominions in the United Kingdom for not contributing, and that contributions, other than fees for special services, might even lead to demands for an embarrassing share in control of the service. A South African member noted that the analogy of the free grant to the Navy made by the Cape Colony and Natal in 1898 suggested that the demand for a shared control need not arise, and there the discussion of this 'awakened conscience money' ended.

Two further discussions remain to be described. The Indian group, with great tact and moderation, raised the issue of the denial of the State and Federal franchises to British Indians domiciled in British Columbia, and of the State franchise in Western Australia. They refrained from raising it in respect of South Africa as there the matter is still under consideration, and had no need to raise it in respect of New Zealand where Indians may acquire the vote. It was noted that the numbers involved in Australia and Canada were very small, and there was general agreement that it would be well if these obstacles to cordial co-operation, small in themselves but capable of being exploited, could be cleared away. The Australian members, remarking that Indians already had the Australian Federal franchise, undertook to urge reform, while a Canadian member suggested that the British Indians in British Columbia might be given the Federal franchise by special arrangement.

Finally, the problem of consultation for defence was debated at considerable length. One suggestion was that Dominion High Commissioners should attend the Committee for Imperial Defence; another that service attachés to the High Commissioners should represent their chiefs thereon. The discussion, however, broadened out into a discussion of policy, as was perhaps natural in the light of

recent events in the Northern Pacific and Central Europe. Opinion was much divided on this score. One South African member held that consultation on minor matters was already satisfactory but that major matters such as strategic plans ought also to be discussed, so that action on behalf of the League or of the Commonwealth might be swift and effective. He was supported by one of the New Zealanders, who even desired a binding plan in advance of war. Indian members, and some of the Australian and New Zealand members, felt that reliance could not be placed entirely on the League of Nations or the Kellogg-Briand Pact. An Indian member added the valuable comment that consultation between the Government of India and the Governments of the Indian States had led recently to a reduction in the military expenditure of some of the latter—maximum efficiency at minimum cost. Canadian opinion was diverse. One member deprecated even the existing system of co-operation, in that it presupposed that the Commonwealth was a defensive alliance instead of an association in which each member reserved full liberty of action, and pointed to the dangers of having a military class trained in ideas of co-operation in close touch with Ministers. Another Canadian feared that even consultation on technical matters of equipment might lead to commitments, and looked ahead to the time when there should be an international army and navy. He further considered that the Royal Navy was of no real value to Canada. This view of the Navy was warmly repudiated by another Canadian member, who also denied that there was any widespread objection in Canada to the existing machinery of consultation. Another view expressed by two other Canadian members was that Canada would never go to war without the consent of her Parliament; that if the World Collective System undertook seriously to keep the peace, the Canadian people might in course of time agree to give definite undertakings in advance of action; but that there must be in no event commitments entered into by non-representative persons. There was, however, these spokesmen urged, a fruitful field for co-operation between the

British states as friendly states, co-operation which might be extended to well-disposed foreign states.

A member of the South African group expressed himself against a defensive alliance, but welcomed the suggestion that consultation for action against an aggressor should be taken by all members of the League. A United Kingdom member met the South African more than half-way by agreeing that all possible steps should be taken to enable the League to check an aggressor; but he also suggested that if the British states could decide among themselves what was to be done for the restraint of the aggressor in the event of an aggressive war, they would have gone very far to further the ends of world peace.

On that note the Commission concluded its labours.

ERIC A. WALKER
Rapporteur.

HART HOUSE,
UNIVERSITY OF TORONTO,
September 20th, 1933.

COMMISSION III

COMMONWEALTH COURTS AND UNIFORMITY OF LEGISLATION

A. COMMONWEALTH COURTS

Report by PHILIP J. NOEL BAKER (*adopted by the Conference*)

I. THE NEED FOR A COMMONWEALTH TRIBUNAL.

The Commission discussed whether any useful purpose would be served by the establishment of a Commonwealth Tribunal to settle disputes between the Governments of the members of the Commonwealth. Although some members of the Commission held that the number of such disputes is likely in future to be extremely small, there was general agreement that some organized system of settlement should be brought into being.

It was further agreed that this organized system should include the creation of some permanent body to which disputes could be referred. Full agreement could not be reached, however, as to whether there should be one central

permanent body established for the Commonwealth as a whole or whether, on the contrary, there should be a series of separate permanent tribunals established by bilateral agreement between the different members of the Commonwealth.

The prevailing opinion of the Commission appeared to be that a permanent central tribunal for the Commonwealth as a whole would be the more satisfactory. It was urged in support of this view:

(*a*) that very extensive international experience has proved the advantage of a permanent central court;

(*b*) in particular, that only a court which is permanent can develop the *esprit de corps* which is the best guarantee for its satisfactory working and for the impartiality of the justice which it administers;

(*c*) that only a central permanent court could avoid the legal difficulties which might arise from the varying decisions which would be rendered if a series of tribunals were set up by bilateral agreements.

A minority which consisted of a few members of the Commission held, however, that a permanent central court would tend to create an element of rigidity in the relations between members of the Commonwealth which it is desirable to avoid, and that in this way it might arrest the normal constitutional development of the Commonwealth. It was further held that the creation of such a court might be unacceptable to certain sections of political opinion in various countries within the Commonwealth, and that in consequence its establishment might do more harm than good. This minority took the view that the ultimate ideal solution would be for all members of the Commonwealth to refer their mutual disputes to the Permanent Court of International Justice at the Hague. It was agreed, however, that Commonwealth sentiment at the present time would not approve the abandonment of the reservation to the Optional Clause made in 1929 by all the members of the Commonwealth but one; and the majority agreed:

(*a*) That from the strictly legal point of view there would be positive advantage in having a permanent Commonwealth

court in which all the judges had been trained in the laws in force in British countries;

(*b*) that both on legal and on other grounds it would be desirable that the judges of such a court should have in their minds a vivid consciousness of the nature and implications of the special relationship which exists between members of the Commonwealth.

For these reasons the majority considered that the solution of sending intra-Commonwealth disputes to the Permanent Court of International Justice must be ruled out for practical purposes.

The minority agreed that, as a matter of practical politics, it could not be expected that the members of the Commonwealth would agree in the early future to refer their disputes to the Permanent Court of International Justice. They therefore suggested the plan described above, namely, the establishment of a series of permanent tribunals to be set up by bilateral agreement between members of the Commonwealth.

2. THE JURISDICTION OF A COMMONWEALTH TRIBUNAL.

There was general agreement in the Commission that the jurisdiction of the Commonwealth tribunal should be restricted to disputes of a justiciable character. In accordance with this view it was agreed that the court should have jurisdiction in disputes between Governments including:

(*a*) Disputes submitted by both the parties;

(*b*) Disputes falling within certain agreed categories, e.g.:

(i) The interpretation of formal agreements between member states;

(ii) The determination of facts with respect to the alleged breach of such agreements;

(iii) Reparations for such breach.

It was agreed that in these categories of disputes the court might appropriately have compulsory jurisdiction. It was further agreed that, in respect of the categories of disputes thus held by the Commission to be appropriate for compulsory jurisdiction, an Optional Clause, similar to that contained in the statute of the Permanent Court of

International Justice, should be inserted in the instrument which creates the Commonwealth tribunal. This Optional Clause should enumerate the categories of disputes in which the court has compulsory jurisdiction and members of the Commonwealth would only be obliged to admit such compulsory jurisdiction if and when their Governments had adhered to this Optional Clause.

The Commission further considered whether the Commonwealth tribunal should have jurisdiction in disputes relating to constitutional and other rights *inter se* of members of the Commonwealth, e.g. disputes arising out of the interpretation of the Statute of Westminster. It was felt that it would be premature for the Commission to formulate any view on this point, which requires more mature consideration than the Commission had been able to give. It was generally agreed, however, that additional categories of disputes might from time to time be added by general agreement to those enumerated in the Optional Clause.

3. CONSTITUTION OF THE COMMONWEALTH TRIBUNAL.

Those members of the Commission who were in favour of the establishment of a permanent central Commonwealth tribunal were agreed that this tribunal should be constituted on the following lines:

(*a*) Each member of the Commonwealth should nominate either one or two judges.

(*b*) Judges should be appointed for a long period of time; e.g. ten years, subject to removal by their colleagues on the tribunal for misconduct.

(*c*) Judges should be chosen from among distinguished jurists. While they are members of the tribunal, they should not hold administrative office, be members of parliament, or engage in any public employment other than that of a judicial character.

(*d*) Judges nominated by the members of the Commonwealth would choose among themselves the president of the court, who would have the title of Chief Justice of the Commonwealth Tribunal.

(*e*) The court to deal with any given dispute should either consist of all the judges nominated by all members of the Commonwealth, or of certain of these judges, a selection being

made in each case by the chief justice. If the latter plan were adopted it might furnish a means by which judges would not be placed in the difficult position of having to adjudicate in cases in which the Governments of their own countries were involved.

It was further proposed by some members of the Commission that this tribunal when established should be constituted as a Committee of the Privy Council.

The majority of the Commission held, however, that such an arrangement would be inconsistent with the conception of a tribunal established by free agreement among Governments who are equal partners in the Commonwealth association.

4. COMPOSITION OF BILATERAL PERMANENT TRIBUNALS.

The Commission further considered the views of those of its members who held that a series of bilateral permanent tribunals should be established in preference to a central Commonwealth tribunal. These members suggested that these tribunals need not necessarily all be constituted on the same model but might vary in character. It appeared probable, however, that Governments desiring to make bilateral agreements for the constitution of such tribunals would desire to constitute them broadly in conformity with the system suggested in the resolutions of the Imperial Conference of 1930.

The tribunals, however, would be permanent and not *ad hoc*, and might have more extensive obligatory jurisdiction than that regarded by the majority of the Commission as suitable for the Commonwealth tribunal and described in Section 2 above.

5. PROCEDURE, ETC.

(1) It was generally agreed that the Commonwealth tribunal should draw up its own rules of procedure.

(2) It was further agreed that the tribunal should settle its own permanent seat, if any. It should also have the power to sit elsewhere than at its permanent seat, if in any given dispute that might appear desirable.

(3) It was generally agreed that the Commonwealth

tribunal should be left a free hand to find for itself the law which it would apply in the disputes brought to it for its adjudication.

(4) It was agreed that any member of the Commonwealth should have the right to intervene as a party in any dispute brought by other members of the Commonwealth before the tribunal, if in its own unfettered judgement it considered that it had an interest in the issues involved in the dispute.

(5) It was agreed that a suitable name for the court would be 'The British Commonwealth Tribunal'.

6. NON-JUSTICIABLE DISPUTES.

There was general agreement in the Commission that it was undesirable and unnecessary at the present stage to establish any special Commonwealth machinery for dealing with non-justiciable disputes.

It was suggested by some members of the Commission that in such disputes, if they are not settled by negotiations between the Governments concerned, the good offices of the Imperial Conference could be invoked.

It was agreed, however, that members of the Commonwealth should be free to make bilateral agreements *inter se* for the establishment of any conciliation or arbitral procedure which they might consider would assist them to settle their non-justiciable disputes.

PHILIP J. NOEL BAKER
Rapporteur.

HART HOUSE,
UNIVERSITY OF TORONTO,
September 21st, 1933.

B. UNIFORMITY OF LEGISLATION

Report by SIR DONALD SOMERVELL (*adopted by the Conference*)

7. MERCHANT SHIPPING.

The Commission considered first the subject of merchant shipping. The desirability of uniform legislation in the Commonwealth on some of the matters covered by this subject was accepted by all. Reference was made to Part 6 of the Report of the Conference on the operation of Dominion legislation and Merchant Shipping legislation (1929), to Part 6 (*e*) of the Summary of Proceedings of the

Imperial Conference (1930), and to the British Commonwealth Merchant Shipping Agreement of 1931. It was pointed out that general agreement had been arrived at in the last-named document between all the nations of the Commonwealth but that no step had been taken to draft model clauses with a view to the Governments concerned giving uniform legislative effect to the provisions of the agreement.

It was the general opinion of the Commission that a commission of representatives of the Governments concerned should be convened with a view to drafting model clauses.

A Canadian representative stated that there were other matters connected with merchant shipping not covered by the Agreement of 1931 on which uniformity was desirable. Some of these had already been the subject-matter of international conventions. The Commission had no time to go into detail, but it was generally agreed that model clauses should be drafted covering matters connected with merchant shipping, apart from matters of purely domestic concern, on which uniformity was desirable.

An Australian member said that some difficulties might arise in Australia by reason of the division of powers between the Commonwealth and State Parliaments.

8. ADMIRALTY JURISDICTION.

The Admiralty Courts in the Dominions were set up under the Colonial Courts of Admiralty Act, 1890. Although Dominions which have adopted the Statute of Westminster have legislative power to repeal this Act, so far as it affects the Dominion in question, and deal with the matter themselves, it was generally agreed that uniformity as to both jurisdiction and procedure was desirable. It was pointed out that this involved *inter alia* a definition of maritime lien which could be put into a statutory form. Reference was made to Part 6 (2) (Paragraph 117) of the Report of the Conference on the operation of Dominion legislation and Merchant Shipping legislation (1929) approved by the Imperial Conference of 1930, in which the

desirability of uniform jurisdiction and procedure in all Admiralty Courts in the Commonwealth is emphasized.

It was proposed that a Commission of representatives of the Governments concerned should be assembled to give effect to this recommendation, and this proposal met with general assent.

It was pointed out that in this as in other cases the procedure to be adopted in securing uniform legislation would differ according to whether a Dominion had or had not adopted the Statute of Westminster. All Dominions, however, would be equally concerned in the consideration of the matter and of the model clauses to be drafted. Under both this and the previous heading it was stated that difficulties had arisen in Canada under existing legislation. It was felt, therefore, that it was appropriate for Canada, if it thought fit, to raise these matters with the Governments concerned.

9. NATIONALITY.

A Canadian member of the Commission referred to the recommendation of the Imperial Conference of 1930 (Summary of Proceedings, Part 6, *c*) that the members of the Commonwealth should introduce legislation to give effect to Articles 8–10 of the Nationality Convention, agreed to and signed by all the members of the Commonwealth at the Hague Conference of 1930. These articles, which deal with the nationality of married women, are as follows:

Art. 8. If the national law of the wife causes her to lose her nationality on marriage with a foreigner, this consequence shall be conditional on her acquiring the nationality of the husband.

Art. 9. If the national law of the wife causes her to lose her nationality upon a change in the nationality of her husband occurring during marriage, this consequence shall be conditional on her acquiring her husband's new nationality.

Art. 10. Naturalization of the husband during marriage shall not involve a change in the nationality of the wife except with her consent.

It was pointed out that Canada has a very special interest in this problem owing to the nationality law of the United

States. Under that law a British woman national who marries a citizen of the United States does not acquire the nationality of her husband, although under her own law she loses her British nationality. Canada has passed a Statute applying the articles referred to, to women domiciled in Canada. This Statute was brought into operation by a Proclamation of the 15th January 1932. It was further stated that neither the United Kingdom nor any other Dominion except Canada has so far taken any step to give legislative effect to the articles, in pursuance of the recommendation of the Imperial Conference.

The question was raised as to whether courts in other parts of the Commonwealth would give effect to the Canadian Statute, and reference was made to Section 3—the Extra-Territorial Section—of the Statute of Westminster. A Canadian speaker invited members from other delegations to consider whether their Governments should not enact similar legislation.

A member of the United Kingdom delegation stated that there was considerable, although in his opinion ill-advised, opposition to the course suggested on the ground that it did not go far enough.

The Commission appreciated the urgency of this matter to Canada and its importance to the whole Commonwealth having regard, not only to the merits of the question, but also to the undesirability of differing laws as to nationality in different parts of the Empire.

All members of the Commission considered that the attention of the Governments concerned should be directed to the matter.

10. AIR.

No specific proposal under this heading was put forward. The International Air Convention of 1919 was referred to but no member felt that any specific action by members of the Commonwealth, as such, was called for.

DONALD B. SOMERVELL
Rapporteur.

HART HOUSE,
UNIVERSITY OF TORONTO,
September 19th, 1933.

COMMISSION IV

CO-OPERATION FOR PURPOSES OTHER THAN FOREIGN POLICY

Report by PROFESSOR A. H. CHARTERIS (*adopted by the Conference*)

The Commission, which consisted of representatives of all the groups attending the Conference, held two meetings under the Chairmanship of the Hon. W. Downie Stewart of New Zealand.

At the outset, the Chairman referred to the report of the Imperial Committee on Economic Consultation and Co-operation, which had been appointed under a resolution of the Ottawa Conference, and of which Mr. O. D. Skelton was Chairman. This report, one of whose principal recommendations was the abolition of the Empire Marketing Board, had been accepted by the Governments concerned, so that a large part of the subject-matter of the Commission was in a state of transition. On the other hand, the attention of the Commission was drawn to the wide terms of reference of the remaining machinery of economic co-operation, the Imperial Economic Committee and the Imperial Shipping Committee (quite apart from scientific institutions); that machinery was available for a wide range of purposes and could be used to the extent that the various members of the Commonwealth regarded co-operation as desirable.

Considerable apprehension was expressed regarding the future of those branches of scientific research, such as the Imperial College of Tropical Agriculture, which were already being conducted on the basis of Commonwealth co-operation, and for which funds had been provided by the Empire Marketing Board. The Commission felt that the possible field of scientific co-operation was very large indeed, and that the recommendation of the Skelton Committee, that the Governments and the specialist bodies concerned should confer as to the services and researches to be continued on a Commonwealth basis, should be carried out as rapidly as possible. It was hoped that adequate funds

would be forthcoming as a result of these deliberations, both from the United Kingdom and from the Dominions. At the same time mention was made of the need for avoiding overlap and duplication of work.

Several delegates, both from the United Kingdom and from the Dominions, deplored the termination of the advertising and similar activities of the Empire Marketing Board. Others held the view that the exchange of preferences effected at the Ottawa Conference had rendered those activities unnecessary. In this connexion, special emphasis was laid on the value of films in representing the different parts of the British Commonwealth to each other's citizens, and on the consequent need for specialized machinery of co-operation in this field.

There was general agreement that co-operation in the intellectual sphere was perhaps the most important form of co-operation.

Attention was called to the need for extending the present system of intra-Commonwealth scholarships and exchange of professors. Special emphasis was laid on the growth of London University as a centre of post-graduate research; Oxford and Cambridge and other universities had their special attractions, but London possessed unique facilities as a cultural centre for the English-speaking World.

Among the matters for which no permanent machinery of Commonwealth co-operation was yet available was the question of native policy. A South African representative urged that there should be some form of inter-governmental consultation on this matter, so as to prevent dangerous conflicts between divergent policies pursued by different Governments in Africa. A member of the Indian delegation expressed grave concern at any suggestion that the white peoples were to concert a joint policy directed towards the subjection of the native races. On behalf of the United Kingdom delegation it was emphatically urged 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 responsi-

bilities. Attention was drawn to the great investigation of the African problem that was about to be conducted, thanks to the generosity of the Carnegie Corporation of New York; the Commission was agreed that the results of that inquiry would provide additional and valuable information for any inter-governmental co-operation which might hereafter be held desirable.

Other possible fields of co-operation which were mentioned included statistics (especially those relating to imports and exports, and index numbers); shipping subsidies, aviation, and questions of communications in general; the elaboration of reciprocal agreements for the exchange of commodities between the United Kingdom and other countries of the Commonwealth; industrial specialization and standardization; and news services. It was alleged that one of the chief reasons why intra-Commonwealth co-operation in statistical matters had not proceeded further was that United Kingdom statistics were themselves insufficiently systematized and unified. With regard to news, the inadequacy of inter-Dominion news was deplored, and it was urged by certain delegates versed in these affairs that news editors did not always appreciate the value and interest of such news. It had, however, to be admitted that successive Imperial Press Conferences had attempted to solve the problem without, as yet, conspicuous success.

In short, the Commission was agreed that, for the purposes of co-operation in the Commonwealth on such matters other than foreign policy as were held to require consultation or joint action, the existing general machinery, in the shape of High Commissioners and trade representatives, was inadequate; that specialized machinery of co-operation was required not only for scientific research but for other matters, including films and statistics; and that with regard to a great many matters coming before the Commission the Imperial Economic Committee and the Imperial Shipping Committee, with their broad terms of reference and their embodiment of the principle of equality of status, provided appropriate machinery available for extended use in the future.

Finally, a brief summary was given by an Australian member of the steps taken by the Commonwealth Government to build up the nucleus of a civil service for the mandated territory of New Guinea, on the model of the Indian Civil Service.

A. H. CHARTERIS
Rapporteur.

HART HOUSE,
UNIVERSITY OF TORONTO,
September 20th, 1933.

D. REPORT OF THE CONFERENCE STEERING COMMITTEE ON THE WORK OF THE CONFERENCE

(*Adopted by the Conference*)

1. TERMS OF REFERENCE AND MEMBERSHIP OF THE COMMITTEE.

The Steering Committee was set up as the result of a decision of the Conference at its first Business Session, by which a Committee was appointed to 'have full authority to deal with all matters in connexion with the conduct of the Conference' and to consist of the following persons:

Hon. Newton W. Rowell (*Chairman*).
Philip Noel Baker.
Viscount Cecil of Chelwood.
Professor A. H. Charteris.
Rt. Hon. F. S. Malan.
Hon. Vincent Massey.
Diwan Bahadur Ramaswami Mudaliar.
Hon. W. Downie Stewart.
Professor Eric Walker.
Professor A. E. Zimmern.
Ivison S. Macadam, Gerald E. H. Palmer, Escott Reid } *Conference Secretariat.*

The Committee, having been granted the necessary power, co-opted the following members:

Rt. Hon. Sir Herbert Samuel.
Mr. John W. Dafoe.

2. MEMBERSHIP OF THE CONFERENCE.

The membership of the Conference consisted of the following:

Australian Group	6 Members and 1 Assistant Secretary.
Canadian Group	15 Members and 24 Secretaries. (The Canadian Group kindly supplied the Secretaries and Précis Writers for the Commissions of the Conference.)
Indian Group	4 Members and 1 Secretary.
New Zealand Group	3 Members.
South African Group	5 Members.
United Kingdom Group	10 Members and 3 Secretaries.

There were, in addition, 3 members of the Conference Secretariat and 1 Conference Arrangements Secretary.

The total number attending the Conference (including the ladies accompanying members) was 101 persons.

Great regret must again be expressed at the unavoidable absence, owing to the political situation in Ireland, of representatives from the Irish Free State, and at the absence of representatives from Newfoundland.

3. PLACE OF MEETING.

The Conference was held in Hart House, University of Toronto, by kind permission of the Warden and Board of Stewards.

4. SESSIONS OF THE CONFERENCE.

The proceedings opened on the morning of Monday, September 11th, 1933, with a plenary session of the Conference, presided over by the Right Hon. Sir Robert Laird Borden, Hon. President of the Canadian Institute of International Affairs, the hosts of the Conference.

The Hon. Newton W. Rowell was unanimously elected Chairman of the Conference.

To the Conference's first Business Session, held on the same morning, was presented the Report of the Organizing Committee which had met during the previous week.

By the formal adoption of this Report, the members of the Conference endorsed the proposals submitted by the Organizing Committee for the general organization of the Conference's work.

This scheme of work rested on the foundation of a Conference Agenda which set out four main topics for discussion:

(1) The Principles of Co-operation in Foreign Policy.
(2) Machinery Required for Co-operation in Foreign Policy.
(3) Commonwealth Courts and Uniformity of Legislation.
(4) Co-operation for Purposes other than Foreign Policy.

The discussion of each of these topics was undertaken by a separate Commission; it being laid down that Commission 1, which was to discuss the first topic, was to consist of all the members of the Conference; and subsequently this provision was made to apply also to Commission 2.

The following were nominated Chairmen and Rapporteurs of the Commissions:

Commission 1. Chairman—Viscount Cecil of Chelwood.
Rapporteur—Professor A. E. Zimmern.

Commission 2. Chairman—Hon. Vincent Massey.
Rapporteur—Professor Eric Walker.

Commission 3. Chairman—Rt. Hon. F. S. Malan.
Rapporteurs—Philip Noel Baker and Donald Somervell.

Commission 4. Chairman—Hon. W. Downie Stewart.
Rapporteur—Professor A. H. Charteris.

The Conference also adopted the proposals formulated by the Organizing Committee with regard to the confidential character of the Conference and the reporting of the Proceedings.

Commission 1 began its work on the afternoon of Monday, September 11th, 1933, and continued its discussion of item 1 of the Agenda up to the afternoon of September 14th, its hours of meeting being from 10 a.m. to 12.30 p.m. and from 4.15 p.m. until 6.45 p.m., an exception being made on Wednesday, September 13th, on which day the afternoon session was held from 2 p.m. until 3.30 p.m.

Commission 1 thus completed 14 hours of work in six sessions.

Commission 2 began its discussion of item 2 of the Conference Agenda on the afternoon of September 14th and completed its work on September 15th at 6.45 p.m., after 7½ hours of discussion in three sessions.

Commissions 3 and 4 sat simultaneously during the day September 19th, completing 5 hours of work in two sessions.

This Committee, acting on the expressed wish of Commission 1, appointed two Sub-Commissions of Commission 1, the first, Sub-Commission A (Legal Questions) to examine and report on certain legal implications contained in item 1 of the Conference Agenda; and the second, Sub-Commission B (Collective System), to consider the more effective working of the Collective System and how the British Commonwealth can contribute to that end.

Sub-Commission A (Legal Questions) completed 2½ hours of work and Sub-Commission B (Collective System) 4 hours of work. Both Sub-Commissions reported to a Plenary Session of the Conference, their reports in each case being formally approved.

5. REPORTS OF THE COMMISSIONS OF THE CONFERENCE.

The substance of the discussions of the Commissions of the Conference are set out in the Reports of the five Rapporteurs of the Commissions, which Reports were approved by the Conference sitting in plenary Sessions during the days September 20th and September 21st. These, together with the reports of the two

Sub-Commissions mentioned above, form the principal record of the proceedings of the Conference.

6. THE EDITORIAL COMMITTEE.

The Organizing Committee of the Conference submitted that an Editorial Committee should be formed in order to advise and report on the editing of the Proceedings of the Conference.

This Committee was duly set up, reported to a Plenary Session of the Conference and its Report was formally adopted, proposing as it did that the Proceedings of the Conference should, in their published form, comprise the following main headings, discretion being given to the Editor, Professor Toynbee, who was himself to write an introduction which would explain the origin of the Conference and the circumstances under which it was held:

(1) A collection of factual material concerning the problems discussed.[1]
(2) A section based on the points of view as expressed in the preliminary papers submitted to the Conference.
(3) The reports of the Rapporteurs of the four Commissions as adopted by the Conference, together with selections from the formal speeches delivered at the Opening Session and at the Dinner on September 11th, 1933.

To this Editorial Committee was also submitted the suggestion put forward by the Royal Institute of International Affairs for the publication under its auspices of an annual or biennial Survey of Inter-Commonwealth Affairs.

7. MEETING ON INSTITUTES OF INTERNATIONAL AFFAIRS.

On September 19th, a Plenary Session of the Conference was held in order to discuss co-operation between the three Institutes of International Affairs and the formation of Institutes or Branches in other Dominions and in India.

8. PLANS FOR A SECOND BRITISH COMMONWEALTH RELATIONS CONFERENCE.

This Committee has considered the desirability of holding a second British Commonwealth Relations Conference some time in the future, and submits for formal endorsement the following proposal:

[1] This section is now being published as a separate work entitled *Consultation and Co-operation in the British Commonwealth: A Handbook on the Methods and Practice of Communication between members of the British Commonwealth of Nations.* Compiled by Gerald E. H. Palmer.

That the Conference express its conviction that it would be desirable to hold a second British Commonwealth Relations Conference, the decision as to the time and venue of such a Conference to be left to a Committee consisting of the Chairmen of the Council of the Royal Institute of International Affairs and of the Governing Bodies of the Institutes in the other Dominions; the initiative as to the convening of such a Committee to be taken by Chatham House.

9. VOTES OF THANKS.

This Committee will submit to the Conference resolutions expressing the Conference's gratitude to the Canadian Institute of International Affairs, the hosts of the Conference, the many people who by their co-operation have made it possible to hold this meeting in Toronto and to those who have so generously offered hospitality to its members.

NEWTON W. ROWELL
Chairman.

HART HOUSE,
UNIVERSITY OF TORONTO,
September 21st, 1933.

E. THE CLOSING SESSION OF THE CONFERENCE

The closing session of the Conference was held at Hart House, in the University of Toronto, at 4.15 p.m. on Thursday, the 21st September, 1933. The Hon. Newton W. Rowell, Chairman of the Conference, presided.

The Chairman first called upon the Secretary of the Conference, Mr. Ivison S. Macadam, to read the report of the Conference Steering Committee on the work of the Conference, which was adopted unanimously.

The Chairman then called upon Sir Herbert Samuel, who on behalf of the Conference Steering Committee proposed votes of thanks to the hosts of the Conference, to the many people who by their co-operation had made it possible to hold the meeting in Toronto, and to those who had so generously offered hospitality to the members of the Conference.

The proposal of the votes of thanks was seconded by Diwan Bahadur Ramaswami Mudaliar, was put to the meeting by the Chairman, and adopted by acclamation.

At this point in the proceedings Senator Malan rose and proposed a vote of thanks to the Hon. Newton W. Rowell for his work as Chairman of the Conference. The proposal was seconded by Professor Charteris, put to the meeting by Senator Malan, and adopted by acclamation.

Mr. Rowell, the Chairman, in the closing speech of the Conference, paid a special tribute to the work of the Secretariat of the Conference, adding, in reference to Mr. Macadam, the senior of the Secretaries to the Conference, that while it had been his privilege to attend many conferences both officially and unofficially, he had never known greater ability in foreseeing needs and preparing to meet them, and in organizing and conducting the whole secretarial work of a conference, than Mr. Macadam had displayed. The Conference was very largely indebted to him and to his associates, Mr. Gerald Palmer, Mr. Escott Reid, and the other members of the staff for the smoothness with which the organization had worked.

Mr. Rowell stated that the Hon. R. B. Bennett, Prime Minister of Canada, had hoped to be able to attend the meeting, but had been detained in Ottawa by urgent public business. He mentioned that, in the course of a telephone conversation, the Prime Minister had

asked him to convey to the Conference an expression of his regret at his inability to be present, and he added:

'I know I am expressing his thought when I say that he hoped the deliberations of the Conference would contribute to a better understanding by each member of the Commonwealth of the problems of the other members, and of the Commonwealth as a whole, and would promote that spirit of unity and co-operation among the members of the Commonwealth so essential to the security and welfare of the whole Commonwealth.'

Mr. Rowell then briefly outlined the principal achievements of the Conference in a passage of his speech which is quoted verbatim in the Introduction to this volume.[1]

At the conclusion of his remarks, Mr. Rowell declared the first British Commonwealth Relations Conference closed.

The meeting terminated at 5.30 *p.m.*

[1] See pp. 11, 12.

APPENDIX

LIST OF MEMBERS OF THE BRITISH COMMONWEALTH RELATIONS CONFERENCE, SEPTEMBER 11th–21st, 1933

AUSTRALIA.

CHARTERIS, PROFESSOR A. H., M.A., LL.B.; Challis Professor of International Law, University of Sydney; President of the Australian Institute of International Affairs. Turramurra, N.S.W.

SCOTT, PROFESSOR ERNEST; Professor of History, Melbourne University; Adviser and part author of the Australian volume of the *Cambridge History of the British Empire*. Melbourne.

SMITHIES, A.; Rhodes Scholar for Tasmania, 1929; Commonwealth Fund Fellow. Hobart.

STIRLING, ALFRED, B.A. (Oxon.), M.A., LL.B. (Melbourne) (Secretary of the Group); Member of Melbourne Bar; Secretary of Victorian Branch of Australian Institute of International Affairs. Melbourne.

WINDEYER, W. J. V., B.A., LL.B. (Sydney); Barrister-at-law, Sydney, New South Wales; Lecturer in Legal History, University of Sydney; part author of *Studies in the Australian Constitution* (1933).

LATHAM, RICHARD, B.A. (Melbourne and Oxon.); Rhodes Scholar, Victoria. Melbourne.

SCOTT, MRS. ERNEST (Assistant Secretary of the Group); Member of Australian Institute of International Affairs (Melbourne Branch); Member of Institute of Pacific Relations Conferences at Shanghai 1931 and Banff 1933. Melbourne.

CANADA.[1]

ROWELL, THE HON. NEWTON WESLEY, K.C., LL.D. (Chairman of Group); President of the Canadian Bar Association, Bencher of the Law Society of Upper Canada, Honorary Bencher Lincoln's Inn; Leader of the Liberal Party in the Ontario Legislature, 1911–17; President of Council in Union Government of

[1] The personnel of the Canadian group changed during the course of the Conference, some of the representatives taking the place of others from time to time. The list here given includes all those who took part in the Conference.

Canada, 1917–20; Acting Secretary of State for External Affairs, 1919–20; Member of Imperial War Cabinet, 1918; Delegate of Canada to International Labour Conference, 1919; to Assembly of the League of Nations, 1920; President of Canadian Institute of International Affairs; Vice-Chairman of Institute of Pacific Relations; author of *British Empire and World Peace* and *Canada a Nation.* Toronto.

BORDEN, THE RT. HON. SIR ROBERT LAIRD, G.C.M.G., K.C.; Prime Minister (Conservative), 1911–20; Chief delegate of Canada to Paris Peace Conference, 1919; to Washington Conference, 1921–2; to Council and Assembly of the League of Nations, 1930; First President, Canadian Institute of International Affairs, 1927–31; and Honorary President, 1931. Ottawa.

COTÉ, LOUIS, K.C., M.L.A.; Conservative Member of the Ontario Legislature for Ottawa East, 1929; Barrister; Member of Ontario Bar, and of legal firm of Thompson, Coté, Burgess & Code; Crown Attorney counties of Prescott and Russell (Ontario), 1919–22; Member Ontario Government Commission (Merchant—Scott—Coté) to investigate and report on English-French schools, 1925–7. Ottawa.

DAFOE, JOHN W. (Vice-Chairman of Group); Editor-in-chief of the *Winnipeg Free Press* since 1901; Member Canadian Delegation to the Peace Conference 1919 as representing the Department of Public Information; Delegate to Imperial Press Conferences, 1909, 1925, and 1930; Vice-President Canadian Institute of International Affairs; author of *Laurier, a Study in Canadian Politics* and *Clifford Sifton in Relation to his Times.* Winnipeg.

FALCONER, SIR ROBERT, K.C.M.G., D.Litt. (Edin.); LL.D. (Harvard and other Universities); D.C.L. (Oxon.); President of University of Toronto, 1907–32; President Royal Society of Canada, 1931–2; Hon. President of Canadian Institute of International Affairs, Toronto Branch, 1933; author of *The United States as a Neighbour* (Sir George Watson Lectures), *Idealism in National Character, Immortality and Western Civilization* (Ingersoll Lecture at Harvard), Chapters in *Cambridge History of the British Empire*, vol. vi, Articles in Encyclopaedias and Proceedings of Royal Society of Canada. Toronto.

FLAVELLE, SIR JOSEPH, Bart.; Chairman of Board of Canadian Bank of Commerce; Board of Governors, University of Toronto; Member of Royal (Duff) Commission on Transportation, 1932;

Chairman of Imperial Munitions Board, 1915–19; Vice-President of Canadian Institute of International Affairs. Toronto.

EVANS, W. SANFORD, M.L.A.; Leader of the Conservative Party in the Manitoba Legislature; Director of Dawson Richardson Publications, Ltd., and of Sovereign Life Assurance Co.; Editor of *Winnipeg Telegram*, 1901–5; Member Royal Commission to inquire into Trading in Grain Futures, 1931. Winnipeg.

MASSEY, THE HON. VINCENT; President of the National Liberal Federation of Canada; First Canadian Minister for Canada to Washington, 1926–30; Associate Secretary War Committee Cabinet, 1918; Minister without portfolio (Liberal), 1925; with the Canadian Delegation at the Imperial Conference, London, 1926; Vice-President of Canadian Institute of International Affairs. Port Hope.

MORIN, RENÉ L. S.; General Manager of Le Trust Général du Canada, 1927; Vice-President of the Board of Notaries of the Province of Quebec, 1921–4; Member of Parliament (Liberal) representing St. Hyacinthe-Rouville, 1921–30. Quebec.

WOODSWORTH, J. S., B.A., B.D.; M.P. (Labour) for North Centre Winnipeg, 1921; Chairman of the National Council of the Co-operative Commonwealth Federation, 1932; author of *Strangers within our Gates*, *My Neighbour*, and *Studies in Rural Citizenship*. Winnipeg.

BIRKS, WM. M.; President of Henry Birks & Sons; Chairman of Birks, Ellis, Ryrie, Ltd.; Vice-President of Federation of Chambers of Commerce of the British Empire; Vice-President of Canadian Institute of International Affairs; Vice-Chairman of Canadian Delegations to the Conference of the Institute of Pacific Relations in 1929, 1931, 1933. Quebec.

BURCHELL, CHARLES J., K.C.; Barrister, Member of the firm of Burchell, Smith, Parker & Fogo; Delegate of Canada to Conference on the Operation of Dominion Legislation, 1929; Chairman of the Committee on Merchant Shipping Legislation at that Conference; Chairman of Halifax Branch and Member of the Council of the Canadian Institute of International Affairs. Halifax, N.S.

CLAXTON, BROOKE, B.C.L. (McGill University), Distinguished Conduct Medal; Barrister and Solicitor; Member of firm of Stairs, Dixon & Claxton; Member of Corporation and Lecturer in Faculty of Law, McGill University; Chairman of Board of Governors, Lower Canada College. Montreal.

CORBETT, P. E.; Dean of Faculty of Law, McGill University; for-

merly Fellow of All Souls College, Oxford; Member of Legal Service of League of Nations, Geneva, 1920–4. Montreal.

KENNEDY, PROFESSOR W. P. M., M.A., LL.B., Litt.D. (Dublin, Paris, Vienna); Professor of Law in the University of Toronto; Member of the Canadian Bar Association; Legal Adviser to the late Darrell Figgis in drafting the Constitution of the Irish Free State; Goldwin Smith Lecturer in Constitutional Law, Cornell University, 1926–7; Adviser to the Editor of the *Cambridge History of the British Empire*, 1925–30; Kirby Foundation Lecturer in Constitutional Law, Lafayette University, 1931; author of *The Development and Law of the Canadian Constitution*; *Statutes, Treaties, and Documents of the Canadian Constitution, 1748–1931*; *The Nature of Canadian Federalism*; *Life of Lord Elgin*; *Short Treatise on Canadian Constitutional Law* (with Lefroy), &c. Toronto.

MACDONNELL, J. M., M.C.; General Manager of the National Trust Company; Rhodes Scholar for Ontario, 1905; Canadian Representative of the Rhodes Trust, 1921; President of Canadian Clubs, 1928; Treasurer of Canadian Institute of International Affairs. Toronto.

TARR, E. J., K.C.; Barrister, Member of the firm of Craig, Tarr, Hughes & McLeod; Member of Council, Canadian Institute of International Affairs; Delegate to Kyoto Conference, Institute of Pacific Relations, 1929; Chairman of the Canadian Group and Member of Pacific Council, Banff Conference, Institute of Pacific Relations, 1933. Winnipeg.

Secretaries.

GLAZEBROOK, G. DE T., B.A. (Toronto), B.A. (Oxon.), M.A. (Oxon.) (Secretary of Group); Assistant Professor of History, University of Toronto; author of *Sir Charles Bagot in Canada* (Oxford Press, 1929), *Sir Edmund Walker* (Oxford Press, 1933); Honorary Secretary of Toronto Branch, Canadian Institute of International Affairs; Canadian representative at Conference of Institutions for the Scientific Study of International Relations (Paris, 1930). Toronto.

PRATTE, GARON (Assistant Secretary of Group); Barrister; Member of firm of Lapointe, Pratte & Germaine, Quebec.

ABRAHAMSON, S., B.A., LL.B. (Manitoba), B.C.L. (Oxon.); Barrister; Rhodes Scholar for Manitoba, 1914; formerly on the staff of the High Commissioner for Canada in London; Lecturer in

Jurisprudence and Roman Law in Manitoba Law School. Winnipeg.

BRADY, PROFESSOR A., M.A., Ph.D.; Associate Professor of Political Economy, University of Toronto; author of *Life of Thomas D'Arcy McGee* (Macmillan, Canada, 1925), *William Huskisson and Liberal Reform* (Oxford University Press, 1928), *Canada* (Modern World Series), edited by Rt. Hon. H. A. L. Fisher (Ernest Benn, Ltd., London, 1932); contributor to various publications, including *Encyclopaedia Britannica*, *Cambridge History of the British Empire*, &c. Toronto.

BROWN, GEORGE W.; Associate Professor of History, University of Toronto; Editor of *The Canadian Historical Review*. Toronto.

BUCHANAN, DONALD W., B.A., Journalist; Wilder Fellowship (University of Toronto) to University College, Oxford, 1930–1; Lethbridge, Alta.

BURCHELL, CHARLES W.; Law Student, Dalhousie University, Halifax. Halifax, N.S.

CARTWRIGHT, STEVEN, B.A. (Toronto), B.A., B.Litt. (Oxon.); Secretary to the Hon. Vincent Massey; Rhodes Scholar, Ontario, 1929. Toronto.

CRONKITE, PROFESSOR F. C.; Dean of the College of Law, University of Saskatchewan.

FOWLER, R. M.; Barrister, Associated with the firm of McMaster, Montgomery, Fleury & Company, Toronto. Toronto.

GIBBONS, ALAN O., B.A.; Student at law with Oslor, Hoskin & Harcourt, Toronto.

GOLDENBERG, H. CARL, M.A., B.C.L.; Barrister-at-Law; Sessional Lecturer in Economics and Political Science in McGill University, Montreal; Lecturer in Economics in the Department of Commercial Education, Montreal Board of Trade; Allen Oliver Gold Medallist and Graduate Fellow in Economics, McGill University, 1928; Elizabeth Torrance Gold Medallist in Law, McGill University, 1932. Montreal

LAING, LIONEL H., B.A. (Honours, University of British Columbia), M.A. (Clark University); Ozias Goodwin Memorial Fellow, Harvard University, 1932–4; American Antiquarian Society Fellow in History and International Relations, 1929–30; sometime Fellow in International Law of the Carnegie Endowment for International Peace; author of thesis *British Policy and the Chinese Crisis after May 1925*; contributor to: *American Journal of International Law*, *American Political Science Review*, *Washington State Historical Quarterly*. Cambridge, Mass.

MACKAY, R. A.; Dennis Professor of Government, Dalhousie University, Halifax; Member of Research Committee, Canadian Institute of International Affairs. Halifax, N.S.

MACKENZIE, PROFESSOR NORMAN, B.A., LL.M.; Member of the Nova Scotia Bar; Professor of International Law, University of Toronto; Legal Adviser, International Labour Office, 1925–6; Chairman, Research Committee, Canadian Institute of International Affairs. Toronto.

MCINNIS, EDGAR, Lecturer in History, University of Toronto.

MCLEAN, J. R., M.A.; Secretary of Association of Canadian Clubs, Ottawa, 1932; Rhodes Scholar for Manitoba, 1927; Beit Senior Research Scholar, 1930–1. Ottawa.

PORTER, DANA; Barrister, Member of the firm of Fennell, Porter & Davis, Toronto.

SAGE, PROFESSOR W. N., B.A. (Toronto and Oxon.), M.A. (Oxon.), Ph.D. (Toronto); Professor of History, University of British Columbia; author of *Sir James Douglas and British Columbia*, Toronto, 1930; Fellow of the Royal Historical Society. Vancouver, B.C.

SECORD, CAMPBELL H., B.A.; Hon. Graduate University of Manitoba, 1933. Winnipeg.

SMART, E. W.; Dominion Securities, Ltd., Toronto.

TAYLOR, PROFESSOR K. W., M.A.; Associate Professor of Political Economy, MacMaster University, Hamilton, Ont.; joint author of *Statistical Contributions to Canadian Economic History*; various articles on Capital Movements, Foreign Trade, and Taxation in Canada; special Adviser to Canadian Delegation, Imperial Economic Conference, Ottawa, 1932; delegate to Banff Conference, Institute of Pacific Relations, 1933. Hamilton, Ontario.

UNDERHILL, FRANK H., M.A. (Oxon.); Professor of History, University of Toronto; Associate-Editor Canadian *Forum*. Toronto.

INDIA.

MUDALIAR, DIWAN BAHADUR RAMASWAMI, B.A., B.L.; Member of the Senate and Academic Council, Madras University; Member of the Syndicate and Academic Council, Annamalai University; Managing Editor, *Justice* (English Daily), Madras, since 1926; Member of Madras Legislative Council, 1920–6; Parliamentary Secretary (Education Ministry), 1920–3; Member of Council of State, 1929–30; Member Indian Legislative Assembly since 1930; Mayor Corporation of Madras, 1929, 1930;

Member Indian Round Table Conference (three Sessions); Sastri Lecturer on Indian Constitution (Madras University); President, All-India Non-Brahmin Congress, 1924; Member of Age of Consent Committee, 1928; North-West Frontier Committee, 1931; Subjects Committee and Indian Franchise Committee, 1932; Member of Indian Reserve Bank Committee; author of various political pamphlets—*In Defence of the Party*, *The Mirror of the year 1927*, &c. Madras.

ZAFRULLA KAN, MOHAMMAD, B.A. (Hon. Punjab) LL.B. (Hon. London); Barrister-at-Law, Lincoln's Inn; Editor *Indian Cases and Criminal Law Journal of India*, 1916–32; Lecturer on Roman Law, University Law College, Lahore, 1919–24; President of All-India Muslim League, 1931–2; Ex-Acting Member of the Governor-General's Executive Council; Member of Punjab Legislative Council; Delegate to Round Table Conference and Joint Select Committee on the Indian Constitution. Lahore.

MAHMOOD, MIR MAQBOOL, B.A., LL.B. (Punjab), B.A., B.Litt. (Oxon.); Barrister-at-Law; Foreign Minister Patiala State; Prime Minister Jhalawar State. Patiala, India.

HAMMOND, SIR LAURIE, K.C.S.I., C.B.E.; Member of Executive Council (1925–7) and Chief Secretary to the Government of Bihar and Orissa (1924–7); Governor of Assam, 1927–32. London.

Secretary.

RAJ, Yudishter, B.A. (Hon.), Yudishter Nivas. Lahore.

NEW ZEALAND.

STEWART, THE HON. W. DOWNIE, LL.B., M.P. (Coalition, Dunedin) (Chairman of Group); formerly Minister of Customs, Minister of Finance and Attorney-General; Delegate to Ottawa Conference; joint author of *State Socialism in New Zealand* with J. E. Le Rossignol. Dunedin, N.Z.

NASH, WALTER, M.P. (Labour, Hutt); Member National Executive N.Z. Labour Party since 1918; Secretary N.Z. Labour Party, 1922–32; Vice-President of N.Z. Branch Institute of Pacific Relations; Chairman of N.Z. delegation Institute of Pacific Relations Conferences, 1927 and 1933; N.Z. representative International Labour Conference Geneva, 1920. Lower Hutt, N.Z.

VON HAAST, H. F., M.A., LL.B.; Barrister and Solicitor (Lincoln's Inn); Member of Senate of University of New Zealand; Member of Hawkes Bay Adjustment Court. Wellington.

SOUTH AFRICA.

MALAN, RT. HON. F. S., P.C., B.A., LL.B. (Cantab.), LL.D. (S.A.), D. Educ. (Stellenbosch). Member of Senate (South Africa Party) (Chairman of Group); ex-Minister of Mines and Industries; Acting Prime Minister, 1918–19; author of *Marie Koofmans-de Wet, 'n Ideale Huwetik; Ons Kerk en Professor Du Plessis.* Capetown.

GEYER, DR. A. L., B.A. (Cape), M.A. (Stellenbosch), Ph.D. (Berlin); author of *Die Stellenbosse Gemeente tot 1806, Das Wirtschaftliche System der hollandischen ostindischen Kompagnie am Kap der Guten Hoffnung, 1785–95*; Editor *Die Burger*, Capetown, since 1924. Capetown.

REYNOLDS, L. F., B.A. (Oxon.); Private Secretary to Prime Minister of South Africa (General Smuts), 1922–4; M.P. Natal Coast, Natal, South African Party, 1930–3; re-elected, Natal Coast (South African Party Coalition), 1933. Natal, S.A.

STALLARD, COLONEL C. F., K.C., D.S.O., M.P. (South Africa Party, Roodepoort). Misgund, Near Johannesburg.

WALKER, PROFESSOR ERIC ANDERSON, M.A. (Oxon.), F.R.H.S.; King George V Professor of History in University of Capetown; author of *South African Historical Atlas* (Oxford University Press), *Lord de Villiers and his Times, South Africa, 1842–1914* (Constable), *A Modern History for South Africans* (Maskew, Miller), *A History of South Africa* (Longmans, Green).

UNITED KINGDOM.

CECIL, VISCOUNT, 1923, of Chelwood, P.C., K.C., M.A., D.C.L. (Oxon.), LL.D. (Cantab., Edin., Aberdeen, St. Andrews, Manchester, Liverpool, &c., Princeton, U.S.A., Athens); Chancellor of Birmingham University. Hon. Fellow of University College, Oxford (Chairman of Group); M.P. (Independent Conservative), 1911–23; Assistant Secretary of State for Foreign Affairs, 1918; Minister of Blockade, 1916–18; Lord Privy Seal, 1923–4; Chancellor of the Duchy of Lancaster, 1924–7; author of *Way of Peace, Principles of Commercial Law* (with Joseph Hurst). London.

SAMUEL, THE RT. HON. SIR HERBERT, G.C.B., G.B.E., M.A. (Oxon.), M.P. (Vice-Chairman of Group); Leader of the Parliamentary Liberal Party; M.P. (Liberal) Cleveland Division of Yorkshire, 1902–18, Darwen Division of Lancashire from 1929; Under-Secretary of State for Home Affairs, 1906–9; Chancellor of the Duchy of Lancaster, 1909–10 and 1915; Postmaster-

General, 1910–14 and 1915–16; President of the Local Government Board, 1914–15; Secretary of State for Home Affairs, 1916 and 1931–2; High Commissioner for Palestine, 1920–5; President of the British Institute of Philosophy. Author of *Liberalism, Its Principles and Proposals*, 1902; *Philosophy and the Ordinary Man*, 1932; *The Tree of Good and Evil*, 1933. London.

SOMERVELL, SIR DONALD, O.B.E., K.C., M.P. (Conservative, Crewe); M.A., Fellow of All Souls College, Oxford. (Since knighted and appointed Solicitor-General, 29th September, 1933). London.

POWER, SIR JOHN, BART., M.P. (Conservative, Wimbledon); Hon. Treasurer of Royal Institute of International Affairs. London.

NOEL BAKER, PHILIP J., M.P. (Labour, Coventry, 1929–31); Parliamentary Private Secretary to Foreign Secretary, 1929–31. London.

GATHORNE-HARDY, G. M., M.C., B.A. (Oxon. Modern History); Honorary Secretary of the Royal Institute of International Affairs; author of *Norway* (Modern World Series), Benn; formerly Assistant Librarian to House of Lords; employed in 1918–19 in the Historical Section of the Foreign Office, sub-editing the Handbooks on various countries prepared for the Peace Conference. Newbury, Berks.

KERR, HAMILTON W., M.P. (Conservative, Oldham), B.A. (Oxon.); Parliamentary Private Secretary to A. Duff Cooper, M.P., Financial Secretary to the War Office. London.

TOYNBEE, PROFESSOR ARNOLD J., B.A. (Oxon.), Director of Studies Royal Institute of International Affairs since 1925; Stevenson Research Professor of International History, University of London; author of the annual *Survey of International Affairs*, produced for the Royal Institute of International Affairs since 1924, with supplementary volumes; served in the Political Intelligence Department of the Foreign Office during the War and in the Foreign Office Section of the United Kingdom Delegation at the Peace Conference of Paris. London.

WHEELER-BENNETT, JOHN W.; Deputy Chairman of Information Committee and Member of Council of Royal Institute of International Affairs; Founder of the *Bulletin of International News*, 1924; Founder of Information Service on International Affairs, 1924–30; Editor annual volume of *Documents on International Affairs*; Author of *Disarmament and Security since Locarno*, *The Wreck of Reparations*, *The Problem of Security*, &c. London.

ZIMMERN, PROFESSOR A. E.; Montague Burton Professor of Inter-

national Relations, Oxford; Director Geneva School of International Studies; Member of Council of Royal Institute of International Affairs; Author of *The Greek Commonwealth*; *Nationality and Government*; *Europe in Convalescence*; *The Third British Empire*; *Learning and Leadership*; *The Prospect of Democracy*. Oxford.

Secretaries.

HODSON, H. V., M.A. (Oxon.); Assistant Editor of the *Round Table*; Fellow of All Souls College, Oxford; Author of *The Economics of a Changing World*. London.

ARNOLD, R. C. M., B.A. (Oxon.); Assistant Secretary of Meetings Department, Royal Institute of International Affairs; Author of *Treaty Making Procedure*, produced for the Royal Institute of International Affairs (Oxford University Press); Novels: *House with the Magnolias*; *Fortune Favours Fools*; *Death of a Sinner* (Messrs. Wm. Heinemann). Meopham, Kent. (Attending as private secretary to Lord Cecil.)

MACLAY, THE HON. J. P., M.P. (Liberal, Paisley); Chairman of Maclay & McIntyre, Ltd. (Shipowners). (Attending as private secretary to Sir Herbert Samuel.)

CONFERENCE SECRETARIAT

MACADAM, IVISON S., O.B.E.; Secretary of the Royal Institute of International Affairs, London.

PALMER, GERALD E. H.; Hon. Secretary of Imperial Committee, Royal Institute of International Affairs, London.

REID, ESCOTT M.; Secretary of the Canadian Institute of International Affairs, Toronto.

PYKE, RICHARD L., M.A. (Cantab.), Assistant to Secretary of the Royal Institute of International Affairs; Author of *The Legibility of Print*, Medical Research Council Special Reports, No. 110; *The Lives and Deaths of Roland Greer*.

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