

‘The constitutional position of the sovereign’: Letters between king George V and prime minister H. H. Asquith, autumn 1913*

by Iain McLean

Introduction

There being no entrenched nor published British Constitution, all authorities on the constitution and public law in the United Kingdom agree that the contents of the Constitution have to be inferred from various sources, including certain statutes; the opinions of judges, academic lawyers, and one journalist (Walter Bagehot 1826-77, quoted by both the king and the prime minister in the letters below); and interpretations made by, or on behalf, of monarchs and leading politicians.

To the best of my knowledge, the letters below have never been published as a set, although the two letters from George V to Asquith were published in 1952 and two of the three letters from Asquith to George V were published in 1932 and again in 1964. But to appreciate their full force it is desirable to read them as a set, with Asquith’s covering notes and the king’s (or his secretary’s) annotations.

Therefore I present them with only a brief commentary.

They were written at the height of the constitutional crisis in the UK which began with the rejection of the Liberal Government’s Budget by the House of Lords in 1909 and ended with the outbreak of the First World War in 1914. The crisis fell into three phases: Budget (1909-10), Parliament Bill (1910-11); and Government of Ireland Bill (1912-14). The main constitutional issues were:

In phases 1 and 2: did the Prime Minister have the right to request the monarch to create sufficient Peers to ensure the passage, first of the Budget, and then of the Parliament Bill? Did the monarch have

* The Royal Archives are quoted by the permission of Her Majesty Queen Elizabeth II. I am most grateful to Mrs Jill Kelsey, Deputy Registrar, for casting a second pair of eyes over the Royal Archives’ copies of the letters below, and correcting several transcription errors.

the right to refuse or put conditions on such a request? If the Prime Minister, in the light of such conditions, offered to resign, was it right and/or prudent for the monarch to approach the leader of the Opposition to form a minority government?

In phase 3: how far did the Bagehotian right of the king to ‘encourage and warn’ extend? Should he act as mediator between Government and Opposition? Did he have the right to veto the Government of Ireland Bill and/or to dismiss the Asquith government? Or does the Sovereign act always and only on the advice of Ministers?

The answers to these questions matter not only for the UK but for all Commonwealth countries which retain The Queen as their Sovereign. In 1975 the Governor-General of Australia did what in 1913 the Unionists were urging George V to do, namely dismiss a government that controlled a majority in the House of Representatives. Had the dismissed Prime Minister’s party won the subsequent General Election, the Governor-General would have been in the position of William IV in 1834, described by Asquith below. In fact it lost; but the damage to the monarchy and to the Governor-General was substantial. In documents that have recently come into the public domain, it is clear that after the dismissal the Australian Attorney-General studied the UK precedent of 1912-14 with great care.¹

Edward VII told Asquith before the January 1910 election that he was unwilling to create peers until after a second dissolution, because, according to his secretary, ‘the King regards the policy of the Government as tantamount to the destruction of the House of Lords’.² The Budget was passed in April 1910 without peers being created. The death of Edward and succession of George V in May reopened the question of creation. After the breakdown of inter-party talks on the constitution, in November 1910, Asquith asked George V to ‘give guarantees at once for the next Parliament’ that if the Lords rejected the Parliament Bill, the king would create enough peers to enact it. The king’s two private secretaries were divided on the proposal. Arthur Bigge (to become Lord Stamfordham) recommended him not to give contingent guarantees, ‘for in so doing he becomes a partisan’. Lord Knollys, on the

¹ Canberra, National Archives of Australia, A/75/7778. Attorney-General’s Department: “Governor-General v. Prime Minister: whether the Governor-General has power to dismiss a Prime Minister”, ff 340.

² Lord Knollys (Edward VII’s Private Secretary) to Asquith, as reported by Asquith’s secretary, 15 Dec. 1909, in J. A. Spender and C. Asquith, *Life of Herbert Henry Asquith, Lord Oxford and Asquith* (London, 2 vols 1932), I.261.

other hand, advised the king to give the guarantees, if and when requested to do so by a Cabinet minute stating that otherwise the Cabinet would resign.

The king's acceptance of Knollys' advice over Bigge's (which he later regretted) may have been affected by Knollys' white lie. Knollys knew that in April Arthur Balfour, leader of the opposition, had said that in the event of such a government resignation he would be willing to form a minority government. But then the king would have been perilously close to the position of William IV in 1834 (discussed in Letter II below): of dismissing one government, only to have the minority government which he thereby installed defeated, first in the Commons and then in an immediate election, to be left with his original government and the standing of the monarchy diminished. In November Knollys, contrary to his knowledge of what Balfour had said in April, told the king 'that Mr Balfour would in any event decline to form an administration'³ should Asquith resign after a royal refusal to give a contingent guarantee. Since the Liberals and allies won the actual election of December 1910, it is reasonable to suppose that they would have won the counterfactual General Election brought about by George V installing Balfour as a minority Prime Minister, immediately defeated in the first vote he faced in the House of Commons. Indeed, since one of the issues in the counterfactual election would have been the 'unfair' intervention of the king on the Unionist side, the Liberals and allies might have won the counterfactual election by a larger margin than they got in the real one.

The king reluctantly gave the requested guarantees, which were kept secret until after the Liberals' and allies' third consecutive election victory in December 1910. In July 1911 the Cabinet advised the king that the Lords' amendments to the Parliament Bill were unacceptable to the Commons, that 'a third Dissolution is wholly out of the question', and therefore that the king should now carry out his promise to create peers. He reluctantly agreed; the Government made his agreement known to the Opposition leaders; and the House of Lords passed the Parliament Bill in August. As in 1832, the threat of creation was sufficient to ensure the passage of the reform legislation. No peers were created.⁴

³ As reported by H. Nicholson, *King George V: his life and reign* (London, 1952), 135.

⁴ Nicholson, *George V*, 123-30; R. Jenkins, *Mr Balfour's Poodle* 2nd edn (London 1968), ch. 12 *passim*.

As the Irish Party held the balance of power in the 1910-14 House of Commons, they could insist that Home Rule should be the first legislative priority after the passage of the Parliament Act 1911. Under that Act, it must pass the Commons, in identical form, in three successive sessions before it could be presented for Royal Assent in the face of rejection by the Lords. The parliamentary timetable for the sessions of 1912, 1913, and 1914 was thus foreordained, and it was common knowledge from spring 1912 that the bill would be presented for Royal Assent in the summer of 1914. Unionist resistance became increasingly militant especially in the Protestant-dominated parts of Ulster, where a paramilitary force, the Ulster Volunteers, was formed to resist Home Rule. It was at first unarmed, although a Unionist MP⁵ attempted to arm it in 1913. In phase 3 of the constitutional crisis, George V came under intense pressure from the Unionists to block the Government of Ireland bill by dismissing the government or by refusing Royal Assent. Although in phase 2 of the crisis Asquith had advised the king against seeking policy advice from the Opposition⁶, he did so freely in phase 3. He also received unsolicited advice from Unionist politicians and courtiers. He neither sought nor received advice from the Irish Party.

Letter I. KGV to HHA, 11 August 1913

HM Yacht *Victoria and Albert*

Although I have not spoken to you before on the subject, I have been for some time very anxious about the Irish Home Rule Bill, and especially with regard to Ulster.

The speeches not only of people like Sir E. Carson⁷, but of the Unionist leaders, and of ex Cabinet Ministers; the stated intention of setting up a provisional Govt in Ulster directly the Home Rule Bill is passed; the reports of Military preparations, Army drilling etc.; of assistance from England, Scotland and the Colonies; of the intended resignation of their

⁵ Sir William Bull. Bull MSS, Churchill College, Cambridge, 4/8. Sir William's efforts are discussed in I. McLean and T. Lubbock, 'The curious incident of the guns in the night time: Curragh, Larne, and the British Constitution', Nuffield College Working Papers in Politics no. 2007-W4. At <http://www.nuffield.ox.ac.uk/Politics/papers/2007/McLean%20Lubbock.pdf>, accessed 09 May 2008.

⁶ 'The part to be played by the Crown ... is to act upon the advice of the Ministers who for the time being possess the confidence of the House of Commons, whether that advice does or does not conform to the private and personal judgment of the Sovereign.... It follows that it is not the function of a Constitutional Sovereign to act as arbiter or mediator between rival parties and policies; still less to take advice from the leaders of both sides, with the view to forming a conclusion of his own'. Memo by Asquith, December 1910, quoted in. Spender and. Asquith, *Life of Herbert Henry Asquith*, I, 306.

⁷ Leader of the Irish Unionists.

Commissions by Officers in the Army, all point towards rebellion if not Civil War; and, if so, to certain bloodshed.

Meanwhile, there are rumours of probable agitation in the country; of monster petitions, addresses from the House of Lords, from Privy Councillors, urging me to use my influence to avert the catastrophe which threatens Ireland.

Such vigorous action taken, or likely to be taken, will place me in a very embarrassing position in the centre of the conflicting parties backed by their respective Press.

Whatever I do I shall offend half the population.

One alternative would certainly result in alienating the Ulster Protestants from me probably for ever, and whatever happens the result must be detrimental to me personally and to the Crown in general.

No Sovereign has ever been in such a position, and this pressure is sure to increase during the next few months.

In this period I shall have a right to expect the greatest confidence and support from my Ministers, and, above all from my Prime Minister.

I cannot help feeling that the Government is drifting and taking me with it.

Before the gravity of the situation increases, I should like to know how you view the present state of affairs, and what you imagine will be the outcome of it.

On the 24th July I saw Mr Birrell⁸, who admitted the seriousness of the outlook.

⁸ Augustine Birrell, Chief Secretary for Ireland. The king's description of Birrell's views does not tally with the note made by Stamfordham after the meeting of 24 July, which states that Birrell 'discounted the seriousness of the state of things in Ulster'. [Royal] [A]rchives PS/PSO/GV/C/K/2553

He seemed to think that perhaps an arrangement could be made for Ulster to "contract out" of the Home Rule Bill, say for 10 years, with the right to come under the Irish Parliament, if so desired, after a referendum by her people, at the end of that period. But it was for the Opposition to come forward with some practical proposal to this effect.

Is there any chance of a settlement by consent as suggested by Lord Loreburn, Lord Macdonnell, Lord Dunraven, Mr W. O'Brien, Mr Birrell, Lord Lansdowne, Mr. Bonar Law and others⁹?

Would it be possible to have a Conference in which all parties should take part, to consider the whole policy of devolution, of which you, in introducing the Home Rule Bill in April 1912, said "Irish Home Rule is only the first step"?

Would it not be better to try to settle measures involving great changes in the Constitution, such as Home Rule all round, Reform of the House of Lords etc., not on Party lines, but by agreement?'

Letter II HHA to KGV, [11] September 1913

[HHA's handwritten covering letter, from Hopeman, Morayshire, states: 'Mr Asquith has not, so far, shown this paper to any of his colleagues; it is (what he understood your Majesty to desire) a personal communication from the PM to the King.' He describes the following letter as a corrected proof. It is printed in the style of a Cabinet paper of the time.]

(1)/45. Nor does it tally with Birrell's own version, as reported to HHA on 24 July: MS Asquith 38/109, which begins 'Had an interview with HM. alone.... I found it very difficult ... to stem his torrent of Hearsay'.

⁹ Respectively: retired Liberal Lord Chancellor, who in office had vigorously opposed what he proposed in his letter to *The Times*; permanent under-secretary for Ireland, 1901-8; Irish Protestant landowner and peer; MP (Independent Nationalist) for Cork City; Chief Secretary for Ireland; Unionist leader in the Lords and southern Irish landowner; Leader of the Opposition.

The Constitutional Position of the Sovereign

I propose to deal in this memorandum with the position of a Constitutional Sovereign in relation to the controversies which are likely to arise with regard to the Government of Ireland Bill. In a subsequent paper I will deal (1) with the actual and prospective situation in Ireland in the event of (a) the passing, (b) the rejection of that Bill; and (2) with the possibility and expediency of some middle course.

In the old days, before our present Constitution was completely evolved, the Crown was a real and effective, and often a dominating factor in legislation. Its powers were developed to considerable lengths by such kings as Henry VIII, and enforced with much suppleness and reserve by Queen Elizabeth; but the Tudor Sovereigns had a keen eye and a responsive pulse to the general opinion of the nation. The Stuarts, who followed, pushed matters to extremes, with the result that Charles I lost his head, and James II his throne. The Revolution put the title to the Throne and its prerogatives on a Parliamentary basis, and since a comparatively early date in the reign of Queen Anne, the Sovereign has never attempted to withhold his assent from a Bill which had received Parliamentary sanction¹⁰.

We have had, since that date, Sovereigns of marked individuality, of great authority, and of strong ideas (often from time to time, opposed to the policy of the Ministry of the day) but none of them - not even George III, Queen Victoria or King Edward VII - have ever dreamt of reviving the ancient veto of the Crown. We have now a well-established tradition of 200 years, that, in the last resort, the occupant of the Throne accepts and acts upon the advice of his Ministers. The Sovereign may have lost something of his personal power and authority, but the Crown has been thereby removed from the storms and vicissitudes of party politics, and the monarchy rests upon a solid foundation which is buttressed both by long tradition and

¹⁰ This and later underlined passages are underlined in the king's copy, presumably either by the king or by Stamfordham, whose working files these are.

by the general conviction that its personal¹¹ status is an invaluable safeguard for the continuity of our national life.

It follows that the rights and duties of a constitutional monarch in this country in regard to legislation are confined within determined and strictly circumscribed limits. He is entitled and bound to give his Ministers all relevant information which comes to him; to point out objections which seem to him valid against the course which they advise; to suggest (if he thinks fit) an alternative policy: Such intimations are always received by Ministers with the utmost respect, and considered with more care and deference than if they proceeded from any other quarter. But in the end, the Sovereign always acts upon the advice which Ministers, after full deliberation and (if need be) reconsideration, feel it their duty to offer. They give that advice well knowing that they can, and probably will, be called to account for it by Parliament.

The Sovereign undoubtedly has the power of changing his advisers, but it is relevant to point out that there has been, during the last 130 years, one occasion only on which the King has dismissed the Ministry which still possessed the confidence of the House of Commons. This was in 1834, when William IV (one of the least wise of British monarchs) called upon Lord Melbourne to resign. He took advantage (as we now know) of a hint improvidently given by Lord Melbourne himself, but the proceeding was neither well advised nor fortunate. The dissolution which followed left Sir R. Peel in a minority, and Lord Melbourne and his friends in a few months returned to power, which they held for the next six years. The authority of the Crown was disparaged, and Queen Victoria, during her long reign, was careful never to repeat the mistake of her predecessor.

The Parliament Act was not intended in any way to affect, and it is submitted has not affected, the Constitutional position of the Sovereign. It deals only with differences between the two Houses. When the two Houses are in agreement (as is always the case when there is a

¹¹ HHA actually wrote 'impersonal', although this is hard to read because of a deletion. Version III restores 'impersonal'. The king received, apparently by accident, a version which probably appealed more to him than what the prime minister had written. Bodleian Library, MS Asquith 38/160 (holograph); 38/158 (final version).

Conservative majority in the House of Commons), the Act is a dead letter. When they differ, it provides that, after a considerable interval, the thrice repeated decision of the Commons shall prevail, without the necessity for a dissolution of Parliament. The possibility of abuse is guarded against by the curtailment of the maximum life of any given House of Commons to five years.

Nothing can be more important, in the best interests of the Crown and of the country, than that a practice, so long established and so well justified by experience, should remain unimpaired. It frees the occupant of the Throne from all personal responsibility for the Acts of the Executive and the legislature. It gives force and meaning to the old maxim that 'the King can do no wrong.' So long as it prevails, however objectionable particular Acts may be to a large section of his subjects, they cannot hold him in any way accountable, and their loyalty is (or ought to be) wholly unaffected. If, on the other hand, the King were to intervene on one side, or in one case - which he could only do by dismissing Ministers in *de facto* possession of a Parliamentary majority - he would be expected to do the same on another occasion, and perhaps for the other side. Every Act of Parliament of the first order of importance, and only passed after acute controversy, would be regarded as bearing the personal *imprimatur* of the Sovereign. He would; whether he wished it or not, be dragged into the arena of party politics; and at a dissolution following such a dismissal of Ministers as has just been referred to, it is no exaggeration to say that the Crown would become the football of contending factions.

This is a Constitutional catastrophe which it is the duty of every wise statesman to do the utmost in his power to avert.

Letter III. HHA to KGV, [19] September 1913.

[HHA's handwritten covering letter, again from Hopeman, states: 'In accordance with what he knows to be Your Majesty's wish, Mr Asquith has expressed himself ... with complete freedom & unreserve'. The following letter is again printed in the style of a Cabinet paper of the time.]

Most Secret. II. The Government of Ireland Bill.

I proceed to consider the prospective situation in Ireland in the event of the passing or of the rejection of the Bill.

If the Bill becomes law (whether or not its passing is preceded by another general election) there will undoubtedly be a serious danger of organised disorder in the four north-eastern counties of Ulster. It is, in my opinion, a misuse of terms to speak of what is likely to happen as Civil War. The total population of the area concerned is little over 1,000,000. It is divided between Protestants and Roman Catholics - and in that part of the world political and religious differences roughly coincide - in the proportion of 7 to 3 (Protestants 729,624, Roman Catholics 316,406). In 2 of the 4 counties (Armagh and Londonderry) the Protestant preponderance is not greater than 6:5¹². It is not, therefore, the case of a homogeneous people resisting a change to which they are unitedly opposed. On the contrary, there will be a considerable and a militant minority strongly in favour of the new state of things, and ready to render active assistance to the forces of the executive. In the remainder of Ulster, and in the three other provinces of Ireland, there will be an overwhelming majority of the population on the side of the law.

But, while anxious that things should be seen in their true perspective, I have not the least disposition to minimise the gravity of the situation which will probably arise. The importation of rifles has, so far, been on a small scale, and the drilling and training of volunteers, though it is no doubt accustoming numbers of men to act together, to obey orders, and to develop *esprit de corps*, is not likely to produce a body which can stand up against regular troops. But the genuine apprehensions of a large majority of the Protestants, the incitements of responsible leaders, and the hopes of British sympathy and support, are likely to encourage forcible

¹² This sentence is added in MS, not (I think) in HHA's hand, in the king's copy. It is not in HHA's holograph but is printed in the final version (Bodleian MS Asquith 38/ 167; 38/162).

resistance (wherever it can be tried); there is the certainty of tumult and riot, and more than the possibility of serious bloodshed.

On the other hand, if the Bill is rejected or indefinitely postponed, or some inadequate and disappointing substitute put forward in its place, the prospect is, in my opinion, much more grave. The attainment of Home Rule has for more than 30 years been the political (as distinguished from the agrarian) ideal of four-fifths of the Irish people. Whatever happens in other parts of the United Kingdom, at successive general elections, the Irish representation in Parliament never varies. For the last 8 years they have had with them a substantial majority of the elected representatives of Great Britain. The Parliament of 1906 was debarred by election pledges from dealing with the matter legislatively, but during its lifetime, in 1908, the House of Commons affirmed by an overwhelming majority a resolution in favour of the principle. In the present Parliament, the Government of Ireland Bill has passed that House in two successive sessions, with British majorities which showed no sign of diminution from first to last. If it had been taken up by a Conservative Government, it would more than a year ago have been the law of the land. It is the confident expectation of the vast bulk of the Irish people that it will become law next year.

If the ship, after so many stormy voyages, were now to be wrecked in sight of port, it is difficult to overrate the shock, or its consequences. They would extend into every department of political, social, agrarian and domestic life. It is not too much to say that Ireland would become ungovernable - unless by the application of forces and methods which would offend the conscience of Great Britain, and arouse the deepest resentment in all the self-governing Dominions of the Crown.

III

It follows, from what has been said above, that while in my opinion - from the point of view of social order - the consequences of the passing of the Bill would be unquestionably less serious than those of its rejection, yet no forecast, in either event, can be free from anxiety. Any practicable means of mitigation - still more, of escape - deserves, therefore (whencesoever it is suggested), impartial and mature consideration.

The demand, put forward recently by Mr. Balfour¹³, for a General Election, between now and the beginning of next session, is open to objections of the most formidable character. (1) If such an election resulted in a majority for the Government, and the consequent passing of the Irish Bill next session, the recalcitrance of North-East Ulster would not in any way be affected. Sir E. Carson, and his friends have told the world, with obvious sincerity, that their objections to Home Rule have nothing to do with the question whether it is approved or disapproved by the British electorate. It is true that the Unionist Leaders in Great Britain have intimated that, in such an event, they would not give 'active countenance' (whatever that may mean) to the defiance of the law. But what effect can that have on men who have been encouraged to believe, and many of whom do believe, that under Home Rule their liberties and their religion would be in jeopardy? (2) If the election resulted in a Government defeat, the circumstances are such that neither in Ireland nor in Great Britain would it be accepted as a verdict adverse to Home Rule. There may not be much active enthusiasm for Home Rule in the British constituencies, but the evidence afforded, not only by the steady and persistent majorities in the House of Commons, but by the bye-elections, tends to show that (at the lowest) it meets with acquiescence as an inevitable necessity in itself, and as a first step towards further devolution. All the most trustworthy observers agree that, even where the bye-elections have gone against the Government, the attempt (wherever made) to arouse interest and resentment by pushing to the forefront the case against Home Rule and the supposed wrongs of Ulster, has met with no success. The General Election would be fought, as the bye-elections have been, not predominantly on Home Rule, but on the Insurance Act, the Marconi contract, and a score of other 'issues' which happened for the moment to preoccupy public attention. (3) The concession of the demand for a General Election, at this stage, would be in the teeth of the intentions of the Parliament Act. One of the primary and most clearly avowed purposes of that Act was to abrogate the power of the House of Lords to force a dissolution. The assumption which underlies the whole measure is, that a Bill which can survive the ordeal of three sessions, prolonged over two years, in the House of Commons, ought without the need of another election, to pass into law.

¹³

A.J. Balfour, Unionist Prime Minister 1902-05; Leader of the Opposition 1905-11.

It is quite another matter to suggest that, after the Bill has passed, a General Election should take place before it has come into active operation. Parliament will then have completed, or nearly completed, four out of its possible five years; and if the country were either on general or particular grounds averse to the Government, the new Parliament could consider, before anything irreparable has been done, whether to repeal or to amend the Irish Government Act. If, moreover, it were known beforehand that this would happen, any outburst of disorder in Ulster would everywhere be regarded as premature and inexcusable.¹⁴

There remains the proposal, to which Lord Loreburn has during the last week given his authority, for settlement by Conference. I wrote to Lord Loreburn, as soon as I read his letter in *The Times* to ask him to tell me precisely what he meant. I expressed sympathy with the spirit of all that he had written, and acquiescence in the reasoning of much, though not the whole, of his argument. But I pointed out that the parties concerned in this controversy, including Sir E. Carson and Mr. Redmond¹⁵, are not likely, at the moment, to accept an invitation (from any quarter) to come into a room and sit round a table, for the purpose of talking in the air about the Government of Ireland, or about Federalism and Devolution. It is no good blinding one's eye to obvious and undeniable facts, and one of those facts, relevant to the present case, undoubtedly is, that there is a deep and hitherto unbridgeable chasm of *principle*¹⁶ between the supporters and the opponents of Home Rule. It is a question not of phraseology but of substance. Four-fifths of Ireland, with the support of a substantial British majority in the present and late Houses of Commons, will be content with nothing less than a subordinate legislature with a local executive responsible to it. They insist, moreover, that (whatever may be done with Devolution elsewhere) the claim of Ireland is peculiar, and paramount in point of time and urgency. A settlement which ignored these conditions would be no settlement. But within these conditions - so I said to Lord Loreburn - there is (so far as I am concerned) no point - finance, Ulster, Second Chamber, representation of minorities, etc.,

¹⁴ This paragraph is sidelined in the King's copy.

¹⁵ John Redmond MP. Leader of the Irish Party.

¹⁶ Stress in original.

upon which I am not ready and anxious to enter into conference, and to yield to any reasonable suggestion.

For a Conference to be fruitful, there must be some definite basis upon and from which its deliberations can proceed. I fear that at present (it may be different nearer the time) no such basis can be found. I shall be only too glad if that fear can now or hereafter be satisfactorily dispelled.

I feel bound to add, that after the experience of 1910, when there was on both sides perfect goodwill and a sincere desire for agreement, that an abortive Conference would be likely to widen differences and embitter feeling.

H.H.A

Letter IV. KGV to HHA, 22 September 1913

Balmoral Castle, 22nd September 1913.

My dear Prime Minister,

I am most grateful to you for your very clear and well reasoned Memorandum which you have been good enough to draw up for me on the Government of Ireland Bill.

Acting upon your own suggestions that I should freely and unreservedly offer my criticisms, I do so upon quotations taken from it.

Referring to the Constitutional position of the Sovereign, you say 'in the end the Sovereign always acts upon the advice which Ministers feel it their duty to offer ... and his subjects cannot hold him in any way accountable'.

Fully accepting this proposition, I nevertheless cannot shut my eyes to the fact that in this particular instance the people will, rightly or wrongly, associate me with whatever policy is adopted by my advisers, dispensing praise or blame according as that policy is in agreement or antagonistic to their own opinions.

While you admit the Sovereign's undoubted power to change his advisers, I infer that you regard the exercise of that power as inexpedient and indeed dangerous.

Should the Sovereign *never* exercise that right, not even, to quote Sir Erskine May, 'in the interests of the State and on grounds which could be justified to Parliament'? Bagehot wrote, 'The Sovereign too possesses a power according to theory for extreme use on a critical occasion, but which in law he can use on any occasion. He can *dissolve* ..'.

The Parliament Act 'was not intended in any way to affect, and it is submitted has not affected the Constitutional position of the Sovereign'.

But the Preamble of the Bill stated an intention to create a new Second Chamber; that this could not be done immediately; meanwhile provision by the Bill would be made for restricting the powers of the House of Lords.

Does not such an organic change in the Constitutional position of one of the Estates of the Realm also affect the relations of all three to one another; and the failure to replace it on an effective footing deprive the Sovereign of the assistance of the Second Chamber?

Should the Home Rule Bill become law I gather you consider that there is a 'certainty of tumult and riot and more than a possibility of serious bloodshed', but you do not anticipate 'anything which could rightly be described as Civil War'.

If, however, the union which you contemplate of the 'considerable and militant minority' of Roman Catholics in North-East Ulster with the forces of the executive is carried into effect,

will not the armed struggle between these sections of the people constitute Civil War, more especially if the forces of Ulster are reinforced from England, Scotland and even the Colonies, which contingency I am assured is highly probable[?] Do you propose to employ the Army to suppress such disorders?

This is, to my mind, one of the most serious questions which the Government will have to decide.

In doing so you will, I am sure, bear in mind that ours is a voluntary Army; our Soldiers are none the less Citizens; by birth, religion and environment they may have strong feelings on the Irish question; outside influence may be brought to bear upon them; they see distinguished retired Officers already organising local forces in Ulster; they hear rumours of Officers on the Active List throwing up their Commissions to join this force. Will it be wise, will it be fair to the Sovereign as head of the Army, to subject the discipline, and indeed the loyalty of his troops, to such a strain[?]

Have you considered the effect upon the Protestant sentiments in these Islands and the Colonies of the coercion of Ulster?

I quite admit the grave prospects resulting from a rejection of the Bill.

But is the demand for Home Rule in Ireland as earnest and as National to-day as it was, for instance, in the days of Parnell?

Has not the Land Purchase Policy settled the agrarian trouble, which was the chief motive of the Home Rule agitation?

I am assured by resident Landowners in the South and West of Ireland that their tenants, while ostensibly favourable to Home Rule, are no longer enthusiastic about it, and are, comparatively speaking¹⁷, content and well-to-do.

The hierarchy of the Church of Rome is indifferent and probably at heart would be glad not to come under the power of an Irish Parliament.

The application of forces and methods to govern Ireland, were the Bill rejected, would in your opinion 'offend the conscience of Great Britain'.

But surely not more so than their application against Ulster?

With regard to your objections to a General Election between now and the beginning of next Session.

It is the case, unfortunately, that Sir Edward Carson and his friends declare that they would not be influenced by a verdict at the Polls in favour of Home Rule. And here let me assure you that I view with the gravest concern the advocacy of what Sir Edward Carson openly admits to be illegal measures in the resistance of North-East Ulster to the constituted law and authority of the land. Still we have the assurance of the Unionist leaders that in the event of the Country declaring in favour of Home Rule, they will support the Government instead of supporting Ulster, as they intend to do if an appeal to the Country is refused.

Is due consideration given to the fact that although Home Rule has been before the Country for 30 years, the present Bill differs materially from any previous Home Rule Bill; that it has never been before the Country; that it is opposed by practically the whole of the House of Lords; by one third of the House of Commons; by half the population of England, and that it was forced through the House of Commons, pages of it never having been discussed[?]

¹⁷ 'comparatively speaking' added in MS, not in the king's hand, in recipient's copy: MS Asquith 38/202.

I recognise your argument that the proposed General Election would not be fought on Home Rule, but on a 'score of other issues', so that you would not obtain a mandate *pur et simple* upon Home Rule.

But I suppose this argument might be equally urged to show that the General Election of December 1910 gave no verdict in favour of Home Rule.

Would it not be right in order to ensure a lasting settlement, to make certain that it is the wish of my people that the Union of Ireland shall be repealed by a measure which was not put before them at the last Election?

Is there any other Country in the world which could carry out such a fundamental change in its Constitution upon the authority of a single chamber?

Is there any precedent in our own Country for such a change to be made without submitting it to the Electorate?

To the suggestion that a General Election should take place after Assent has been given to the Bill, I see the most serious objections.

Granted that this policy is adopted, I assume that once the Bill is passed, outbreaks will occur in Ulster if they have not done so at an earlier date.

Meanwhile Great Britain and Ireland will be plunged into the throes of a General Election.

If the Government are returned to power, Ulster will probably resist more vigorously than ever.

On the other hand, if the Government are defeated, a new Ministry will be formed, Parliament reassembled, the Home Rule Bill perhaps repealed, followed by revolt in the South and West

of Ireland, and finally the Sovereign's Assent asked for to repeal the Act to which only a few months before he had affixed his signature.

I can hardly think that Ministers contemplate placing the Country and the Sovereign in such a position.

I heartily welcomed Lord Loreburn's weighty letter suggesting a Conference, and I hope to hear that you have received a satisfactory reply to the letter you have addressed to him on the subject.

Recollecting my conversations with you on August 11th, and with Mr Birrell a fortnight earlier, I trust that some agreement may be found on the lines then suggested, such as leaving out North-East Ulster from the Scheme for a certain period, say five or ten years, with the power to come under the Irish Parliament, if so desired, after the question is put to the test of a Referendum in the reserved Counties.

The objection urged that this arrangement would involve the desertion of the Protestants in other parts of Ireland, is met by the fact that the Nationalist minority in Ulster would be placed at a similar disadvantage.

It seems inconceivable to me that British commonsense will not ultimately find a solution to this terrible prospect of rebellion and bloodshed in so rich and flourishing a part of my Dominions.

Assuming that the aim of both political Parties is to secure good Government, prosperity and loyal contentment for the Irish people, it must be admitted that these objects cannot be attained by the policy so far advocated by either Liberal or Conservative Governments.

Therefore, we can only hope for the attainment of these objects by common agreement upon some alternative course.

Nevertheless, I entirely recognise all the grave difficulties which must confront anyone who endeavours to secure by consent the settlement of a question which has divided Ireland for many generations.

I rejoice to know that you are ready and anxious to enter into a Conference if a definite basis can be found upon which to confer.

For my part, I will gladly do everything in my power to induce the Opposition to meet you in a reasonable and conciliatory spirit.

For it behoves us all to withhold no efforts to avert those threatening events which would inevitably outrage humanity and lower the British name in the mind of the whole civilised world.

I have endeavoured to comment frankly upon your Memorandum, and I trust that in your next letter you will give your views upon the various points referred to before I have the pleasure of seeing you here on the 6th October.

The Memorandum has been seen by no one except my Private Secretary, nor have I mentioned the fact that I have received it to anyone.

Believe me,

My dear Prime Minister,

Very sincerely yours,

GEORGE R.I.

Letter V. HHA to KGV, 01 October 1913

Most Secret.

1 In regard to the Constitutional position of the Sovereign, I cannot usefully add much to my previous memorandum. When Bagehot says that The King “can dissolve”, he, of course, means upon the advice of Ministers, who will make themselves responsible for what is done. As has been already pointed out, the Crown can always change its advisers, provided that others are ready and willing to take their place; but the dismissal of Ministers, still in possession of the confidence of the House of Commons, with the view of forcing a dissolution, is a step which has only been taken once in more than 100 years, and then with consequences which were very injurious to the authority of the Crown. In my opinion, a statesman sincerely anxious to maintain the Constitutional rights of the Sovereign in their true and full sense, would be very slow to advise its repetition.

Bagehot was neither a professor nor a lawyer, but a shrewd and accomplished man of business; and his description of the actual – as distinguished from the legal and technical – functions and powers of the Throne remains, after 50 years, more accurate, as well as more vivid, than that of any other writer.

2. The use of coercion, in Ulster, or in the rest of Ireland. Either alternative is in the highest degree repellent; but unless we are to abandon once and for all the reign of law, every Act of Parliament must be carried into execution; and if its execution is resisted, it is the duty of the State to see that that resistance is overborne by whatever modes of enforcement are appropriate and adequate in the particular case. This might necessitate in the last resort, either in the one case or the other, the use of the Army, though not until other and more indirect means had been tried and proved to be ineffectual. There is, in my opinion, no sufficient ground for the fears – or hopes – expressed in some quarters, that the troops would fail to do their duty.

The recent performances of Sir E. Carson – e.g. the semi-regal allocution which the “Chief of Staff” of his “General” has just issued, expressing his approval of the bearing &c of the

volunteers at the Belfast review – have done much to shock the commonsense, and to alienate the sympathy and goodwill, of moderate men in Great Britain.

3. The proposal of a General Election. I dealt very fully with this matter in my previous memorandum.

Nothing is historically more certain than that at the General Election of December 1910 it was common ground between all parties that the passing of the Parliament Act would be immediately followed by the introduction of a Home Rule Bill. Every elector on both sides gave his vote in that knowledge and with that belief. The evidence is overwhelming; but it is sufficient to cite Lord Lansdowne's declaration at Portsmouth, at the height of the contest, that "Mr Asquith had made it perfectly clear" that this would be the sequence of events. That Home Rule would forthwith become a reality was, indeed, one of the principal arguments used to dissuade the electors from voting for candidates who favoured the Parliament Bill.

It is true that the precise terms of the Bill were not before the electorate. But they knew that it must proceed upon the basis of a subordinate legislature for Ireland with an executive responsible to it. The actual Bill differs from its predecessors in finance and other matters; particularly, in the additional safeguards which it provides for the rights and liberties of minorities. But it embodies the same principle. I must add that during a Parliamentary experience of nearly 30 years, I have never known a measure the detailed provisions of which were more thoroughly discussed and overhauled in Committee and upon Report. No point which was even of secondary importance escaped attention. No doubt it is susceptible of further improvement; and it is much to be regretted that the House of Lords, instead of opposing in two successive sessions an absolute *non-possumus* to the second reading, did not introduce, by way of amendment, proposals for dealing with Ulster and other controverted matters, which might now be forming the basis for conference and adjustment.

A General Election subsequent to the passing of the Act, and before the new system of Irish Government comes into full operation is, as a matter of dates, almost, if not quite, inevitable.

I am still as anxious as anyone can be that the dangers to social order, undoubtedly incident either to the passing or the rejection of the Bill (and the latter is in my opinion by far the more formidable contingency), should be averted, by some special arrangement in regard to the North East, which is not inconsistent with the fundamental principle and purpose of the Bill.

HHA

1st October 1913¹⁸

Discussion

Hitherto, this set of letters has been used partially. The king's letters appeared in a biography of the king, and two of Asquith's in two biographies of him, with the rhetorical purpose of showing that the writer acted rightly and the other party acted wrongly. Viewed as a set they tell us much about the strengths, weaknesses, and misunderstandings of each writer.

Asquith prefers formal communications, either Cabinet minutes or the above letters, which speak in his unmistakable voice but are printed by the Cabinet printers. They repeat concerns that he has earlier raised in Cabinet minutes. The Sovereign should act always and only on the advice of Ministers. To do otherwise is to 'become the football of contending factions', in a phrase the king or Stamfordham

¹⁸ The five letters, and Asquith's covering notes, are mainly quoted from the versions in the Royal Archives. RA

PS/PSO/GV/C/K/2553/1/70

PS/PSO/GV/C/K/2553/2/9-10

PS/PSO/GV/C/K/2553/2/21-22

PS/PSO/GV/C/K/2553/2/26

PS/PSO/GV/C/K/2553/2/45.

They have been collated with the versions in the Asquith Papers: Oxford, Bodleian Library, MS Asquith 38 and with the printed versions listed below. There is one material difference, noted *ad loc.*, among the three states of Asquith's Letters II and III. State 1 is HHA's holograph; State II is the first proof received by the king; State III is the later proof in the Asquith papers. The king's versions can be dated by Asquith's covering letters to 11 and 19 September. The proofs in the Asquith MSS are dated by the printers to 13 and 22 September. Other changes between States II and III (e.g. substitution of 'seven' for '7' etc) are not material.

Letters I and IV are quoted in Nicolson, *George V*, 223-4; 225-9. However, the version of Letter I received by Asquith differs somewhat from that quoted by Nicholson. The version in the Royal Archives has some sheets missing, so we take the recipient's copy in MS Asquith 38 as the most authentic. Letters II and III are quoted in Spender and Asquith, *Life of Herbert Henry Asquith*, II, 29-34, and in R. Jenkins, *Asquith* (London, 1964), 543-9. The heading to letter III is, however, given incorrectly by Jenkins. Neither source indicates the underlinings and sidelinings made by the recipient. Both have minor errors of transcription. Letter V has not been previously published to the best of our knowledge.

evidently find significant. The Sovereign should not actively seek alternative sources of advice. The advice tendered is firm and remarkably forthright ('William IV, one of the least wise of British monarchs'; 'When the two Houses are in agreement (as is always the case when there is a Conservative majority in the House of Commons), the [Parliament] Act is a dead letter'; 'talking in the air about the Government of Ireland'.). Although Ulster Protestants are now threatening violence, the risk of violence from Irish Catholics in the event of the Bill's rejection is greater, if only because they are more numerous. Even in Ulster itself, Catholic Nationalists form a large minority.¹⁹

Between receiving Letter I and sending Letter II, Asquith was briefed by his colleague Lord Crewe, secretary of state for India, who was the government minister in residence at Balmoral. Crewe reported that neither the king nor Stamfordham 'are at all attracted by the impudent demand that he should either veto the Bill or dissolve Parliament before next session begins. Both seem to be fairly aware that such action would be revolutionary'. However, Crewe went on, 'he is not consoled by the doctrine that he has nothing to do but to sit still and take his ministers' advice, because he feels that in such a situation either his father or his grandmother would have been able to use influence which could have prevented a collision'. Evidently driven by this striking vision of Victoria the Mediator, the king, Crewe reported, felt 'haunted' by the need to 'take his coat off' and work for a solution. Asquith made a note-to-self at the end of Crewe's letter of the arguments he planned to use in his memorandum.²⁰

A weakness of Asquith's approach was that he was too subtle for his audience. He had a low opinion of the king's intelligence.²¹ But he does not spell out his plans sufficiently clearly. In Letter III, he explains that a General Election is almost bound to take place between the enactment and the bringing into operation of the Government of Ireland Act. This will wrongfoot both the Ulster and the British Unionists, but enable the king to reject their strident demands for an earlier election, which they want

¹⁹ Nationalists and allies actually held a majority of the seats in Ulster, although Asquith does not mention this, perhaps because it might have opened another rhetorical front. The long absence of any redistribution in Ireland had led to the Protestant/Unionists, in areas of growing population, to be seriously underrepresented in the Commons compared to the Catholic/Nationalists).

²⁰ Marquess of Crewe to HHA, 08.09.1913. MS Asquith 38/126.

²¹ 'He is a nice little man with a good heart and tries hard to be just and open minded. It is a pity he was not better educated' – Asquith to his wife, Sep. 1912, quoted in M. and E. Brock eds, *H. H. Asquith: letters to Venetia Stanley* (Oxford, 1982), 43. See also HHA to VS, 12 Feb. 1914, Bodleian Library MS Eng. c. 7091fo. 202, where HHA compares George V's belief that he had written his own King's Speech with George IV's belief that he 'had been in command at the battle of Waterloo'. Quoted in part in Brock, *Letters*, 48.

him to force either by dismissing Asquith or by refusing Royal Assent to the Government of Ireland Bill. There is no need for the king to take either of these extreme and dangerous actions. He need only wait for the General Election of late 1914 or 1915, which is bound to take place before the Irish Act is put into effect. Understanding this would get the king off the dilemma he feels himself to be in ('Whatever I do I shall offend half the population'). But Asquith fails to get the king (or, apparently, Stamfordham) to understand the point, or to alter the king's perception that the government is 'drifting'.

Asquith has often been accused, both at the time and since, of failing to understand Ulster Protestants' determination. This is fair criticism, but it should not be made with 20/20 hindsight. At the time of these letters the Ulster Volunteers are not yet a paramilitary force. The police have foiled Sir William Bull's gunrunning efforts. Sir Edward Carson, Asquith thinks, is making himself look ridiculous. These calculations were of course changed by the Curragh 'mutiny' and Larne gun-running the following year, but Curragh and Larne should not be read backwards into this correspondence.

The king has refused to take Asquith's advice that 'it is not the function of a Constitutional Sovereign to act as arbiter or mediator between rival parties and policies; still less to take advice from the leaders of both sides, with the view to forming a conclusion of his own'. Unfortunately, as his letters reveal, he is taking advice from the leaders of only one side, who are neither His Majesty's Government nor the party which is pivotal in the House of Commons, namely the Irish Party, which holds 74 seats in the elected house of the Parliament of 1910. The king has taken his advice on Ireland almost entirely from Unionists. It is Southern Irish landlords who have advised him that the people, and the Catholic Church, no longer want Home Rule. He and Stamfordham have not checked these claims with representatives of either. However, the archbishop of Canterbury, the leader of a church that was disestablished in Ireland in 1869 and is only the third-largest denomination there, was one of those efforts to mediate and arbitrate were encouraged. On the other hand, there are copious messages in the Royal Archives to the King from, or on behalf, of the Irish Unionists, who hold 17 seats in the elected house of the Parliament of 1910, and do not hold the balance of power. However, their leaders are threatening armed insurrection against His Majesty's Government. This seems, *prima facie*, an odd reason for His Majesty to accord them special attention. The courtiers on whom he depends

(Stamfordham, Lord Esher, Sir Francis Hopwood, Clive Wigram) are instinctive Unionists. Their views, too, are reflected in Letters I and IV.

George V is manifestly uneasy at the position in which he finds himself, though his frequent statements (not only here but elsewhere) that ‘No Sovereign has ever been in such a position’ seem to underestimate the plight of Charles I and James II. Whatever he does, he will offend half of his people, although he expands on only one half of that dilemma. He and his advisers struggle to see a way out. He wishes his Prime Minister would drop or severely modify the Home Rule Bill (although the constraints of the Parliament Act make modification impossible until the Bill has been around the parliamentary circuit three times). He is extremely keen on a round-table discussion about Ireland among political leaders, as had happened in summer 1910 and was to happen again in 1914 and 1917, each time abortively. He wishes that his Prime Minister would discuss these matters more fully and more freely. He raises questions about the loyalty of the Army in the event of its being called to aid the civil power in Protestant Ulster – perhaps presciently, perhaps at the urging of Unionist militants who are already planning to encourage Army officers to refuse, as they will later do at the Curragh.

How does this complete correspondence modify our understanding of the politics and constitutional concerns of these years, not least the politics of dealing with the Irish Question?

First, it shows a disturbing lack of consensus as to what the British Constitution is. It might be thought bad enough that the constitution should be defined by Walter Bagehot; but if king and prime minister cannot agree what Bagehot meant, the Constitution is thrown into still more doubt. The leading academic lawyers of the day were fervent Unionists, who were producing novel interpretations of the Constitution for the benefit of Unionist politicians, who passed them on to the king.²² The received doctrine was Parliamentary sovereignty. When Parliament, as defined by the 1911 Act, was about to do something which Unionist lawyers abhorred, they abandoned Parliamentary sovereignty in favour of newly discovered truths, such as that the Constitution was in suspense pending the reconstruction of the Lords as proposed in the preamble to the Parliament Act (see Letter IV). This interpretation did not

²² For A. V. Dicey, see I. McLean and A. McMillan, ‘Professor Dicey’s Contradictions’, *Public Law* Issue 3, 2007, 435-43.

survive the crisis, after which lawyers and judges reverted to their previous habit of regarding preambles to Acts as of no independent legal force.

Both sides agree that the king has the power to dismiss his ministers. Asquith argues that to do so would, however, bring the monarchy into disrepute. The Australian dismissal of 1975, and its long-term effects on the standing of the monarchy in Australia, seem to argue on Asquith's side. The monarch is thus left with a power which can never be used in foreseeable circumstances. The same seems to apply to the stratagem of refusing Royal Assent to a bill, since Asquith's arguments against the one also apply to the other.

Who had more foresight over Ireland? Readers must construct their own counterfactuals. In favour of the king it may be argued that earlier concessions to Protestant Ulster, such as an offer of county opt-outs in the 1912 bill, would have headed off the paramilitary violence that disfigured Protestant Ulster, and later Northern Ireland, from 1914 to 1998. The counter-argument that it would have betrayed the Irish Party ignores the fact that Redmond had no choice, ultimately, but to support the Liberals. In favour of Asquith it may be argued that the violence he predicted in Catholic Ireland came to pass between 1918 and 1923, once Redmond's party had been discredited by its failure to get Home Rule; and that it revived in the nationalist parts of Northern Ireland from 1968 to 1998. By 1930 the king himself was telling prime minister Ramsay MacDonald, 'What fools we were not to have accepted Gladstone's Home Rule Bill. The Empire now would not have had the Irish Free State giving us so much trouble and pulling us to pieces'.²³

²³ MacDonald's diary, July 1930, as quoted by K. Rose, *King George V* (London, 1983), 240.

â€˜The Constitutional Position of the Sovereignâ€™: Letters between King George V and Prime Minister H. H. Asquith, Autumn 1913
273 13. Established Churches 285. Part V: things to put in. 14. We the People 313. Notes 337 Dramatis personae 351 References 357
Index 373 Preface.â€˜ Another class of constitutional legislation ratifies international treaties which define the very extent or powers of
the UK government and parliament. The Act of Union 1706, still in force, is the third of a triplet of documents that created Great Britain
as we know it by uniting the legislatures of England and Scotland. Britain knew Prime Ministers (Lloyd George, Winston Churchill, James
Callaghan) who had no university education. However, any Prime Minister today must possess initiative, be able to organize others and
get his policies accepted and pushed through Parliament. The Prime Minister has a considerable list of functions and powers. It is his
duty to inform the Crown of the general business of the Government, to exercise a general supervision over Departments (Ministries), to
be prepared to speak in Parliament on the most important Government Bills, to answer to Parliament for all actions of the Gove...â€˜ 16.
The leader of the majority party is appointed Prime Minister by the Sovereign and all the ministers are appointed by. a) the Prime
Minister. b) the Sovereign. c) Parliament. The â€œtrue factsâ€ were apparently this: â€œHe [George V] must beg you to represent to
the Prime Minister that from all he hears and reads in the press, the residence in this country of the ex-Emperor and Empress would be
strongly resented by the public, and would undoubtedly compromise the position of the King and Queen from whom it would generally
be assumed the invitation had emanatedâ€ Thatâ€™s what Lord Stamfordham, George Vâ€™s Private Secretary wrote to the
British Foreign Secretary in early April 1917. â€˜Blame must be sharedâ€™. â€œGrowing labour unrest and the rise of socialism in
Britain, were c George V (George Frederick Ernest Albert; 3 June 1865 â€“ 20 January 1936) was King of the United Kingdom and the
British Dominions, and Emperor of India, from 6 May 1910 until his death in 1936. Born during the reign of his grandmother Queen
Victoria, George was third in the line of succession behind his father, Prince Albert Edward, and his own elder brother, Prince Albert
Victor. From 1877 to 1892, George served in the Royal Navy, until the unexpected death of his elder brother in early 1892 put him
Branded the 'unknown prime minister' by his bitter political rival HH Asquith, Canadian-born Bonar Law is principally remembered for a
single speech he made in 1922. The Conservatives had been part of a coalition under the Liberal prime minister, David Lloyd George,
since 1916. Many were considering joining Lloyd George permanently, but Bonar Law's speech changed their minds.â€˜ But in the
preceding eight years, the two politicians had together overseen one of the greatest constitutional upheavals of the 20th Century and
ushered in some of the predecessors of the Welfare State. Old Age Pensions were introduced and Unemployment Exchanges (job
centres) were set up by then Liberal minister Winston Churchill.