

Michigan Law Review

Volume 20 | Issue 8

1922

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Recommended Citation

C D. Allin, *Neutrality of British Dominions*, 20 MICH. L. REV. 819 (1922).
Available at: <https://repository.law.umich.edu/mlr/vol20/iss8/2>

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MICHIGAN LAW REVIEW

VOL. XX

JUNE, 1922

No. 8

THE NEUTRALITY OF BRITISH DOMINIONS

THE recent Cannes conference has revived the question of the international status of the British dominions. Article IV of the proposed Anglo-French Alliance provided that "the present treaty shall impose no obligation upon any of the dominions of the British Empire unless and until it is approved by the dominion concerned." In short, the dominions were left free to pursue an independent foreign policy in European affairs.

The question of colonial neutrality has been an old thorn in the flesh to both English and colonial statesmen. From time to time different propositions have been put forward to relieve the Motherland of her responsibilities or the colonies of their liabilities in time of war. To this end, James the Second entered into a treaty with the king of France for the neutrality of their respective colonial possessions. The question, however, awakened considerably more interest in the colonies than in the Mother Country. The subject was discussed incidentally at the Albany conference, but without result. About the same time the French East India Company approached its English rival with the proposal that both the shipping and settlements of the respective companies should be neutralized in case of war between the two countries. The English Company was favorable to the suggestion, but the English government promptly vetoed it for naval reasons. After that no more was heard of the subject for about a century.

The question next bobbed up in Australia. The withdrawal of the British troops from the colonies, together with the threatening situation in Europe, brought home to the colonies a realization of their weakness and danger. Accordingly, in 1870 Mr. C. G. Duffy,

a prominent politician of Victoria, secured the appointment of a royal commission to deal with the question of a federal union of the Australian colonies. This commission, in connection with its report, brought in an interesting recommendation for the neutrality of the colonies as a protective measure.

"It has been proposed to establish a Council of the Empire, whose advice must be taken before war was declared. But this measure is so foreign to the genius and traditions of the British Constitution, and presupposes so large an abandonment of its functions by the House of Commons, that we dismiss it from consideration. There remains, however, we think, more than one method by which the anomaly of the present system may be cured. * * *

The Colony of Victoria, for example, possesses a separate Parliament, Government, and distinguishing flag; a separate naval and military establishment. All the public appointments are made by the Local Government. The only officer commissioned from England who exercises authority within its limits is the Queen's representative; and in the Ionian Islands, while they were admittedly a Sovereign State, the Queen's representative was appointed in the same manner. The single function of a Sovereign State, as understood in International Law, which the Colony does not exercise or possess, is the power of contracting obligations with other states. The want of this power alone distinguishes her position from that of states undoubtedly sovereign.

If the Queen were authorized by the Imperial Parliament to concede to the greater Colonies the right to make treaties, it is contended that they would fulfil the conditions constituting a Sovereign State in as full and perfect a sense as any of the smaller states cited by public jurists to illustrate this rule of limited responsibility. And the notable concession to the interest of peace and humanity made in our own day by the Great Powers with respect to privateers and to merchant shipping renders it probable that they would not, on any inadequate grounds, refuse to recognize such states as falling under the rule.

It must not be forgotten that this is a subject in which the interests of the colonies and of the Mother Country are identical. British statesmen have long aimed not only to limit more and more the expenditure incurred for the defence of distant colonies, but to

withdraw more and more from all ostensible responsibility for their defense; and they would probably see any honorable method of adjusting the present anomalous relations with no less satisfaction than we should.

Nor would the recognition of the neutrality of the self-governed colonies deprive them of the power of aiding the Mother Country in any just and necessary war. On the contrary, it would enable them to aid her with more dignity and effect, as a Sovereign State could, of its own free will, and at whatever period it thought proper, elect to become a party to the war.

We are of opinion that this subject ought to be brought under the notice of the Imperial Government. If the proposal should receive their sanction, they can ascertain the wishes of the American and African Colonies with respect to it, and finally take the necessary measures to obtain its recognition as part of the public law of the civilized world."

This recommendation found favor with a few of the more advanced politicians and newspapers of the colonies. But on the whole it met with a hostile or indifferent reception from the general public. None of the Australian governments would have anything to do with it. Some of the leading conservative politicians condemned it in the strongest terms and the conservative press subjected it to merciless criticism as a one-sided proposition and a disguised form of separation. The agitation could make little headway in the face of such general opposition. Fortunately for the colonies, England did not become involved in the European struggle, and with the passing of the war cloud the neutrality proposal was quietly dropped by its erstwhile friends and supporters. Nothing more was heard of the matter until another war cloud hovered over the Empire.

The question of neutrality again came to the front in an acute form during the crisis preceding the Boer war. The old racial feud between the English and Dutch populations had almost died out when it was again revived by Dr. Jameson's treacherous raid into the Transvaal. The long drawn-out controversy over the rights of the Uitlanders added fuel to the flames. Meanwhile the government of the Cape was doing everything possible to bring about a settlement of the difficulty, but found its efforts blocked by the

intransigent attitude of the extremists on both sides. The premier of the colony, W. P. Schreiner, was caught between two fires and scarcely knew which way to turn. His sympathies were divided. He was undoubtedly strongly attached to the British connection, but he was essentially an Afriander in his political outlook, and moreover was intimately connected by marriage and social relations with leading members of the Dutch race in the Cape and Orange Free State. Although not himself a Bondsman, he had been chosen leader of that party and was dependent upon it for support. It was natural in the circumstances that he should sympathize with his Dutch fellow subjects in their desire to keep out of the war with their kinsmen across the Vaal. But he never allowed his sympathies to run away with his duty to his Sovereign. He was, perhaps, too trustful of the loyalty of his colleagues and too tolerant of the scarcely-veiled sedition of many of his followers, but he was never a party to, nor did he countenance, the open and secret intrigues of some of his supporters with the enemies of his country. He kept hoping against hope that a conflict might be avoided by a spirit of moderation and justice. Throughout the controversy he endeavored to maintain a neutral attitude, but as the war drew nearer his position became more and more untenable. He could not continue indefinitely to sit on the political fence. In attempting to preserve a non-committal attitude, he inevitably came into conflict with the views and interests of the ultramontanes on either side. On the one hand, he found it increasingly difficult to control pro-Boer activities in his own party; on the other, he encountered the open hostility of the loyal British population. To the latter, his equivocal conduct during the negotiations seemed to fall little short of high treason. The crisis could not be delayed much longer. The negotiations were breaking down and both parties were evidently preparing for war.

The opposition accordingly resolved to force the government to a public declaration of policy. On August 28, 1899, Sir Gordon Sprigg moved the adjournment of the House for the purpose of considering the question of the removal of arms and ammunition from Cape Colony into the Orange Free State. In the course of the debate, Mr. Schreiner announced his intention of maintaining so far as possible a neutral position in case of war.

"If I am still to see, despite my best hopes and my deep convictions, that South Africa is to be the scene of war between whites, that one race is to be set against another race in any part of Africa, I shall still say—and I say this today, not merely to this colony, but to South Africa and the world—that I shall do my very best to maintain for this colony the position of standing apart and aloof from the struggle, both with regard to its forces and with regard to its people."

A little further on in the same speech he returned to the same theme.

"If that unexpected and un hoped for event (war) is going to happen, it will become all of us to stand firmly together against that plague extending to our house. We shall endeavor then to do all in our power to preserve that peace which we have sought loyally and honestly to secure since the day when we put our hands to the plough of government of this country."

Neither the word nor the doctrine of neutrality, it will be observed, is to be found anywhere in this speech. The idea, it is true, is vaguely suggested, but no practical measures are proposed to carry such a policy into effect.

The opposition apparently did not attach at first much importance or constitutional significance to this declaration. Throughout the course of the debate they did not see fit to question the correctness of this position. Colonel Shermbrucker, a fire-eating loyalist, was apparently satisfied with this declaration and was even willing to meet the government half-way. "If," he said, "they on his side could obtain from the prime minister an assurance that the government would not adopt an attitude hostile to the British power, a great many members of the opposition would feel more satisfied." Mr. Rose Innes, one of the most influential members of the House and a constitutionalist of distinction, took the position that the imperial government should give the lead to local authorities on such matters. "As things are now they must depend upon the attitude of the imperial government. When they came forward and said they did not wish this kind of thing to go on, then it would be the duty of the ministers as part of the Empire to see that it did not." This opportune interpretation of the relative rights and obligations of the Motherland and colonies afforded the hard-pressed

premier an excellent ground of defense of which he was glad to avail himself. Accordingly, later in the debate Mr. Schreiner definitely accepted Mr. Innes' statement as a correct political and constitutional exposition of the government's position, and as an evidence of his good faith declared that when the necessity arose "he should act in conjunction with the proper authorities." In summing up the debate on behalf of the opposition, Sir Gordon Sprigg again arraigned the half-hearted policy of the government in dealing with the Boers and their Cape friends. But at the same time he was forced to admit that the government would doubtless do its duty in case of war. "Of course, when the storm breaks, when war is actually going on, we know perfectly well what the government will do, because they will be traitors to the office they hold under Her Majesty's government if they do anything else than stop the munitions of war going through which would then go through to a state in active hostility to Great Britain."

Outside the House an entirely different construction was placed upon the Premier's speech by a part of the press and public. The Cape Town *Times*, the leading organ of the opposition, interpreted these remarks as a formal declaration of neutrality, amounting practically to alienage. Here was an excellent campaign cry, and the *Times* proceeded to exploit it for all it was worth. Many of the ultra-loyalists took up the hue and cry. At a public meeting at the capitol under the auspices of the South African League, at which several members of the parliament occupied seats on the platform, a resolution was adopted strongly disapproving of Mr. Schreiner's declaration of neutrality. But not all of the English press were ready to follow this lead. The Kimberley *Advertiser*, for example, declared that "there is only one way in which the Cape could preserve neutrality in the event of war with the Transvaal, and that is by ceasing to be a part of the British Empire." But such a policy, it believed, did not lie within the meaning or intention of the Premier's declaration.

Mr. Schreiner's speech was duly cabled to London, where it stirred up a veritable hornet's nest in imperialistic circles. The London *Times*, which had become the foremost champion of the Uitlanders, denounced the "extraordinary statement" of Mr. Schreiner in severest terms. "That phrase, if it be in its natural sense, betrays

a startling misconception on the part of Mr. Schreiner of his duty both as a colonial statesman and as a British subject. What would have been thought of the governor of an American state who had declared his intention of keeping his state aloof from the war with Spain? The issues of peace and war do not rest with the colonial authorities, but with the government of the Queen, and when that government has declared war, it is the duty of all loyal subjects, whatever their position, not to keep aloof from the struggle, but to do their utmost to bring the struggle to a successful end." The *St. James Gazette* declared that the attitude of Mr. Schreiner was "not the least ominous part of the crisis." The Cape could not be neutral without involving itself in the process of aiding the Queen's enemies. If Mr. Schreiner were correctly reported, Lord Milner, it concluded "would be justified in dismissing him."

The Liberal papers, however, as might be expected, came to the defense of the colonial Premier. In an able editorial, in reply to the *Times*, the *Westminster Gazette* set forth what it believed to be the true state of affairs.

"It does not appear to occur to these critics that, in preventing the conflagration from spreading to the Cape, Mr. Schreiner would probably be doing this country the greatest service that is in his power to do. Mr. Schreiner does not, of course, mean that he would try to hinder the transport of men and ammunition through the Cape Colony. That is out of his power to do, even if he desired to do it. What he means is that he throws the responsibility of a war in the Transvaal on the Imperial Government and will leave the Imperial Government to conduct its own campaign. Mr. Schreiner probably could do nothing better or wiser, and he would do well if he could keep the struggle to the Transvaal and its borders. For let us be warned in time that the spread of this controversy threatens something very like civil war at the Cape. Our Dutch fellow-citizens have of course no veto on operations which the Imperial Government may think necessary, but their opinion and the sentiments of the constitutional government at the Cape must be regarded as elements of capital importance by a British statesman dealing with the present situation."

The Premier's speech had attained too much notoriety to escape the attention of the High Commissioner. Sir Alfred Milner, unfor-

tunately, was not on the most friendly terms with his constitutional advisers. As British High Commissioner in South Africa he had been entrusted with the conduct of many of the negotiations with the governments of the Transvaal and Orange Free State. These negotiations, in fact, had largely resolved themselves into a diplomatic duel between President Kruger and himself. It did not take him long to realize that he could count on but little, if any, support from the Cape ministers in this crucial struggle. It almost seemed at times as though the sympathies of the cabinet were on the side of the Boers rather than of the Crown. It is not surprising, in the circumstances, that Sir Alfred should have been tempted to look with special favor on the British opposition in the House, whose views and policies coincided so closely with his own. Unfortunately, he sometimes made too little effort to conceal his political opinions and sympathies. He was prone to regard himself as an imperial officer rather than, as a constitutional governor. He was much more concerned with the maintenance and promotion of British interests in South Africa than with the preservation of the principles of responsible government. There was, in truth, an unfortunate incompatibility between the functions of High Commissioner and Colonial Governor. As an imperial officer, he was free to pursue an independent policy; as colonial governor, he was expected to follow the advice of his responsible ministers. The position was an impossible one. He could not be an imperial viceroy and a provincial figurehead at one and the same time.

The High Commissioner, as was to be expected, took a serious view of Mr. Schreiner's speech. In a critical dispatch to Joseph Chamberlain, Secretary of State for the Colonies, he set forth his view of the political situation in considerable detail.

"It will be observed that Mr. Schreiner, while gladly availing himself of the defense which Mr. Innes's argument afforded him for not having taken the initiative in stopping the export of munitions of war to the Orange Free State, by no means committed himself to accepting the logical consequence of that view, viz., that he would be bound to stop such export, if requested to do so by the Imperial Government. On the contrary, many expressions of his speech are only compatible with the view that the Colony is virtually an independent state, which could, if it chose, remain neutral in a

conflict in which the Empire was engaged. This position is altogether inconsistent with that of Mr. Innes.

The natural sympathy which one cannot but feel with Mr. Schreiner in his earnest desire to preserve the Colony from war cannot be allowed to obscure the import of his remarkable declaration. It would seem to be the opinion of the Prime Minister, doubtless representing in this the views of the Cabinet, that in case of the British Empire being at war—and at war with states bordering on the Colony,—the Colony should take no part, and that its forces, every man of whom is enrolled in the name of and has taken an oath of allegiance to the Queen, should stand 'apart and aloof from the struggle.' These words seem to fall little short of a declaration of independence, and amount virtually to a policy of separating the colony, if only *pro hac vice*, from the Empire of which it forms a part.

The position which would be created, if the Ministry were to carry out the policy indicated in Mr. Schreiner's speech, would be one new in the history of the relations between Great Britain and her self-governing colonies.

Many wars have been waged by Great Britain in which these colonies have taken no active part. They have been wars far from their borders, on which the colonial forces, small in number and intended only for local defense, could practically render little or no assistance, although such assistance has been volunteered, and in one instance—the Suakim Campaign of 1885—has been actually given, by a colony to Imperial forces engaged at great distance and in a cause in which that Colony had no direct interest.

But the absence of active participation on the part of a Colony in a war waged by the Empire is something very different from the adoption of an attitude of neutrality. Such a position would be as unprecedented as it is untenable, alike in international law and in view of the constitutional relations of the Colonies to the Mother Country.

In view of the declarations of the Prime Minister on more than one occasion that he is determined to discharge his duty as a loyal minister of the Crown, I hesitate to assume that he would be prepared to carry out in practice the remarkable doctrine which seems to be indicated by the passage above quoted. Meanwhile, the ambi-

guity of the position is creating the most intense anxiety throughout the colony and the bitterest conflict of opinion between different sections of the inhabitants. Among the supporters of the ministry there are, no doubt, very many whose racial sympathy with the ruling class in the South African Republic is stronger than their feeling of attachment to the Empire. They would contemplate with aversion the employment of the forces of the Colony against either of the Republics, and would, at best, sullenly acquiesce in the passage of Imperial forces through the Colony in connection with military operations beyond its borders. On the other hand, there is a section, equally or almost equally large, which, sympathizing as it does intensely with the policy of Her Majesty's Government, and feeling the strongest attachment to the Mother Country, would bitterly resent any attitude approaching to apathy on the part of the Colony in case of a struggle, to say nothing of interference with the free movement of Imperial troops. The organized forces of the Colony, Cape Mounted Rifles, Cape Police and Volunteers are mostly composed of men whose sympathies are strongly on the Imperial side. I anticipate that the immediate future will be productive of very strong protests on the part of the latter section of the population against the action of the ministry, followed perhaps by counter-protests from its supporters.

In view of the many uncertainties of the immediate future, it is premature, and would, it seems to me, be undesirable, to suggest what course it might be necessary to adopt, in dealing with the forces and resources of the Colony, in the event of the relations between Her Majesty's Government and either or both of the Republics assuming a more unfriendly character. But I have thought it well to acquaint you with the present position of affairs in order that Her Majesty's Government may be prepared for the urgent questions which might, in that case, suddenly arise with regard to the relations of the Colonial Ministry to the Governor and to Her Majesty's Government. I will only say, in conclusion, that two considerations ought, in my mind, to be kept in view. The first and paramount consideration is the maintenance of the principle that this colony is, in every sense, part of Her Majesty's dominions, and cannot be allowed to separate itself, or stand aloof, from any conflict in which the Empire may be engaged. No colonial government

would, in my opinion, be faithful to its duty which sought, under such circumstances, to hamper the action of Her Majesty's Government, or to withhold from it any support which the Colony was capable of giving. On the other hand, I believe it would be good policy on the part of the Imperial Power to have every regard, consistent with the maintenance of the principle just laid down, for the feelings of that large number of Cape Colonists who, unfortunately, are incapable of taking a fair view of the differences existing between Her Majesty's Government and the South African Republic, or of sympathizing with the former in a conflict with the latter, however justified such a conflict might be. It would be well, for that reason, to avoid, if possible, the direct employment of colonial forces for any purpose but those of the defense of the Colony itself, though it would be impracticable, in view of the unforeseen contingencies of war, to lay it down as an absolute rule that they should under no circumstances be so employed."

The dispatch of the High Commissioner, it must be admitted, did not do justice to Mr. Schreiner's position; for not only did it assume that the policy of the government was one of legal neutrality rather than of military non-intervention, but it also overlooked the Premier's express declaration that he would act "in conjunction with the proper authorities" when the necessary occasion arose. In the light of the contest "the authorities" referred to could have meant none other than the imperial government or its representatives. It is equally significant that Sir Alfred found it necessary to supplement his excellent exposition of the constitutional unity of the Empire by the consideration of certain political factors which limited in this case the operation of the legal theory. In short, the question at issue was in reality not a question of law but of political expediency, namely, how best to hold the Dutch population to its allegiance. From the standpoint of practical politics, there was no fundamental difference between the policy of the Premier and of the High Commissioner. They were both non-interventionists. The former, however, was guilty of the tactical mistake of expounding his views in parliament to the edification of his pro-Boer supporters, whereas the latter was discreet enough to conceal his opinions in a confidential dispatch to his chief.

A few days later Mr. Schreiner discussed the question at length

with the High Commissioner with a view to removing some of the popular misconceptions which had arisen regarding his policy. In the course of a parliamentary reference to this interview, several months after, he declared that he had never supposed for a moment that a colony could proclaim its neutrality in the face of a declaration of war by the Empire, nor had he said "anything of the kind." He had made that point absolutely clear to the government authorities not only so, but his supporters likewise knew right well that he did not intend to maintain an attitude of neutrality in the struggle that was about to begin.

A more comprehensive and illuminating account of this interview may be found in a subsequent letter of the High Commissioner to the Secretary of State for the Colonies:

"In the course of the conversation, Mr. Schreiner expressed the feeling that his explanations on the subject in the House of Assembly had been greatly misunderstood. He protested against his words being interpreted as a declaration that the Colony should remain neutral in case of hostilities between Her Majesty's Government and the South African Republic. He had never harboured such an idea. I replied that in my opinion his words were open to such construction and that I regretted them. In reply he went on to state at some length his point of view. The gist of it was that, while he fully admitted that, in case of war between Her Majesty's Government and any other state, this colony could not be neutral, yet he felt that, in the interests of the Empire itself, the two main objects which colonial ministers should, in that case, keep in view, would be to prevent civil war breaking out in the Colony and to guard against the dangers of a native rising. Undoubtedly the forces of the Colony should be employed to protect the Colony, and he would regard any Minister as most culpable who should run the risk of damage being done to the Colony either from the South African Republic or the Orange Free State. What he deprecated was the use of colonial forces against republics outside the borders of the Colony. If they were so used, he feared it might be impossible to restrain a rising on the other side, and there might be a conflict in the Colony itself.

I told him that I quite agreed that any action which might lead to a conflict of whites within the Colony and to consequent unrest

and perhaps rebellion on the part of the natives was to be deprecated. As a matter of grace and policy, Her Majesty's Government would, I believe, be unwilling, except in the last resort, to employ Colonial forces for any but purposes of defense. But it was quite impossible to say, though I did not at present contemplate such an eventuality, that the Colony might not become a base of operations against a neighboring state, in which case the Government of the Colony must, of course, loyally cooperate with Her Majesty's Government and give every assistance to the Imperial military authorities."

The Secretary for the Colonies closed the correspondence in a brief dispatch approving the views of the High Commissioner on the question of neutrality and also expressing his satisfaction that Mr. Schreiner "had since explained that his words were not intended to bear the construction to which they were open." In conclusion, he likewise concurred in the views of the High Commissioner "that in case of war the colonial forces should, as far as possible, not be employed directly in offensive operations."

In a speech on the prorogation of parliament on the eve of the war, Mr. Schreiner again took occasion to set forth definitely his conception of the duty of the colony in case of war.

"I consider, Mr. Speaker, that I only utter what I believe will be the sentiments of every honorable member of this House when I say that it will be the general duty of Her Majesty's ministers in this colony, and it is the duty of every honorable member of this House, no matter what side he may stand on, and of every person or agency of influence in the country to strain for one great object, and that is, so far as lies within our power, to save our colony as much as possible from being involved in the vortex of war into which it is now apparently a certainty that South Africa has been drawn."

Mr. Schreiner's policy at times seemed tortuous and insincere, but in view of the difficulties of the situation it could scarcely be otherwise; it represented, in truth, the compromise between his political sympathies and prejudices on the one hand and his high sense of duty on the other. His so-called neutrality proposal meant only that he was unwilling to employ the local forces of the colonies in offensive operations against the neighboring republics. Such a

policy, he was convinced, would stir up the bitterest hostility of the Dutch and lead almost certainly to civil war. For the same reason he was opposed to the dispatch of colonial troops to Kimberley and the border towns prior to the outbreak of war, for fear that it might provoke the Boers to hasty belligerent action. His policy, in fact, was governed by the desire to avoid any provocative action towards either the Boer republics or the Dutch population of the Cape. Upon one matter he was firmly resolved, namely, that whatever the outcome neither he nor his government should be chargeable in any way with responsibility for the war.

The views of the Premier, unfortunately, were not shared by all his followers. Some of his supporters were desirous of proclaiming the neutrality of the Cape in the event of war. The extreme Africander section of the party, under the nominal leadership of Te Water, would gladly have closed the ports and railroads of the colony to British troops and supplies and have refused to coöperate with the imperial forces in any way. Some of them did not hesitate to carry on treasonable correspondence with the heads of the enemy states. They kept up a constant series of attacks upon the High Commissioner and the Secretary of State for the Colonies, but they did not dare to challenge the position of the Prime Minister in open parliament.

In the end, the question came up in a somewhat different form from what Mr. Schreiner had anticipated. The Boers assumed the offensive at the outset, crossed the Orange River into the Cape and proceeded to enlist Dutch sympathizers in their forces. The question was no longer one of colonial participation in a war of aggression against the Dutch Republics, but of the defense of British colonial territory against the invasion of the enemies' forces.

The precipitous action of the Boers greatly simplified Mr. Schreiner's problem. Nevertheless, he still hesitated. After some delay, martial law was declared in the invaded districts, but there was still some time before he consented to call out the military forces of the colony for the defense of its territory. The colony was indeed sorely distracted. The British loyalists and their Dutch allies were clamoring for the raising of volunteer forces, while at the same time the burghers were appealing to the government not to be called out for active service. Under the provisions of the burgher law,

every able-bodied colonist was liable to military service, but the government wisely declined to put the act into operation. It would have been the height of folly to have attempted to do so. With a view to quieting the apprehension of the burghers, Mr. Schreiner sent a circular to the civil commissioners and resident magistrates throughout the colony announcing that "It is not intended to call out the burgher forces, as it is considered that the military forces of the Crown are sufficient to preserve or in case of a temporary invasion of the enemy to restore order and that all that is expected by the government of the ordinary citizen is that he should remain loyal to Her Majesty and give no countenance or assistance to her enemies now invading this colony." This proclamation undoubtedly had a beneficial effect upon the Dutch, even though it stirred up much heart-burning among the loyalists. The policy of the government, in the words of the Premier, was "to employ the regular forces of the Crown rather than local volunteers, because when the war was over the military forces would go, but the local forces remained in the country, and it was his object and policy to avoid as much as possible the use of the voluntary forces in the colony and so to spare the people of the colony when the war was over the legacy of feud and hostility."

The question of neutrality did not arise in the sister state of Natal. The population of that colony was loyal to the core. From the very beginning of the controversy with the Transvaal the people of Natal had manifested a keen interest in the grievances of the Uitlanders and throughout the negotiations the government had strongly supported the policy of the High Commissioner. On the outbreak of the war the government called out the militia at once and proceeded to put the colony on an effective war basis. There was no thought of non-participation or of neutrality. On the contrary, both government and people threw themselves most heartily into the struggle and made it particularly their own.

The correspondence on the question of neutrality was duly laid before the British parliament, but, strange to say, it failed to attract any attention in the House of Commons. The popular chamber was too much absorbed in the bitter controversy over the origin of the war and the conduct thereof to give much consideration to the constitutional aspects of the subject. The attitude of the House

of Commons on imperial questions has always been hopelessly provincialistic, and this case proved no exception to the rule.

The subject, however, did not escape the attention of the House of Lords. On March 29, 1900, the Earl of Camperdown addressed a series of questions to the government: "(1) Whether the duty of self-defense is imposed on a self-governing colony. (2) Whether, in the event of war between Her Majesty's government and a foreign power, a self-governing colony can declare itself neutral. (3) Whether a colonial government which declines to call out its forces or otherwise defend its colonial territory against invasion is liable to compensate those who suffer damage within the territory from the enemy." Responsible government, he declared, implied certain obligations as well as privileges, but the English government had apparently never laid down in definite words what these obligations were. The duty of self-defense would, in his judgment, naturally be one of the obligations which a self-governing colony might be expected to assume. But for the recent pronouncement of Mr. Schreiner he would never have supposed that a colony could declare its neutrality. "The colonies have no representation abroad and they have no foreign policy of their own." Both before and subsequent to the outbreak of the war, the Cape Premier had failed to take necessary measures for the defense of the colony, and as a result the loyal British and Dutch colonials had suffered serious losses. He desired to know, therefore, who was responsible for these losses. Would the British or colonial taxpayers be called upon to make good the damage?

In his reply, the Earl of Selborne, Parliamentary Secretary to the Colonial Office, took pains to guard himself against "attempting to frame any new maxims on the complicated constitutional problems" which the questions raised. In case of actual invasion, a self-governing colony, he laid down, "would be bound to do all in its power to defend its own territory, but there would be also an obligation of honor which we hold to be absolute on the Mother Country to do what she can to assist the colony." The general principles governing the respective military obligations of the Mother Country and self-governing colonies in time of peace were fairly well understood. In case of a naval attack, the colonies would be expected to look after the land defenses, while the British gov-

ernment would take charge of the coaling stations and attack by sea. There was, however, to the best of his knowledge, no settled principle in the case of a land attack.

In regard to the second question, whether, in the event of war between Her Majesty and a foreign power, a self-governing colony could declare itself neutral, his lordship affirmed "it is perfectly obvious that no part of Her Majesty's dominions can claim to be at peace with a power with which Her Majesty is at war."

Upon the third question, as to the liability of a colonial government for failure to afford adequate protection to its subjects, he declined to express an opinion. The question presented a purely abstract proposition which had no bearing on the existing situation in South Africa. The Cape government had not declined to call out its forces, as had been alleged. "It has called out its forces to the extent to which it, and I may also say the Government, considers it wise that they should be called out," in view of the doubtful loyalty of many of the burgher population. This explanation was apparently satisfactory to the Earl of Camperdown and other members of the House, as the subject was dropped without further question.

With characteristic English political opportunism, the English government and parliament soon forgot all about the embarrassing constitutional questions at issue. They have always been prone to put off their difficulties to a more convenient season and to trust to a kind providence to help them out of their troubles when a solution could no longer be postponed. "Sufficient unto the day is the evil thereof" has been the motto of British colonial policy. With the termination of the war the question of colonial neutrality again became an academic issue, and suffered the usual fate of all such questions.

The South African war, however, did serve the purpose of bringing out clearly the anomalous constitutional position of the dominions in time of war. In this incident may be seen a striking illustration of that divergence between law and practice which is as marked a characteristic of the imperial as of the English constitution. From the standpoint of constitutional law, the British Empire was one and indivisible in war as in peace. One part of the Empire could not be at peace while others were at war. This

fundamental principle was recognized alike by English and colonial statesmen. No colony was empowered or entitled to throw off its allegiance at will or to absolve itself from the performance of its constitutional obligations at home or abroad. In short, there was no constitutional right of collective expatriation or even neutrality on the part of any of the dominions. At the same time, the English government clearly recognized that, according to the convention of the imperial constitution, the colonies were free to determine for themselves whether and to what extent, if any, they would actively participate in imperial wars. The dominion governments had the sole responsibility of determining when and under what conditions colonial forces should be employed outside of their own borders. A royal declaration of war undoubtedly bound all the king's subjects and possessions, but it did not automatically involve the colonies in active naval or military operations. The colonies were still free to join forces with the Mother Country or to maintain an attitude of benevolent neutrality if they should see fit so to do. There was no doubt but that the dominions were ready and willing to come to the aid of the Mother Country in case of a great emergency, but they were equally resolved not to be drawn into imperial ventures and expeditions in which they had no special interest and of which they might possibly disapprove. In short, they claimed to be free-will agents in respect to foreign wars, and this principle was not seriously challenged by the Colonial Office. The views of Mr. Schreiner upon this point were very similar to those of his illustrious Canadian contemporary, Sir Wilfrid Laurier. "If England is at war, we are at war and liable to attack. I do not say that we shall always be attacked, neither do I say that we would take part in all the wars of England. That is a matter which must be determined by circumstances upon which the Canadian parliament will have to pronounce. It will have to decide in its own best judgment."

But this policy of non-participation is far removed from the modern conception of neutrality with its strict rules not only against intermeddling in the war but also against any use or abuse of the neutral territory for belligerent purposes. There was here no claim of a new international status or embryonic independence, no proclamation of neutrality or declaration of immunity of the ships, ports and territory of the dominion. The pronouncement of the Cape

Town Premier was a mere matter of internal economy affecting only the constitutional relations of the colonies and the Mother Land. It had no international validity or effect nor were foreign governments under the slightest obligation to take due notice thereof. From the standpoint of international law the status of the dominions was unchanged. The colonies were still integral portions of the Empire, whose fate in time of war was bound up with that of the Mother Country. The Boer Republics were indeed fully justified in treating the South African colonies as enemy territory, and as such open to invasion and conquest, the same as any other portion of the king's possessions. Only a declaration of independence could have changed the belligerent character of Cape Colony and have converted it into a neutral state.

This incident did possess, however, considerable constitutional and international significance. It marked an important stage in the progress of the dominions from dependence to statehood. It was but a short step from voluntary inaction to free and independent action in foreign affairs. Jan Smuts has taken up the mantle of his distinguished fellow-countryman as the prophet of the new school of national or liberal imperialists who look to the solution of the Empire's external problems, not by cutting the painter, but through the reorganization of the Empire upon the basis of an association of free and equal states. In other words, they aim to set up a British league of nations, the members of which would be entitled to determine their own policies in respect to war, peace and foreign relations. The splendid sacrifices of the colonial troops on the fields of France won for the dominions the right to international recognition. That right was conceded by the covenant of the League of Nations. The dominions were at last admitted as full-fledged members into the family of nations. The conference at Cannes gave practical expression to the new policy of international freedom. The days of colonial tutelage were over. Under the terms of the proposed Anglo-French alliance the dominions were free to decide their own foreign policy in war as in peace. It is too early as yet to declare that the old policy of non-participation has given place to a new doctrine of neutrality, but an important precedent has been established and the tendency of imperial development lies in that direction. The question still remains, to what

extent will foreign states be willing to respect a declaration of neutrality on the part of a dominion in the case of war with the Mother Country. To that question no answer is now forthcoming; it must be left to the determination of time.

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