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Legal and Constitutional Problems

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Legal & Constitutional Problems -

10/3/9

1. League of Nations.

1. — Is unity of B. E. completely ignored there?

B. E. being member of Council, is
Dominion eligible? Clemenceau re note.

If matter to which Dominion a party
before Council, is Dominion to be a member pro
loc vice, or is it present in Council through
B. E.

If member pro loc vice,
would descent of 'B. E.' break unity of Council's
determination?

e.g. "White Australia" - would B. E. vote that
a matter was ~~not~~ one of Domestic for present
Council from finding that it was not?

2. Does the provision that ~~all~~ ^{all} members in certain
circumstances are in a state of war with one member
bring the members of the B. E. into a state of war
with each other?

3. ~~Council~~ Are the relations of members of the
B. E. with each other matters for the League?
cf: 1926 Conference - Treaties.

4. Is the admission to the League an act of State

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for a time to break existing legal and constitutional ties, as would be a Treaty of peace, thus dissolving the subsisting legal constitution, ~~by~~ ~~as far as~~ altogether, or so far as inconsistent therewith?

5. Is the mandate from the League a sufficient and authority to enable a Dominion to exercise the extra-territorial powers necessary to give effect to it

cf. S. A.

C. Wallis

N. 3.

6. Supposing a State not member of League complains of conduct of a mandatory, to whom does it address itself - G.D. or mandatory? ~~And further~~

7. Who represents the interests of mandate-^{nationals} ~~subjects~~ abroad - G.D. or the mandatory.

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Internal Relations of Empire -

internally

1. Does equality mean that each G. Dominion
G.L. steps into the position of formerly held by
G.B. alone of effecting all in foreign relations, or
does each now only affect itself?

2. ~~How~~ What is the effect of a Treaty entered
into by H. M. ~~on~~ ⁱⁿ behalf of one part?
Are the rest wholly disassociated from it, even if war
arises.

3. Can H. M. be at war & at peace at
same time? If action of H. M. in advising any
of his Ministers is equally valid, ^{can one declare war}
& another make peace, ^{as each of them} de alius viribus?

4. With separate diplomatic relations, how of they
oppose each other.

5. ~~In absence of a single authority capable of~~
~~providing for~~

5. Supposing legal disassociation of unity in international
relations, can legal unity be maintained in a
constitutional sense?

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B.2.

Legal & Const. problems -

League of Nations problems -

Membership of Council:

British vote where Canada or Aust.

concerned.

Domestic jurisdiction - what is

Has League cognizance of matters between

members inter se

Constitutionally -

Is the paramount authority of British
Parliament effectively abdicated & renounced?

Assumption that it is not - attraction of

Const. of Canada & M. S. Act in Australia.

If it is, ~~can there be a~~ can we see what

authority or authorities exercise sovereign power

e.g. alteration of accession to Crown?

Can there be anything but a personal

union - without political unity - in absence of

such an organ for expression of final will?

How is the Gov. Gen. of Dominion to be

appointed? Solely on the advice of the Dominion

Ministry?

executed?

How are the instruments of appointment

Internal Const. of a Dominion -

~~Does the~~

How far can we carry the doctrine that the

Gov. represents the King alone & not the Brit. Gov.
How then is he to derive the general instructions to
guide him on his appointment? If he is to be recalled

Who is to decide when he sh. be recalled?
How is that to be communicated? Who is to
be responsible for it.

In Federal Pol. -

Does the doctrine of equality of
Brit. Dom. Pol., apply also in its sphere
to State Pol. i.e. position of Governor, State
legislation.

Or,
does Dom. Pol. step into shoes of
Brit. Pol.? And how can it, without an
alteration of Constitution?

Or
does Brit. Pol. retain its authority.

E.g. State legislation or administrative
act adversely affecting a foreign Power

In question of amendment of Constitution
of Canada, is British Parliament to act
upon the resolution of Dominion Parliament
notwithstanding opposition of all Provincial legislatures

Radicalism -

Constitution of P.C. in view of
"treaty relations" within the Empire.

Same tribunal to deal with legal
or justiciable disputes among members?

Can there be a legal claim by H. M.
in one right against H. M. in another.

Is there an "international law" of the
Empire.

e.g. Boundary disputes.

This became most marked in the Assembly
which unfolded under the heavy cloud of the ^{five} economic crises
of 1930. The dissensions in the United States
of Europe's project of M. Briand, the conclusions of
the Economic Conference of 30 states at Geneva in
March 1930, and the resolutions of the Warsaw
Conference of Labor in the year, had brought out
sharply a conflict between the European con-
tinental countries and the over-seas countries.
In the second Council of the Assembly, ~~the~~ a
block for concerted action was made by Canada,
Australia, New Zealand, South Africa & India,
and ~~the~~ who in effect sought to record a ^{joint} protest
against the European preference proposals of the
Warsaw Conference as conflicting with the
principles of economic equality among states
members of the League and with the application
of the most favored nation clause. ^{They}
~~repeated~~ ~~while they they were in~~ the dissensions
were warm. European countries insisted that
concerted economic action was essential & that
this required the co-operation of all, including
the over-seas countries. The latter dissociated
themselves from the conclusions of the Conference of