CABINET.

STATUS OF THE UNION OF SOUTH AFRICA.

NOTE BY THE SECRETARY OF STATE FOR DOMINION AFFAIRS.

ON the 27th July I circulated to my colleagues reports of a speech made by the Prime Minister of the Union of South Africa at a public meeting at Stellenbosch, in which he dealt with the international status of the Union of South Africa as one of the self-governing Dominions, and of a debate on the subject in the Union House of Assembly on the 29th May (C.P. 306 (26)).

I now circulate a private letter which I have received from General Hertzog, in which he deals with the same matter (Annex A). The minute of the 22nd January, 1925, referred to in the first paragraph of General Hertzog's letter, is annexed (Annex B).

In the ninth paragraph of his letter General Hertzog refers to a memorandum by General Smuts, entitled, 'The Constitution of the British Commonwealth,' which he describes as having been submitted to me in 1921, and to my 'comment of the 20th June of that year.' These documents do not appear to be on record at the Dominions Office, but General Smuts made a statement of his views as to the status of the Dominions and their position in relation to foreign affairs at the meeting of the Imperial Conference on the 11th July, 1921, and a memorandum dealing with the subject, prepared in the Colonial Office in March 1921, had previously been circulated to the Dominion Prime Ministers as paper E. 6. I think it possible, though I have no recollection on the point, that General Smuts sent me a note of the statement he was proposing to make at the 1921 Conference, and that I returned it with a statement that the views expressed by General Smuts were substantially in accordance with my own views.

The Colonial Office memorandum of March 1921 referred to the several members of the British Commonwealth as 'equal in status, and as such entitled to international recognition as independent States,' but its whole trend was to lay stress on the fundamental unity of the Empire, and on the fact that its several members stood to each other in a relation which differs in kind as well as in degree from the relationship of any or all of them towards Foreign Powers. There was nothing in it to suggest that the 'independence' of the various States of the Empire was incompatible with their interdependence as parts of a whole. General Smuts himself, in his speech at the Imperial Conference on the 11th July, 1921, described the British Empire as 'a system of equal States working together on principles of equality and freedom.' Earlier, in a speech in the Union House of Assembly on the 23rd June, 1920, he is reported as having said that 'the British Empire to-day consisted of a number of free nations who were under one common sovereign and who had to conduct their affairs on a common basis.'

The general principle of 'equality of status' combined with special relationship of the various parts of the Empire inter se, as described in the Colonial Office memorandum of March 1921 (E. 6), has again been enunciated in the memorandum on the Form of Preamble and Signature of Treaties approved by the Cabinet as a document for circulation to the forthcoming Imperial Conference (E. 104). My colleagues will recollect that this memorandum recommends not only that the principles involved should be definitely placed on record at the Imperial Conference, but also that the intention of the Governments of the Empire to maintain them should be communicated to the League of Nations and, if necessary, to individual Foreign Powers.
It remains to be seen how far these recommendations will find acceptance at the Conference, but, at any rate, they should go a long way towards meeting General Hertzog's point of view, always assuming (what, so far, it has been found impossible to ascertain definitely) that his conception of the British Empire is something more than a "Personal Union."

In this connection my colleagues may also like to see—

(1.) A note of a conversation which Mr. Batterbee, of the Dominions Office, recently had with the High Commissioner for the Union of South Africa at Geneva on various points connected with the international position of the Dominions (Annex C). This note has been seen by the Secretary of State for Foreign Affairs at Geneva, and he suggested its circulation to the Cabinet.

(2.) A despatch from His Majesty's representative at Lisbon as to the relations between Portugal and the Union (Annex D). Paragraph 6 of this despatch is of special interest because the sentiment there referred to is in complete contrast to the view of the status of the Union expressed in the debate in the Portuguese Senate in May of this year, which caused concern to General Hertzog, as his speech at Stellenbosch shows (see p. 5 of C.P. 306 (26)), and also to Mr. Smit (see the record of his conversation with Mr. Batterbee).

L. S. A.

Dominions Office, October 4, 1926.

ANNEX A.

Letter from the Prime Minister of the Union of South Africa to the Secretary of State for Dominion Affairs.

Prime Minister's Office,

Pretoria, July 28, 1926.

Dear Colonel Amery,

YOU will perhaps remember that in January 1925, in writing to you I remarked upon the unsatisfactory manner in which the status of the Dominions was recognized internationally. A few days later, on the 22nd January, a minute was sent by the Union Government to the British Government, wherein it was pointed out that as we viewed the matter, the failure of proper recognition by foreign Powers was due to the fact that it was not sufficiently insisted upon over against such Powers, that "every member of the Commonwealth by itself constituted a distinct national entity with equal status."

Since writing the above I have not only been confirmed in my views as therein expressed, but experience during the eighteen months which have since elapsed, have taught and reflection convinced me that an authoritative statement on the subject of Dominion status to the world, is absolutely essential to the interests of the Empire, no matter whether we look at those interests from the point of view of international or inter-imperial relations, or from the point of view of the requirements of each individual Dominion separately.

The harm, for instance, which has been done during the last six years to South Africa and to the appreciation of the necessity of Imperial co-operation in South Africa, through the absence of such a declaration and the consequent lack of knowledge as to our status, has been incalculable; and the harm which is still at the present moment being done in South Africa through the prevailing ignorance amongst the masses as to what our status as a Dominion is, cannot be described. It has to be experienced in order to be realised.

Under these circumstances I feel it to be imperative that at the Imperial Conference in October we shall in all earnestness try to put an end to this undesirable state of affairs. I feel convinced that there is nothing else we can do at that Conference which shall have such an abiding influence for good in the Empire and so facilitate our endeavours to make imperial co-operation a success for the future. If we do not achieve that end, I say frankly, that I do not think that anything substantial will be attained.

I hope, therefore, that the necessary opportunity and time will be at our disposal for considering and concluding upon the subject.
It remains to be seen how far these recommendations will find acceptance at the Conference, but, at any rate, they should go a long way towards meeting General Hertzog’s point of view, always assuming (what, so far, it has been found impossible to ascertain definitely) that his conception of the British Empire is something more than a “Personal Union.”

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I hope, therefore, that the necessary opportunity and time will be at our disposal for considering and concluding upon the subject.
We shall have to face fundamental facts as to the independent status of the Dominions, and we shall have to publish those facts to the world. I say this because during the last eight days I have been very much occupied in perusing papers in connection with previous Conferences, and I hope you will excuse me if I say that with nothing have I been so struck as with the apparent unwillingness of representatives attending those Conferences to face essential facts as to our constitutional rights or, when faced, to have them published beyond the confines of the Council Chamber.

The result, I find, is that the records are full of the most important authoritative statements and views on the question, and I may add resolutions, which should be public property, but which for some reason or another I can trace only in secret documents.

I give you the assurance that if the statements which I have come across in these papers as to our Dominion status, coming from Great Britain's most responsible leaders, had been published and authoritatively announced, as to my mind they ought to have been announced, much of the bitterness and political wrangle in South Africa at least would never have occurred, and the word "Empire" would have had a different significance to what it unfortunately has with thousands because they are being kept in the dark.

Amongst the papers which have fallen into my hands during the last eight days is a memorandum by General Smuts, entitled: "The Constitution of the British Commonwealth," submitted to you in 1921, with your comment of the 20th June of that year. I was, indeed, struck with the similarity of ideas between General Smuts, as expressed in that document, and my own, to which, in April last, I gave part expression in my address at Stellenbosch. I need hardly tell you how glad I have been to find that also your convictions are running along the same lines.

In order to let you see how much we shall achieve if those ideas are given effect to, allow me to mention a small incident which took place the day after my Stellenbosch speech. A colleague of mine in the Cabinet, a man of great influence with those in the country, whom General Smuts in the past has so often stamped as secessionists and rebels, came enthusiastically up to me, saying: "General, if the people could only be made to understand what our status is—such as you explained it at Stellenbosch—you will not hear of secession again!" The day after, his words were repeated to me by another colleague from the same province. Only this morning my colleague first referred to, upon being shown Smuts' memorandum and your approval of it, exclaimed: "Then why don't they say so openly! All dissatisfaction would at once vanish."

I mention this to you, because you have no conception what irreparable harm is being done to Empire co-operation through the policy of secrecy pursued in an atmosphere of constitutional fog. As long as this continues, you will have nothing but suspicion and strife; and really I cannot be a party to such tactics, nor do I consider it right over against the people whom I represent.

I am writing to you in a spirit of the utmost sincerity, and I hope I have not been over-frank, or, perhaps, tiresome. But it is because I feel deeply, and am deeply desirous of doing what I can to be of assistance in matters of such vital importance to us all.

I look forward with the greatest pleasure to meeting you in October next when I get to England.

Yours sincerely,

J. B. M. HERTZOG.

Annex B.

Minute of the Union Government.

Prime Minister's Office,
Pretoria, January 22, 1925.

Minute No. 63

Referring to the Governor-General's Confidential Minute No. 23/569 of the 27th December, 1924, it is noted that the British Government shares in the view that at this stage the proposal for a special enquiry in connection with the present [15107]
system of consultation on matters of foreign policy and general Imperial interest is not likely to prove of any advantage.

Ministers desire to avail themselves of the present opportunity of submitting to the British Government that, according to their views, the difficulties which have been encountered in making the present system of consultation effective are due not so much to any inherent defect in the system itself as to the failure, in the case of negotiations with foreign Powers, to insist upon the recognition by such Powers of the fundamental fact upon which that system is based, viz., that every member of the Commonwealth by itself constitutes a distinct national entity with equal status.

Ministers are of opinion that experience during the last years has shown that, while the members of the Commonwealth have \textit{inter se} acceded whole-heartedly to this view and have formed it the basis for joint consultation and common action in relation to foreign affairs and common interests, they have, in the event of opposition by foreign Powers to its application, not shown themselves prepared to give it the measure of support necessary to overcome that opposition.

As a result, foreign Powers, whenever they find it convenient or to their interest to have the Dominions excluded from participating in any negotiations as distinct national entities, refuse to recognise their distinct existence; and, as a consequence, wherever this refusal ultimately prevails—as in the recent Conference over the Dawes Report—the system of consultation and representation necessarily cannot be given effect to.

This is felt as creating a highly unsatisfactory state of affairs; for, no matter what may be the responsibility incurred by a Dominion through its share in any Joint Consultation with other members of the Commonwealth upon a matter of foreign affairs, it is ultimately left to the discretion of the foreign Power concerned to say as to whether such a Dominion shall be barred or not from actual participation in the final decision.

Ministers feel convinced that the only remedy that can be applied here is, whenever opportunity arises, to insist that the distinct status of every Dominion and its right to separate, individual representation shall be recognised by foreign Powers concerned. Unless this attitude is frankly adopted in our relations with foreign nations and the correctness of it recognised by these nations, it is felt that all efforts to devise methods of closer co-operation in matters of foreign policy must of necessity prove fruitless.

While the international recognition of the status of the Dominions as distinct nations entitled to separate representation in the case of international negotiations seems to this Government so essential as to constitute a condition precedent to the success of any attempt at a satisfactory method of consultation upon foreign affairs and general Imperial interest, Ministers feel satisfied that it will at the same time prove of incalculable value in removing suspicion, and thereby many of the difficulties at present constantly interfering with the speedy determination of international questions. As between the different members of the Commonwealth the definite and explicit recognition of the international status of the individual Dominions cannot but lead to a most salutary increased measure of confidence. But that will not be all. Such international recognition of individual status must necessarily reflect upon and enhance the collective status of the Commonwealth, and force upon the world an international recognition of the Commonwealth relationship to which international law will eventually be forced to adjust itself.

J. B. M. HERTZOG.

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ANNEX C.

Note of a Conversation at Geneva between Mr. Batterbee, Dominions Office, and the High Commissioner for the Union of South Africa.

I HAD a long conversation with Mr. Smit on Saturday evening. He began by referring to the question of the forthcoming election of members of the Council, and said that, although when the Empire delegates last met he (Mr. Smit) was of opinion that there was no prospect of a Dominion claim for a seat on the Council, he thought that the position was now changed in view of the definite withdrawal of Spain and the events which had happened in China during the last few days, and which, he imagined, rendered the election of China out of the question. He said that in some circles in Geneva there was now a considerable amount of talk as
to the desirability of putting one of the Dominions on the Council, and he thought that if one of them entered the field there was now a considerable possibility of their being elected to a seat. He would have much preferred himself that the question should not be raised this time, but that the whole matter should be thrashed out at the Imperial Conference, but if there was actually a seat going he thought that the question took on a different complexion. He hoped that Sir Austen Chamberlain would be willing to have another meeting at an early date to discuss the subject further, and I said I was quite sure he would be happy to do so.

Mr. Smit then made certain remarks as to the question of the representative of Great Britain representing the Dominions on the Council, from which I gathered that his point of view had shifted considerably since March. While still maintaining the theoretical objections to this arrangement, I gathered that in practice he now regarded as satisfactory the present arrangement under which Sir Austen Chamberlain is able to voice, when it is so desired, the opinions of the Dominions on the Council. He told me quite frankly that if it was impossible for South Africa to be represented on the Council by her own representative, he would much prefer that South Africa should be represented by Sir Austen Chamberlain rather than by Sir George Foster. I have little doubt that the action which Sir Austen Chamberlain took in the Council on the subject of mandates at his and Sir Francis Bell's request has had a considerable influence upon his attitude in this matter.

Mr. Smit then turned to the subjects likely to come up for discussion at the Imperial Conference, and said that he thought that the first point that his Prime Minister would urge was that a statement should be made by Great Britain to foreign nations as to the international position of the Dominions. The recent debate in the Portuguese Parliament, in which it was stated that whatever might be said as to the theory of Dominion self-government, in practice South Africa was really still a Colony, appears to have rankled. No statement made by any of the Dominions themselves would be of any use, and what was desired was a statement by Great Britain herself, which was the only thing which foreign Governments would accept. I gathered that a resolution by the Imperial Conference which could be communicated to foreign nations would meet the situation, and that some action on these lines would in Mr. Smit's opinion go far to relieve the situation in South Africa. In the course of our conversation Mr. Smit said emphatically and definitely that secession in South Africa was dead.

Mr. Smit next referred to the question of the desirability of taking further steps to render closer consultation with the Dominions in foreign affairs, and said he thought a very great advance would be made if the High Commissioners could be given some diplomatic status, and if (as, indeed, was suggested by Sir Austen Chamberlain himself at a recent meeting in London), he could have periodical meetings with them at which he could amplify the information given by despatch and telegram to their Governments. Though it would be impossible for the High Commissioners to bind their Governments, he thought that often they would be able to communicate to the Secretary of State for Foreign Affairs the trend of thought of their Governments on any particular subject. They could warn him in time if they felt that in any particular crisis Dominion Governments were not fully persuaded of the wisdom of the course of action which His Majesty's Government were pursuing, and in this way he thought that the undesirable division of opinion which occurred on the occasion of the Chanak crisis might have been avoided. I told him quite frankly that he would not find any opposition to such a proposal on our side, but that opposition was more likely to come from the overseas side. This he quite realised, but said that if an offer of this kind was voluntarily made by His Majesty's Government he thought it would be a wise step.

He next referred to the position of the Governor-General. Speaking personally, he told me that in his opinion the damage which had been done in Canada was really due to the fact that Canadians, even responsible Canadians, believed that Lord Byng had acted on the instructions of His Majesty's Government. He told me that a prominent Canadian in Geneva had recently said to him that it was quite inconceivable that a plain bluff soldier like Lord Byng, without any knowledge of constitutional law, would have settled such a matter himself when at the other end of the telegraph wire he had the best legal and constitutional authorities in the world. I told him with all the force that I could that Lord Byng had not consulted His Majesty's Government in any way whatever, and that if he had so consulted us we should have refused to intervene or to give him any advice. Speaking for
himself alone, Mr. Smit thought the time had come when, in the larger Dominions at least, the Governor-General should be solely the head of the executive acting on the advice of his Ministers, and should in no sense be the servant of His Majesty’s Government and subject to their instructions. He thought, therefore, that the time would soon come when, in the larger Dominions at least, it would be necessary for His Majesty’s Government to appoint their own High Commission in the Dominion to act as their go-between with the Dominion Government.

How far Mr. Smit was voicing the opinions of his Prime Minister in these matters, of course, I do not know, but I thought it was worth while to make a record of the conversation as showing the general lines of the attitude which the South African Government is likely to take up at the Conference.

Geneva, September 13, 1926.

H. F. BATTERBEE.

Annex D.

Despatch from His Majesty’s Representative at Lisbon.*

(No. 218.)

Sir, Lisbon, September 2, 1926.

WITH reference to my despatch No. 104 of the 3rd ultimo, I have the honour to report that Dr. Augusto de Vasconcellos gave an interview recently to the "Diario da Tarde" regarding the relations between Portugal and the Union of South Africa.

2. Dr. Vasconcellos said that he was glad to speak on the subject because, while the policy followed by South African Governments as regards Portugal for some time past was manifestly mistaken, to-day the tendencies of their statesmen were completely different, it being necessary for Portugal on her side to change her policy, which was one of well justified suspicion and reserve, in the direction of loyal friendship and useful collaboration to the equal advantage of both countries.

3. The South African party, led by General Smuts, contained in certain of its elements the old imperialist aspirations of the time of Cecil Rhodes, who imagined a formidable Empire in South Africa, uniting under its sway all the territories and populations south of the River Zambesi. The natural reactions, however, which this policy provoked, had, in the course of time, tempered the enthusiasm of the first moment to such an extent that General Smuts himself, in an article published by one of the chief South African papers, had brought himself to defend a policy of co-operation with neighbouring States, abandoning his more audacious attacks of former times. General Smuts himself invited Dr. Vasconcellos’ assistance for a policy of loyal collaboration.

4. The policy of General Hertzog, the Nationalist leader, had always followed, as regards relations with their neighbours, a different line. A sincere partisan of a policy of frank understanding with the neighbours of the Union, General Hertzog offered full guarantees for the negotiation of the complicated problems which the two countries must solve.

5. After a two-years’ trial, the coalition of Nationalists and Labourites was still able to face the attacks which could be brought against it and was continuing in office. General Hertzog favoured sincerely and devotedly a policy of co-operation with the Portuguese, and the first time he received the Portuguese Commissioners he referred to the enormous difficulties and the huge tasks which faced the rulers of South Africa, and said: "Let us always face them together; let us never divide them." The delegates who negotiated with the Portuguese were chosen in such a way as to give an absolute guarantee of impartiality and justice, and their instructions gave them the fullest latitude to negotiate. Furthermore, on the 4th June, 1926, General Hertzog gave an interview to the "South Africa," in which he said that the attitude assumed by the Portuguese delegates who broke off relations with the Union of South Africa in 1922, when General Smuts demanded Union participation in the administration of the Port and Railway of Lourenco Marques, was the only attitude which representatives of a self-respecting nation could adopt.

Dr. Vasconcellos also referred to General Hertzog’s statement that the Union’s opposition to the financing of the Benguela Railway was not a permissible act towards a friendly nation. It was necessary to conclude treaties of commerce for the

* Circulated with the concurrence of the Foreign Office.
benefit of the two Provinces of Angola and Mozambique, agreements regarding land and maritime traffic, conventions respecting native labour, &c. To accomplish this Portugal must put aside her former suspicions, which were justified by the mistaken policy of South Africa in the past, but not now.

6. His toast at the banquet given on the eve of their departure was to the Union of South Africa, "which we consider as a great country with a brilliant future, forming part of the British Empire, but on a footing of equality with the Metropolis and the other British Dominions. This equality has been claimed in the past by statesmen of the Dominions, but now Lord Balfour, Lord President of the Council, declared on the 27th June last in the House of Lords that, in the Union of Free States, none could be considered as above the others." This had introduced a new political doctrine which Portuguese statesmen must bear in mind whenever they negotiated with British Dominions.

I have, &c.

H. A. GRANT WATSON.

The Right Hon. Sir Austen Chamberlain, K.G.,
&c., &c., &c.