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**WEST AFRICA
AND THE
COMMONWEALTH**

—
DENNIS AUSTIN



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AFRICAN SERIES

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1957 is the year of Gold Coast independence, when Ghana will become an independent member of the Commonwealth; and Nigeria is soon to follow. Sierra Leone and the Gambia, as well as many other countries all over Africa, have been reconsidering the nature of their relationship with Britain and the Commonwealth. What in fact is meant by 'independence within the Commonwealth'? Can it be reconciled with the nationalist demand for full self-government? Is the phrase 'free association of member states' more than a pious platitude? And how did this typically British compromise, arguable in theory but workable in practice, arise?

To answer such questions as these, Dennis Austin traces the main stages by which an Empire of colonies became a Commonwealth of nations. He describes the first experiments with self-rule in the American colonies – lost by Britain through too rigid an insistence on imperial rights – and analyses the two crucial developments in later years: the growth of responsible government in Canada, and the advance from Crown Colony government to independence in Ceylon. He shows how these have influenced the direction of constitutional progress in West Africa; and finally discusses several important problems facing the multi-racial Commonwealth of to-day.

This is one of a new series of Penguins, especially designed for all those interested in African affairs. A variety of topics will be dealt with, including politics, economics, science, social problems, literature, and history. Some books will deal with Africa as a whole, others with particular regions; they may present new material on African problems, or traditional subjects in the light of an African rather than a European background. The series is planned to increase our knowledge of Africa and our understanding of the rapid changes at present taking place throughout this increasingly important continent.

PENGUIN AFRICAN SERIES

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DAVID AND HELEN KIMBLE



WEST AFRICA
AND THE COMMONWEALTH

DENNIS AUSTIN

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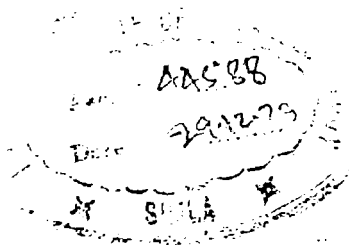


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Nationalism and Self-Government

A PERSON born in West Africa in the 1880s, who can remember the advance of British power from the coast, and the establishment at the turn of the century of the northern Protectorate territories, will already have seen the beginning of the end of British rule. He may well live to see its peaceful final conclusion. And, having been made a British subject or a British protected person, he may soon become a citizen of Nigeria or Ghana or Sierra Leone, even perhaps of the Gambia – expressions which, before the present century, had a geographical rather than a political importance. It is only a little over 100 years ago that Barth visited the Moslem cities of the western Sudan and explored the vast area of the upper Benue, bringing to a close the period of European exploration which began with Mungo Park.¹ To-day, over a great part of this area of early African government, political control has been resumed by African leaders, although within very different frontiers from those of the last century, and using the modern machinery of parliamentary government under nationalist party rule.

The changes which have taken place in the economic life of West Africa have been no less remarkable. In 1896, for example, when the Asantehene Prempeh I was exiled from the Gold Coast, Kumasi was the ruined capital of one group of the Akan-speaking peoples. For centuries, the only contact between Ashanti and the outside world had been in periodical military expeditions, and a limited trade: northwards to the savannah kingdoms, southwards to the European settlements on the coast. By the time Prempeh was recalled, in 1924, Kumasi had already become the railhead of a growing export trade in cocoa, and the commercial capital for Levantine and European firms trading into the interior. Similar examples could be found in any one of the West African countries. The growth of overseas trade not only made the West Coast part of the modern economic world, but profoundly affected the pattern and direction of local trade; and there can hardly

1. See Heinrich Barth, *Travels and Discoveries in North and Central Africa, 1849-1855* (London, 1890).

be an individual, a family, or a village settlement which has not felt the driving force of this economic revolution.

The magnitude of these changes, taken altogether, can have little parallel in history. It would be possible no doubt to find precedents in other parts of the world, on a smaller scale and of a more mild kind. Many of the changes in the political and economic life of the West African territories may be seen still at work in Ceylon and India – or wherever British or European control has been exercised. But what is so remarkable, and what strikes the most casual observer in West Africa, is the pace and intensity of change.

This is especially true of the present nationalist demand for self-government. The transfer of political power from British officials to colonial-born institutions of government is a familiar process. It owes something to the struggle for American independence in the eighteenth century; something more, to the peaceful achievement of self-government in Canada and the new Asian Commonwealth members. The rise of nationalist movements in British West Africa has something in common, too, with the movements of popular nationalism in nineteenth-century Italy and Ireland. But the *pace* of political and constitutional change is something new, and raises a number of important questions.

A constitutional progress which extended over 150 years in Canada, and for nearly half that period of time in Ceylon, has been concentrated in little over a quarter of a century. What degree of permanence, then, can be attached to the new constitutions which have brought Nigeria to the threshold of, and the Gold Coast to full self-government? What forms are the new African governments likely to take? How final are the boundaries which enclose the new states? And can membership of the Commonwealth offer a useful introduction to the responsibilities of independence?

The rapid transfer of power in West Africa has given rise to a number of misgivings. The new constitutions, under which self-government is to-day being reached, are very new. They are unable therefore to command the respect which age and custom afford similar institutions oversea. It was not until 1946 in Nigeria, until 1950 in the Gold Coast, that the legislative framework of government covered the entire country. It was not until the present decade that popular, country-wide interest in the central machinery of government was

awakened by the grant of adult suffrage. The shallowness of the roots of constitutional growth may be seen in the readiness with which drastic reform of the basic structure of government is suggested by the different political parties. Schemes of constitutional reform, either to further independence or to appease growing minority interests, absorb a disproportionate amount of the time of the new Governments and legislatures. The danger is – apart from the barren use of time and effort – that too frequent change may bring not only the constitution but the processes of law and law-making into disrepute.

There is however something to be said on the other side. Each of the four countries has a useful tradition of representative government – *African* representative government – both in the early Legislative Councils of the coast and in the traditional forms of tribal rule. And because discontent in West Africa – unlike that in British East and Central Africa – has always, in the long run, been able to find legitimate outlet for its expression, nationalist party organizations have, so far, been ready to accept and work through the administrative framework of government built up under British rule. The weakness of nationalist movements in British West Africa is not due to frustration but to easy success – which may account for the exasperation with which Opposition party groups to-day contemplate a period of exclusion from office. But a tradition of government by persuasion, and the long record of legislative representation, are not likely to be set aside lightly, and may continue to steady public opinion, both within and outside the new Legislatures, for a long time to come.

A different problem exists in respect of the civil service. At the end of the last century there were a number of African appointments, at senior level, to the public service in each of the four territories. This early tradition of 'Africanization' was almost lost in the general extension of government functions and services, with the result that by 1950/1 political progress far outstripped even paper schemes for Africanization of the civil service. For some time to come, therefore, British administrators and African governments will have to learn to live together.¹ This was emphasized by the Chief Secretary of Nigeria in April 1955 in the Nigerian House of Representatives:

1. If recent suggestions of a Commonwealth pool of technical and administrative officers could be given practical shape, it would do a great deal to help strengthen the administrative framework of self-government without impairing

West Africa and the Commonwealth

There are about one in five Nigerians in the Senior Service posts at present. That rate will increase, but it is unlikely that you are going to reach the position where 90 per cent of the Civil Service staff are Nigerian for 10 or possibly 15 years. So it seems to me that the country is going to be faced with making a difficult but not impossible experiment. Nigeria, or parts of it, is going to have self-government, yet it is going to have in its Civil Service for the time being, a majority of expatriates.

This is not a formidable obstacle to independence. Particular difficulties of conditions of service under local control, of expatriation pay, seniority promotion, local emoluments and pensions will have to be met; and, as in Eastern Nigeria in April 1955, they may even precipitate a local temporary crisis. But time is here a friend, not an enemy; the main nationalist-colonial conflict is over, and any future struggle for power will almost certainly lie in other directions – between local party or regional interests.

With regard to the actual machinery of self-government, it is sometimes said that parliamentary rule in West Africa is merely tribal government formalized by modern conventions: that there is nothing new in the idea of representation, or of a mandate to govern entrusted by the community to its rulers, even in the idea of the peaceful removal of inept or evil governments by conventional means; all are to be found, it is argued, in the institutions of the Chief and his elders, and in the hierarchy of authority which stretches from the Paramount Chief to the village council. There may be some truth in this, although it is difficult to say how much. But the experiment of party government in a central Assembly chosen by secret ballot, and on the basis of complete adult suffrage, is still a sufficient novelty in West Africa to raise doubts of its relevance to local conditions.

In the long run, a society gets the kind of government it not only deserves, but can sustain – in terms of men and experience. A great deal therefore will obviously depend on the degree to which the West African countries have undergone a social revolution of sufficient depth to support the apparatus of modern parliamentary rule. The

local political control. See *Her Majesty's Oversea Civil Service*, Cmd. 9768 (H.M.S.O., 1956), which proposed for the governments of the Nigerian Federation a scheme embodying 'a Special List of Officers . . . who will be in the service of Her Majesty's Government in the United Kingdom [and] seconded to the employing government'.

notion of political equality, for example, may sit hard on a society in which the traditional gradations of authority are still along lines of birth and age rather than wealth and number. In such a situation, traditional beliefs may conflict severely with the collective demands of party government. How far does this apply to West Africa?

The social content of West African nationalist movements has been examined in some detail by a number of studies, and the general pattern is now reasonably clear.¹ In the first place, there has been an undoubted decline in the position and authority of the traditional ruler – a melancholy reflection on the transitory nature of the early colonial policy of Indirect Rule which specifically aimed to preserve and work through traditional institutions. The growth of trade, the imposition of an alien rule, the spread of Christian beliefs, the influence of the schools, the movement of peoples from one area of traditional authority to another, have all contributed to the weakening of the power of tradition. If chieftaincy is unlikely to die a violent death, it can hardly hope to escape, in the long run, a slow process of decay, unable to attract to its ranks the able and intelligent.

Nevertheless it would be a mistake to underestimate the present force and power of tradition. Chieftaincy has strong roots in a society which is still to a great extent illiterate, and animist in its religion. Thus the National Liberation Movement, founded in Ashanti in 1954, although modern in its political organization, has the open backing of the Asanteman Council, and relies very much for its appeal on the strength of tradition. The Northern People's Congress in Nigeria is an extraordinarily successful combination of traditional with modern parliamentary rule. Much like other social groups, the Paramount Chiefs of the Ashanti, Timne and Yoruba peoples, and the powerful Emirs and Sultans of Northern Nigeria – many of them in receipt of considerable revenues – have acquired a certain collective identity of outlook, naturally suspicious of the *novi homines* of the new parties, although prepared to learn politically from them.

For the present, therefore, some combination of old and new forms may be necessary if self-government is to sit securely on a national basis. Recognition is slowly being given to this. Under the 1957

1. The best account is the chapter by T. L. Hodgkin in *The New West Africa* (Allen & Unwin, 1953), especially pp. 57–61. See also his *Nationalism in Colonial Africa* (Muller, 1956).

Ghana constitution, the office of Chief is specifically safeguarded, especially through the creation of an upper House of Chiefs in each region. Similarly, there are draft schemes for a Senate with traditional and other members in the Nigerian constitution, to be revised later in 1957. It would be of little advantage if the peoples of Nigeria or Ghana were to find, as Alexis de Tocqueville observed of nineteenth-century France, that they had

destroyed those individual powers which were able, single-handed, to cope with tyranny . . . [and that] to the power of a small number of persons, which if it was sometimes oppressive was often conservative, has succeeded the weakness of the whole community.

It would be foolish, however, to minimize the importance, and the effect on nationalist development, of the changes which have taken place in West African society during the past 50 years. Well before the end of the last century, new social groups of political significance had begun to take shape, under the double impact of European political control and European trade. These and subsequent changes in social structure can be linked, somewhat loosely, with successive stages in the growth of nationalist opinion and organization in each of the four territories.

There has been, firstly, the growth of an influential prosperous group of trading and professional interests – lawyers, doctors, teachers, merchants, and others. This educated African bourgeoisie of established families, which once dominated early centres of African education and trade in Freetown, Bathurst, Cape Coast, Lagos, and Port Harcourt, has been of the greatest political importance. Throughout British West Africa, a tradition of independent action inside and outside the coastal Legislative Councils was quickly established, thus setting a useful early pattern for the nationalist movements that were to follow, and accounting in great part for their conspicuous inborn confidence. The contrast may be seen in Kenya and Rhodesia, for example, where educated political leadership, so far, has been almost exclusively a European settler prerogative.

At the turn of the century, however, this small group of independent lawyers and merchants was too small to provide an effective challenge to British rule in West Africa. Such opposition as it voiced was, in the main, occasional; that is, it arose in protest against specific acts of

the colonial governments, and took the form usually of moderately phrased criticism in the local press, elaborate petitions and memoranda, and delegations to the Governor and Secretary of State. In the Gold Coast, sporadic agitation of this kind lasted from the campaign against the Government's Crown Lands Bill of 1897, when the Aborigines Rights Protection Society was born, down to the struggle against the Sedition Bill in the 1930s. In Sierra Leone, it flared up as late as the 1940s, in the spirited defence of Fourah Bay College.

This largely uncoordinated opposition gave place in importance after the First World War to the more radical and continuous movements for West African unity – the National Congress of British West Africa, launched in 1920 and active during the following decade, and the West African Youth League of the 1930s. Both were ambitious, somewhat unreal attempts to link together the four British territories; but both included in their programme a demand for increased representation on the separate Legislative Councils. Thus the 1920 Conference of the National Congress, held in Accra, in which the leading figure was the able Gold Coast lawyer, J. E. Casely-Hayford, urged what to-day would be considered the moderate reform of: '(1) An Executive Council as at present composed; (2) a Legislative Council composed of representatives of whom one half shall be nominated by the Crown and the other half elected by the people'.

The period after the First World War was notable, too, for the number of Youth Conferences and discussion groups formed throughout British West Africa. These were not strictly political in aim or character, but are important as marking an attempt by a new generation of educated middle-class opinion (much of it formed in the great secondary schools of which Achimota became the symbol) to examine problems of African development from a nationalist standpoint. It was through these conferences and groups that political figures such as Nnamdi Azikiwe of Nigeria, Dr J. B. Danquah of the Gold Coast, and Wallace Johnson of Sierra Leone became known.

Nationalist ideas at this time were curiously wider in scope, yet narrower in appeal, than in the period after 1945. On the one hand, they found expression, particularly in London among the West African students there, in pan-African associations, and schemes of West African federation; on the other, they were limited in circulation, in the colonies, to a comparatively small number of educated groups

and individuals who found it difficult, and perhaps were reluctant, to enlist in their support the illiterate mass of the people. It is remarkable that no political group in the Gold Coast made any concerted effort to direct into political channels the very real grievances of the cocoa farmers during the 1937/8 cocoa hold-up.¹ It was therefore easy, if in the long run not very wise, for the Gold Coast and Nigerian Governments to dismiss the arguments of the Congress and Youth League leaders, on the grounds that they were unrepresentative of the mass of the people and, in some ill-defined sense, un-African.

These calm waters of nationalist opinion were profoundly disturbed by the Second World War. A sharp rise in the world price for cocoa and palm-oil was accompanied by inflation in the towns. The 150,000 ex-servicemen throughout British West Africa were peacefully absorbed into civilian life; but they contributed to the general feeling of unrest, which remained unassuaged, if it was not stimulated, by the mild constitutional reforms of the mid-1940s. Economic grievances now became political issues, and a trade boycott in the Gold Coast was followed by the political disturbances of February–March, 1948.

The pre-war associations of protest became, almost it seemed overnight, militant political parties, which began to appeal for radical reform by means of mass public rallies and a penny press. These included such parties as, in Nigeria, the National Council of Nigeria and the Cameroons, founded in 1947 under Nnamdi Azikiwe; and a little later, the Action Group, formed by Obafemi Awolowo out of the Yoruba cultural movement *Egbe Omo Oduduwa*. In June 1949, in the Gold Coast, the Convention People's Party led by Kwame Nkrumah was formed as a radical breakaway movement from the earlier (1947) United Gold Coast Convention. It looked, at one time, as if this rising discontent would provide the basis for nationalist opposition of a far more serious kind than in fact appeared in the British colonies. The barricades began to go up in the Gold Coast in 1948 and 1950. But, by 1951, the existing constitutions had collapsed and the nationalists were in office.

Nationalist agitation in these years would repay careful study. An obvious characteristic was the way in which political leadership slipped from the wealthy lawyer-entrepreneur class into the hands of a radical

1. See *Report of the Commission on the Marketing of West African Cocoa* (Cmd. 5845, 1938).

lower-middle class – products of the mission and State primary and middle schools. Revolutions, even of the mild constitutional kind in West Africa, do not happen without revolutionaries, and these were to be found in the growing numbers of clerks, teachers, journalists, smallstore-keepers, and traders, who became the 'new men' of the post-war constitutions. They were 'new' not merely in the sense that they were new to the business and problems of government but because as a class, or economic group, they did not exist fifty years earlier.

As might be expected, this shift in nationalist leadership was accompanied by more violent demands both for speedier constitutional change, and for social and economic reform. This alarmed not only the British. It frightened conservative-minded Africans. 'Where will the said self-government be placed if it is given to us?', exclaimed an Ashanti traditional member on the 1946–50 Legislative Council, 'in view of the country being led by people who hold no position at all in the country and who have no property'.¹ Significantly, the C.P.P. rank and file in the Gold Coast were regarded as the 'verandah boys' – the homeless, who are forced to sleep on the verandahs of the wealthy – an epithet later joyfully taken up by the party itself.²

A decisive political factor was the grant of adult suffrage for nationwide elections which took place in 1951 in the Gold Coast and Nigeria. The immediate effect was wholly beneficial. It humoured the populace, produced the national party machine, channelled nationalist fervour into constitutional ways, and turned the nationalist rebel into a party politician.³ It is to the credit of men like Nkrumah and Gbedemah in the Gold Coast, or Awolowo in Nigeria, that they foresaw the significance of popular elections, and began to build their party machines before the actual grant of the new constitutions. But the grant of adult suffrage also deepened the early cleavage between tradition and popularism by reviving latent, often traditional, antagonisms

1. *Gold Coast Legislative Council Debates*, Session 1950, issue No. 1.

2. Cf. the *sansculottes* of the French Revolution and the *descamisados* of Peron's Argentine.

3. This was not quite true of Sierra Leone. The Sierra Leone People's Party looked for its model to the Gold Coast, but, lacking the challenge of popular elections, and the social material for radical change, was forced to recruit its support, within and outside the Legislative Council, after the 1951 elections. These were conducted on a narrow franchise in the Colony, and through traditionally-based District Councils in the Protectorate.

and remoulding them in party political form. It remains now to be seen whether the new constitutions are capable of containing the extremes of tribal tradition and radical reform, and of translating them into party groups of Right and Left, and, in the new Assemblies, into an alternating Government and Opposition.

A good deal may depend upon the attitude and collective strength of two contrasting social groups – the proletariat of the new towns, and the mass of the peasant population – both of which have been excluded, in practice, from any direct influence on party policies by reason of their illiteracy and lack of organization.

Many of the new urban working population – labourers, carriers, boatboys, miners, fitters – are ill-fed, ill-housed, under-paid; they are still, in habit and outlook, a landless peasantry. For the present, this group is of little political importance save as a mob, which can fill the streets at election time and be relied upon to vote for the mass party. But it includes a minority of skilled workers who, through a developing trade union movement and a few resuscitated tribal unions, are struggling to find a new basis of loyalty and common interests. In so far as this minority grows, and is able to acquire a leadership of its own, it may be expected to strengthen the mass parties in the direction of radical reform without weakening their national unity.

The position may be very different, however, in the rural areas. By 1951 it was clear that nationalism, in general in West Africa, had lost much of its pre-war urban and coastal character. In Sierra Leone, for example, the People's Party began in Bo in April 1951: a novel challenge to the hitherto undisputed political supremacy of Freetown. The 1951 elections in the Gold Coast and Nigeria revealed the widespread support for political parties, both in urban and rural areas. The grower of cash crops especially had acquired the leisure and inclination for politics and had behind him a long tradition of representative tribal government. Never before had the farmer in the cocoa and palm-oil belt been so well off, or so conscious of his past neglect by the colonial governments.

But an anti-colonial attitude is not necessarily sympathy for domestic radicalism. In the elections in 1954 in the Gold Coast the C.P.P. Government, which had struggled to enfranchise the subsistence farmers of the North, found – like other radical political movements before it – that to give the vote to a particular section of the community

is not necessarily to ensure that the votes will be cast in the required direction. Two years later, in the July 1956 elections, the C.P.P. was still triumphant in the southern Colony area, but it was forced to yield ground, this time also in Ashanti, to the National Liberation Movement, an alliance between offended traditionalists, aggrieved cocoa farmers, and dissident C.P.P. members. The N.L.M. and the Northern People's Party are therefore, in a sense, a rural conservative opposition to Nkrumah's party.

This would not matter from a national point of view. The new constitutions presuppose a two-party system, the conduct of business in the Assemblies assumes it, and there is a general tendency to talk in terms of a Government and Opposition. But a political conservatism spread nationally is a very different matter from a traditional conservatism located in particular regions; and both Nigeria and the Gold Coast show signs of moving in the latter direction. In both countries there are centrifugal forces tugging at the unity imposed by colonial rule, threatening to disrupt the new nation states at their inception. It seems doubtful, therefore, whether there will develop for some time to come in either country, or in Sierra Leone, the British pattern of alternating party government. Because, to a dangerous degree, party unity is the only major form of national – or in Nigeria, regional – unity, a lengthy period of single party rule may be necessary, as in India and Ceylon, to carry the West African countries over the early years of independence. This may mean, as in Nigeria, a federal form of government; or, as in the Gold Coast and Sierra Leone, a strong regional machinery of government to enable the minority parties to escape the frustration of a seemingly endless period of opposition.

As an extreme alternative to majority party rule, one could make a good case for the readjustment of the present boundaries of West Africa. Everywhere linguistic and ethnic groups, and the former areas of traditional rule, interlace the imposed frontiers of European rule. In each of the British territories, marked differences exist between the coastal colony areas and the more traditionally-minded hinterland. It is these differences which help to explain the appeal of regional party associations to minority interests and traditional sentiments in the Gold Coast, and the necessity for a federal government in Nigeria. But there are strong, lesser minority interests even within the existing regions of each country, and it may well be that the present frontiers,

however artificial they may seem, are in practice more acceptable than would be a division of Nigeria or the Gold Coast or Sierra Leone into smaller states. It is not easy to undo the history even of 30 or 40 years except, as in India in 1947, in the face of some overpowering emotional force; and it is doubtful whether any such compulsion exists in any of the West African countries.

Even less likely is any form of West African union in the immediate future. The idea has existed for a number of years, sometimes as we have seen in the dream of a British West African federation, sometimes in the hope of a union, or association, of all West Africa. From many points of view – ease of communication, the promotion of health and scientific research, the coordination of economic development, the assertion of African rights in Africa and the world – such a federation or union would have many advantages. There is already a West African Inter-Territorial Council with its headquarters at Accra, which is responsible for a number of technical and economic functions in the four British territories. The state visit of the Prime Minister of the Gold Coast to Liberia in 1953 was an interesting example, too, of the closer ties likely to be sought between the self-governing West African states once colonial barriers are down. But the obstacles are formidable.

A union of West Africa would have to overcome differences of language, inequalities of population and wealth between the different countries, poor east-to-west communications, and an indifference at popular level – arising out of ignorance – towards neighbouring states, as well as the contrasting policies of French and British colonial administration. The parallel here is likely to be not Canada nor South Africa nor Australia – all of which achieved a federal union, in spite of difficulties – but South America, with its periodical meetings between independent governments. Even for the more practical association of the Gold Coast with Nigeria, or of Sierra Leone and the Gambia with the Gold Coast, there are serious problems. A federal form of government has been found difficult to work in Nigeria because of strong local particularism; it is not likely to attract deep enough loyalties over a wider, more complex area.

With the exception of the eastern boundaries of the Gold Coast and Nigeria, it is probable therefore that the present frontiers of British West Africa will remain as they are for many years to come. The exception is however important. The question of the future of the

trust territories of Togoland and the Cameroons has already been raised by the imminence of self-government in the Gold Coast and Nigeria. In May 1956 the peoples of British Togoland were asked to vote for 'Union' (with the Gold Coast) or 'Separation' (from the Gold Coast), in a plebiscite held under the authority of the United Nations, which has now decided to transfer the territory to the Ghana Government, in response to the majority vote.¹ The French Administrating Authorities have now held a similar plebiscite in the eastern half of Togoland, which showed a majority in favour of remaining within the French Union. The ultimate outcome of these decisions is not easy to see; they might have far-reaching effects on the whole of West Africa.

There remains the final problem, whether complete national sovereignty is possible or desirable in the present state of international relations. None of the four West African countries is internationally strong enough to be able to regard the outside world with indifference; and although an isolated neutrality, such as that maintained by Sweden and Switzerland, might be possible, it would weaken and detract from the emancipatory role which Nigeria and the Gold Coast, at least, would like to play in Africa generally. For Sierra Leone and the Gambia there are more pressing difficulties. In both countries their small population and economic resources, combined with their strategic position in the North Atlantic Treaty area, may make their Governments doubt the advantages and the practicability of full national sovereignty.

In the Gambia, the 'Malta solution' has been put forward by Garba Jahumpa and his followers: that is, some form of organic union with the United Kingdom, with a large degree of local self-rule. Precedents already exist: both parties in Britain have accepted proposals to give three seats in the House of Commons to Malta; and in 1949 the people of Newfoundland decided by plebiscite to join the Canadian federation. Others in the Gambia have suggested closer links with the Gold Coast and Sierra Leone; others again have thought in terms of a

1. The plebiscite figures were:

| | <i>For Union</i> | <i>For Separation</i> |
|-------------------|------------------|-----------------------|
| Northern Togoland | 49,119 | 12,707 |
| Southern Togoland | 43,976 | 54,785 |
| Total | <u>93,095</u> | <u>67,492</u> |

greater 'Woloff state' once the French can be persuaded to quit. These are extreme or long-term measures. And they are not likely to be acceptable except in the Gambia.

For the other British territories, perhaps for the Gambia too, a more practicable remedy for the danger of national isolation lies in membership of the Commonwealth. A notable feature of the relationship between the Dominions and the United Kingdom, in the past, has been the emphasis placed on Dominion sovereignty without any great forfeiture of the practical advantages of association. In this sense British policy has stood in marked contrast to that of the other colonial powers, such as France or Belgium, in its practice of free cooperation between countries recognized by each other as equal in status although differing in stature.¹

This valid distinction between status and stature enabled the theory of Dominion sovereignty to prevail, even when the United Kingdom retained certain imperial powers.² The distinction is no longer so important to-day, now that the Dominions have gained in stature, and now that the imperial connexion has been completely severed by a number of the Commonwealth member countries. For Nigeria and Ghana, too, the Commonwealth has only to widen its present ranks to gain their admission.

But as smaller colonies such as the Gambia and Sierra Leone move away from complete dependence on Great Britain, it may be useful to distinguish between a position of full sovereignty within the Commonwealth, and one of local self-government with a qualified control of external affairs – the position occupied by Southern Rhodesia after 1923, and to-day by the Federation of Rhodesia and Nyasaland. Such a development would be well in keeping with the adaptability of Commonwealth practice. From a narrow association of British and European-settled countries after the First World War, the Commonwealth has been able to expand and adapt its membership to include Ceylon, and the republics of India and Pakistan. This general movement towards a greater variety of association is likely to continue. It may be useful now to find room – even at the level of meetings of the Commonwealth Prime Ministers – for representatives of 'self-govern-

1. For a good discussion of the balance of theory and fact in British, French and Belgian rule, see T. L. Hodgkin, *Nationalism in Colonial Africa*, Part 1.

2. See pp. 64–6 below.

ing colonies' who are not yet prepared to assume the full responsibility of independence.¹

If the Commonwealth were to widen its ranks to include locally self-governing member countries, certain implications would follow. The South African government has already commented on the anomaly of the double role played at present by Great Britain in the Commonwealth. On the one hand, there is the theory of complete Commonwealth equality between its member states; on the other, there is the practice whereby it is the British government alone which decides the pace and stages of self-government towards independence of its colonial territories. It is not difficult to agree to the principle implied in such criticism. The whole Commonwealth is concerned in changes which affect its membership, and what concerns all should be decided by all. It is right therefore that there should be a full exchange of views between the Commonwealth governments when major constitutional changes are proposed which will bring a particular colony to the point of full Commonwealth membership.

Nevertheless, however far consultation is carried, it can never mean – as the South African government at one time implied – that a single Commonwealth government can sit in final judgement on the fitness for self-government, or for Commonwealth membership, of a particular colony. There can be no right of veto. The precedent most likely to be followed is that set by the Commonwealth Prime Ministers, including the Prime Minister of India, who met in London in 1949 to discuss the implications of India's decision to become a republic. There was a frank discussion of the issues involved, which enabled the Prime Ministers to reach a common ground of agreement. The convention is therefore likely to grow that a meeting of the Commonwealth Prime Ministers is desirable before a major decision is taken by any member Government affecting the membership rights of the Commonwealth as a whole. Such a convention is likely to be of advantage to local nationalist movements in the African territories. The Commonwealth countries – even the Union of South Africa, according to recent official pronouncements – are at least as likely to be sympathetic to the claims of nationalism and self-government in West

1. Some provision of this kind might also be made if any one of the four Regions of Nigeria attains regional self-government before the others. Separate representation by Commissioners in London already exists.

Africa as the United Kingdom itself. They may well, therefore, usefully influence and guide the latter in its decisions.

In most of the major decisions which the Commonwealth governments have had to take, a common agreement has been sought and found, even if it is only an agreement to differ and not to act. Compromise of this kind lies at the root of Commonwealth unity. It is not a sign of weakness. A rigid attitude to Commonwealth problems in the past – for example, a rigid insistence on Imperial rights by Great Britain, or on nationalist demands by party leaders in the colonies – would have seen the American revolution become the pattern instead of the exception in the history of British rule overseas.

This ability to steer a middle course between extremes may seem a dull accomplishment. It will always disappoint those who would like to transform the Commonwealth by some bold scheme of constitutional reform into a united, close-knit organization. But compromise has stood the Commonwealth in good stead. It helped to shape Commonwealth history at almost every point in its development after the great debate of the American war of independence, so that each of the Commonwealth countries, however diverse its history has been in other respects, has followed a constitutional mean between absolute Imperial control, and an intractable colonial opposition. We shall see that the present West African constitutions have close parallels in the different stages of constitutional advance in Ceylon; that they reflect, too, arguments debated in the nineteenth century in Canada; and that these, in their turn, were drawn from the first experiment and failure of colonial self-rule in America. The progress of 'nationalism and self-government' in West Africa within an Imperial framework of authority is a familiar one which can be traced throughout the record of British colonial rule. It has been a central theme of Commonwealth history.

Early Origins of the Commonwealth

THE first permanent colony of English settlers in North America, Virginia, was founded in 1607; in the West Indies, Bermuda and Barbados date from the 1620s. For nearly a half century before that time, ideas and schemes of colonization had been current in Elizabethan England; small groups of enthusiasts had argued among themselves, and in petitions to the Crown, the advantages of maintaining colonies or, as they were usually termed, 'plantations' of English settlement across the Atlantic. Many of their suggestions differed very little from those already put into practice by Portugal and Spain in Central and South America. But they had a marked effect on English colonial policy throughout the period of the 'first British Empire' (roughly 1600-1780).

This was based on the central belief that colonization should be regarded as part of the wider field of economic policy, and against the background of national security. The possession of colonies, it was argued, would lead to an increase in the total wealth of the state, particularly it was hoped through the discovery of precious metals, but also through an expansion of the area of trade which the Imperial country could control without suffering competition from rival European powers. Where the territory was empty, or peopled by primitive communities, settlers should be 'planted' there as potential producers of raw material and markets for home manufactures. These 'plantations' would, in addition, serve a double purpose: they would become a forward base of power in time of war and, at the same time, help rid the state of its vagrants and unemployed.

Throughout the first half of the seventeenth century, emigration was, therefore, encouraged by the Government, and very often sponsored by private companies which subsidized and arranged, under articles of employment, passages for the evicted small-holder or unemployed town labourer who was prepared to try his luck across the Atlantic. This steady stream of indentured labour continued into the eighteenth century; James Boswell describes meeting one of them:

Michael Cholmondeley . . . was a day labourer but out of work [who] told me he was a sad dog in his youth [and] had sold himself for a slave to the Plantations for seven years . . . Said I: 'How much did you get?' CHOLMONDELEY: 'Twenty pounds.' BOSWELL: 'And, pray, what sort of life had you there?' CHOLMONDELEY: 'O, sir, a very good life. We had plenty of meat and drink, and wrought but five hours a day.'¹

In the northern 'New England' settlements it was the Pilgrim Father, the persecuted Independent or Presbyterian nonconformist, who was the typical 'first American'. In the south, the tobacco and sugar plantations set the pattern, with their Anglican or Roman Catholic owners and articulated or slave labour. (This social division of origin was later of great political importance.) But the same economic argument was applied to both. From the British point of view, all colonies should be an economic extension of the state, and their worth measured in economic terms.

The characteristic feature of this early period of colonial administration was, therefore, the series of Trade and Navigation Acts which embodied in legal form the vision of an economically self-sufficient empire, in which colonies were treated as markets and sources of supply to meet deficiencies in the economy of the mother country. These Acts had a complementary purpose, part political, part military, expressed in the preamble to the Act of 1663, which spoke of 'keeping them [the colonies] in a firmer dependence upon it [the mother kingdom] and rendering them yet more beneficial and advantageous unto it in the further employment and increase of English shipping and seamen'.² This was an important aspect in an age of intermittent naval warfare.

The Acts included four cardinal provisions. In those of 1650 and 1651, all foreign ships and merchants were forbidden to enter colonial ports except by special licence. Secondly, by the important Act of 1660, the colonies were forbidden to export to foreign countries certain commodities (enumerated in a schedule to the Act) which England needed and could not adequately produce at home - in particular, tobacco, sugar, indigo, and dyestuffs. Thirdly, by the Staple Act of 1663, all goods imported from Europe into the colonies (of

1. *London Journal* (Heinemann, 1950), entry for 4 January 1763.

2. Quoted in G. L. Beer, *The Old Colonial System* (New York, 1933), Vol. 1, p. 76.

necessity in English or colonial ships) had to pass first through England, in order to make 'this kingdom a Staple¹ not only of the commodities of these Plantations, but also of the commodities of other countries and places'. This was supplemented by a further Act in 1673 imposing export duties on the enumerated goods even when shipped to another colony. Fourthly, in the early half of the eighteenth century, the colonies were forbidden to manufacture certain goods (hats, some textiles, pig iron) which might compete with British trade. These trade laws, as the 1663 Act pointed out, were typical of the period; they were not regarded by anyone as unusual. The general theory behind them was admirably expressed at the end of the seventeenth century by Sir Josiah Child at the Board of Trade. 'All colonies and foreign Plantations', he considered, 'do endamage their Mother-Kingdom, whereof the Trades of such Plantations are not confined to their said Mother Kingdom by good Laws and severe execution of those laws'.²

Harsh as these Acts seem to-day, it could not be said that the colonies suffered greatly at first from their operation. The early settlements in America of small family groups, which spread slowly along the banks of the great rivers, and in the forest clearings, would have been helpless without the protection of one or other of the European Great Powers. They were not, therefore, in the early days concerned to question the rights or wrongs of imperial policy. In any case, from the point of view of the colonies the trade laws had their economic advantages. Within the English home market, colonial exports were afforded generous preferential treatment. For example, foreign tobacco coming into England had to pay an import duty three times as great as that on Virginian tobacco; and the growing of tobacco on farms in south-west England was forcibly forbidden by the Government in an attempt to protect the interests of colonial tobacco growers. It is difficult to see how the trade of these infant colonies could have survived against the hostile tariffs of rival European empires except for the shelter afforded it – and the virtual monopoly given to colonial shipping in inter-colonial trade – by the trade laws. The colonies might be confined within the economic ring of empire, but in the early days they could hardly have stood alone outside it.

1. That is, a centre of distribution.

2. Beer, *op. cit.*, p. 56.

But an imperial system of this kind, built around a centralized control of imperial trade, was dependent on several factors which by the end of the seventeenth century were ceasing to operate. Gradually the American colonies grew more confident of their own strength as separate economic units. Their population increased rapidly throughout the eighteenth century, and with it grew individual and national prosperity.¹ Thus they began to outgrow and to resent the restricting framework of the Trade Acts. The plantation colonies of the south might still be content to send their tobacco and sugar to the imperial country, although they were tempted by the higher prices in Europe; but in the north the New England colonies – Massachusetts, Rhode Island, Connecticut, New Hampshire – were no longer able to find in the home market a sufficient demand for their products. They had indeed very little to offer. Because of the nature of the New England climate and soil, the northern colonies were unable to grow the raw tropical products which the mother country expected from her colonial territories. Even New England timber, after the long haul across the Atlantic, could not always find a ready market alongside the cheaper Baltic timber, despite the higher duty levied on the latter. They turned therefore to trade, shipbuilding, and, on a limited scale, to manufacture.

By 1740 the wealthy Puritan merchant, with his shipping fleet and warehouses in Boston or Philadelphia, was finding an easy and profitable market in the French and British West Indies for New England fish, beef, and maize, and (illegally) in Europe as well as (legally) in the mother country for rice, sugar, and tobacco. Thus the colonies built up their own transatlantic trade, in defiance of the Trade and Navigation Acts. The United Kingdom Government (as one may now call it, following the 1707 Act of Union with Scotland) had carefully fostered, and protected by Imperial legislation, a triangular trade based on the United Kingdom and stretching to New England for provisions (or to the west coast of Africa for slaves) then to the West Indies for sugar, and back to the United Kingdom. This Imperial system was now

1. The total population of the American colonies by 1763 was about 2,000,000, including a slave population of from 150,000–175,000. Philadelphia, Boston, New York city were growing towns of from 18,000–25,000 population each; Massachusetts Bay colony had about 250,000 people. See L. H. Gipson, *The Coming of the Revolution, 1763–1775* (Hanush Hamilton, 1954), pp. 10–11.

weakened by a different triangle of trade based, not on British ports, but on New England, and stretching between America, the West Indian French and British islands, and the mainland ports of Europe. It meant that, from being in theory economically complementary to Great Britain, the New England colonies began to appear in practice as interlopers and rivals – a denial of the whole basis of empire.

There developed, as well, in these northern colonies an independent attitude of mind. The colonists were not now prepared to accept unquestioningly the absolute authority of Great Britain. Particularly was this true after the end of the Seven Years War in 1763, when French Canada was ceded to Britain and the northern threat to New England disappeared. But this, while removing north America from the arena of European politics, left the way open for bitter family disagreements between New and Old England. Just as the eastern seaboard towns and ports of New England were reaching out beyond Britain for wider markets in continental Europe, so the inland frontier settlements, in their turn, began to turn their back on the 'mother country', to face westwards across the Allegheny mountains. Thus the American colonies began to outgrow not only the economic boundaries of the empire and the physical limits of British control, but also many of the common ties of kinship and ancestry.

It was during this same period, however, from 1760 to 1775, that Great Britain – financially strained by the war against France, and bitterly resenting the illegal war-time trade carried on by New England with the enemy French settlements in America and the West Indies – tightened the enforcement of the trade laws. In 1760 Pitt, as Prime Minister, instructed each of the Colonial Governors to put an end to 'this illegal and pernicious trade', and 'to take every step authorized by law to bring such heinous offenders to the most exemplary and condign punishment'. The Royal Navy was authorized by Act of Parliament in 1762 to examine (and, where proper, seize) colonial shipping which infringed the provisions of the Trade Acts. The following year, shortly after the signing of the peace treaty with France, the Secretary of State again complained to the Governor of 'so iniquitous a Practice; – a Practice carried in Contravention of many express and repeated Laws, tending . . . to the Diminution and Impoverishment of the Publick Revenue, at a Time when this Nation

is labouring under a heavy Debt incurred by the last war for the Protection of America'.¹

Part of the war between 1756 and 1763 had been fought to defend the American colonies against the French in Canada, and had therefore been of direct benefit to them. Great Britain considered that it had every justification, on these grounds alone, for calling upon the colonists to respect imperial legislation and to contribute towards imperial defence. In reply, the colonists argued that they were already in debt to British merchant houses in London; that the only way they could pay for British imports was by trading direct with the French West Indian islands and with Europe; and that in any case Great Britain had no right to tax her colonies without their consent. This last complaint was a significant departure from the usual protests against the operation of the Trade and Navigation Acts: it implied that the ground of conflict between the American colonies and Great Britain had widened from grievances over trade restrictions to embrace fundamental principles of political and constitutional rights.

The possibilities of such a conflict had been there from the earliest days. The British colonies in America had been founded by the expansion overseas of British society, by the emigration from the mother country of dissatisfied individuals and families seeking a new church and greater economic opportunities. They went as Englishmen, and they took with them the principles and rights of English law. Assemblies of elected representatives had, in consequence, sprung up in each of the American (and West Indian) colonies from the earliest days of settlement. These local Parliaments had a fair measure of control over internal local matters of government, with powers to legislate and raise revenue. But matters of imperial interest, particularly the Trade and Navigation Acts, were excluded from their competency; they were also subject, in each colony, to an imperial executive control exercised by a Governor and Crown-appointed officials – including a Surveyor or Collector of Customs, whose first duty was to enforce the trade laws. In addition, there was in most colonies a nominated upper council, under the control of the Governor.

The exact constitutional position varied in each of the American colonies, ranging from Massachusetts – where the Assembly was able, through its control of finance, to withhold supplies and to refuse to

1. Gipson, *op. cit.*, p. 61.

Early Origins of the Commonwealth

vote the necessary revenue to pay the Governor's salary – to the tobacco colonies of Maryland and Virginia, where separate Crown revenues existed for the maintenance of Imperial control. As in England in the seventeenth century, a fierce constitutional struggle developed in each of the 13 colonies during the middle years of the eighteenth century. On one side was the Governor, who was unable to raise money or get support for his policy; and on the other side, the elected Assemblies, which were unwilling to vote supplies for a policy with which they disagreed and could not control.

At bottom, the main bone of contention between the Imperial government and the American colonies was the operation of the Trade and Navigation Acts; the trading frontier of the colonies had outrun the political limits set by the contemporary mercantile theory of empire. Added to this economic conflict was a constitutional deadlock between the elected colonial legislatures and the imperially appointed local executives, neither being able to coerce, yet both unwilling to be the servant of the other. Economic discontent came therefore to be expressed in political grievances and popular slogans, such as 'No taxation without representation'.

This slogan was, however, rather misleading. It was unlikely that the American colonists would have accepted representation in the British Parliament, even if the British government had ever seriously considered taking such a step. What the colonists wanted was executive control in America. As in Canada in the nineteenth century, and the West African territories in recent years, the constitutional issue became a struggle for control of the executive in each colony; this meant in practice the reduction of the Governor's powers to those of a constitutional Sovereign, and the removal of the powers of the Imperial Parliament to legislate for the colony. In 1774 a Continental Congress was formed of representatives from each of the colonies (except Georgia) which declared that: 'The American colonies are not and cannot be represented in [the British] Parliament and therefore are entitled to a free and exclusive power of legislation . . . subject only to the power of the sovereign.'¹

1. This claim to retain the British Crown, while rejecting the British House of Commons, was a curious argument on the part of the colonists, which foreshadowed the twentieth century free grouping of the Dominions and the United Kingdom under the constitutional authority of the Crown. In the eighteenth

Then, when Great Britain proclaimed its rights as an imperial power and asserted the legal supremacy of the Parliament of Great Britain over its subordinate colonial assemblies, the colonists in America went beyond constitutional theory to argue fundamental truths of natural justice and human rights. 'A government is not free', they declared, 'to do as it pleases. The Law of nature stands as an eternal Rule to all men'. On that point, no compromise was possible, and the issue could be decided only by force of arms; the War of Independence followed, from 1775 to 1783. Eventually, the British forces under Lord Cornwallis surrendered to Washington and the French General Rochambeau at Yorktown, in October 1781.

It might be asked *why* it was not possible for Great Britain and the American colonies to devise a form of compromise along the lines of the internal responsible government introduced in Canada in the 1840s. Burke might be quoted once more, against the politicians of his own age; he warned a hostile House of Commons: 'Magnanimity in politics is not seldom the truest wisdom and a great empire and little minds go ill together.' But Burke certainly misunderstood the temper of the times in respect of America; the current theories should at least be studied, before being dismissed as small-minded.

There must be, it was argued by legal jurists, in any state, a single central source of authority. Within the British Empire this was, indubitably, the British parliament. The sovereignty of the imperial parliament was therefore accepted without question as automatically excluding any possibility of equal political rights for the colonies, beyond those of representation in local assemblies. There was too an angry ignorance in Great Britain concerning the troublesome and distant American colonies which, coupled with a dangerous mob extremism in America, gave the moderates on both sides of the Atlantic little chance to work out a common form of agreement. Finally, economic considerations added practical weight to legal arguments, for the economic *raison d'être* of empire, no less than current century it was rejected by George III as unhesitatingly as it was by the House of Commons.

One should add, perhaps, that until the 1770s there was little demand for a complete break from Britain. The implications of self-government were regarded with alarm by many well-to-do plantation owners and merchants who feared political extremists amongst them almost as much as they disliked the arbitrary exercise of power from London.

constitutional theory, demanded an overriding power of political authority in Great Britain to enforce on the colonies economic obedience.

Thus, to ask the House of Commons in the eighteenth century to surrender its executive powers in America, and its claim to legislative supremacy over its colonies, was to ask more than the age could envisage – the abandonment of accepted political doctrines of sovereignty, and of economic theories which had been practised for 150 years. Moreover, the eighteenth century, at least in its colonial administration, was an eminently practical age; there was no place in its imperial policy for the sentiment of empire, arising from a sense of kinship and a common social historical origin, which did so much in the nineteenth century to link the United Kingdom and the later British Dominions together. The concept of an Empire of free association was foreshadowed by Burke on the eve of the American war, with his vision of an empire bound by ‘ties which, light as air, are as strong as links of iron’; but this went unheeded, even if it was understood, by the British merchants and country squires. Colonies, they argued, should serve the interests of the mother country. Otherwise, why go to the expense of defending them?

The loss of the colonial empire in America left Great Britain angry and humiliated. But the immediate effect of the war was not, as is sometimes suggested, a more liberal turn to British colonial policy. On the contrary. The immediate reaction of Great Britain was to tighten its Imperial control elsewhere. The rebellion was seen as the result of democratic excess; and the outbreak of the French Revolution in 1789, six years after the Peace of Versailles which ended the American War, seemed, to eighteenth-century statesmen, further proof of the dangers of popular liberty. There in France, it was argued, could be seen the result of an uncontrolled democracy – a bloody revolution followed by a violent attack on property, foreshadowing the break up of civilized society. Its effects could be seen at their worst in the West Indies, when the revolutionary French Assembly at Paris set free the negro slaves of San Domingo, who thereupon murdered the resident slave-owning white population.

It seemed clear, in the 1780s, that the main source of the political unrest in America had been the existence of elected colonial assemblies, which fostered a spirit of colonial independence and made impossible

the working of a centralized imperial economy. Where then lay the solution? People began to argue that territorial commitments which meant responsibility for settled colonies on the American model should be avoided wherever possible: they bred political strife and were of doubtful economic benefit. Where such colonies still remained under British control, as in Canada and the older British West Indian islands, there was little the Government could do about it, except to secure, as far as possible, a separate source of revenue for the Governor and his Officers. For the future, Great Britain would do better to turn eastward and consolidate its growing trade empire in Ceylon and India. If political control over new territories became necessary for one reason or another, it should be of an efficient, authoritarian character, precluding, from the beginning, any possibility of representative colonial government. Such were the arguments of Henry Dundas and others in the years following the American Revolution, and they were accepted by successive British Governments in the late eighteenth and early nineteenth centuries.¹

The problem became urgent, when – within 20 years of the Declaration of Independence – Great Britain found itself again the centre of a growing empire, part old, part new. There were a number of colonies which had remained loyal to Britain – Nova Scotia, New Brunswick, and Prince Edward Island (the eastern maritime provinces of Canada), in addition to Barbados, Jamaica, and the smaller West Indian islands – and in these, local elected assemblies continued to exist. Then, following the American Revolution, a new ‘settled’ colony – Upper Canada – was formed by loyalists who had emigrated from the now independent United States. Further down the St Lawrence, around Quebec, lay Lower Canada: a French-speaking area, but a British colony since 1763. Later, by the peace treaties which ended the Napoleonic War in 1815, Great Britain confirmed its possession of Malta, the Ionian (Mediterranean) islands, Mauritius in the Indian Ocean, Cape Colony, Ceylon, Trinidad, St Lucia, and British Guiana. A uniform colonial policy was now impossible, and it was from this time that the British Empire began to be the great store-house

1. There were lively hopes also of trade even with an independent America outside the framework of the Trade and Navigation Acts which could still protect, as a ‘nursery of seamen’, a modified Atlantic triangle trade between Newfoundland or Canada, the West Indies, and Britain.

and testing ground of diverse methods of colonial government.

Where colonial assemblies still continued to sit, as for example in eastern Canada and the Caribbean, Great Britain was reluctant, if only from fear of a second colonial rebellion, to make fundamental alterations to the constitution. To attempt to abolish the assembly of, say, Nova Scotia or Barbados would probably precipitate a revolt, the beginnings of which, it was suspected, lurked in every elected colonial legislature. These assemblies were, therefore, allowed to remain unmolested; and in 1791, at the request of the zealously loyal British emigrants from America, Great Britain went so far as to grant a representative assembly in both Upper Canada and Lower Canada; it could hardly have done otherwise. There were, however, significant modifications in the direction of greater Imperial executive control.

No such assemblies existed in the recently acquired non-British 'conquered' colonies - Ceylon, Cape Colony in South Africa, the small trading posts in West Africa, and the former French and Spanish West Indian islands. Here the position was obviously different, and Great Britain took counsel not only from the facts of the American revolt, but from a legal decision of the 1770s. In 1774 Lord Mansfield, the Chief Justice, sat in judgement on the protests of the Assembly of the West Indian island of Grenada against the attempt by the Crown to levy taxes on the island. He admitted, as a matter of English constitutional law, that where the Crown had recognized in a colony the existence of an elected assembly, the Crown had thereby forfeited its prerogative right to tax or legislate for that colony 'without the concurrence of Parliament'.¹ Here was a further disadvantage of colonial representative government: it meant that the Crown's ministers had to have recourse to the slow-moving and public machinery of Parliament for every major action in respect of such colonies.

But the law officers were also agreed that where the Crown had not made any grant of representative institutions, the Crown retained, through its ministers, all its ancient prerogative powers as a 'supreme legislative authority'. Great Britain acted accordingly. It was the years immediately preceding and following the American war which saw both the beginnings of the Colonial Office in London and the working out of the now familiar framework of Crown Colony government.

1. Campbell v. Hall 1774. See M. Wight, *The Development of the Legislative Council* (Faber, 1946), p. 37.

Crown Colony government was deliberately devised by the British government as a form of administration strong enough to ward off the dangers of a second colonial rebellion and suitable, in British eyes, for the government of non-British peoples. It rested on the twin pillars of imperial control and a strong local Authority. Thus it retained in the grasp of the Crown, through the Secretary of State, a final power over the colony, but entrusted all local authority to the Crown's representative, the Governor. It had, from an imperial point of view, considerable merits. There was no need to resort to Parliament in order to tax or legislate or make changes in the government of the colony, since such changes could be made through the much simpler machinery of an Order in Council; whilst in the colony itself, control was immediate and efficient, since full legislative and executive authority (and the royal prerogative of pardon) were concentrated in the person of the Governor.

It was an authoritarian form of government, sometimes benevolent, sometimes repressive, which avoided the danger of a clash between the Imperial Parliament and the subordinate colonial assemblies, since it attempted to exclude both. It may be said to have adopted the Roman practice of the Provincial Governor and virtually took as its motto the ancient Roman dictum; *id quod principi placuit legis habet vigorem* (the wish of the ruler is law). If he desired, the Governor might seek advice from his (Crown-appointed) officials or from local persons of importance in the colony; but he could accept or reject their advice as he pleased. Any advisory council which he might require to be summoned would similarly be subject to his authority, its members being nominated and not elected. In Ceylon, for example, North, the first Governor, had an advisory council of three officials – the Chief Justice, the Officer Commanding Troops, and the Principal Secretary – but it was clearly stated in the Instructions from the Secretary of State that legislative power in the island lay in the Governor alone, subject only to the distant control of the Home Government in England.

It was readily assumed by successive British governments throughout the nineteenth century that Crown Colony government was the best form of government for non-British and non-European peoples because, it was argued, they could not be expected to understand the workings of English representative government, having long been accustomed to the arbitrary power of their own rulers.

Early Origins of the Commonwealth

Crown Colony government made an early appearance as an experiment in the mid-eighteenth century in the short-lived West African colony of Senegambia (1763-83), and in the 1774 Act providing for the government of French Lower Canada. The later, more usual form of Crown Colony government was instituted by an Order in Council rather than by Act of Parliament. In 1796 the system was introduced into the Cape Colony of South Africa with its Dutch settler farmers, but found a more permanent home in 1802 in Ceylon and, in 1807, in Sierra Leone. Following the peace treaty with France in 1815, it was extended to Trinidad and St Lucia in the Caribbean, and to the Mediterranean island colonies. In the middle years of the last century, Crown Colony rule became the recognized form of government for the coastal areas of the British West African territories; and throughout the nineteenth-century a similar system of colonial government was set up wherever, for one reason or another, Great Britain wished to maintain a close control over its colonial possessions.

At the opening of the last century, therefore, British colonial rule had begun to take two distinct forms. On the one hand, there was a representative type of colonial government, in which local assemblies were entrusted with local legislative powers under official executive control; this was the old framework of colonial rule, which had broken down in America, but which still survived in eastern Canada and the earlier West Indian settlements, and which had been allowed to reappear in a modified form in 1791 in the provinces of Upper and Lower Canada. On the other, there was the new and authoritarian system of Crown Colony government, framed to meet the needs of the new empire in Asia and Africa, and to avoid the mistakes of the old; here the grant of a representative assembly was deliberately withheld.

It is a remarkable achievement in the imperial history of modern Britain that the advance towards self-government and 'Dominion status' has been made from both these early colonial patterns of government. Despite the suspicion with which Great Britain, after the loss of its American empire, regarded the practice of colonial self-rule, representative government reappeared, not only in Canada with its loyalist emigrants from the United States, but (in the nineteenth century) in Australia, New Zealand, and the British colonies in South Africa. There was no second colonial war of independence. Instead, the individual colonial assemblies in each of the scattered, British-

West Africa and the Commonwealth

settled territories, slowly evolved into the sovereign Parliaments of independent Dominions.

This movement of colonial self-government gradually became not merely an expedient, but a governing idea of British colonial policy – to such an extent that the possibility of reform was conceded, by the end of the nineteenth century, even within the rigid framework of Crown Colony rule in the conquered – or ceded – territories of non-European peoples. Colonial nationalism was able to clothe itself in the constitutional dress of legislative reform throughout the Empire, in Ceylon as well as in Canada, and Nigeria as well as Australia. Self-government in West Africa has therefore a long ancestry. It owes much to the struggle for national self-expression in Ceylon and India, but something, too, to the earlier colonial reformers in Canada who were the first to tread the path to Commonwealth independence.

Responsible Government in Canada

IN 1774 a Constitution Act was passed by the British Parliament for the government of Quebec Province in Lower Canada, which had been ceded to Britain by the French in 1763, at the close of the Seven Years' War. The Quebec Act, as it came to be called, foreshadowed in its provisions many of the features of nineteenth-century Crown Colony rule. While preserving the operation of French civil law, it expressly constituted the Crown, through its representative the Governor, as the sole legislative and executive authority for the Province, with the assistance of a nominated Council. There was to be no elected assembly, such as then existed in all the American colonies. The Act was thus an early example of the new, more authoritarian form of British colonial administration, later to be introduced during the initial development of other British-settled colonies, and for a longer period in the African and Asian dependencies.

A Proclamation of 1763 had promised to grant in Quebec Province English laws and 'General Assemblies. . . in such manner and form as is used and directed . . . in America'.¹ But by 1774, the British Government, on the eve of the American revolt, had begun to question the advantage of settler colonies on the American model. As the unrest in New England grew, it was felt that if matters came to a head there it might be useful to have a more reliable form of government across the border in Canada.

The change in policy was also due to growing British doubts of the possibility of granting representative institutions to the large numbers of French peasantry and *seigneurs*, who had had an autocratic, centralized, French colonial administration up to 1763, and since that date had been under British military control. This was the background to the Act of 1774.

After the Declaration of American Independence on 4 July 1776, however, groups of Empire loyalists migrated across the border to

1. A. B. Keith, *Speeches and Documents on British Colonial Policy, 1763-1917* (O.U.P., 1948), Vol. 1, p. 6.

Canada, and British settlement grew up there. This substantially altered the picture; for it was unreasonable to expect the immigrants, who had left America because they wished to remain in allegiance to the British crown, to forgo in British Canada the political and civil liberties which they had formerly possessed in British America. Nor was there any further need to win the support of the French *seigneurs* and *habitants* against colonial rebellion in America; with the outbreak of the French Revolution in 1789 the British Government was rather more concerned to curb them, lest they might feel disposed to lend their aid to the new France of the Revolution. After a period of hesitation and uneasiness, therefore, the Government swung round again; and elected Assemblies were granted in both Upper and Lower Canada at the request of the 'United Empire Loyalists'.

Representative government was one thing: an uncontrolled democratic 'lawless' body like the assemblies under the old colonial (American) system quite another. Great Britain had no wish to repeat the errors of its first empire in the new settlements growing up in Canada. Ideally, some form of close control on the lines of the 1774 Act best suited the interests of the imperial country: it had avoided the double weakness of the American colonies, an irresponsible Assembly and a weak Executive. But now that the grant of representative institutions had again been made, the British Government considered carefully other means of restraint. The solution lay near at hand. The eighteenth-century British constitution of King, Lords, and Commons embodied, in contemporary eyes, a perfect balance between the different elements of political power, each of which, if unrestrained, would lead to tyrannical, unjust, or lawless government. What seemed necessary, therefore, was to check the democratic element in the new Assembly in each Canadian province by a strong monarchical power in the person of the Governor, who must be confirmed in his authority by Crown-protected sources of revenue, and by the creation of a Second House of legislature; the members of this upper House should have, as Grenville put it, 'that motive of attachment to the existing form of government which arises from the possession of personal or hereditary distinction'.¹

Thus the Act of 1791, Pitt's Canada Act, established in both provinces a modified, controlled form of the American colonial constitutions:

1. From Grenville's draft plan of the proposed constitutions, sent to the Governor of Lower Canada.

the popularly elected Assembly was to be checked by an upper House called significantly the Legislative Council;¹ and the Governor, in addition to his power of veto and the right to reserve local legislation for imperial approval, was given a separate control over certain revenues and expenditures (including his own salary), by carrying over into the new Act the revenue clauses of the Act of 1774.

Qualified as this grant of colonial self-rule was, it meant nonetheless that Great Britain had once more agreed to some measure of local independence for colonial territories, including the power, however restricted, inherent in an elected Assembly. Nor could the experiment be confined to Canada alone. New colonies of settlement were later established across the Pacific and in South Africa; and in the 1840s and 1850s, similar grants of representative government were made to the British colonies of Cape Province and Natal, to New Zealand and the sea-board colonies of Australia.² In much the same way then as the first great wave of emigration from England in the seventeenth century led to the local parliaments of colonial settlers in America and the West Indies, so this second expansion of English society overseas, escaping from the social distress of nineteenth-century industrial Britain, gave rise to a similar demand for local political rights. It remained to be seen whether nineteenth-century Britain would manage to avoid a second hiving off of its colonial settlements. Britain could not afford a Canadian War of Independence or an independent, even hostile United States of Australia.

1. The creation of hereditary Canadian baronies and earldoms was at one time seriously considered; but the final draft laid it down that members were to be appointed for life under the Great Seal of the Colony.

2. In these new, 'settled' colonies control was at first usually exercised through the Governor and a nominated Council, much as in the Crown Colonies, except that the constitutions were established not by Order in Council under the Crown, but by the authority of Parliament. They then advanced to a 'representative stage', a phrase applied in 1865 to 'any colonial legislature which shall comprise a legislative body of which one half are elected by inhabitants of the colony'. (Colonial Laws Validity Act.) From there they followed the Canadian path of responsible government and Dominion status. New South Wales, originally a convict settlement, began under strict military control. Queensland was unique in achieving internal *responsible* government at its foundation in 1859; New Zealand, in 1852, and the Boer colonies of the Transvaal and Orange River, in 1907, passed straight from a nominated Legislative Council to internal responsible government. But in each the 1791 Canadian principle of qualified local self-government is manifest.

Despite the carefully balanced provision of the 1791 constitutions, the authority of the government in both Upper and Lower Canada rested in practice very much on the support of the loyalist members of the Legislative Councils, the most reliable of whom the Governor appointed to his Executive Council. In Upper Canada, at the beginning of the nineteenth century, these nominees represented a small, comparatively wealthy class of landed gentry. They professed a deep attachment to the 1791 constitution, as to the established Anglican church, and gave proof of their loyalty by their opposition to the more radical, popularly-elected Assembly. This, by the middle 1820s, was drawing its membership from the greater numbers of new immigrants from nineteenth-century Britain. Many of the latter were Methodists and nearly all of them wanted land – the land locked up in the clergy reserves of the established Anglican church so passionately defended by the Loyalists. In Lower Canada the position was somewhat different. There, the Governor's nominees on the Executive were in the main British merchants who despised the French peasantry, disliked the French having a majority of representatives in the Assembly, and sided with the Governor and his officials on racial and religious grounds.

The 1791 constitutions were therefore severely strained by about 1830. Measured against modern West African constitutions they had indeed lasted a long time. The problem then arose: how were they to be changed? Ominously, in British eyes, colonial discontent began to follow the American path of 50 years earlier, with demands for popular control of the executive. In both provinces political parties were formed under nationalist leadership, in opposition to the upper Legislative Council and Executive control. The powers of the Assemblies were limited by the 1791 Act which deliberately set aside Crown revenues for the Governor's use. They could not, as the Assemblies in the former American colonies had been able to, paralyse the working of the Executive by an absolute control of local finance; but the growing conflict between the Assembly and the Governor in each province produced a deadlock almost as complete. In the long run the Executive could not carry on the normal work of legislation without the concurrence of the Assembly; yet to surrender Executive control over the administration, or to give up the use of Crown patronage to nominate 'loyal' government supporters to the Executive,

would have disturbed the essential balance of the 1791 constitutions.

In the 1830s, a fierce struggle developed between the Assemblies and the Governor. It reached its climax in the province of Upper Canada during the Governorship of Sir Francis Head (1836-8), who attempted to meet the arguments of the Reform Party in the Assembly by appointing to the Executive Council its two leaders, Baldwin and Rolph. When they got there, however, Head told them he was prepared to listen to their advice but did not feel bound to accept it. Baldwin and Rolph, and the whole Executive Council, thereupon resigned, and forced through a vote of non-confidence in the government. Head dissolved the Assembly, toured the country in the ensuing elections, and, by an appeal for loyal support in the name of the Crown, won a sweeping victory in June 1836. It was short-lived. Armed rebellion had already broken out under Louis Papineau in November 1837 in Lower Canada where, the Assembly having refused to vote the supplies, the British Government had suspended the constitution and had authorized the Governor to collect the revenue himself. A similar outbreak under Mackenzie¹ and Rolph, though on a less serious scale, followed in December in Upper Canada.

The leaders in both Upper and Lower Canada were supported by the Assemblies in Nova Scotia and Prince Edward Island, where the old American system still survived unchanged. Their arguments were in essence simple. The Canadian constitutions, they pointed out, had been modelled on that of Great Britain; but whatever had been the practice in 1791, the Executive or Cabinet in the United Kingdom was now responsible for its actions and policy to Parliament and, in particular, to the elected House of Commons. The Canadian constitutions should therefore be brought into line with this practice: the Governor's nominated Executive should be replaced with a Cabinet Executive not merely drawn from but responsible to the Assembly.

Baldwin, who had gone to England in 1836 to put his case before the Secretary of State, Lord Glenelg, argued in a memorandum that: 'the institutions of every colony ought as nearly as possible to correspond with those of the Mother Country'; and that the Executive Council should be put 'permanently upon the footing of a local Provincial Cabinet, holding the same relative position with reference

1. William Lyon Mackenzie, grandfather of the great Liberal Prime Minister of Canada, Mackenzie King.

to the representative of the King and the Provincial Canadian Parliament, as that on which the King's Imperial Cabinet stands with respect to the King and the Parliament of the Empire'. It followed from this, concluded Baldwin, that 'Sir Francis Head should be recalled, and a Successor appointed who shall have been practically acquainted with the working of the Machinery of a free Representative Government'.¹

The British Government was not disposed to deny the theory of 'association'. The 1791 constitution had been deliberately modelled on, or 'assimilated to' that of Great Britain. But Baldwin's constitutional theory of ministerial responsibility was not interpreted in quite the same way in Britain as in Canada. Not many statesmen in Britain in the 1830s or 40s would have accepted an argument that the Crown must necessarily submit to policies it found distasteful or to Ministers of whom it did not approve. It was true the Executive had to find support for its policy in the Commons, but this was not quite the same thing as arguing that Ministers should be chosen by the Commons and imposed on the Crown. If the Crown retained a freedom of choice in Great Britain, how was it possible for the Crown's representative, the Governor, not to have a similar voice in the formation of governments and the execution of policy in the colonies?

Nevertheless, it remained true that, in Britain, whatever limits constitutional *theory* might set to ministerial responsibility, the Government had in *practice* working control over Parliament, by its use of patronage, through family and economic interests and, increasingly, through the growth of an embryonic party system. There was a practical connexion between the Executive and Parliament, which was lacking in the Canadian colonies. There, the division was absolute:

1. K. N. Bell and W. P. Morrell, *Select Documents on British Colonial Policy* (Oxford, 1928), p. 24. Similar arguments had been used by the leaders of the Assembly of French Lower Canada. In May 1834 Morin, the French Canadian moderate, had appeared in London before a Select Committee and was asked: 'Under such a system of having the Executive dependent upon the people . . . what part could the King of Great Britain or the Ministry of Great Britain act, or how could they interfere with advantage in such a system?' To which Morin replied: 'The same part that they act here in Great Britain. The Governor would represent the King, and have all the powers of the King, both legislative, moderative and executive . . . Here [in Great Britain] there is a responsible ministry; it would be right that there should be also in the Colonies responsible governors and members of the Executive.' *Ibid.*, p. 16.

on the one side a Governor and his officials, supported by 'les vendus',¹ and responsible overseas to the Imperial Government; on the other, a colonial Assembly and nationalist political leaders unable to control, or be controlled, and therefore refusing to cooperate with the colonial Executive.

The contrast was sharp. In 1830, the Whigs in England had been elected into power and, within two years, had introduced and passed the first great Parliamentary Reform Bill of the nineteenth century. In Canada, on the other hand, the Reform Party had twice won the elections, in 1828 and 1834, but were no nearer executive power; and control of policy-making remained in official hands. Obviously *something* had gone wrong with the 1791 theory of 'assimilation'. Whereas the British constitution had developed along the path of ministerial and Cabinet responsibility,² those of Upper and Lower Canada had remained fixed in their eighteenth-century framework.

A further dilemma concerned the role of the Governor in the Imperial connexion. Poulett Thompson,³ Governor of both Upper and Lower Canada between 1839 and 1841, put the case fairly for the British Government. He wrote to a friend:

I have told the people plainly that, as I cannot get rid of my responsibility to the home government, I will place no responsibility on the [local executive] council; that they are a *council* for the Governor to consult, but no more . . . In fact, there is no other theory which has common sense. Either the Governor is the sovereign or the minister. If the first, he may have ministers, but he cannot be responsible to the government at home, and all colonial government becomes impossible. He must therefore be minister, in which case he cannot be under the control of men in the colony.⁴

The rebellions in the Two Canadas led to a Commissioner of Inquiry, Lord Durham, a radical Peer, being sent in 1838 to investigate the cause of the disturbances, and to make recommendations for the

1. I.e., the nominees who were said to have been 'bought over'. Cf. the twentieth-century expression 'Uncle Toms' in Nigeria.

2. This development took place almost imperceptibly in English eyes. A complete theory of Cabinet responsibility was not put forward until the publication of Walter Bagehot's *The English Constitution* in 1867. (See O.U.P. edition, 1949, Chapters I and VII.)

3. Afterwards Lord Sydenham.

4. Bell & Morrell, *op. cit.*, p. 43.

peaceful government of the colonies. The Durham Report, produced in 1840, is perhaps the greatest state paper in British colonial history; and it was the acceptance by the British Government of Durham's recommendations which marked the beginning of 'responsible government' within the Empire and the growth of the idea of the Commonwealth.

Briefly, the Report conceded the case for popular control of the Executive. Durham argued that since the Assemblies had been entrusted with a share in the legislative process of government they should now be given executive powers. The Imperial Government, Durham wrote,

should place the internal government of the colony in the hands of the colonists themselves; and . . . thus leave to them the execution of laws, of which we have long entrusted the making solely to them.

This could best be done by instructing the Governor to summon to his Council the leaders of the party enjoying a majority support in the Assembly. The struggle between the Governor and Assembly which had led to the American war could then be avoided by making the former in certain respects the servant of the latter. There was nothing, said Durham, particularly revolutionary in this, since 'it needs but to follow out consistently the principles of the British constitution'; here he agreed with the colonial reformers as to the changing nature of the British constitution, pointing out that 'the Crown must . . . submit to the necessary consequences of representative institutions'. It must 'carry on the government . . . by means of those in whom [the] representative body has confidence'.

Notice, however, that it was to be 'internal self-government'. Neither Durham, nor Canadian reformers like Baldwin and Morin, envisaged complete control by Canadian ministers over the whole range of national and international affairs. Matters of 'Imperial concern' would continue to be the responsibility of the Imperial Government, and Durham considered there would be a 'perfect subordination' on these points:

The matters which so concern us are very few. The constitution of the form of government, – the regulation of foreign relations, and of trade with the mother country, the other British colonies, and foreign nations,

Responsible Government in Canada

— and the disposal of public lands, are the only points on which the mother country requires a control.

At first sight the list may appear formidable. But, in practice, Durham's separation of local Canadian matters from general Imperial interests amounted to a simple division between internal and external affairs. The result was to divide not only the business of government but the office of Governor into two: internal affairs, including finance, which would be under Canadian ministerial control, and for which the Governor would act as a constitutional sovereign; external Imperial matters (with which was associated also the right of the Imperial Government to control constitutional changes), for which the Governor was responsible as an Imperial officer to the Home Government. Thus Durham bypassed the logic of those who, like Poulett Thompson, had been unable to see any middle course between the Governor acting on the one hand as the active representative of the British Government, on the other, as the passive figurehead in a 'sovereign' colonial government.

The Report proposed a 'half-way house' in the advance to full self-government, comparable to that reached in 1951 in the West African colonies, except that the Canadian assemblies were offered full financial control. The analogy is worth pursuing. Responsible government in the Canadian colonies, following the Durham Report, developed through gradual changes in the relationship between the elected Assembly and the official Executive; Ceylon and the West African territories, starting from a Crown Colony system of government, added representative institutions later, thus reaching the stage of part-elected, part-nominated, part-official Legislative and Executive Councils. In the 1951 West African constitutions certain key ministerial offices, including finance, were reserved for British officials, who worked side by side with elected African ministers, and were answerable to popularly elected Assemblies, but could not be dismissed by them. In Canada, in the 1840s, a whole prescribed area of government — Imperial affairs — was altogether excluded from local control and entrusted to the Governor.¹

1. Lord Durham's views on the future of French Lower Canada were less enlightened, and more readily accepted. He disliked what little he knew of French Canadian nationalism and advised that 'the tranquillity [of Lower Canada] can only be restored by subjecting the Province to the vigorous rule of

Durham's recommendations on constitutional reform were not finally adopted and introduced into the Canadian colonies – the United Province (of Upper and Lower Canada), Nova Scotia, New Brunswick – until 1847.¹ By that time, periodical clashes between successive Governors, attempting to retain final executive control in official hands, and Canadian political leaders, determined to reduce the Governor to a constitutional sovereign, had made it clear that there was no alternative peaceful solution. Then, with the federation of the Canadian colonies in 1867, the Durham Report became the basis of the framework of colonial administration within which the new central government of Ottawa exercised its powers. Later, during the nineteenth and twentieth centuries, the grant of 'internal responsible government' was extended first to New Zealand, then to the other European-settled British territories in Australia and southern Africa.²

The importance of the Durham Report can hardly be exaggerated. Its arguments for the necessity of colonial self-rule, and its reasoned defence of its advantages to the colony and to Great Britain, still govern, however remotely, present colonial policy. The Report made it possible, as Sir Reginald Coupland has written, for the 'second British Colonial Empire to escape the fate of the first and so convert itself in course of time into a community of free peoples'.³

The British Government might not however have accepted its recommendations, but for two contemporary developments which were absent in the period of the colonial struggle in America. These

an English majority'. Upon his recommendation, an Act of Union was passed in 1840 which placed both Upper and Lower Canada under a single administration. The doctrine of assimilation to England, valuable in the constitutional sphere, had underlying racial implications. Durham was unable to see the possibility of building a new multi-national society out of the two French and English communities; but in 1867 Lower Canada was released from the union, and became part of a federation under the British North America Act.

1. They were introduced into Prince Edward Island in 1851, and into Newfoundland in 1855.

2. The dates of the grant of internal responsible government are: 1852 *New Zealand*, 1853 *New South Wales*, 1855 *Tasmania and Victoria*, 1856 *South Australia*, 1859 *Queensland*, 1872 *Cape Colony*, 1890 *Western Australia*, 1893 *Natal*, 1901 *the Federal Government of Australia*, 1906 *the Transvaal*, 1907 *the Orange River Colony*, 1909 *the Union Government of South Africa*, 1923 *Southern Rhodesia*.

3. Sir R. Coupland, *The Durham Report* (Oxford, 1945), Introduction, p. 7.

were: firstly, the movement by Great Britain away from a mercantilist conception of Empire towards the idea and practice of Free Trade; and secondly, changes which took place in the constitution of Great Britain itself.

Ideas of Free Trade were put forward by Adam Smith as early as 1776 (ironically, the year after the outbreak of the American revolt) but were only gradually accepted in England. The Free Trade League was formed in January 1839, and even then it met with a hostile reception. But in the 1840s, confronted with imminent famine in Ireland, the British Government lifted the duty on foreign corn (1846), and Liberal England started on its long era of Free Trade. By 1849 the Trade and Navigation Acts had disappeared from the Statute Book, and with them went the economic basis of Britain's first Empire. The growing industrial revolution, which had made Great Britain a workshop of cheap goods and opened to her the markets of the world, undermined established theories of the necessity of a closed economic empire of colonial dependencies. Free Trade became as sacrosanct in British eyes as Imperial protection had been. Soon, Great Britain was to criticize the emergent colonial nations for wishing to depart from Free Trade principles, and for adopting protective tariffs against foreign (and British) goods. But there was no second attempt by Great Britain to impose a set economic pattern on its empire. The industrial and trade supremacy enjoyed by Britain in the middle years of the nineteenth century widened her economic interests beyond the frontiers of her colonial territories. No longer was there any overwhelming economic motive for the political and constitutional subordination of the colonies to the mother country.

Secondly, came that process of constitutional reform which began in 1832; this involved the slow enfranchising of the total adult population of Great Britain, and ultimately fixed the seat of final constitutional authority in the popular chamber, establishing the principle of Parliamentary control of the Crown's ministers. The Reform Bill of 1832 did much more than to effect a conservative and limited measure of Parliamentary reform. It restored to the British constitution something which had been almost forgotten – its flexibility. In the latter half of the eighteenth century the constitution was considered by many as having been unalterably moulded by the glorious Revolutionary Settlement of 1688. It was Burke's opinion (in 1782) that:

Neither *now* nor at *any* time is it prudent or safe to be meddling with the ancient tried usage of our constitution. Our representation is as nearly perfect as the necessary imperfection of human affairs and of human creatures will suffer it to be.

It was unlikely therefore in the years before Parliamentary reform that Great Britain would consent to changes in those colonial constitutions, such as those of 1791 in Canada, which had been so carefully modelled on this 'perfect' transcript. But once the sanctity of the Mother of Parliaments itself had been disturbed, as it was in 1832, it was obviously less difficult to convince Great Britain of the possible need for constitutional change in its colonial territories. The Reform Act of 1832, and the Free Trade legislation of the 1840s, thus form an essential background to the introduction of responsible government in Canada and to the partial surrender by Great Britain of its Imperial powers.

The Durham thesis proved fruitful for a time; but it failed, like most theories of colonial government, to provide a permanent solution. Its opponents and critics, who lacked the necessary faith of Durham, were nonetheless in the end proved right by the logic of events. Lord John Russell, who, as Colonial Secretary, supported the introduction of responsible government in Canada in 1847 more out of despair than hope, had pointed out that

If he [the Governor] is to obey his instructions from England, the parallel of constitutional responsibility entirely fails; if on the other hand he is to follow the advice of his council he is no longer a subordinate officer but an independent sovereign.¹

This was of course quite true. The working of the system depended, as in West Africa in recent years, on how far the elected representatives were prepared to press for a further extension of their powers. If, at any time, the Executive Council was provoked by the refusal of the Governor to accept its advice into resigning en bloc, the Governor would in practice be impotent, unable to find a majority for his policy or responsible ministers to execute it. He might indeed consider himself fortunate if he escaped a national protest against his independent action and a demand for his immediate recall.

It is easy to see now that Durham's division of the Governor's

1. Keith, *op. cit.*, Vol. 1, p. 175.

powers, and the Imperial limits set to the authority of colonial Parliaments, would be acceptable only as long as colonial nationalists were preoccupied with problems of internal development. Sooner or later, but inevitably, the demand would come for full legislative independence and an unfettered control of national policy at home and abroad. In Canada, and in the British-settled colonies in the Pacific and southern Africa, the advance against Durham's barriers – his matters of Imperial concern – began quite early in the 1850s and 60s; but it was not completed until after the First World War. Progress towards national independence was slow, astonishingly slow in comparison with parallel developments in India and Ceylon and the present tempo of West African nationalism. Partly this was due to the comparative peace of the nineteenth century, which enabled the self-governing colonies to disregard external affairs with a reasonable degree of safety; partly to the sentiment of the imperial connexion, which linked Great Britain with its British colonies overseas and made statesmen both in Britain and the colonies reluctant, in the absence of foreseeable alternatives, to come to a final parting of the ways.

From Empire to Commonwealth

THE Durham Report, translated into the practice of domestic responsible government, resolved the immediate constitutional conflict in Canada beyond the hopes and doubts of the early reformers and sceptics alike. Gradually, however, successive colonial governments, usually with that of Canada taking the lead, encroached across Durham's imperial dividing line. More and more the Governor in each colony became a strict constitutional figurehead, and less and less an Imperial officer. Imperial control of public lands in Canada was surrendered early in the 1850s. The next step was taken in 1859, when the British Government complained to the Canadian Government, on behalf of the Sheffield Chamber of Commerce, that British imports were subject at Canadian ports to a discriminating tariff duty. The Canadian Finance Minister, Sir Henry Galt, then insisted on the necessity of the Canadian Parliament's controlling its own tariff policy 'even if it should unfortunately meet with the disapproval of the Imperial Ministry'. 'Self-government', he went on, 'would be utterly annihilated if the views of the Imperial Government were to be preferred to those of the peoples of Canada'.¹

From tariff control the Canadian Government reached out, in the 1880s and 1890s, towards control of its trade relations with other countries. But here a new constitutional dilemma arose. Hitherto, Great Britain had been able to present the Empire abroad as a single state of which Great Britain was the official head. Durham's device of internal self-government, with external affairs reserved for control by the Imperial Government, had been able to preserve an external Imperial unity. But when the self-governing colonies began to interest themselves in 'Imperial' matters, the introduction of domestic self-government in Canada was seen for what, in effect, it really was – an interim measure of Imperial control which was now no longer able to hyphen together the constituent self-governing territories of the

1. Keith, *op. cit.*, Vol. 2, p. 60. The documents quoted elsewhere in this chapter are taken from Keith, unless otherwise stated.

Empire. There could be no permanent 'half-way house' between colonial subordination and the independence logically implied in the grant of representative institutions.

When, for example, towards the latter part of the nineteenth century Canada, supported by the Australian colonies, began to question the need for British control of trade treaties, Great Britain hesitated, conceded some points but not others, then yielded the substance of power while retaining the illusion of unity. In 1895 the Secretary of State expressed his views to the Governor-General of Canada and the Governors of the Australasian colonies, and the Cape, as follows:

To give the Colonies the power of negotiating treaties for themselves without reference to Her Majesty's Government would be to give them an international status as separate and sovereign States, and would be equivalent to breaking up the Empire into a number of independent States, a result which Her Majesty's Government are satisfied would be injurious equally to the Colonies and to the Mother Country, and would be desired by neither. The negotiation, then . . . must be conducted by Her Majesty's Representative [with the assistance] of a delegate appointed by the Colonial Government . . . If . . . any arrangement is arrived at, it must be approved by Her Majesty's Government and by the Colonial Government.

By 1907, it was agreed that this procedure need not be followed to the letter, and that the colonies might do their own negotiating, with a watching brief held by the British Ambassador, who should also add his name to the treaty on behalf of the Empire as a whole.

Every right secured by Canada was automatically claimed by and extended to the other British-settled colonies. But still nobody was quite sure whether it was possible for the Canadian Government to conclude a trade treaty with, say, Germany or France, which (contrary to the 1895 Despatch) might grant foreign nations benefits from which the rest of the Empire, including Great Britain, were excluded. If this was possible, what would be the effect on the Empire as a whole? and how long would it be before more vital matters of 'high policy' – defence and war and the conduct of foreign relations of a diplomatic kind – ceased to be the sole Imperial responsibility of Great Britain?

The problem of the international status of the self-governing colonies, and of their diplomatic relationship with the United Kingdom within the Empire, had already been raised in one particular form

as early as 1879, when the Canadian Government requested Great Britain to agree to the appointment of a Canadian Resident Minister in London, in view of the expanding nature of Canadian trade and other interests abroad. The original Canadian memorandum asserted that there was an 'absolute need of direct negotiations' with foreign states, and suggested that such a Minister should hold a 'quasi-diplomatic position'. After an initial hesitation the British Government agreed to the appointment. But it insisted that because Canada was 'an integral portion of the Empire . . . such a person . . . would necessarily be more analogous to . . . an officer in the home service, than to . . . a Minister at a foreign court'. He should therefore, as a matter of course, work through the Colonial Office and the Secretary of State for Foreign Affairs.

An interesting reply was made by a Committee of the Canadian Privy Council. It argued that the grant of self-governing powers to Canada indicated that a relationship of 'a quasi-diplomatic character' did exist, at least between the Dominion and United Kingdom Governments. But on the question of direct negotiations, the committee now moderated its own government's attitude, and agreed that, since 'Her Majesty's Government is unquestionably the supreme governing power in the Empire', the Canadian representative, who might be called 'Canadian High Commissioner in London', would naturally work through the Colonial and Foreign Offices.

Despite this continued readiness of the Canadian Government to recognize the imperial authority of Great Britain in external affairs, the omen was there. And although Canada made very little use of its High Commissioner until after the First World War, the appointment was significant as the first major indication that the self-governing colonies would one day wish to speak on their own behalf not merely within the Empire but in the outside world of foreign states.¹

As a result, the question was raised towards the end of the nineteenth century, where would this forward march of self-governing colonies end? The old economic subordination of the colonial settlements to

1. As late as 1920 the British Government stated that the suggested appointment of a Canadian Minister at Washington, attached to the British Embassy, 'will not denote any departure from the principle of diplomatic unity of the British Empire'. But this was forgotten in the appointment in 1924 of an Irish Minister Plenipotentiary to the United States - the first Dominion diplomatic representative in a foreign country.

the mother country had disappeared in the new era of Free Trade. Now, the political and constitutional ties of the Durham period were weakening. What would be the basis, if any, of the Empire in the future? Once the diplomatic unity of the Empire had gone, once Great Britain was no longer able to act in the name of the King for the Empire as a whole, what bonds would remain to link Great Britain with the self-governing colonies? The facts of self-government were pushing them along the path to Dominion independence. Contemporary theory, however, was very much engaged with the supposed necessity for closer Imperial unity.

THE MOVEMENT FOR FEDERATION

In 1886 an Imperial Federation League was formed in London, with colonial branches overseas. It took as its text the argument that 'the political relations between Great Britain and her Colonies must inevitably lead to federation or disintegration'. There was in theory a lot to be said for federation. It was a clear-cut solution to the problem of colonial self-government, and it was very much in the air. Canada had successfully knit its provinces together in 1867; the Australian colonies were discussing schemes of Australian federation; and in 1871 a German Federal Empire had been formed over the body of a defeated France. Might not the young self-governing nations of the British Empire peacefully join in a similar association under Great Britain?

Two particular considerations in the 1880s lent added weight to the argument: the long years of international peace since 1815 were drawing to a close, threatened by German nationalism in Europe and French colonial ambitions overseas. Secondly, and partly as a corollary, Great Britain was slowly being squeezed out of her European markets by the protective tariffs of the European powers. Common interests in defence, the possibility of an Empire-wide tariff mutually advantageous to the self-governing colonies and Great Britain, growing problems of immigration within the Empire – might not these form a basis for federation? The Judicial Committee of the Privy Council was already a Court of Appeal for the whole Empire, on which distinguished judges from the self-governing colonies had been invited to sit. All that remained, it seemed, was to work out closer political ties.

In 1896 the Secretary of State for the Colonies, Joseph Chamberlain,

in a speech to the Canada Club stressed the economic benefits of federation, arguing that a 'true *Zollverein* [or Customs Union] for the Empire, although it would involve the imposition of duties against foreign countries [and therefore offend against still deep-rooted Liberal Free Trade principles], might be a proper subject for discussion'. It might create a great area of Free Trade replacing what, to Great Britain, were the misguided and disruptive protectionist systems of the colonies. So too, in respect of defence: it was a matter of common interest to both the colonies and the mother country and ought, said Chamberlain, to be a common obligation of the Empire as a whole in some closer form of Union.

A year later, in 1897, in an address to the Prime Ministers of the self-governing colonies, assembled in London for the Jubilee celebrations of the Queen, Chamberlain dwelt at some length on this theme:

I feel that there is a real necessity for some better machinery of consultation between the self-governing colonies and the mother country, and it has sometimes struck me – I offer it now merely as a personal suggestion – that it might be feasible to create a great council of the Empire to which the Colonies could be invited to send representative plenipotentiaries . . . able upon all subjects submitted to them, to give really effective and valuable advice. If such a council were to be created . . . it might slowly grow to that Federal Council to which we must always look forward as our ultimate ideal.

Here was a vast outline of Imperial Federation, deliberately cautious in wording, but shadowing forth a great super-state, economically united, presenting a common fiscal and military front to the world, with a central legislative and executive machinery of government, and representative of all the British-settled lands of the Empire.

Grand as this vision might seem, it was a chimera. Imperial Federation was, as it has always been, a lost cause. Chamberlain apart, there were few responsible statesmen in England who were prepared to commit themselves or their party to so fundamental a change in the constitution of the Empire. And although there was no desire on the part of the colonies to break from Great Britain, they had no wish either to return to a pre-Durham subordination, either in economic or political affairs.

A 'Free Trade Empire' did not commend itself to the growing economic nationalism of the colonies. It meant that the colonies

would have to remain as primary producers, supplying food and raw materials to an industrial Britain. The young Dominion nations were more than prepared to receive preferential treatment for their wheat and dairy produce in British markets – Canada was actively pressing for it – but they wanted also to be able to exclude United Kingdom manufactures in the interests of their own infant industries.

On the other hand, United Kingdom industrialists wanted preference for British goods in colonial markets; but they objected to preferential duties against foreign food, since dear food in England might mean a demand for higher wages. When Chamberlain abandoned Free Trade in 1903,¹ and took up the case for Imperial Preference, he encountered the opposition of the manufacturers at home, as well as of a large section of the British electorate which still clung to Free Trade. There the matter rested until 1932, when a settlement was reached by hard bargaining at the Ottawa Conference. For the moment, therefore, there seemed no prospect of the economic unity necessary for imperial federation.

Politically, there was even less chance of success for federation. A federal Council or Assembly would presumably mean a preponderant influence in its deliberations for the greater numbers of the United Kingdom – which would hardly agree to share its authority on any other basis. How therefore, in the 1880s and 1890s, could the colonies be sure that their advice would be, in Chamberlain's words, 'really effective'? At best they would be admitted as junior partners in an association in which final power – and not merely over external affairs but possibly over the daily lives of all members of the federal union – would remain with the representatives of the United Kingdom. Looked at in this light, Imperial Federation has never come even within the bounds of possibility.

The expression 'Dominion' was adopted in 1907 to distinguish the internally self-governing colonies from the subordinate Crown Colonies; it did not necessarily mean any further advance in status. The official British view was given by the Liberal Prime Minister,

1. It was the self-governing colonies who made the first breach in the system of Free Trade, when representatives of the colonies met at Ottawa in 1894 and tried to persuade the British Government to agree to preferential duties for their wheat and dairy produce in United Kingdom markets. Great Britain declined. Canada however granted tariff preferences to the United Kingdom in 1897, and South Africa, New Zealand, and Australia followed later.

Asquith, at the 1911 Imperial Conference: 'We are units of a greater unity . . . but we each of us are and we each of us intend to remain master in our own household.' And, in reply to a muddled plan of political federation put forward by Ward, the New Zealand Premier, Asquith bluntly declared that: 'such grave matters as the conduct of foreign policy, the conclusion of treaties, the declaration and maintenance of peace, or the declaration of war, and, indeed, all those relations with Foreign Powers . . . which are now in the hands of the Imperial Government cannot be shared.'

Canada and Australia welcomed this statement, and during the early years of the present century, they were ready to accept the subordinate position that it implied, in respect of external political relations. This attitude is at first sight surprising. But it arose principally from their geographical position. Separated from Europe by thousands of miles of ocean – Canada considering itself additionally protected by the Monroe Doctrine and the growing power of the United States – the Dominions saw little interest or significance for themselves in the diplomacy and quarrels of the European Powers. Moreover, as Canada argued, if the Dominions played no part in the foreign policy of the Empire they could not be expected to contribute to its defence. This attitude persisted until the shock of war in 1914 broke through the conventions and family understandings which had till then characterized Imperial relations.

Paradoxically, the latter years of the 1914–18 war added a curious postscript to the movement for Imperial Federation. In 1917 Lloyd George invited the Dominion Prime Ministers to attend meetings of the British War Cabinet. Thus enlarged, it became known as the Imperial War Cabinet. The following year it was agreed that the Dominion Governments should have the right of direct communication with the United Kingdom Prime Minister, instead of through the Colonial Office, and should each nominate a Minister to represent the Dominions at regular meetings of the Imperial War Cabinet. In addition, the Dominions and the United Kingdom met also, in 1917 and 1918, in Imperial War Conferences. Then, following the surrender of Germany, and during the drawing up of the Peace Treaties, the Dominions again sat jointly with Great Britain in a British Empire Peace Delegation, as well as individually in the main body of the Peace Conference, on the insistence of the Prime Minister of Canada.

It thus began to look as if Imperial Federation had come upon the Empire almost without the Dominions knowing it. Imperial War Conferences – discussing the broad issues of the conduct of war – an Imperial War Cabinet holding itself responsible for the day-to-day direction of the war, and the multiple unity of the Empire Peace Delegation: what were these but the fore-runners of a federal Government and Assembly speaking with one voice on all matters of common concern and interest? To the most sober mind it looked at least as if some joint machinery of Imperial government would evolve out of the ‘Cabinet’ meetings of the Commonwealth Prime Ministers.

Robert Borden, then Prime Minister of Canada, and Hughes of Australia both believed that a common unity of action had been achieved through the new technique of joint consultation at periodical meetings of a ‘Cabinet of Governments’ as Borden, with some accuracy, called it. ‘We meet there’, he said, ‘on terms of equality under the presidency of the First Minister of the United Kingdom; we meet there as equals, he is *primus inter pares*’.¹ Hughes told the Australian Commonwealth Parliament: ‘The only instrument of government [of the Empire] is the Imperial Cabinet . . . The representatives of the Dominions and of Great Britain are to meet annually and the Dominions are to be kept regularly informed of what is passing in foreign affairs.’ Lloyd George considered that: ‘The position of the Dominions in reference to external affairs has been completely revolutionized in the course of the last four years’;² and he told the meeting of the Prime Ministers earlier in the same year (1921) – which nobody knew whether to call a Cabinet or a Conference – that ‘there was a time when Downing Street controlled the Empire: today the Empire is in charge of Downing Street’.³

But was it? Appearances were illusory. In the heat and press of war a majority of the Premiers had allowed their enthusiasm to mar their judgement. All the old problems were there, including Dominion nationalism and geography, twin enemies of federation in the 1890s. In the post-war years after 1918 there was added a third – that of time. Faced with the continual urgency of war, the Dominion Premiers had

1. Speech to the Empire Parliamentary Association, 3 April, 1917.

2. *Parliamentary Debates*, House of Commons, 14 December, 1921.

3. A. B. Keith, *Speeches and Documents on the British Dominions, 1918–31* (O.U.P., 1948), p. 46.

been prepared to travel and meet annually in London, and their collective decisions had then been willingly endorsed by the individual Parliaments of the Commonwealth. But in the less urgent times of peace the Dominion Prime Ministers were far less willing to divide their time between London and their own capitals; and their own Parliaments were demanding fuller consultation.

International events would not wait upon the convenience of the 'Imperial Cabinet'. In 1922, for example, Great Britain, and therefore the Empire as a whole, was faced again with the threat of war, between the allied forces defending the Dardanelles Settlement and the revolutionary armies of Turkey under Kemal Ataturk. The British Government cabled for immediate help from the Dominions. Australia and New Zealand gave their support, but the Canadian and South African Governments replied that they could do nothing until they had consulted their Parliaments; and by the time they had called Parliament into session the crisis was over.

The 'Chanaq Incident', as it was called, thus laid bare two serious defects in the Imperial Cabinet. Firstly, by the very nature of its composition it could be only an occasional body. When a crisis arose in international relations and Great Britain, at the centre of the world's troubles, attempted to follow through logically the implications of a single Imperial foreign policy, the Dominion Governments – pre-occupied with domestic matters, and trusting in the new international machinery of the League of Nations, in which they were individually represented – rose up in protest: that they had been caught unawares, that they had not been adequately informed, or that they would have to consult their own people first.

Secondly, the Chanaq dispute demonstrated the essential constitutional weakness of the Imperial Cabinet meetings. If the execution and approval of policy were to be left to the British Government and United Kingdom Parliament, then the position of the Dominion Prime Ministers would be the unenviable one of having to justify to their own Parliaments – after the event – decisions taken far away in London. This, it was now clear, the Dominion Parliaments were not prepared to accept. If, on the other hand, such decisions were to be referred to each of the Dominion Parliaments, as the Canadian and South African replies indicated, then the meetings of the Prime Ministers were a long way from the collective responsibility of a true

Cabinet. Lloyd George had told the British House of Commons in December 1921 that 'the instrument of the foreign policy of the Empire is the British Foreign Office'; and added, 'that has been accepted by all the Dominions as inevitable'. The Dardanelles crisis showed this to be untrue. It showed, on the contrary, that the Dominions were now reaching after control, through their own governmental machinery, of their own external relations.

It was clear that the Imperial Cabinet had not, in practice, done what had been expected of it. The federal 'dilemma' offered two alternatives. Either there must be an advance from the Imperial Cabinet idea to the full machinery of a federal state; but this was seen to involve the subordination of the Dominions, which they were not prepared to accept. Or else there must be a retreat to some looser form of association. Both Great Britain and the Dominions chose the latter.

There was a further important factor. In the years immediately before and after the First World War, the Commonwealth, as it began to be called, had enlarged its boundaries. The narrow British circle of the United Kingdom, Canada, Newfoundland, Australia, New Zealand, was widened in 1909 by the inclusion of the South African Union and, in 1921, by that of the Irish Free State. As might be expected, neither the Afrikaans-speaking population, of Dutch descent, in the Union, nor the new Irish Free State Government was able to regard the United Kingdom – their ex-enemy – with the almost filial respect showed by the other largely British-settled Dominions. This had an important bearing on later Commonwealth discussions of Dominion rights and obligations.

Looking back on the growth of the Dominions since the turn of the century, the evolution of the Empire towards an association of independent nations should never really have been in doubt. A maritime power, the British Empire was never likely to follow the federal path of land powers such as Germany and the United States. Nor should the failure of the Imperial Federation movement be regretted. Its success at the end of the nineteenth century, or following the First World War, would have meant an exclusive federation of English-speaking countries. It would have given free play to the exaggerated sentiments of race and kinship of which Joseph Chamberlain was an arch exponent. 'The whole family of the Anglo-Saxon race', he once told a Birmingham audience, 'is the greatest governing race the world

has seen . . . it is the genius of our race . . . to rule others'. This tendency to equate the right to self-rule with European origin, and political inferiority with colour, is a danger which is still present in the Commonwealth. Happily, the recent addition to its membership of India, Pakistan, and Ceylon has done a great deal to rid the Commonwealth of its early leanings to a racial group association. But, had the nationalist struggles in India and Africa been confronted with the Imperial power of a federal all-British Commonwealth, it is difficult to believe that the outcome would have been other than disastrous – for both sides.

FREE ASSOCIATION WITHIN THE COMMONWEALTH

The alternative of free association – the characteristic quality of the modern Commonwealth – was there from the earliest beginnings of the federation movement itself. In 1887 and 1897 the Colonial Premiers met in London to celebrate the jubilee years of the long reign of the Queen. They met again in 1902, when attending the coronation of King Edward VII. Gradually there grew up the habit of consultation between Great Britain and the self-governing Dominions at occasional and, later, at periodical conferences. At the important Conference of 1907, it was unanimously agreed that 'it will be to the advantage of the Empire if a Conference, to be called the Imperial Conference, is held every four years, at which questions of common interest may be discussed and considered as between His Majesty's Government and His Governments of the self-governing Dominions beyond the seas'; and that subsidiary conferences should be held in the intervening years on technical or economic or other matters. In 1909, for example, a special Conference was held on Imperial defence, at which the Dominions, in particular Canada and Australia, insisted on their right, subject to war-time Admiralty control, to establish their own Dominion naval forces.

The Conference of 1907 was important, too, in that it led to the setting up of a small permanent secretarial staff, under the Secretary of State for the Colonies, to co-ordinate the work of the conferences; and to the establishment within the Colonial Office of a Dominions Division, which foreshadowed the 1926 separate Dominions Office, and the present Commonwealth Relations Office. Also, there was a small but significant change in the character of the conferences and, by reflection, in the status of the Dominions. Hitherto, the Dominion

Premiers had met in London under the chairmanship of the Secretary of State for the Colonies; now they met round the same table with the United Kingdom Prime Minister. It was no longer a Colonial, but an *Imperial* Conference of the several governments of a United Commonwealth. As if to mark the change, in the year 1907, not only was there the change of name from Colony to Dominion, but the Dominions' representatives in London (following the Canadian precedent of 1879) were officially called High Commissioners, and given the right to attend meetings of the Committee of Imperial Defence.

Gradually it was seen, by those not dazzled by the splendour of Imperial federation, that it was through these conferences, at which the Dominion and United Kingdom ministers met to discuss matters of common interest – immigration, trade, defence, Imperial federation schemes – and through the body of resolutions and agreements which resulted from them, that the association of the Dominions and the United Kingdom might most easily be continued.

At these conferences, discussions were, as they are still, informal and frank. But because of the informality and the elasticity of procedure, both the United Kingdom and the Dominions have been prepared to accept the Imperial Conference – and, to-day, the Commonwealth Prime Ministers' meetings – as, virtually, convention-declaring bodies. Many of the constitutional gains made by the Dominions, especially in the period before the Statute of Westminster in 1931, were secured through such gatherings.

For example, there was the difficult problem of the Dominions' treaty-making rights. Until the First World War, international treaties of trade entered into by the Dominions were, as we have seen, governed by resolutions of the Conferences of 1897 and 1907. But Dominion interests were slowly widening. In 1911, for example, at the fifth Colonial (or second Imperial) Conference the Dominion Premiers were given a comprehensive survey of the international situation by the British Foreign Secretary, Sir Edward Grey. The next step was to negotiate their own diplomatic treaties. An Imperial Conference was held in 1923 shortly after the Chanag Incident, at which it was agreed that where a Dominion wished to conclude a bilateral agreement with a foreign power, its government should have full powers to do so; but that if possible there should be full consultation with the other Dominion Governments; and that its possible

effect on them and on the Commonwealth generally should be considered. A similar undertaking was given by the United Kingdom Government not to conclude treaties abroad, in the name of the Empire as a whole, unless the Dominions had given their prior consent.¹

The two seminal Conferences, of these years of the growth of the practice of free association, were those of 1907 and 1926. Between 1907 and 1926 there were still attempts, of which the Imperial Cabinet experiment was an extreme example, to maintain a common British Imperial policy on matters of common interest, through the technique of joint consultation and discussion. But the Dominions were not altogether satisfied. By 1914 they were in practice – if not yet in constitutional law – independent masters over the whole range of their domestic affairs. In the 1920s, they began to reach out for further constitutional gains, this time in the realm of defence and external affairs, Canada again taking the lead.

Very largely, this was due to the war of 1914–18, in which Canada alone lost over 50,000 citizens on European battlefields. The Dominions had been automatically involved in the war by the single action of the United Kingdom Government, whose declaration of war was accepted internationally as binding on the whole Empire. It is true that the Dominion Parliaments, believing the cause of the war to be just, had added their assent after the formal declaration by Great Britain. But this did not alter the fact that in the world of international relations, the Dominions were still virtually in the position of subordinate colonial territories.

The collapse of the Imperial War and Peace Cabinet experiments, between 1917 and 1921, therefore saw the Dominions' return to the simpler, straightforward path of Dominion independence. The Imperial Conference held in 1923, which nobody pretended was a 'Cabinet', affirmed that it was 'a Conference of representatives of the several governments of the Empire'. The Imperial War Conference of 1917 had already resolved that the readjustment of constitutional relations between the Dominions and the United Kingdom should form the subject of a special conference after the cessation of hostilities,

1. This was observed in the 1925 Treaty of Locarno, which guaranteed the frontier settlement between Germany, Belgium, and France; it expressly provided, under Article 9, for the exclusion of the Dominions unless they should wish to accept its terms.

and that such a conference should give full recognition to the Dominions as 'autonomous nations'. This was finally held in 1926.

A series of significant incidents, between 1923 and 1926, indicated the constitutional strain which the new position of the Dominion nations placed on the emergent Commonwealth; these excited Dominion nationalism and added weight to the arguments of Dominion statesmen. There was, for example, the British Government's failure to consult the Dominion Governments during the Chanag Incident and over the resulting 1924 Treaty of Lausanne – a failure repeated when Great Britain, of its own accord, recognized the Government of the U.S.S.R. Then, also in 1924, came a change of government in South Africa: General Smuts' party was replaced by the Nationalist party under General Hertzog. Two years later, in June 1926, on the very eve of the proposed Imperial Conference, the Governor-General of Canada, Lord Byng, acting in his discretion, refused a dissolution to the Canadian Prime Minister, Mackenzie King, only to be forced, by the subsequent deadlock in the Canadian Parliament, to grant one to his successor.

Thus the Dominions, with the possible exception of New Zealand, entered the 1926 Imperial Conference discussions with a far greater determination to assert their national independence than had existed in the immediate post-war years. In addition, they were members of the 1919 Peace Conference, of the newly created International Labour Organization, and of the League of Nations, which entrusted South Africa, Australia, and New Zealand with mandatory powers over certain ex-German colonial territories; thus the Dominions felt that they had already qualified in practice for the status and position of full nationhood. In 1917, they had sought merely 'an adequate voice in foreign policy and foreign relations'. Now, in 1926, they stressed two fundamental points: that the Dominions and the United Kingdom should be equal in status, and that the instruments of any joint policy must remain under the control of the individual Dominion governments.

The 1926 Imperial Conference is chiefly and rightly known for the Report drawn up by its Inter-Imperial Relations Committee under the chairmanship of Lord Balfour. This recorded the opinion that the tendency of the Dominions towards equality of status was 'both right and inevitable. Geographical and other conditions made this impos-

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ible of attainment by way of federation. The only alternative was by way of autonomy.' The Committee agreed that: 'The position and mutual relation [of the Dominions and the United Kingdom] may be readily defined:

They are autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations.'

This admirably worded definition can be criticized. The distinction between the 'British Empire' and 'British Commonwealth of Nations', for example, is far from clear. Its carefully chosen and balanced phrases concealed, as well as resolved, Dominion and United Kingdom differences of opinion – thus having the useful effect of enabling the United Kingdom and the Dominions to read into them what each wanted to find there. Great Britain, with New Zealand and Australia, looked first at the latter part of the Declaration with its emphasis on the unity of common allegiance and association, while Canada, South Africa, and Eire (with Newfoundland holding a middle course) tended to stress more the phrases recording Dominion autonomy and equality.

Nonetheless the Balfour report as a whole is an outstanding landmark in the development of Dominion status in the inter-war period. It marks the recognition by the United Kingdom and the Dominions of what had slowly been worked out over the previous 50 or 60 years: a new Imperial concept of a Commonwealth, resting not on law or a central machinery of state, but on common ideals, expressed through a simply constructed machinery of negotiation and periodic discussion.

Certain constitutional anomalies and problems connected with the new concept of Dominion status remained after 1926: such as the Imperial right, in theory, to reserve and disallow Dominion bills, the status of the Governor-General, the right of appeal from Dominion courts to the Judicial Committee of the Privy Council, problems of a common citizenship and the place of the Crown in the Commonwealth. These were explored in detail by intra-Commonwealth committees between 1926 and 1929, and their recommendations were submitted for approval to the Imperial Conference of 1930. The following year, the Balfour Declaration was given legal form by the

Statute of Westminster, a short, precise Act, the chief effect of which was to make clear the legislative powers of the Dominion Parliaments.¹

Neither the 1931 Statute of Westminster, nor the resolutions of the 1926 and 1930 Conferences, proclaimed the independence of the Dominions. There was no clear cut Act of Independence, such as those of 1947 which established the new Commonwealth members in Asia. The Statute of Westminster itself, as a number of eminent constitutional theorists were quick to point out, was an act much like other Imperial acts (for example, the 1865 Colonial Laws Validity Act) which had in the past granted wider legislative powers to the Dominion Parliaments; and such a grant was only possible because of the sovereign nature and superiority of the British Parliament. It was even argued from this, mainly by Irish and other extreme nationalists who disliked even the loose association with Great Britain which the Commonwealth implied, that what one Parliament could do, its successor could undo. What was there, they asked, to stop Great Britain overriding the Statute by subsequent legislation?

This extreme view ignored the obvious impracticability of such a step, and the affront that it would offer to what was already established constitutional convention. But some of the clauses of the Westminster Statute lent substance to the argument of Dominion inferiority. Section 4, in particular, was specifically based on the right of the Imperial Parliament to legislate for the Dominions. It stated: 'No Act of the Parliament of the United Kingdom passed after the commencement of this Act shall extend . . . to a Dominion . . . unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.' That is, the United Kingdom bound itself not to pass legislation directly affecting the Dominions unless they first asked for it. As the Irish Opposition leaders in the Dublin Parliament pointed out, the ability of the British Parliament to pass such legislation was thereby admitted and preserved.

Section 2, part two, seemed clear: 'the powers of the Parliament of a Dominion' were extended to 'include the power to repeal or amend any . . . Act, order, rule or regulation [of the United Kingdom Parliament] in so far as the same is part of the law of the Dominion'. But subsequent clauses restricted these powers. Sections 7 and 8 exempted the Canadian, Australian, and New Zealand Constitution

1. See Appendix I for the full text of the Statute.

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Acts from the operation of the other clauses, with the result that Great Britain continued, after 1931 as before, to exercise a final authority over all three constitutions. Lastly, Section 10 excluded New Zealand, Newfoundland, and Australia from the immediate application of the entire Statute until such time as they should wish to adopt it.

These restrictions or limitations on the Dominions' sovereignty were, however, self-imposed. They existed because the Dominions expressly asked for them, not because the United Kingdom wished to cling to Imperial control. The reservations placed on the Canadian and Australian constitutions, for example, had their origin in local provincial and state jealousies, and the fear that the federal Government at Ottawa or Canberra might use powers under Section 2 of the Statute to make changes in the Constitution Acts against the interests of the Canadian or Australian provincial or state legislatures. Neither New Zealand nor Australia really wanted the Statute at all, New Zealand in particular being fearful that the spirit of Commonwealth unity might be lost in the strict legal letter of acts and statutes. In every respect, therefore, the Statute of Westminster gave the Dominions not only what they had asked for but what, in 1931, they were prepared to accept. Moreover, they remained linked with each other and with Britain by a 'free association' under a common Crown. An Empire of colonies had become a Commonwealth of Nations.

The Advance from Crown Colony Government

IN 1926, at the time of the Balfour Declaration, the West African colonies were still under a form of Crown Colony government. In Nigeria in 1922, and the Gold Coast in 1925, there had been introduced for the first time a system of elected representatives. But the districts so represented barely extended beyond the nineteenth-century boundaries of the coastal colony areas. To the north, lay the Protectorate territories under the authoritarian rule of British officials, who exercised an almost sovereign control through the local Paramount Chiefs and Emirs.

In Ceylon, the constitutions of 1920 and 1924 had taken the island a step forward by giving the Legislative Council an elected 'unofficial' majority. Executive control, however, remained in official hands. India had been represented at the Imperial Conference of 1917, which had recognized the Dominions as 'autonomous nations of an Imperial Commonwealth, and India as an important portion of the same'; but it was still governed by the illiberal act of 1919. In the Caribbean, where the old colonial system of representative government had largely disappeared, the British West Indian islands had scarcely advanced again beyond the most elementary stages of Crown Colony rule.¹

At this time, phrases such as the 'British Commonwealth and Empire' suggested a permanent dichotomy: British Dominions, African and Asian colonies. This threat has not materialized. Since 1947, the Commonwealth has included the three Asian Dominions and is likely soon to be enlarged by the addition of new Dominions in tropical Africa and the Caribbean. Self-government has managed to shed what seemed earlier to be a racial exclusiveness. The development, to the point of extinction, of Crown Colony rule in the non-British

1. Until 1866 in the West Indies there existed a mixture of Crown Colony government (e.g. in Trinidad) and the older colonial Assembly type of representative government (e.g. Jamaica). The struggle between the white planters and the British government over the emancipation of slaves, and a long period of economic depression, led to the abrogation of representative government, beginning with Jamaica in 1866.

dependent territories forms a remarkable parallel to the earlier growth of responsible government in the British-settled colonies.

In this progress, Ceylon has played something of the role taken by Canada in earlier years. Ceylon experienced the full range of Crown Colony development. In several respects, it set the pattern of British policy in the other colonies, from the time of the first colonial administration under Governor North in 1801;¹ from that date, down to the first premiership of the late Stephen Senanayake in 1947, it was in Ceylon that the most typical features of Crown Colony evolution appeared. These indicated the course to be followed by the present West African territories, a generation later.

In outline, this evolution may be said to fall into four main phases. In the early period of autocratic official control, local opinion has, at best, a limited power of advice. The first main change comes with the division of the Governor's Advisory Council into Legislative and Executive Councils; thus a definite machinery of government by consultation is established, and the framework of public administration started. At first by way of nomination, local representatives, the 'unofficials', are admitted to the Legislative Council to sit with the officials - Directors of Departments, the Colonial Secretary, the Chief Justice, and the Financial Secretary. Then, as in Ceylon in 1910, a limited form of election is granted, and the thin edge of the democratic wedge thrust into the constitution. Urban elected representatives were added to the Legislative Council in Nigeria in 1922, Sierra Leone in 1924, and the Gold Coast in 1925.

The second major advance is made when the unofficials on the Legislative Council, both nominated and elected members, are increased in number to become a majority over the officials. This happened in Ceylon in 1920, when the existing Legislative Council was modified to include 14 officials, and 23 unofficials. (In the important constitution of 1924 the figures became 12 officials, 37 unofficials.) Nigeria and the Gold Coast took a similar step forward in 1946 (when the Legislative Councils were also extended to include the Northern Provinces in Nigeria, and Ashanti in the Gold Coast). In the same year

1. British forces captured Ceylon in 1797-8, and Frederick North was appointed Governor under the general direction of the Court of Governors of the East India Company. In 1801 North was given a new Commission, and Ceylon became a separate Crown Colony in February the following year.

the Legislative Council of the Gambia was extended to include representation from the Protectorate and reconstituted to provide for an equal number of officials and unofficials.¹ This 'representative' stage of Crown Colony government, as it is sometimes called, is a familiar one throughout the colonial Empire, its importance lying particularly in the fact that, once granted, it points the way to further reform of a more radical kind.

This is the third stage, when a new constitution is introduced – very often accompanied by the grant of adult suffrage – which provides for an Executive Council with a majority of its members drawn, if possible, from the majority party in the newly-elected Assembly, and charged with responsibility in one form or another for departments of government. The number of 'ex-officio' and official members is reduced to a minority of three or four, and the Executive Council becomes a quasi-Cabinet and the principal instrument of policy. This is the stage of 'semi-responsible' government reached in Ceylon in 1931, and in Nigeria and the Gold Coast in 1951. Because of a series of disputes between the Colony and the Protectorate, Sierra Leone omitted the intermediate stage of an unofficial legislative majority, and jumped straight from the 1924 constitution to a qualified form of semi-responsible government in 1951 – the *annus mirabilis* of West African self-government. Even the Gambia struggled to keep pace with an unofficial majority of one on the Legislative Council, and an Executive Council of six officials, four unofficials, two of whom became 'Members of the Government without Portfolio'.

A fourth and final stage of development is reached when the ex-officio members disappear from the Legislature; the powers of the Secretary of State and the United Kingdom Parliament cease to operate; and the Governor, losing his discretionary powers, becomes the constitutional, formal head of a new, independent state.

This final phase, not yet completed, began in West Africa in 1954/5, when many of the restrictions on the 1951 Nigerian and Gold Coast constitutions were removed by new Orders in Council. The Nigerian

1. It did not come into operation until September 1947. Only one of the unofficials was elected – for Bathurst and Kombo St Mary. In addition there were six nominated unofficials: four from the Protectorate, one for commercial interests, and one to represent either the Moslem or non-Moslem community, according to the faith of the new elected member.

constitution now became a 'true' federal structure of government, with Regional legislation freed of the need for approval by the centre, and with federal authority confined to a definite list of federal subjects.¹ In June 1954, nation-wide elections were held in the Gold Coast under a new constitution which provided for an all-African Cabinet and a directly elected Assembly, with powers comparable to those held by the Ceylon Government and Legislature on the eve of independence. In Sierra Leone, drastic reform of the franchise was considered and set out in the recommendations of the Lucas Commission for the Colony and Protectorate. A new constitution was promulgated for the Gambia, which for the first time made provision for an unofficial majority on the Executive Council.²

There may, however, be a number of intermediate gradations. For example, leading unofficial members of the early Legislative Councils may be invited to sit in an advisory capacity on the Executive Council some time before the grant of an unofficial majority in the Legislature. This happened in the Gold Coast and Nigeria in 1942, in Sierra Leone in 1943, and in the Gambia in 1947. Or, at the third stage the Governor may continue for some time to be the chairman of the Executive Council – the party leader acting as Leader of Government Business, as in the Gold Coast in 1951–2.

The relationship between Ministers and Permanent Secretaries in the Administration is another fruitful field of experiment. Thus in Nigeria in 1951, Ministers, both at the centre and in the Regions, were instructed to act in association with their Permanent Secretaries, the exact line of division of authority never being quite clear until the further reforms of 1954. In Sierra Leone, the six party leaders on the 1951 reformed Executive Council were known as 'Appointed Members', sharing responsibility for departments of government with the civil service heads. Such fine distinctions are the very stuff of colonial institutions.

1. These included the right of levying customs and excise duties, control of higher education, major communications, mineral and industrial development, inter-Regional trade and labour matters. Later, there will have to be added defence and external affairs.

2. This was the outcome of the 1953 Consultative Commission's Report. The Legislative Council was enlarged to 16 unofficials, 5 officials; and 2 (later 3) Ministers on the Executive were given responsibility for Departments of Government.

The Advance from Crown Colony Government

A more important intermediate stage very often occurs between semi-responsible government and full independence: as in Ceylon in 1947 and the Gold Coast after 1954. Full *internal* self-government is granted, apart from some reservations over officers in the Public Service; but the Governor may still have some power over defence and external affairs, he may still wield reserved powers, and Great Britain retains the authority to legislate by Order in Council on matters considered to be of Imperial interest.

Although these intermediate stages may be many and curious, the distinguishing characteristic of this evolution of Crown Colony government is clear. It is the deliberate mixing of British officials and local colonial representatives, who sit side by side in the central machinery of government; sharing legislation and, in the course of time, policy-making, and dividing between them, in a variety of ways, control over the administration.

The British defence of this policy is that it provides an essential training ground for self-government. The experience gained in debate, in the examination of legislative measures, and in budget sessions – or through a Finance Committee of the Legislative Council – is put to the test when the unofficials are allotted the majority of the seats in the Council, with the power, subject to certain safeguards, to initiate bills and reject measures proposed by the official Executive. Having gained a firm grasp of the legislative business of government, the elected representatives are then said to be ready to enter the inner sanctum of government, the Executive, for a further period of training. At the same time a critical public opinion will be formed, at least among those enfranchised, by periodical elections and the publication of debates. In this fashion, Great Britain hopes to improve on its Roman predecessor: *Tu regere imperio populos, Romane, memento* (Remember, Rome, to bring nations under an imperial rule). But it is Britain's claim to put the world of its Empire to school, and teach it to administer its own laws.

The colonial, nationalist view is, naturally, somewhat different. The 'orderly advance' of colonial subjects under Imperial tutelage becomes, to him, a skilful retreat by the Imperial power before the demands of an awakened people. If there is a constitutional design in the working out of British colonial policy, why, it is asked, is it not possible for Britain to date, however approximately, its progress and conclusion, as the

United Nations did for Libya, and Britain itself was forced to do for India and the Soudan?¹ It is noted, too, that at the critical stage of legislative and executive responsibility, the idea of Reserved Powers is introduced, perhaps in the hope of prolonging Imperial control;² that, in West Africa, the economic difficulties of the 1930s were made to justify a period of political stagnation which ended only with the impact of a second world war; and that each constitutional change, while it increased the degree of power in local hands, has also tended – by conceding less than was demanded – to divide (and therefore weaken) nationalist groups into the moderate collaborators and the extreme radicals.

It is not yet possible to pass a final judgement. Yet self-government – or, at least, a substantial proportion of it – *has* arrived in the West African colonies; and all four countries have evolved along Crown Colony lines, from the early Legislative Councils with their unofficial minority of part-elected, part-nominated members in the 1920s, to the three quasi-Cabinet governments of the 1950s.

These changes, with local variations, could be paralleled in other parts of the colonial Empire: in the West Indies, for example, where Trinidad has moved towards self-government along lines very similar to those in the Gold Coast. But the earliest trail was blazed by Ceylon: and just as the Durham report marks the turning point in the evolution of the older Dominions, so the Report of the Commission under the Earl of Donoughmore may be said to have opened a similar path towards independence for the Crown Colonies.³ For this reason, it is worth examining in some detail.

1. Recently, such a policy has been adopted for West Africa, starting in 1953, when the British Government accepted 1956 as the year in which self-government within the competence of the Regional Governments would be granted to any of the four Regional Governments in Nigeria which asked for it. The Ghana Independence Bill (see Appendix IV) was also drafted in terms of an 'appointed day' – March 6th, 1957. In November 1956, a new constitution providing for full self government within the Commonwealth by August 1957 was promised to the Federation of Malaya.

2. These powers normally include that of veto (the power to deny measures approved by the Assembly) and certification (the power to declare as law measures unacceptable to the Assembly). In addition, the Governor may be instructed to reserve certain bills for approval by London.

3. *Ceylon. Report of the Special Commission on the Constitution* (Cmd. 3131, 1928).

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THE DONOUGHMORE REPORT

The Donoughmore Commission was sent to Ceylon in 1927 to report on the working of the 1924 constitution – the equivalent of the 1946 Burns and Richards constitutions in the Gold Coast and Nigeria. The Commissioners (there were four of them) found a Legislative Council with a majority of 37 unofficials and a minority of 12 officials, and an Executive Council largely in official hands. This constitution had been the result of considerable agitation stretching back to the middle of the nineteenth century. As a 'representative' stage of Crown Colony government it formed an obvious parallel with the pre-Durham constitutions in Upper and Lower Canada. Legislative power had been conceded, under certain safeguards, to elected representatives; but the official executive was beyond their control. As if to emphasise the rigid separation of the elected Legislature from the Executive, the three members appointed to sit in training on the Executive had at the same time to vacate their seats on the Legislative Council.

The Commission pointed out that the unofficials on the Legislative Council, being in a position of 'power divorced from responsibility', had been confronted with a difficult choice. They could have accepted the constitution in good faith and cooperated with the Executive; but, in doing so, they might have forfeited the support of a growing nationalist opposition in the country. This was the attitude, with exceptions, taken by the unofficials – chiefs and urban representatives – of the West African 1946–7 constitutions, who were discredited and swept away by the mass nationalist movements of 1950–1. The alternative was to adopt a position of permanent and destructive criticism; and, in Ceylon, the unofficials moved to the offensive. They launched what the Donoughmore Commission called 'continuous and irresponsible attacks on the members of the government, collectively and individually'. It became the practice for Heads of Departments, when brought before the Legislative Council or its committees, to be treated as 'hostile witnesses'.

Perhaps the Commission exaggerated. It described the 1924 constitution as 'an unqualified failure'. Sir Herbert Stanley, Governor between 1927 and 1931, preferred the expression a 'qualified success'. But, as the Commission pointed out, the only 'training they [the unofficials] received was in political tactics'. To let the unofficial

members loose on the Executive without the possibility of their being able to defeat the government, or being called upon to make good their criticisms by having to translate them into the programme of a party ministry, reproduced most of the faults of the old representative system in Canada. The Governor had his reserved powers: but their frequent use would have put Ceylon back, constitutionally speaking, to the period before 1920. Naturally the Governor was reluctant to do this; it might have provoked widespread disorder.

The Commission concluded, like its more famous predecessor in Canada, that the only acceptable solution was to go forward, and reunite power with responsibility. It proposed, therefore, to 'transfer to the elected representatives of the people complete control over the internal affairs of the Island'.

The Commissioners differed, however, from Durham in the matter of safeguards. Instead of isolating from local control a number of 'Imperial' subjects, which should continue to be the responsibility of the Governor, the Commission believed that something more was needed. It insisted that the transfer of executive control must be subject to 'provisions which will ensure that [the elected representatives] are helped by the advice of experienced officials and to the exercise by the Governor of certain safeguarding powers'. As a result, the Donoughmore constitution of 1931 introduced the (now familiar) mixture of ex-officio and representative Ministers. The Governor was confirmed in his reserved powers; External Affairs, Finance, and Justice were entrusted to the ex-officios, known as 'Officers of State', and the remaining departments of government were divided between seven Ministers drawn from the newly elected Assembly.

At this point, however, the new constitution made an abrupt departure from British Cabinet practice. With the exception of the Officers of State, the Commission proposed to merge the Executive with the Legislature through a number of Committees. At the beginning of each session after 1931, therefore, the State Council, as the reformed Legislative Council was called, divided itself into seven standing committees, each responsible for the management of different departments of government. Each committee then elected from amongst its members a Chairman, and the seven Chairmen, with the three Officers of State, formed a Board of Ministers, which replaced the old Executive Council. These committee chairmen, or Ministers, were collectively

responsible only for the annual budget estimates to the State Council, which had of course already helped to decide government policy in its seven committees. The Officers of State remained individually responsible to the Governor, and were not within the State Council's power of removal.

These particular proposals were, to say the least, novel. They were designed to meet not only the particular problem in Ceylon of communal conflict, but also the general constitutional difficulty arising in the transition from an elementary stage of Crown Colony government to the position of semi-responsible government. The system was not liked by the unofficial members of the old 1924-31 Legislative Council and was approved by them only by a narrow majority. But although it proved difficult to work in Ceylon and possibly hampered the formation of a clear party system there, it may have a relevance in smaller colonies such as the Gambia, where the size of the electorate, and therefore, of the Legislature, might make a mockery of the machinery of Cabinet government.¹ Thus the 1953 Consultative Commission for the Gambia recommended the setting up of advisory committees of government, to include not only the proposed two Ministers but members of the Legislative Council; and it suggested that such Committees might include the relevant Heads of Departments and, if required, members of the public. These committees were introduced in a modified form in 1954; but they have not functioned exactly as the Commission recommended.

The Donoughmore Commission was important in another respect. Not only did it recommend a form of responsible government for a non-British colonial territory some years before the 1935 Government of India Act; it also proposed, and got accepted, sweeping measures of electoral reform. The existing system of communal representation was deliberately abolished; and a straightforward system of adult suffrage, without distinction of sex,² race, religion, or nationality, without any property qualification, and regardless of the high proportion of illiteracy, was for the first time introduced in an Asian country. Under the

1. Just as a party system of government needs a large and varied electorate functioning as a reservoir of public opinion from which the different parties draw their strength, so an effective Cabinet system requires a similar broad front of opinion in the Legislative body on which it must rest, or fall.

2. Except that women could not vote until they were 30 years of age.

1924 constitution, approximately four per cent of the population was entitled to vote. The Commissioners' recommendation increased this more than ten fold.

The subsequent achievement of complete independence by Ceylon may be briefly recounted. Continued petitions by the State Council brought a promise by the British Government in 1943 of 'full responsible government' after the war. In the meantime the State Council drafted proposals for a new constitution which were examined and substantially accepted by a new Commission in 1944-5 under Lord Soulbury.¹ A White Paper was then issued by the United Kingdom which modified the Commission's proposals, and this was accepted by 51 votes to three in the State Council. The result was the Ceylon (Constitution) Order in Council of 1946, which, after a long period of delay, gave Ceylon full internal responsible government, with a Prime Minister and Cabinet 'charged with the general direction and control of Government', and collectively responsible to a Senate and popularly elected House of Representatives.

The Soulbury constitution lasted only a few months. Senanayake, Ceylon's first Prime Minister, had already arrived in London in the middle of 1947 for further discussions with the British Government, and in November the United Kingdom and Ceylon Governments jointly signed three Agreements; regulating matters of common interest between the two countries, concerning defence, Commonwealth relations, and the Ceylon Public Service.² Finally, in December, the Ceylon Independence Act was passed in the Imperial Parliament. This, with the Ceylon Independence Order in Council, removed the last restrictions on Ceylon's autonomy in legal phrases similar to those of the 1931 Statute of Westminster. The Act became effective on 4 February 1948.³

The importance of the Donoughmore and Soulbury Commissions,

1. *Report of the Commission on Constitutional Reform*, Cmd 6677 (H.M.S.O., 1945). The Ministers refused to give evidence in public before the Commission but were consulted privately by Lord Soulbury. See Sir I. Jennings, *The Dominion of Ceylon* (Stevens, 1952), p. 45.

2. The Defence Agreement provided for mutual defence against aggression and gave Britain the use of army, naval, and air bases on the Island. Secondly, Ceylon agreed to adopt and follow decisions of past Imperial Conferences; the third agreement safeguarded the future of expatriate civil servants in the Ceylon public administration.

3. See Appendix II.

however, goes deeper than the particular pattern of constitutional machinery which each recommended. Both believed that the principles behind British Parliamentary rule, including the operation of an adult suffrage exercised through a secret ballot, were as suitable for a Crown Colony of non-British origin as they had proved in the settled colonies in North America and the Pacific. The exact form which these principles might take could vary according to local conditions, even to the extent suggested by the Donoughmore Commission. But in general, the recommendations of both Reports were based on a confidence in the virtues of modern Parliamentary government for application in any part of the world. Given the movement of Ceylon towards the independence of Dominion status, there was no reason why Ceylon should not be followed, in time, by the African and West Indian dependencies.

INDIRECT RULE IN AFRICA

Nevertheless, during the period when the Donoughmore Commission was examining the application of parliamentary government to Ceylon, a whole school of opinion opposed its extension to tropical Africa, on the grounds that the vast majority of African peoples, being illiterate and remote from Western ways, could not be expected to understand, nor therefore to operate, the modern machinery of parliamentary government. Their answer was Indirect Rule.

On this view, it was possible to concede a limited form of franchise, for elected councils in the towns, where a minority of educated Africans, partly separated from the greater numbers of the interior tribal peoples, were attempting to build a western-type African society. But elsewhere, it was argued, the ideal, and the most practical, policy would be to adjust the traditional institutions of tribal society to the general framework of Crown Colony government, which should act as the over-all trustee of native welfare. In this way, the necessarily autocratic exercise of power by the colonial government would be tempered and transmitted indirectly, through well understood, familiar organs of local administration. In time, such a system of administration might evolve slowly into a uniquely African form of national government. 'African self-government as it grows must be African: it must be a thing which is *sui generis*: it cannot be a mere imitation and a watery copy of European methods.'¹

1. E. Barker, *Ideas and Ideals of the British Empire* (O.U.P., 1942), p. 151.

There was a tendency therefore to see Crown Colony government and Indirect Rule administration as complementary. The powers of the Emir or Paramount Chief were confirmed by Ordinance, and institutionalized through local Courts and Treasuries. In Northern Nigeria especially, but elsewhere also, British administration became the highest point in the existing pyramid of power – much as, in India, the British settled down as an additional, and superior, caste group. Where there existed a developed form of controlled autocracy, as in Ashanti and among the Yoruba and Timne chieftaincies, British administration attempted to cloak it with official support. The most able practitioner of this form of colonial government was of course Captain, later Lord, Lugard, who became profoundly interested in the problem of fusing old and new forms of government in Africa. Faced with the need to find trustworthy agents in Northern Nigeria through whom British power might be exercised, Lugard erected the practice of reliance on local authority into the quasi-philosophy of Indirect Rule.¹

The system was simple, efficient, and cheap; and it provided the colonial theorist with an argument of Empire for which the new study of anthropology found ample support. Allowing for its naivety, there is something to be said for the mixture of common sense and idealism which underlies the theory of Indirect Rule. But it had several defects in practice.

To begin with, it was difficult to link Indirect Rule administration with the process of constitutional change at the centre. Once Legislative and Executive Councils were established in the capitals there was naturally a tendency – especially on the part of the educated leaders of the towns – to expect them to evolve farther into a pattern of national government. On the other hand, governments found it logical to follow Indirect Rule principles when considering the introduction of representative government at the centre. Thus when arguments for greater elective representation were put forward by nationalist organizations such as the National Congress of British West Africa in the 1920s, they were at first rejected as irresponsible. According to Sir Hugh Clifford, Governor of Nigeria from 1919 to 1925, it was farcical to suppose that . . . continental Nigeria can be represented by a

1. See F. D. Lugard, *The Dual Mandate in Tropical Africa* (London, 1922).

handful of gentlemen drawn from a half dozen coast tribes . . . whose eyes are fixed, not upon African history or tradition or policy, nor upon their own tribal obligations and the duties to their Natural Rulers which immemorial custom should impose upon them, but upon political theories evolved by Europeans to fit a wholly different set of circumstances, arising out of a wholly different environment, for the Government of people who have arrived at a wholly different stage of civilisation.¹

Then who was to represent Nigeria at the national level? The urban communities so disparagingly described by Clifford in 1920 were given a minor place on the Legislative Council of the colony in 1922. A solution was also sought through some form of election upwards from the Native Authorities. In the reforms of the 1920s and of 1946, the unofficials were, in the main, drawn from grouped N.A.s. This was especially true of the Richards Constitution of 1946 in Nigeria, under which Regional Councils, elected from the Native Authorities, were deliberately designed to act as a bridge between them and the central legislature.²

Such attempts however had to be abandoned. And Indirect Rule itself has to-day been dropped as a policy for local government for fairly obvious reasons. Even at its best, it often supported only the outward forms of tribal rule – the chief and a narrow circle of advisers or whoever was thrust forward as such by the community – rather than the genuine tribal institutions of government, which were hardly understood by British administrators in the early days. Far from making use of local materials of government, they were often building in the dark on unknown foundations. This was in sharp contrast to the Donoughmore and Soulbury recommendations. For, as Lord Soulbury commented: 'in recommending for Ceylon a constitution on the British pattern, we are recommending a method of government we know something about, a method which is the result

1. Quoted in J. Wheare, *The Nigerian Legislative Council* (Faber, 1950), p. 31.

2. Cf. the Gold Coast constitution of 1925, based on the Provincial Councils of Chiefs in the Colony, and that of 1946, which included representatives from the Ashanti Confederacy Council. In Sierra Leone (November 1951), members from the Protectorate were returned to the Legislative Council from Native Authorities grouped into District Councils and a Protectorate Assembly. A similar practice was followed in the Gambia in 1947 and 1951.

of very long experience, which has been tested by trial and error and which works and, on the whole, works well.¹

To talk, therefore, of encouraging the growth of a purely African form of government with the help of a hierarchy of British officials was always to strain local credulity to breaking point. What tended to happen was the distortion of traditional institutions through the separation of the Chief and his elders from the main body of 'young men', who began to seek other channels of expression for their opinions, and different centres of loyalty for their affections.

This tendency was emphasized by a failure to take proper account of economic and social changes. Indirect Rule attempted to underpin the power of traditional authority during the period between the two world wars, when economic forces were bringing into existence new social groups which could find no room within the traditional structure of society.² There was no attempt to give Indirect Rule economic roots, to make the Native Authorities, for example, centres of co-operative agriculture and marketing. At best, the colonial governments kept the peace, thereby robbing the Chief of one of his most important pre-British functions, as the war leader; and they administered laws, which called into question the ability of traditional authority to provide an adequate or efficient or even an honest system of local justice.

The cleavage between traditional authority and the 'commoner' persisted. And it had a peculiarly unfortunate effect on constitutional development at the centre. The idea of 'training for self-government', during the evolution of Crown Colony government, implies two basic assumptions: first, when the Legislative Council is nominated, that the Colonial Government knows best who should be trained for political power; and then, when the Legislative Council is elected, that the choice of the electorate – usually a limited group of voters at first – will remain constant throughout the different stages of self-government. These assumptions are never certain to be valid. But the policy of Indirect Rule almost ensured that they would not be so.

This is illustrated very clearly by the example of the Gold Coast between 1946 and 1951. By drawing heavily for membership of the Legislative Council on semi-traditional bodies, the 1946 Burns Consti-

1. Cmd. 6677, para. 408.

2. See Lord Hailey, *Native Administration in the British African Territories* (H.M.S.O., 1951), Part III, p. 255.

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tution became incapable not only of meeting but even of reflecting the growing nationalist discontent of the post-war years. By 1949-50, there was the danger, because the constitution had been tied so closely to the conservative institutions of Indirect Rule, that the radical, popularist Convention People's Party would reject not only the existing constitution but the entire framework of legal and administrative machinery built up since the beginning of British rule.

There was a further disadvantage which resulted from Indirect Rule policies. Because the N.A.s excluded, in the main, the educated young men, the latter found it difficult to find expression for their views except through voluntary associations and youth groups. When they later came into the Legislature on a popular vote, they lacked experience. For example, of the members of the government party in the 1951 Gold Coast Assembly only one had sat 'in training' on the 1946-50 Legislative Council, for only a few months.¹ Moreover, because the 1950 constitution still embodied a Janus-like mixture of traditional and popular members, the party found itself in a minority in the new Assembly despite an overwhelming victory at the polls.²

A similar division threatened to paralyse constitutional reform in Sierra Leone between 1947 and 1951, where an early antagonism between the Protectorate and the Colony was deepened by the policy of allowing Indirect Rule administration in the Protectorate to exist side by side with an early, limited form of electoral representation in Freetown and the rural Colony area. It was fortunate that, both in Sierra Leone and the Gold Coast, a long tradition of constitution-making in the coastal colonies had established a useful continuity, not of legislators, but of the machinery of legislation, which the C.P.P. and the more sedate Sierra Leone People's Party realized could be adapted to their own ends.

Indirect Rule had found its earliest and most permanent home in the Islamic, feudal North of Nigeria; but its essential localism bequeathed an unhelpful legacy of division in the country as a whole. The three - now four - Regions grew up administratively divided, and remained

1. By contrast, the Prime Minister of Ceylon, Bandaranaike, was an elected member of the Colombo municipal council in 1927, a member of the State Council in 1931 under the Donoughmore constitution, Minister for Local Administration in 1936, and Minister of Health and Local Government, 1947-51.

2. The 1951 Assembly was made up of 3 ex-officio members, 6 commercial and mining members, 37 traditional members, and 38 elected members.

politically separate. It is true that both geographically and in history Nigeria is a fortuitous, artificial unit. But so are the Regions themselves. The idea of national unity, which the London and Lagos conferences of 1953-4 tried to clothe in constitutional dress,¹ may have been the product of colonial administration. But so were the strong regional loyalties, that led to the breakdown of the 1951 semi-federal constitution, and forced the principle of division to be admitted in the central House of Representatives and even in the federal Council of Ministers. There was always a hidden conflict, a constitutional tug-of-war, between Indirect Rule – which tended to accentuate differences within and between Regions – and the developing system of Crown Colony Government – which, in the reforms of 1922-54, had to reconcile such conflicts at the centre.

To-day, however, the wheel of colonial policy has turned full circle. Tradition is now on the defensive, and the main weight of British policy is behind the once despised 'youngmen' of the nationalist parties. In Northern Nigeria, tradition has learned to equip itself with modern weapons, in the formidable organization of the Northern People's Congress. Similarly, in the Gold Coast, the Northern People's Party and the National Liberation Movement are parties of the Right which attract considerable support from the Chiefs. Of the radical organizations, only the Action Group, in Western Nigeria, and the Sierra Leone People's Party have so far managed to forge an alliance with the Chiefs.

Thus the period of Crown Colony rule is virtually over; and Indirect Rule is dead. It has been acknowledged, with varying degrees of willingness or reluctance, that self-government implies the kind of liberal Parliamentary system, based on the ballot box and a wide suffrage, to be found throughout the Commonwealth (although not in South Africa). To this extent, it may be said that the theory of assimilation, applied in the late eighteenth and early nineteenth centuries in Canada, has again borne fruit both in Ceylon and the former Crown Colonies of West Africa.

1. The 1954 constitution provides for a federal parliament of 184 elected members, 92 from the North, 42 from the West, 42 from the East; with 6 from the South Cameroons and 2 for the Federal Territory of Lagos. The Central Council of Ministers consists of 10 Ministers, three from each Region and one from the Cameroons. There are, in addition, Regional Legislatures, bicameral in the North and West, unicameral in the East and in the Cameroons.

Independence Within the Commonwealth

THE Commonwealth did not stand still after the Statute of Westminster. Having set themselves firmly on the road to national independence, the member countries moved further and further in the direction of greater freedom of association. The outbreak of the war in 1939 brought remarkable proof of the strength of Commonwealth ties; but, like its predecessors, it had a profound effect on Commonwealth relations. This was shown by a number of changes in the legal and constitutional position of the Dominions, some fundamental.

One of the first victims of the war was the curious doctrine of the indivisibility of the Crown, which implied that a Dominion had no right to secede from the Commonwealth. The idea of a common binding allegiance had been solemnly enunciated in the Balfour Declaration; and it formed part of the preamble to the 1931 Westminster Statute, though it was not mentioned in the clauses. Before 1939, allegiance and Commonwealth membership were often held to be inseparable, and the argument was sometimes heard that the Dominions were not, therefore, individually – or unilaterally – free to secede – an assertion that was always sure to arouse nationalist sentiment in South Africa and the Irish Free State to the point of frenzy.

It was argued, too, that the Crown could not be expected to receive separate, possibly conflicting advice from each of its several Prime Ministers on fundamental issues of foreign policy. If the Crown was 'one and indivisible', and at the same time the symbol of Commonwealth unity, neither in logic nor in practice did it seem possible for the King to be divided in his actions, as King of each of his Dominions. How could the Crown be at war with a foreign Power in one capacity, and at peace with the same Power in another? Therefore, it was argued, in the last resort the Commonwealth must have a collective unity. And, at least in external policy, there must be a 'Commonwealth policy' of sorts, which, it was hoped, would be hammered out (or arise spontaneously) from regular conferences and discussions between the several Commonwealth governments.

The war swept these arguments into oblivion. In contrast to 1914, it was left to each individual Dominion Government, in 1939, to advise the King to declare war on its behalf. As a result, His Majesty's Government in Great Britain was at war with Germany from 3 September, but the Canadian Government (through its High Commissioner in London) did not advise His Majesty to declare war on behalf of Canada until 10 September.¹ Eire decided to remain neutral throughout the course of the war, but continued to be associated with the Commonwealth and linked in its external relations with the Crown until 1949. In this way, the Crown was divided in its external policy in the gravest sense possible, in the declaration of war, and in its relations with foreign Powers. This royal multiplicity was accepted and made plain at the Coronation in 1953, when there was a significant change in the Royal Style and Title. Queen Elizabeth became seven times Queen. In Great Britain, for example, Her Majesty is 'Elizabeth the Second, by the Grace of God of the United Kingdom of Great Britain and Northern Ireland, and of her other Realms and Territories, Head of the Commonwealth, Defender of the Faith, Queen'. But in Ceylon, the Queen is 'Elizabeth the Second, Queen of Ceylon and of her other Realms and Territories, Head of the Commonwealth'. A similar Style and Title, but with individual variations, was repeated for each of the remaining Commonwealth sovereign member states, India being omitted.²

Already, however, more fundamental changes had taken place. Following the war, Burma decided in 1947 on independence outside the Commonwealth, thus ceasing to pay allegiance to the Crown. In the same year, the number of Dominions was increased by the passing of the two Acts of Independence for India – including the new nation state of Pakistan – and Ceylon. From an association of largely British and European settled countries the Commonwealth became a multi-racial as well as a multi-national community. The enormous advantage which this enrichment of Commonwealth membership brought was, however, accompanied by a further stress on Dominion sovereignty

1. The Governor-General of South Africa, acting on the advice of his Prime Minister, Smuts, issued a Proclamation declaring war on 6 September. Australia and New Zealand entered on the 6th, the Australian Prime Minister stating that if Great Britain was at war, then so too was Australia, while the New Zealand Government asked that of Great Britain to declare war on its behalf.

2. The titles are printed in N. Mansergh, *Documents and Speeches on British Commonwealth Affairs* (O.U.P., 1953), Vol. II, pp. 1293-4.

and 'separateness'. The Commonwealth might expand, and adapt itself, to include the three Asian Dominions; but the Indian and Pakistan governments, in the early months of their membership, found it difficult not to regard the Commonwealth and the Crown still through nationalist colonial eyes.

Thus, in 1949, an earlier dislike of the imperial splendour of the Viceroyalty in India found late expression in the Indian government's decision to adopt a republican form of constitution. Although the effect of this was to remove a majority of the people of the whole Commonwealth from their allegiance to the Crown, the practical effect was slight. A special meeting of Commonwealth Prime Ministers in London, in April 1949, agreed that India's position as a full member of the Commonwealth would remain unchanged.¹ At the same time, Pandit Nehru was prepared to soften the blow. The Government of India, in the joint communiqué which was issued after the Prime Ministers' meeting,

declared and affirmed India's desire to continue her full membership of the Commonwealth of Nations and her acceptance of the King as the symbol of the free association of its independent member nations, and as such the Head of the Commonwealth.

This curious and equivocal position was adopted by Pakistan in 1955, and may be followed by the South African and Ceylon Governments.

During these years of recovery and adjustment after six years of war, the older Dominion Parliaments, by a number of small advances, also put an end to some of the limitations on their sovereignty which remained under the Statute of Westminster. The Australian government, for example, adopted the 'independence clauses' of the Statute (under Section 10) as early as 1942.² New Zealand followed in 1947; and at the same time requested the British Parliament to empower New Zealand to amend its constitution without future reference to the Imperial Parliament.³ In similar fashion, the British North America

1. See Appendix III. The Republic of India was inaugurated on 26 January, 1950.

2. See p. 66, and Appendix I. Australia backdated its application to the beginning of the war.

3. This was done under the New Zealand Constitution Amendment (Request and Consent) Act, 1947. See K. C. Wheare, *Statute of Westminster* (O.U.P., 1949), Appendix VI.

Act of 1949 authorized the Canadian federal government to amend the federal constitution of Canada, although still only 'in relation to matters which are solely within the jurisdiction of that Parliament'. This left untouched the 'rights and privileges' of the Provinces, the equality of the French and English languages, religious safeguards and the normal term of life of the lower House of Legislature. Newfoundland, on the other hand, gave up its independence, by becoming in 1949 the tenth province of the Dominion of Canada, a somewhat melancholy close to the history of the oldest British colony.¹

This renewed emphasis on the sovereign independence of the Dominions in the decade between 1939 and 1949 had a special advantage in the field of international relations.² Before the Second World War it had not always been possible, and never easy, to convince foreign powers, and especially the United States, of the independent status of the Dominions. But the part played by the Dominions during the war and, above all, the Independence Acts of 1947 which established the three new Asian Dominions inevitably impressed the outside world more than the quiet evolution of the 1931 Dominions had been able to do. Now the Dominion countries were everywhere recognized as sovereign states. Canada was approaching the stature of a 'small Great Power'. The new Republic of India was beginning to play an important world role, both as the leading nation of non-Communist Asia and as the 'interpreter' between Asia and the West. Even where there remained voluntary limitations on the legislative or judicial autonomy of one or other of the Dominions; or on its responsibilities for national defence, these in no way affected the international sovereign status of the Dominion, either within the Commonwealth, or in the world at large.

By 1949-50 it was therefore at last clear that the Dominions were, beyond argument and doubt, equal members of the Commonwealth

1. Excluding Ireland. Newfoundland became a self-governing Colony in the nineteenth century, and was listed as one of the six Dominions of the first clause of the Statute of Westminster. In 1933, financial difficulties led Newfoundland to surrender its Dominion status and accept a Commission Government of British and Newfoundland appointed members. After the war, a plebiscite narrowly decided in favour of joining Canada.

2. Even the word 'Dominion' itself tended to fall into disfavour in preference to the expression 'Commonwealth member' or 'member state'; and in July 1947 the Dominions Office changed its name to Commonwealth Relations Office.

with Great Britain, possessing all the rights of sovereign states and joined in the loosest of voluntary associations.

Such will be the position of the West African countries immediately upon independence. Existing restrictions, such as the right of the British Government to delay or disallow bills of the West African legislatures, to exercise control through Reserved Powers, or to legislate by Order in Council, will disappear under an Act of Independence, of which the main clauses will be based on Sections 2-4 of the Westminster Statute. The Governor will assume the title of Governor-General, but will exercise no greater powers than he is allowed under the Constitution Act. The original instrument of these changes will, of necessity, be the United Kingdom Parliament, but with the promulgation of a Nigerian or Gold Coast or Sierra Leone Act of Independence, the new Dominions will be entirely responsible both at home and externally for their national affairs.

These are the negative attributes of Commonwealth membership: no ties, no commitments, no obligations, no trace of imperial control or subordinate colonial status. But if this were all, it would be very little. What, then, are the positive qualities of Commonwealth membership, the attraction which holds together in association South Africa and India, India and Pakistan, the United Kingdom, Australia, New Zealand, Canada, and Ceylon?

Something perhaps should be said first of the voluntary restrictions which some of the Commonwealth countries have placed on their autonomy. They do not concern the Commonwealth as a whole, and they are possible because of the past imperial relationship between the Dominions and the United Kingdom. But they are interesting examples of the way in which the Commonwealth countries have been able to combine the best of both worlds - to attain the status of sovereignty without losing altogether the advantage of their former imperial connexion. They may have too a special constitutional interest in West Africa at the present time.

There is firstly the question of constitutional change after independence. This may be approached in different ways. It may be that, as in Great Britain itself and in New Zealand, no problem will be held to exist and, therefore, no distinction drawn between ordinary legislation and bills purporting to amend the constitution. Or, it may be that a distinction will be made, but not one which involves any derogation

of the national sovereignty of the Dominion Parliament. The 1909 Constitution Act of the South African Union, like the 1947 Ceylon Independence Act, for example, imposes still a two-thirds majority on both houses of legislature in each country before constitutional amendments which might affect certain minority interests can be made. Similar provisions protecting regional interests appear in the 1957 Constitution of Ghana.

A third possibility, however, would be to make direct use of the historical tie with the United Kingdom. The machinery of change can be left still in British hands, by means of provisions in the Independence Act establishing the new Dominion similar to those of Section 7 and 8 of the Statute of Westminster. Amendments can then be made only following a 'request and consent' petition to the United Kingdom Parliament, which has to introduce an 'enabling bill' giving the Dominion Parliament the necessary powers to alter the terms of its constitution. It is a clumsy procedure perhaps, at times embarrassing to the United Kingdom Government, but possibly useful as an interim measure immediately after independence, as a salve to bitter local particularism, or a safeguard for local minorities fearful of their rights.¹

The question of the right of appeal forms a parallel to that of constitutional amendments. Since 1844 the Judicial Committee of the Privy Council, which to-day includes judges from the Dominion countries where the right of appeal still exists, has had statutory power to hear appeals from Dominion and colonial courts. Appeals are of two kinds:

1. On the other hand, the Government of an independent Nigeria or Ghana in the future may consider that even to owe its independence to an Act of the Imperial Parliament implies a slight to its national dignity. It can then enact the constitution itself, either as first set out in the Independence Act, or in an amended form through its National Assembly or some special representative body convened for that purpose. Such a step was taken by the Union of South Africa in 1934, a quarter of a century after its first foundation. The Irish Free State constitution of 1937 was first approved by a plebiscite and then enacted in the 'name of the most Holy Trinity' (a literal interpretation of the belief *vox populi vox dei*). In somewhat similar fashion, the Constituent Assembly in India attempted to remove the 1947 Imperial basis to India's independence by prefixing the text of the 1950 constitution with a preamble stating: 'We the people of India, having solemnly resolved to constitute India into a sovereign democratic republic . . .' etc. In this way, India can claim that its constitution rests not only on the authority of the elected Constituent Assembly but on the sovereign will of the people: a harmless concession to nationalist sentiment.

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'of right', as admitted by the constitution of the Dominion; and 'by special leave' of the Committee itself, again if allowed by the constitution. In 1926 the Imperial Conference stated 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 part of the Empire primarily affected'; and the 1931 and 1947 Acts empowered the Dominions to abolish the right of appeal whenever they wished.

Not all the Commonwealth countries have used this power. Appeals of both kinds lie from the Supreme Court of Ceylon and from New Zealand; not, however, from India, Pakistan, and South Africa; and in a limited degree only from Canada. In Australia, appeals are allowed from the High Court only 'by special leave' (and in constitutional cases only with an additional certificate of permission from the High Court itself), but as 'of right' from all the States' courts.

A similar variety of choice will confront the independent West African governments. The advantages and disadvantages are, broadly speaking, as follows. On the one hand, the Committee is an impartial, authoritative tribunal, detached from local controversies and prejudice, which has great practical experience. On the other, appeals to it may mean inconvenient and expensive delays, and it may be argued that the existence of such a right of appeal from West African courts reflects discredit on, and implies the inferiority of, the Supreme Courts in Freetown, Lagos, and Accra, and of the West African Court of Appeal.¹

Before turning to the more concrete benefits of Commonwealth association there are two further points of constitutional interest (and advantage) which will bear on the internal national life of the West African countries, if they decide to remain within the Commonwealth and are accepted as independent member states. These are, the question of the Head of State of the new Dominion, and the intricate question of Commonwealth and Dominion citizenship laws. Neither affects the independent status of the Commonwealth countries; both however show the ability of the Commonwealth to adapt itself to

1. The 1956 Gold Coast *Proposals for Independence* stated: 'The West African Court of Appeal will cease to exercise jurisdiction in the Gold Coast' (Section 31). 'It is intended to retain the powers of the Judicial Committee of the Privy Council' (Section 33).

changing needs without wholly surrendering common interests and practice.

In former years, the Head of State in each of the Dominions was the appointed representative of the Crown, with the title of Governor-General. It was laid down by the Imperial Conferences of 1926 and 1930 that the Governor-General should hold the same relation to his Cabinet in the Dominion as the King did to the United Kingdom Cabinet; and that his appointment should be a matter lying solely between the King and the Government of the particular Dominion concerned.¹ This emphasized a position already well established in practice – despite the curious attitude adopted in 1926 by Lord Byng as Governor-General in Canada² – that the Head of State in a Dominion should occupy a formal rather than an active role within the constitution.

This comparison between the Governor-General and the Queen in the United Kingdom still holds good, despite the remarkable turn of events in Pakistan in 1953, when the Governor-General of Pakistan (still acting under powers of the old 1935 Government of India Act) dismissed his Prime Minister; and then in September the following year dissolved the Assembly (which was also a Constituent Assembly), when it passed an Act attempting to deprive him of most of his powers. These are actions which it is difficult to imagine the Queen taking in the United Kingdom. Nevertheless it is probably still true to say that the position of the Governor-General, although modified by usage and interpretation separately in each of the Commonwealth countries as occasions arise, is always likely to approximate to that of the Sovereign whom he represents. This is certainly so in the older Dominions and in Ceylon. On 6 March 1957, Sir Charles

1. In respect of the kind of person appointed, the practice has varied. Both before and since the war, the Canadian and New Zealand Governments tended to advise the appointment, where possible, of members of the Royal Family or distinguished military figures. The Australian Government, in 1947, looked nearer home and recommended a former State premier, McKell, who was until his appointment an active politician. In South Africa, it is usual to appoint a person of South African descent and nationality. The Governor-General of both Ceylon and India, immediately after independence, was the former Colonial Governor and Viceroy – Sir Henry Monck-Mason-Moore – in Ceylon, and Lord Mountbatten in India. Somewhat surprisingly, Jinnah, leader of the Moslem League party, became Pakistan's first Governor-General.

2. See p. 63.

Arden-Clarke, the last Governor of the Gold Coast, became the first Governor-General of Ghana.

The uniformity of the Commonwealth nations in this respect was abruptly broken in January 1950. The constitution of the Republic of India abolished the office of Governor-General, and replaced it by that of a President, chosen by an electoral college to be elected from the central Parliament and from the lower (or single) House in each of the States. If the title and sentiment of a Republic appeals to Nigerian or Ghana nationalists, something along the lines of the Presidency in India will have to be established, with active and formal powers determined in detail by the constitution. But this does not mean any major departure from the practice of British parliamentary government, which all the Commonwealth governments have in common. And in India at least, in practice if not on paper, 'new President seems to be but old Governor-General writ large'.¹

The concept of Commonwealth citizenship has changed radically since the Second World War. Before 1939, there was, broadly speaking, a common status – that of a British-born subject – throughout the Commonwealth, based on the 1914–33 British Nationality and Status of Aliens Acts. The Dominion Parliaments could, and did, pass legislation defining the status of their own *nationals*. But it was agreed at the Imperial Conference of 1930 that these Dominion nationals should, as far as possible, be persons possessing the common status of British-born subjects; and that any legislation affecting this common status should 'only be introduced (in accordance with present practice) after consultation and agreement among the several members of the Commonwealth'.² In 1948 the British Nationality Act, the result of a conference of legal experts from Commonwealth countries, attempted to reconcile the fact of citizenship in the different nations of the Commonwealth with the idea of a common status of British *subjects*. In the official summary which was attached to the 1948 Bill, it was explained that:

The essential features of such a system are that each of the countries shall by its legislation determine who are its citizens, shall declare those

1. See G. N. Joshi, *Constitution of India* (Macmillan, 1951).

2. Keith, *op. cit.*, p. 215. This was not however done by the Irish Free State Government in 1933, when it repealed the British Acts of 1914–18 in respect of Free State nationals.

citizens to be British subjects, and shall recognise as British subjects the citizens of the other (Commonwealth) countries.

Such a system also enables each country to make alterations in its nationality laws without having first, as under the common code system, to consult the other countries of the Commonwealth and to ascertain whether the alteration would impair the common status.

Thus a person who was born in Nigeria as a British subject, and has since become a citizen of the United Kingdom and Colonies, will – upon independence – be first and foremost a Nigerian citizen; but he will possess as well the common status of a British subject, recognized throughout the Commonwealth by the Nationality Acts of the separate Parliaments. Only in the United Kingdom are national citizenship and Commonwealth citizenship interchangeable, so that a Nigerian citizen, as a Commonwealth British subject, will have all the advantages, in Britain, of a citizen of the United Kingdom. Reciprocal citizenship throughout the Commonwealth is an obvious ideal. But it is not likely to be realized until racial and national attitudes in the Commonwealth countries cease to differ sharply. Until then, the Commonwealth must be content with the limited although still real advantage that, at least, Dominion citizens who also possess the common status of British subjects are not regarded as aliens in the different Commonwealth countries.

Let us now turn to the Commonwealth abroad. One may see, running like a thread through the different aspects of Commonwealth membership, the fact of voluntary association for common ends. It is this that gives rise to the very great advantages of membership to the Commonwealth countries in their external relations, particularly in the important context of 'high policy' – i.e. defence and foreign affairs, and the question of overseas representation. Despite radical differences of opinion and outlook which exist between the Commonwealth governments, there is a large basic measure of agreement over fundamentals. Often, where a major disagreement on policy is apparent,¹ it is over *methods* to achieve a common end rather than the ends themselves. Because the measure of fundamental agreement is tacit and assumed, it would be wrong to believe it is non-existent.

In defence, for example, New Zealand, Australia, South Africa, and

1. E.g. over the Chinese People's Republic which, to date (1957), only Great Britain, Pakistan, and India have formally recognized.

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Canada, like the United Kingdom, have been willing to commit themselves to regional security alliances, such as the North Atlantic Treaty Organization, and the ANZUS pact in the Pacific,¹ both of which are based on alliance with the United States. Pakistan, too, has recently agreed to accept military aid from America, and has joined not only the South East Asia Treaty Powers but a Middle East defensive pact with Turkey and Iraq. The Indian Government has refused such binding alliances, preferring to adopt as far as possible a position of detachment (although not of indifference) to the issues which now divide the world. This has naturally affected Commonwealth discussions. 'It is already an open secret that when conferences of Prime Ministers occur, defence talks do not take place in full session, but are confined to those nations which in fact regard their defence problems as joint and not merely several. In the past, for example, Pakistan has participated, but India has not.'²

Similar contrasts may be seen in defence expenditure. For Canada to spend, as it now does, up to 50 per cent of its federal budget on defence appropriations, within a close-knit system of defence alliances, would have been astonishing before 1939. It would have been unthinkable before 1914. Because Canada is now conscious of its new world position, and convinced that its national life is endangered by Soviet Communism, it is prepared to pay the heavy costs of re-armament. Australia, New Zealand, and South Africa hold similar beliefs. Ceylon and India, on the other hand, argue that the danger from Communism, at least in Asia, is much more an internal threat – resulting from the lowering of living standards, poverty, and social unrest.

But to pursue the example a stage further, these divergent policies stem from a common belief that Soviet Communism is a threat to the peace and stability of all the Commonwealth nations. Nor are the differences so marked as they may seem at first. The Indian government has been quick to react to the implied encroachment of China on India's north-east frontier; it maintains at great expense what is

1. Drawn up on 1 September 1951, and in operation from 29 April 1952.

2. Article in *The Times*, 11 June 1956, by Menzies, Prime Minister of Australia. This sharp division of national attitudes is not new. The Canadian Liberal Government under Laurier, before 1914, was strongly opposed to tying Canada too closely to British and European defence arrangements, and always objected to any move by New Zealand to make the Commonwealth a single defence unit.

probably the most efficient army in Asia (admittedly mainly because of the Kashmir dispute with Pakistan); and its policy of neutrality, like that of the United States between the wars, may be a temporary refuge only from the growing responsibility of leadership which is being thrust upon it.

The main point that emerges is that, although there is no collective line of policy,¹ and although the external relations of each Commonwealth country are conducted according to national interests, there is a high degree of community of interest arising from a common belief in certain values of political and social behaviour. It is this community of interest which enables the member countries to accept the mutual obligation to consult each other before major policy decisions are implemented.² It explains, too, the readiness with which the Commonwealth Prime Ministers have met frequently since 1946 in full consultation together.

How are these considerations likely to affect the West African countries on their entering into full association with the other Commonwealth nations? Independence will place the full responsibility and cost of national defence on the West African governments;³ and it will give them complete control over the conduct of foreign relations, including the appointment abroad of diplomatic representatives. The advantage here of Commonwealth membership lies in the sympathetic and gradual introduction which it offers to the perplexing and often unfriendly world of international relations.

Suppose, for example, the Commonwealth did not exist or the West African countries chose not to remain associated with it. In their external relations, the West African governments would then have to decide between two broad lines of policy. They might enter a comprehensive defence agreement with the United Kingdom, or with the

1. There was, however, a joint Commonwealth Division under the United Nations command in Korea. India sent no troops, but it supported the United Nations resolution condemning North Korea as an aggressor, and sent an ambulance unit to serve with the Allied forces.

2. The sharp disagreement between Commonwealth countries over the Anglo-French intervention in Egypt in October 1956 was intensified by the failure of the United Kingdom Government to respect this obligation.

3. The Gold Coast Government assumed responsibility for its military forces from 1 July 1956. The change-over increased the financial responsibility of the government from £500,000 to £3,190,200.

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United States, and live in the shadow of one or other of the Great Powers. They might, for example, apply for admission into the North Atlantic Treaty Organization (just as Turkey did, though equally far from the North Atlantic), with the lease of air bases and harbours to the United States and the western European powers. Or, they might attempt to limit local defence forces to a minimum, and maintain a difficult, somewhat unreal position of unarmed neutrality in international problems, not unlike that taken by Burma and Eire.

But to adopt either of these positions is to run the risk, on the one side, of domination by one or other of the Great Powers; on the other, of sinking into an international obscurity with, in consequence, the danger of a local stagnation of national life. It would mean, too, that the West African governments would be unable to exercise any influence on world or African problems. Membership of the Commonwealth, however, provides an extremely useful middle path. In defence, for example, the understanding that a threat to one Commonwealth nation would be regarded as an unfriendly act by most if not all of the other member governments may have little immediate practical application – so far as one can see – in West Africa. It is nonetheless an asset abroad, which does no harm and might one day be of use. It is surely advantageous to know that practical help by the United Kingdom, if requested, in the matter of officer training, or expert advice in general, is reinforced by a form of collective security which imposes no obligations and exacts no tribute.

In their external relations there will be the similar advantage to the West African governments of participation on the basis of an acknowledged equality in a world-wide community of friendly nations. The periodical meetings of the Commonwealth Prime Ministers, the exchange of factual information and of ideas and policies, and the frequent conferences at ministerial and official level afford the Commonwealth governments not merely an unrivalled view of international problems, but an opportunity to express national standpoints and thereby to influence events. They add, too, materially to their status – and stature – whether it be the United Kingdom Government, or the government of a small nation such as Ceylon or the Gold Coast, which by itself might go unheeded by the rest of the world.

It is therefore open to the West African governments to refrain from commitments and entanglements abroad, at least in the early years of

their independence, and yet, through their Commonwealth membership, to be able to make their contribution to world affairs. This could be of great importance not only nationally but at a personal level. The West African countries might produce an outstanding statesman who would be able, through his country's membership of the Commonwealth, to find far greater expression for his talents than in the isolation of his own country – or in the impersonal and cumbersome machinery of the United Nations.

Another advantage to the Commonwealth countries in their external relations lies in the network of diplomatic and consular services maintained by the United Kingdom and, in growing number, by the other Commonwealth Governments. The Commonwealth countries accredit abroad their own Ambassadors, Ministers, or *Chargés d'Affaires*, as well as consuls and trade representatives; but the cost is high, in terms both of men and money, for some of the smaller Commonwealth countries.¹

New Zealand and Ceylon, for example, have found it useful to appoint High Commissioners, who since 1948 have had the status of Ambassadors, in Commonwealth capitals; they also have representation in Washington and Paris and wherever trading or regional interests require it. But in other parts of the world they tend to rely on the United Kingdom's Embassies and Consulates. The External Affairs Agreement of 1947 between Ceylon and Great Britain specifically included a clause stating that in 'any foreign country where Ceylon has no diplomatic representative the Government of the United Kingdom will, if so requested by the Government of Ceylon, arrange for its representative to act on behalf of Ceylon' (Art. 4). The Commonwealth countries can, therefore, share the privileges and, to some extent at least, the status of a world power, without the surrender of any part of their national sovereignty.

The economic benefits of Commonwealth membership may be grouped under two or three headings: the preferential treatment which Commonwealth nations afford each other in their trade and tariff

1. The New Zealand Government closed its Legation in Moscow in June 1950, for financial reasons. The Republic of Liberia, in 1951, set aside over one million dollars for its diplomatic and consular services. This sum included \$199,500 (£71,000) for its Embassy in London; \$137,401 in Washington; and \$46,331 for its United Nations permanent representative.

policies; and the existence of the sterling area as a world trading and currency group, and the facility for raising loans in the Commonwealth money markets. The unofficial Commonwealth Relations Conference in Pakistan, in March 1954, was able to record 'a consensus of opinion at the Conference on the usefulness of the sterling area and later in the similarity of views expressed about the principles that should determine commercial and investment policies'.¹

Imperial preference has had a chequered history both in the United Kingdom and the Dominions, having first had to struggle against Free Trade principles in Britain, then to overcome the diversity of national interests between the Dominions and the United Kingdom. A complicated exchange of preferential duties and tariffs was however agreed at the Ottawa Conference of 1932, and these lasted down to the Second World War. After the war, Imperial Preference lost much of its former usefulness. Canada especially was expanding her trade not only within the Commonwealth but with the dollar area. And international conventions such as the General Agreement on Tariffs and Trade (first drawn up in 1947) have been opposed to the extension of exclusive tariffs and preferential duties.

Preferential agreements have never been enforced in Nigeria and the Gold Coast because of international treaties, in particular the Anglo-French convention of 1898, which preserved the Niger basin as an area of international free trade. All four British colonies, however, received preferential treatment in United Kingdom markets. The Ottawa agreements were imposed on Sierra Leone and the Gambia, and, according to Dr Leibuscher, 'proved in the case of some goods a very effective means of diverting trade to the United Kingdom'.² In Nigeria and the Gold Coast, the early international conventions were evaded in the 1930s by a system of Quotas Ordinances which restricted the *volume* of Japanese textiles and other goods coming into the countries in the interests of British (and Indian) manufactures.³

1. N. Mansergh, *The Multi-Racial Commonwealth*, Proceedings of the Fifth Unofficial Commonwealth Relations Conference (R.I.L.A., 1955), p. 86.

2. See her Chapter in *Mining, Commerce and Finance in Nigeria* (Faber, 1948), especially pp. 158-63.

3. The Quotas Ordinance was strongly objected to by the unofficials in the Nigerian Legislative Council. In Ceylon, where there was an unofficial majority, a similar quota system had to be imposed on the State Council by Order in Council.

'Imperial Preference' has, therefore, on past showing, an unpleasant ring in West African ears.

It is doubtful however whether, to-day, the exchange of preferential duties within the Commonwealth has any great application in West Africa, especially as at present the General Agreement on Tariffs and Trade forbids new preferences. Nigeria and the Gold Coast are interested in world markets – unlike the West Indian sugar islands, for example, which can find a sufficient demand for their exports with the Commonwealth – and are likely for some years to come to want to see less, not more barriers and restrictions to world trade. Sierra Leone and the Gambia are more concerned with financial help from the United Kingdom and the other Commonwealth countries than with exclusive trade and fiscal agreements. It is doubtful, also, whether the Commonwealth as a whole will ever be able, or want, to devise a system of trade agreements on the Ottawa model.

The position is very different however with regard to membership of the sterling area – a group of countries which conduct their international trade in sterling, and hold large sterling balances in London; this includes all the Commonwealth countries (except Canada and Hong Kong) as well as Burma, Jordan, Iceland, Iraq, Eire, Libya. Control is exercised through a Sterling Area Statistical Committee of which only the Commonwealth countries are full members. Until recently this meant that the Colonial Office acted on behalf of the West African governments, which were therefore only indirectly represented. In 1955, however, an 'observer' from the Nigerian federal government attended the Commonwealth Finance Ministers' Conference in London; and recently the Gold Coast Minister of Finance has paid a number of official visits to London – presumably for 'behind the scenes' bargaining on behalf of his government. Independence will mean full control. And there seems to be a case here, also, for the local representation of some non-self-governing territories at such intra-Commonwealth conferences on trade and finance.

The advantage of belonging to the sterling group is obviously greater to a Commonwealth nation such as New Zealand, which draws more dollars out of the pool than it puts in, than to a country such as the Gold Coast, which in an average cocoa year is a steady net dollar earner. Indeed, although between 1949 and 1954 the sterling area managed to meet its dollar deficits, the independent Dominions

(excluding Canada) were net dollar spenders: the dependent colonial territories net dollar earners. But there are wider benefits. Membership of the sterling area offers free entry into an area of multi-lateral trade of world-wide importance. It provides a recognized backing for the issue of local currencies. Special facilities exist, too, under United Kingdom Treasury control, by which Commonwealth countries are placed in a special and favourable position to raise loans on the London money market. These are extremely important advantages in countries where capital is lacking, and new nationalist governments are politically committed to vast schemes of economic development. The financing of India's second five-year plan is a case in point: the plan envisages a total expenditure of £1700 million, of which India has so far secured £264 million, including £173 million from Commonwealth sources. As a much smaller but nevertheless useful contribution to Commonwealth financial investment, there is the Commonwealth Development Investment Corporation, which by March 1956 had made loans and investments amounting to about £10½ million.¹ In July of the same year the Prime Ministers at their London meeting 'noted with satisfaction the United Kingdom's determination to maintain and improve its capacity to serve as a source of capital for development in Commonwealth countries.'²

THE COMMONWEALTH AND THE FUTURE

Something should be said of future trends. The 1947 Acts of Independence unquestionably brought a change in Commonwealth relations, depriving them, at least in respect of the new Asian Dominions, of the subtle intimacy of association which linked Britain before the war with Australia and New Zealand and Canada. And by pushing to a conclusion the historical movement of the 'self-governing colonies' towards complete national autonomy, the changes demanded by India and Ceylon aroused alarm in some of the older Dominions which, although they had travelled along the greater part of the same road themselves, preferred to go more slowly and in a less direct and dramatic fashion. They led Menzies, for example, in 1950 to lament that the 'old structural unity of the Empire was gone' and that the

1. Members of the sterling area are also able to draw more freely on their sterling balances; if they left the area, these might be partially blocked.

2. Official communiqué, published in *The Times*, 13 July 1956.

Commonwealth was now 'a purely functional association based on friendship and common interests but necessarily lacking the old high instincts and instantaneous cohesions of the old Dominions'.

One can agree with this in part, although there are probably as many 'instincts' of sympathy between London and Delhi today as existed in the 1930s between London and Pretoria or Dublin. But there are compensations. Change is not necessarily dissolution. If the accession of India, Pakistan, and Ceylon loosened Commonwealth ties, it also made them more valuable. And one may hope that the period between 1947 and 1950 (with the inauguration of the Indian Republic) has put an end to the excessive concern with definitions and interpretations of 'Dominion status' which so marked the decade before 1939.¹ No one now questions the absolute sovereignty and independence of the Commonwealth countries; and the way seems open for them to move away from the negative phase of insistence on Dominion equality towards recognition of a 'unity of purpose', based on common interests, and meeting – in a number of practical ways – common needs.

In time, too, the looseness of Commonwealth organization, its flexibility and adaptability, may be seen as not merely inevitable but in itself desirable. The hope of the Commonwealth becoming a single unit of defence, or a single force in international diplomacy, will disappear along with vanished federal hopes of political and constitutional unity. The Commonwealth will then be valued for its very variety and multiplicity of outlook, its member governments sometimes acting in unison, sometimes separately, but always freely exchanging views and information, and always adding something to a common pool of mutual understanding.

Something of this change may be seen in the meetings of the Commonwealth Prime Ministers. Before the 1939 war, the Imperial Conferences met approximately every four years; they worked to an elaborate agenda and published records of their discussions and resolutions. By contrast, the meetings of the Commonwealth premiers after

1. Because the main stress before 1939 was on Dominion rights and independence it was easy for many hopeful observers, hostile to Britain and the Dominions, to convince themselves that the Commonwealth, like the cat in wonderland, had already disappeared, and that what was left was merely the harmless grin of the vanished animal.

1946 appear, at first sight, hurried, occasional, slight. The procedure is informal, the decisions taken are those of individual governments. There is only the bare, often platitudinous *communiqué* to show the outside world that something has been discussed and agreed upon.

Yet in a number of ways these meetings have a great advantage over the pre-war conferences. They are, firstly, better able to give a balanced view of world problems, because of the greater range of interests and outlook of the present member governments. The enlargement of the circle of Commonwealth members after 1947 is likely to be repeated from 1957 onwards with new members from West Africa, Malaya, and the Caribbean. The Prime Ministers' meetings will then take place between 12 or more sovereign states in every part of the world. Secondly, because the meetings are informal they have taken place more frequently: there have been seven between 1946 and 1956.¹ And now that the ghost of constitutional definition has been laid, the premiers far more than before the war have concerned themselves with the realities of Commonwealth and world affairs: with the threat of nuclear warfare, and the possibilities of a relaxation of international tension, with nationalist unrest in Asia and Africa, with the need to expand the trade of the sterling area and to build up trade balances. If the concern of the Commonwealth Premiers with the threat of Soviet aggression is compared with the neglect, in general, of the pre-war Imperial Conferences to measure the menace of Nazi Germany, the present meetings show a much greater sense of reality.

The importance of the Prime Ministers' meetings as a convention-declaring body still continues. An invitation and acceptance to attend is still the only formal mark of full membership. In recent years, for example, Southern Rhodesia seems to have been invited not 'of right' but 'by special leave' when problems which particularly concern its government are being discussed. Then in July, 1956, the Commonwealth Prime Ministers considered the position of the new Federation, and formally decided that

Taking into account the 20 years' attendance first by the Prime Minister of Southern Rhodesia and now by the Prime Minister of the Federation

1. In 1946, 1948, 1949, 1951, 1953, 1955, and 1956. Nehru is the only Prime Minister to have attended every one. Southern Rhodesia (now part of the Central African Federation) has been represented at four of them (1948, 1951, 1955, 1956).

of Rhodesia and Nyasaland, . . . they would welcome the continued participation of the Prime Minister of the Federation . . . in meetings of the Commonwealth Prime Ministers.¹

It is the only Commonwealth forum where collective decisions are taken, and made known, concerning membership rights and qualifications. It is still consultation between cabinets, usually in the United Kingdom under the chairmanship of the United Kingdom Prime Minister – although not necessarily so, for it is theoretically open to any Commonwealth Prime Minister to issue invitations to a meeting.

These meetings are the expression of Commonwealth cooperation 'at the summit'. Supplementing them are the extremely important Ministerial conferences; to select three only of the most important, the Commonwealth Finance Ministers met in July 1946, two months before devaluation, and the Defence Ministers in 1951; while the Foreign Ministers discussed south-east Asian problems in Ceylon in January 1950 and – following meetings of a Commonwealth Consultative Committee in Australia and Britain – produced the Colombo Plan.² There are, too, the informal fortnightly meetings in London of the Commonwealth High Commissioners in London, the elaborate information services system between the Commonwealth capitals, and a great deal of machinery at expert official level concerned with Commonwealth shipping regulations, communications, scientific and economic research – as well as a host of voluntary associations of one kind and another.

What has emerged from many of these conferences and associations is the growth of regional alignments within the Commonwealth. The post-war Anglo-Canadian Continuing Committee is a good example; and there are similarly clear areas of regional interest which, although they affect the Commonwealth in some degree as a whole, concern two or three governments particularly. These regional groupings are likely to grow, and to include non-Commonwealth countries – the United States, for example, in the Atlantic area with Britain and Canada, the United States also in the Pacific with Britain, Australia, New Zealand and, soon, Malaya; the western European countries

1. Official communiqué, published in *The Times*, 13 July 1956.

2. See *Report of the Commonwealth Consultative Committee on the Colombo Plan for Co-operative Economic Development in South and South East Asia*, Cmd. 8080 (H.M.S.O., 1950).

with Britain and the Commonwealth as a whole.¹ One may hope that this development of regional cooperation will also take place in West Africa, between Nigeria and Ghana, possibly also Liberia, and other West African countries as they approach nearer to local autonomy. Common membership of the Commonwealth might further West African unity, and may help to reverse the present tendency to move further and further apart, in defence, in nationality and citizenship laws, in judicial appeals, diplomatic representation, and other matters.

The growth of regional cooperation within the Commonwealth may help too to meet the problem of the future status and government of territories such as the Gambia, possibly Sierra Leone, and other parts of the colonial empire which are too small for full sovereign status, and where federation with neighbouring units (as in the Caribbean) is not an immediate possibility. A local 'internal self-government', with continuing imperial control over external relations, may not be sufficient to meet local demands or enable the self-governing colony to play its full part in the world. It may however be possible through the growth of regional alignments, and with the occasional participation of their governments in Commonwealth conferences, to give such smaller countries a share in decisions affecting their region. There might develop, for example, a high degree of intra-West African Commonwealth cooperation, with an increasing wealth of functional and administrative machinery, which would enable Sierra Leone and the Gambia to share in a West African policy for defence, foreign relations, trade, investment, and so on.

The prospect before the Commonwealth is, however, not wholly bright. Two lions stand in the path: the racial policy of the South African government, and the problem of Imperial policy in the remaining British colonial territories in Africa and Asia. The goodwill which exists between the United Kingdom and the West African countries will quickly be lost if British policy in East and Central Africa yields to settler demands for further constitutional reform in European interests. If, on the other hand, the United Kingdom is able to carry the other Commonwealth governments along with it in agreement and support of its 'guardian role' in the plural societies in

1. On rather different lines was the Afro-Asian conference at Bandung in Indonesia in April 1955, which included representatives from Ceylon, India, Pakistan, and the Gold Coast.

Asia and Africa, the problem will be lightened. It should also grow less with time as African confidence in these territories increases; and the achievement of self-government in the Gold Coast and Nigeria should help considerably to affirm British colonial good faith.

Far more intractable is the problem of race relations in the Union and their effect on the Commonwealth's 'unity of purpose'. The attempt by the South African government to arrest its peoples in a fixed pattern of racial oppression is in obvious and fundamental antagonism to Commonwealth ideals. It is an evil anachronism at a time when the Commonwealth has begun to enlarge its racial frontiers, and neither sympathy for South Africa's racial problems, nor a concern to avoid division in the Commonwealth, must persuade the other Commonwealth governments to condone what is being done by the Union government. The British government must, too, if it is to keep its good name in 'colonial Africa', resist every attempt by the South African government to bargain, or exert pressure, for the return of the High Commission Protectorate territories. An immediate strategic gain or lessening of ill-feeling between South Africa and Britain would be a transitory reward against the loss of West African trust and faith in British policy. It might mean more. As the *Observer* commented in July 1956: 'to vacillate on these issues [South African policy and developments in Central Africa] would mean not merely that the Commonwealth would lose its soul. It would also soon lose two-thirds of its body'.

An important change of policy – if not of heart – has however been made by the South African government. Strydom has said that South Africa's racial policy is not now for export, and that there is a place, in South African eyes, for 'apartheid' applied continentally: white supremacy in the South, black supremacy in the West. His government will not therefore, it seems, contest West Africa's membership of the Commonwealth. (Its protest was never likely to have been successful anyway.) A policy of adjustment in practice – if not of compromise in policies – between South and West Africa now seems likely, where before it seemed beyond all possibility.

If no such adjustment could be made, it would be against every precedent in Commonwealth history. The peaceful diffusion of British Imperial power into a multi-national association of sovereign states has been a long and steady process; and the common ties of

interest between the Commonwealth countries are immensely stronger than the factors making for division. The association may change, it may continue to develop new patterns of cooperation and new ways of making them effective; but it is not likely to lose its value as a method of close international co-operation. On the contrary, its value is likely to be enhanced – in a sense to be completed – by the inclusion of new members from West Africa. Africa will then take its place with Asia, America, and Europe in Commonwealth councils. Nor are the West African governments likely to wish to deprive themselves of its advantages. To question whether the West African, or any of the colonial territories, should join the Commonwealth or remain associated with Britain is, in a sense, misleading. The Dominions having grown to self-government within the Commonwealth, it is more pertinent to ask, not why they should wish to continue their association, but why they should wish to break it.

For all the Commonwealth countries, the British connexion is a fact of their history. The Commonwealth is the relationship to which they are born: whether they followed the path of responsible government, as in Canada in the nineteenth century, or Crown Colony government, as in Ceylon and West Africa in the twentieth. There has grown a *habit* of association, formed by a common history – even when that history has been in part a record of struggle between Imperial control and nationalist opposition. And habit, confirmed by common interest, is a powerful tie of human association.

Further Reading

THE following note on books is brief, and confined to a number of authorities of general interest or of importance in special fields. After a short general list, they are arranged according to the subject matter of the chapters in this book.

GENERAL

The standard reference work for Commonwealth and colonial history is the eight-volume *Cambridge History of the British Empire*. The first volume deals with the old colonial empire up to 1783, the second with the period between 1783 and 1870. Subsequent volumes are histories of the different countries of the Commonwealth. Other good general histories are:

The British Overseas, C. E. Carrington (C.U.P., 1950)

The British Empire and Commonwealth, D. C. Somerville and H. Harvey (Christophers, 1954)

The British Empire, E. Walker (O.U.P., 1953)

Short History of British Expansion, J. A. Williamson (Macmillan, 1944), Vols I and II.

The best general account of the Commonwealth is still *The Commonwealth of Nations* by Ivor Jennings (Hutchinson, 1955 edn). An illuminating commentary on historical trends and problems will be found in *Survey of British Commonwealth Affairs*, by W. H. Hancock (O.U.P., 1937-42), especially Vol. II, Part 2, on the changing 'economic frontier' in West Africa. Many of the ideas expressed in the larger work will be found usefully summarized in his *Argument of Empire* (Penguin Books, 1943). A good pamphlet on *The British Commonwealth*, by J. Simmons, was published by the Bureau of Current Affairs (London, 1948).

There are, in addition, a number of compilations of documents and speeches on British, Dominion and colonial affairs. Many of the sources quoted in Chapter IV will be found in *Speeches and Documents on British Colonial Policy, 1763-1917* (O.U.P., 1948), and *Speeches and Documents on the British Dominions, 1918-31* (O.U.P., 1948), both edited by A. B. Keith. These are still extremely useful little books, readily accessible, cheap, and of a manageable size. More recent collections include:

Concept of Empire, 1774-1947, G. Bennett (A. and C. Black, 1953)

Development of Dominion Status, 1900-1936, R. M. Dawson (O.U.P., 1937)

Further Reading

Empire and After, R. Hinden (London, 1949)

Documents and Speeches on British Commonwealth Affairs, N. Mansergh (O.U.P., 1953), Vols I and II.

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CHAPTER I

A number of studies have been made in recent years of nationalist ideas and development in British West Africa. A comprehensive bibliography will be found in 'A Survey of Selected Literature on the Government and Politics of British West Africa' by J. S. Coleman (*The American Political Science Review*, December, 1955). Nationalism being still very much at large in all four territories, a good deal of information exists in contemporary records: the *Debates* of the Legislative Councils, Assemblies and Houses of Representatives, as well as in party newspapers and manifestoes. Articles of political and general interest will be found in *West Africa*, *Africa*, the *Journal of African Administration*, *African Affairs*, and the bulletins published by the *Institut Français de l'Afrique Noir* (I.F.A.N.).

Africa Today, edited by C. Grove Haines (Baltimore, 1955), contains a number of good essays on contemporary African parties and nationalist origins. The most useful, and lively, short account of nationalism in Africa, including a great deal of authoritative information on British West Africa, is *Nationalism in Colonial Africa*, by T. L. Hodgkin (Muller, 1956), which has also a good list of source books and articles. The following by West African authors are of particular interest:

Path to Nigerian Freedom, O. Awolowo (Faber, 1947)

Renasant Africa, N. Azikiwe (Lagos, 1937)

The Position of the Chief in the Modern Political System of Ashanti, K. A. Busia (O.U.P., 1951)

Social Survey of Sekondi-Takoradi, K. A. Busia (Accra, 1950)

Ethiopia Unbound, J. E. Casely Hayford (Phillips, 1911)

The Truth About the West African Land Question, J. E. Casely Hayford (Phillips, 1913)

The Akan Doctrine of God, J. B. Danquah (London, 1944)

Ghana, K. Nkrumah (Nelson, 1957)

Gold Coast Men of Affairs, M. Sampson (London, 1937)

West African Leadership, M. Sampson (Stockwell, 1949)

Kwame Nkrumah, B. Timothy (Allen & Unwin, 1955)

Three interesting accounts of nationalism in the Gold Coast, each put forward with a particular viewpoint, are:

West Africa and the Commonwealth

The Gold Coast in Transition, D. Apter (Princeton, 1955)

The Gold Coast Revolution, G. Padmore (Dobson, 1953)

Black Power, R. Wright (Harper, 1954)

CHAPTER 2

In addition to the latter part of Vol. I and the early chapters of Vol. II of the Cambridge history, and to the general works mentioned earlier, the following are useful studies of the 'first British Empire', which include some account of the Atlantic trade with West Africa and America:

The Old Colonial System, G. L. Beer (New York, 1935), Vols I and II

The Fall of the Old Colonial System, R. L. Schuyler (O.U.P., 1945)

The Ocean in English History, J. A. Williamson (O.U.P., 1941)

The Atlantic and Slavery, H. A. Wyndham (O.U.P., 1935)

The English People on the Eve of Colonisation, 1613-1630, by W. Notestein (Hamish Hamilton, 1954) is an interesting background study of English society at that time. For the period immediately prior to the American Revolution there are two good recent studies:

The Debate on the American Revolution, 1761-83, ed. M. Beloff (A. and C. Black, 1949)

The Coming of the American Revolution, 1763-1775, L. H. Gipson (Hamish Hamilton, 1954)

The standard work on the 'second British Empire', for a long time to come, is *The Founding of the Second British Empire, 1763-1793*, by V. T. Harlow (Longmans, 1952), especially Chapter I 'The Old Empire and the New', Chapter III 'The Swing to the East', and Chapter V 'The Argument about North America'. See also *British Colonial Development, 1774-1834, Select Documents*, by V. T. Harlow and F. Madden (O.U.P., 1953).

CHAPTER 3

The main work is *The Durham Report*; the edition by R. Coupland (O.U.P., 1945) contains a good introduction and a useful selection from the full text. A good biography is *Lord Durham*, by C. W. New (O.U.P., 1929).

Important supporting documents for the period will be found in *Select Documents on British Colonial Policy*, by K. N. Bell and W. P. Morrell (O.U.P., 1928). Relevant chapters of the following general histories of Canada are also helpful:

Further Reading

Canada, J. M. Careless (C.U.P., 1953)

Canada, G. S. Graham (Hutchinson, 1950)

Colony to Nation, A. R. M. Lower (Longmans, 1953)

The Constitution of Canada, W. P. M. Kennedy (O.U.P., 1938)

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CHAPTER 4

The fullest, most detailed studies of the change from self-governing colony to Dominion status are still:

Responsible Government in the Dominions, A. B. Keith (O.U.P., 1927)

The Dominions as Sovereign States, A. B. Keith (Macmillan, 1938)

An excellent short account of developments in the present century will be found in the Introduction to *The Development of Dominion Status, 1900-1936*, by R. M. Dawson (O.U.P., 1937). The early history of the Imperial conferences and the federation movement will be found in *The Struggle for Imperial Unity, 1895-1900*, by J. E. Tyler (Longmans, 1938), and the *Life of Joseph Chamberlain*, Vol. III, 1895-1900, by J. L. Garvin (Macmillan, 1934). The clearest and most authoritative commentaries on the 1931 Statute, and subsequent legislation in the United Kingdom and the Dominions, are:

The Statute of Westminster, K. C. Wheare (O.U.P., 1949)

The Law and the Commonwealth, R. T. E. Latham (O.U.P., 1949).

CHAPTER 5

The stages of growth of the colonial legislative council are treated exhaustively in *The Development of the Legislative Council*, by M. Wight (Faber, 1946). Companion studies include *The Gold Coast Legislative Council*, also by M. Wight (Faber, 1947), and *The Nigerian Legislative Council*, by J. Wheare (Faber, 1950); both deal mainly with the Councils of 1922 and 1925. *British Colonial Constitutions*, by M. Wight (O.U.P., 1952) has a useful, lengthy introduction. *The Colonial Office*, by C. Jeffries (Allen & Unwin, 1956), is a valuable description of the office of Secretary of State and the working of the Colonial Office.

The best accounts of constitutional advance in Ceylon are:

The Constitution of Ceylon, Ivor Jennings (O.U.P., 1951)

The Dominion of Ceylon, Ivor Jennings and H. W. Tambiah (Stevens, 1952)

The Legislatures of Ceylon, S. Namasavayam (Faber, 1951)

The history of Indirect Rule has its own library of literature. Indispensable works are:

West Africa and the Commonwealth

The Dual Mandate in Tropical Africa, F. D. Lugard (Blackwood, 1922)

Native Administration in Nigeria, M. Perham (O.U.P., 1937)

Native Administration in the British African Territories, Lord Hailey (H.M.S.O., 1951), Parts III and IV.

Recent local appraisals have been undertaken in 'Indirect Rule and Local Government', by K. E. Robinson (*Journal of African Administration*, January, 1951); *Local Government*, by R. E. Wraith (Penguin Books, 1953); and *Epitaph to Indirect Rule*, by N. U. Akpan (Cassell, 1956).

CHAPTER 6

A good handbook of Commonwealth relations is *Consultation and Co-operation in the Commonwealth*, by H. J. Harvey (O.U.P., 1952). *The Multi-Racial Commonwealth*, by N. Mansergh (R.I.I.A., 1955), is an interesting record of the proceedings of the fifth unofficial Commonwealth Relations Conference held at Lahore in Pakistan. An illuminating study of the changes in Commonwealth membership in 1947-9 is *The Commonwealth in Asia*, by Ivor Jennings (O.U.P., 1951). The attitude of the South African government was clearly stated in 1949 in a pamphlet issued by the Public Relations Office of South Africa: *Dr Malan Defines South Africa's Position in the Commonwealth*.

Specialist studies of particular interest include:

British Nationality Law and Practice, J. Mervyn Jones (O.U.P., 1947)

'The British Nationality Act, 1948', E. C. S. Wade (*Journal of Comparative Legislation and International Law*, November, 1948)

The Commonwealth and the World, L. S. Amery (O.U.P., 1949)

The Sterling Area, A. R. Conan (Macmillan, 1953).

The *New Commonwealth*, a fortnightly publication, contains useful articles and reviews on contemporary Commonwealth affairs. The Central Office of Information, London, has recently produced a number of pamphlets on Commonwealth affairs, including *What is the Commonwealth?* (1956), *The Monarchy and the Commonwealth* (1955), *Economic Development in the Commonwealth* (1955), *The Commonwealth and Nuclear Development* (1955).

NOTE

This book should be read in conjunction with a fair-sized atlas. Recommended, at different prices (1957), are:

The Penguin Atlas (10s 6d)

The Oxford Home Atlas (15s)

Bartholomew's Advanced Atlas of Modern Geography (30s)

THE STATUTE OF WESTMINSTER, 1931
An Act to give effect to certain resolutions passed by Imperial
Conferences held in the years 1926 and 1930
(22 Geo. 5, Ch. 4) 11 December 1931

WHEREAS the delegates of His Majesty's Governments in the United Kingdom, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, at Imperial Conferences holden at Westminster in the years of our Lord nineteen hundred and twenty-six and nineteen hundred and thirty did concur in making the declaration and resolutions set forth in the Reports of the said Conferences:

And whereas it is meet and proper to set out by way of preamble to this Act 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 the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom:

And whereas it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion:

And whereas it is necessary for the ratifying, confirming and establishing of certain of the said declarations and resolutions of the said Conferences that a law be made and enacted in due form by authority of the Parliament of the United Kingdom:

And whereas the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland have severally requested and consented to the submission of a measure to the Parliament of the United Kingdom for making such provision with regard to the matters aforesaid as is hereafter in this Act contained:

Now, therefore, be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal,

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and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. In this Act the expression 'Dominion' means any of the following Dominions, that is to say, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland.

2. - (1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion.

(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion.

3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.

4. No Act of the Parliament of the United Kingdom passed after the commencement of this Act shall extend, or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.

5. Without prejudice to the generality of the foregoing provisions of this Act, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act, 1894, shall be construed as though reference therein to the Legislature of a British possession did not include reference to the Parliament of a Dominion.

6. Without prejudice to the generality of the foregoing provisions of this Act, section four of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause), and so much of section seven of that Act as requires the approval of His Majesty in Council to any rules of Court for regulating the practice and procedure of a Colonial Court of Admiralty, shall cease to have effect in any Dominion as from the commencement of this Act.

Appendix I

7. - (1) Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of the British North America Acts, 1867 to 1930, or any order, rule or regulation made thereunder.

(2) The provisions of section two of this Act shall extend to laws made by any of the Provinces of Canada and to the powers of the legislatures of such Provinces.

(3) The powers conferred by this Act upon the Parliament of Canada, or upon the legislatures of the Provinces shall be restricted to the enactment of laws in relation to matters within the competence of the Parliament of Canada or of any of the legislatures of the Provinces respectively.

8. Nothing in this Act shall be deemed to confer any power to repeal or alter the Constitution or the Constitution Act of the Commonwealth of Australia or the Constitution Act of the Dominion of New Zealand otherwise than in accordance with the law existing before the commencement of this Act.

9. - (1) Nothing in this Act shall be deemed to authorize the Parliament of the Commonwealth of Australia to make laws on any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia.

(2) Nothing in this Act shall be deemed to require the concurrence of the Parliament or Government of the Commonwealth of Australia in any law made by the Parliament of the United Kingdom with respect to any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia, in any case where it would have been in accordance with the constitutional practice existing before the commencement of this Act that the Parliament of the United Kingdom should make that law without such concurrence.

(3) In the application of this Act to the Commonwealth of Australia the request and consent referred to in section four shall mean the request and consent of the Parliament and Government of the Commonwealth.

10. - (1) None of the following sections of this Act, that is to say, sections two, three, four, five and six, shall extend to a Dominion to which this section applies as part of the law of that Dominion unless that section is adopted by the Parliament of the Dominion and any Act of that Parliament adopting any section of this Act may provide that the adoption shall have effect either from the commencement of this Act or from such later date as is specified in the adopting Act.

(2) The Parliament of any such Dominion as aforesaid may at any

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time revoke the adoption of any section referred to in subsection (1) of this section.

(3) The Dominions to which this section applies are the Commonwealth of Australia, the Dominion of New Zealand and Newfoundland.

11. Notwithstanding anything in the Interpretation Act, 1889, the expression 'Colony' shall not, in any Act of the Parliament of the United Kingdom passed after the commencement of this Act, include a Dominion or any Province or State forming part of a Dominion.

12. This Act may be cited as the Statute of Westminster, 1931.

(A) THE CEYLON INDEPENDENCE ACT, 1947

(11 Geo. 6, Ch. 7)

An act to make provisions for, and in connexion with, the attainment by Ceylon of fully responsible status within the British Commonwealth of Nations

(10 December 1947)

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Provision for the fully responsible status of Ceylon

1. — (1) No Act of the Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to Ceylon as part of the law of Ceylon, unless it is expressly declared in that Act that Ceylon has requested, and consented to, the enactment thereof.

(2) As from the appointed day His Majesty's Government in the United Kingdom shall have no responsibility for the government of Ceylon.

(3) As from the appointed day the provisions of the First Schedule to this Act shall have effect with respect to the legislative powers of Ceylon.

★

Short title and commencement

5. — (1) This Act may be cited as the Ceylon Independence Act, 1947.

(2) In this Act the expression 'the appointed day' means such day as His Majesty may by Order in Council appoint.

*First Schedule**Section 1*

LEGISLATIVE POWERS OF CEYLON

1. — (1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after the appointed day by the Parliament of Ceylon.

(2) No law and no provision of any law made after the appointed day by the Parliament of Ceylon shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of

the Parliament of Ceylon shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of Ceylon.

2. The Parliament of Ceylon shall have full power to make laws having extra-territorial operation.

3. Without prejudice to the generality of the foregoing provisions of this Schedule, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act, 1894, shall be construed as though reference therein to the Legislature of a British possession did not include reference to the Parliament of Ceylon.

4. Without prejudice to the generality of the foregoing provisions of this Schedule, section four of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause), and so much of section seven of that Act as requires the approval of His Majesty in Council to any rules of Court for regulating the practice and procedure of a Colonial Court of Admiralty, shall cease to have effect in Ceylon.

(B) THE CEYLON INDEPENDENCE

(COMMENCEMENT) ORDER IN COUNCIL, 1947

At the Court at Buckingham Palace, the 19th day of December, 1947

Present:

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

WHEREAS by the Ceylon Independence Act, 1947, provision is made for the attainment by Ceylon of fully responsible status within the British Commonwealth of Nations:

AND WHEREAS in the said Act the expression 'the appointed day' means such day as His Majesty may by Order in Council appoint:

AND WHEREAS it is expedient to appoint, by this Order, the appointed day for the purposes of the said Act:

NOW, THEREFORE, His Majesty, in exercise of the powers conferred on Him by the Ceylon Independence Act, 1947, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows:—

Short title

1. This Order may be cited as the Ceylon Independence (Commencement) Order in Council, 1947.

Appointed Day

2. The appointed day for the purposes of the Ceylon Independence Act shall be the fourth day of February, 1948.

Appendix II

(C) THE CEYLON INDEPENDENCE ORDER IN COUNCIL, 1947

At the Court at Buckingham Palace, the 19th day of December, 1947

Present:

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

WHEREAS by the Ceylon (Constitution) Order in Council, 1946 (hereinafter called 'the Principal Order') as amended by the Ceylon (Constitution) (Amendment) Order in Council, 1947, the Ceylon (Constitution) (Amendment No. 2) Order in Council, 1947, and the Ceylon (Constitution) (Amendment No. 3) Order in Council, 1947 (hereinafter together called 'the Amending Orders') provision is made for the Government of Ceylon and for the establishment of a Parliament in and for Ceylon:

AND WHEREAS by the Ceylon Independence Act, 1947, provision is made for the attainment by Ceylon of fully responsible status within the British Commonwealth of Nations:

AND WHEREAS it is expedient for the same purpose that the Principal Order and the Amending Orders should be amended in the manner hereinafter appearing:

NOW, THEREFORE, it is hereby ordered by His Majesty, by and with the advice of His Privy Council, as follows:

Short title and commencement

1. - (1) This Order may be cited as the Ceylon Independence Order in Council, 1947.

(2) The Principal Order, the Amending Orders and this Order may be cited together as the Ceylon (Constitution and Independence) Orders in Council, 1946 and 1947.

(3) This Order shall be construed as one with the Principal Order.

(4) This Order shall come into operation on the day appointed by His Majesty by Order in Council as the appointed day for the purposes of the Ceylon Independence Act, 1947.

The Governor General

2. - (1) (Incorporated in the Principal Order)

(2) Every reference in the Principal Order to the Governor shall be read and construed as a reference to the Governor-General.

★

Cessation of Power of His Majesty in Council to legislate for Ceylon

4. - The power of His Majesty, His Heirs and Successors, with the advice of His or Their Privy Council -

- (a) to make laws having effect in the Island for the purposes specified in subsection (1) of section 30 of the Principal Order; and
 - (b) to revoke, add to, suspend or amend the Principal Order or the Amending Orders, or any part of those Orders, shall cease to exist.
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Cessation of reservation of Bills

5. - No Bill passed by both Chambers of the Legislature of the Island, or by the House of Representatives alone, in accordance with the provisions of the Principal Order shall be reserved for the signification of His Majesty's pleasure; and the provisions in that behalf contained in sections 36 and 37 of the Principal Order shall accordingly cease to have effect.

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The 1947 Order in Council removed all traces of colonial status from the constitution set out in the 1946 Order. The constitution of Ceylon is therefore contained in the Orders in Council 1946-7; its sovereign status is conferred by the Ceylon Independence Act 1947.

A meeting of Commonwealth Prime Ministers was held in London from 21 to 27 April 1949. At the end of the meeting the following communiqué was issued from 10 Downing Street.

During the past week the Prime Ministers of the United Kingdom, Australia, New Zealand, South Africa, India, Pakistan, and Ceylon, and the Canadian Secretary of State for External Affairs have met in London to exchange views upon the important constitutional issues arising from India's decision to adopt a republican form of constitution and her desire to continue her membership of the Commonwealth.

The discussions have been concerned with the effects of such a development upon the existing structure of the Commonwealth and the constitutional relations between its members. They have been conducted in an atmosphere of good will and mutual understanding, and have had as their historical background the traditional capacity of the Commonwealth to strengthen its unity of purpose, while adapting its organisation and procedure to changing circumstances.

After full discussion the representatives of the Governments of all the Commonwealth countries have agreed that the conclusions reached should be placed on record in the following declaration:

'The Governments of the United Kingdom, Canada, Australia, New Zealand, South Africa, India, Pakistan, and Ceylon, whose countries are united as Members of the British Commonwealth of Nations and owe a common allegiance to the Crown, which is also the symbol of their free association, have considered the impending constitutional changes in India.

'The Government of India have informed the other Governments of the Commonwealth of the intention of the Indian people that under the new constitution which is about to be adopted India shall become a sovereign independent republic. The Government of India have however declared and affirmed India's desire to continue her full membership of the Commonwealth of Nations and her acceptance of The King as the symbol of the free association of its independent member nations and as such the Head of the Commonwealth.

'The Governments of the other countries of the Commonwealth, the basis of whose membership of the Commonwealth is not hereby changed, accept and recognise India's continuing membership in accordance with the terms of this declaration.

West Africa and the Commonwealth

'Accordingly the United Kingdom, Canada, Australia, New Zealand, South Africa, India, Pakistan, and Ceylon hereby declare that they remain united as free and equal members of the Commonwealth of Nations, freely co-operating in the pursuit of peace, liberty and progress.'

These constitutional questions have been the sole subject of discussion at the full meetings of Prime Ministers.

APPENDIX IV

THE GHANA INDEPENDENCE BILL, 1956

(5 Eliz. 2)

A Bill to make provision for, and in connection with, the attainment by the Gold Coast of fully responsible status within the British Commonwealth of Nations.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The territories included immediately before the appointed day in the Gold Coast as defined in and for the purposes of the Gold Coast (Constitution) Order in Council, 1954, shall as from that day together form part of Her Majesty's dominions under the name of Ghana, and -

- (a) no Act of the Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to Ghana as part of the law of Ghana, unless it is expressly declared in that Act that the Parliament of Ghana has requested, and consented to, the enactment thereof;
- (b) as from the appointed day, Her Majesty's Government in the United Kingdom shall have no responsibility for the government of Ghana or any part thereof;
- (c) as from the appointed day, the provisions of the First Schedule to this Act shall have effect with respect to the legislative powers of Ghana:

Provided that -

- (i) this Act shall not apply in relation to Togoland under United Kingdom Trusteeship until Her Majesty so provides by Order in Council, which shall be made as soon as practicable after provision has been made for the termination of the Trusteeship Agreement for that territory upon its union with an independent Gold Coast;
- (ii) nothing in this section other than paragraphs (a) to (c) thereof shall affect the operation in any of the territories aforesaid of any enactment, or any other instrument having the effect of law, passed or made with respect thereto before the appointed day.

★

FIRST SCHEDULE

1. The Colonial Laws Validity Act, 1865, shall not apply to any law made on or after the appointed day by the Parliament of Ghana.

West Africa and the Commonwealth

2. No law and no provision of any law made on or after the appointed day by the Parliament of Ghana shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of the Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of Ghana shall include the power to repeal or amend any such Act, order, rule or regulation in so far as it is part of the law of Ghana.
3. The Parliament of Ghana shall have full power to make laws having extra-territorial operation.
4. Without prejudice to the generality of the foregoing provisions of this Schedule, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act, 1894, shall be construed as though reference therein to the legislature of a British possession did not include reference to the Parliament of Ghana.
5. Without prejudice to the generality of the foregoing provisions of this Schedule, section four of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of Her Majesty's pleasure or to contain a suspending clause) and so much of section seven of that Act as requires the approval of Her Majesty in Council to any rules of court for regulating the practice and procedure of a Colonial Court of Admiralty shall cease to have effect in Ghana.

*

The Bill, with minor amendments, received the Royal Assent on 7 February 1957.

APPENDIX V

| <i>Commonwealth Countries</i> | <i>Area in sq. miles</i> | <i>Estimate of Population</i> |
|--|------------------------------|-----------------------------------|
| 1. United Kingdom | 94,205 | 50,968,000 |
| Australia | 2,974,581 | 9,313,000 |
| Dependent Territories | 2,655,725 | 1,700,209 |
| Canada | 3,845,774 | 15,706,000 |
| Ceylon | 25,332 | 8,385,000 |
| India ¹ | 1,139,000 | 367,750,000 |
| New Zealand | 103,736 | 2,164,755 |
| Dependent Territories | 176,333 | 118,493 |
| Pakistan ¹ | 360,780 | 81,540,000 |
| South Africa | 472,685 | 13,915,000 |
| South West Africa | 317,725 | 414,601 |
| Central African Federation | 487,640 | 7,071,600 |
| 2. Nigeria (and Cameroons under U.K. Trusteeship) | 373,250 | 31,760,000 |
| Ghana (incl. Togoland formerly under U.K. Trusteeship) | 91,843 | 4,620,000 |
| Sierra Leone | 27,925 | 2,000,000 |
| Gambia | 4,003 | 281,000 |
| 3. Other Dependent Territories in East and Southern Africa: Kenya, Uganda, Tanganyika, Somaliland, Zanzibar | 750,589 | 20,482,000 |
| Basutoland, Bechuanaland, Swaziland | 293,420 | 1,045,379 |
| 4. The Caribbean | 104,363 | 3,563,652 |
| 5. Malaya | 50,690 | 6,058,000 |
| Hong Kong | 391 | 2,277,000 |
| Singapore | 224 | 1,211,000 |
| Other Far East Dependencies | 78,746 | 1,012,000 |

1. Excluding the disputed area of Jammu and Kashmir.

West Africa and the Commonwealth

| <i>Commonwealth Countries</i> | <i>Area in sq. miles</i> | <i>Estimate of Population</i> |
|-------------------------------------|------------------------------|-----------------------------------|
| 6. Malta | 122 | 320,000 |
| Cyprus | 3,572 | 514,000 |
| Gibraltar | 2 | 25,000 |
| 7. Other Island Dependencies in the | | |
| Atlantic | 4,737 | 7,560 |
| Indian Ocean | 113,160 | 1,469,000 |
| Western Pacific | 24,880 | 573,425 |



*Some other African Penguins
are described on the
next few pages*

THE MACHINERY
OF SELF-GOVERNMENT

David Kimble '

WA4

'Self-Government' must be one of the most widely used words in West Africa to-day. To most people – whether they want it now, next year, or as soon as possible – it means 'government by Africans', as opposed to government by European civil servants with the help of some Africans. But what does self-government mean, in practice, in the modern world? As West African countries come to manage their own affairs, is it possible to have government by the many?

'In a lucid and pleasing style, Mr Kimble introduces his reader to the machinery of self-government and suggests some of the questions which arise in its operation in West Africa. He shows how to-day government by the many must mean government with the active consent of public opinion, and outlines the way in which this public opinion is formed, organized, and expressed. Among other subjects examined in this balanced and useful book, in which a delightful shadow is cast by the late George Orwell, are the structure and procedure of the Assembly, political parties, the Cabinet system, and the Civil Service.' – *Corona*



LABOUR PROBLEMS ...
WEST AFRICA

J. I. Roper

WA8

Trade unions in many parts of Africa have had a very short history – and it has often been a turbulent one. Here is an account of their development in West Africa, set against the background of the general labour situation.

J. I. Roper analyses how the new system of working for wages fits into the traditional family and social pattern; he examines the problems of migrant workers and 'scarcity of labour'. Why are some wages so low? How can trade unions improve their organization? How far should they be involved in party politics? In what ways can they look to Government and managements for assistance? This leads on to the whole machinery of industrial relations, including the growth of labour laws and joint consultation. Many other important questions are discussed in this pioneer study of some of the labour problems of West Africa.

TO BE PUBLISHED SHORTLY

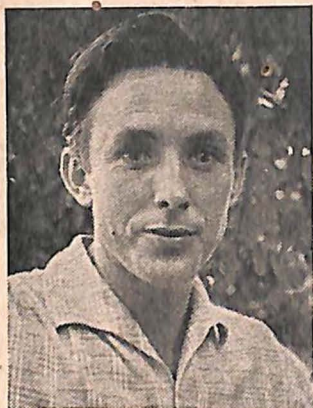
CHRISTIANITY AND POLITICS IN AFRICA

J. V. Taylor

• WA9

Why should Christians be concerned with politics? Have the Churches anything to say on social and political problems, especially on the burning issues of race and nationalism in Africa? John Taylor urges that they have; and he suggests many ways in which the Church could speak out more clearly against intolerance and other evils.

But he reminds us that this cannot be left to Church leaders alone. Laymen cannot shirk the task of understanding, and many African Christians may be called to political action, even in opposing parties; for there is no ready-made Christian solution to every political problem. This book cannot give all the answers; but it asks the important questions, for those who want to understand the Christian approach to politics.



J. Rose-Innes

Dennis Austin was born in 1922, educated at a London County School, and served with the Royal Air Force during the second world war in Canada, Great Britain, Ceylon, and India. Following the war, he resumed studies at King's College, London University, taking a first class honours degree in history. In 1949 he was appointed tutor in the Institute of Extra-Mural Studies in the University College of the Gold Coast. He was Resident Tutor in Ashanti from 1949 to 1953, and then for two years in the Northern Territories. He has also made a short lecture tour in Sierra Leone. In 1955 he became Tutorial Adviser for Extra-Mural Studies at the University College. He is married, with two sons and twin daughters.



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