

Note from Philip John Noel-Baker on India’s future relationship with the Commonwealth (London, 15 December 1948)

Caption: On 15 December 1948, Philip John Noel-Baker, Secretary of State for Commonwealth Relations, informs the British Prime Minister, Clement Attlee, of the outcome of his discussions with the Indian Prime Minister, Jawaharlal Nehru, on India’s future relationship with the Commonwealth. The main issue concerns India’s allegiance to the British Crown.

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Prime Minister.

INDIA

I attach the draft of a Statement for your use when you see the Opposition.

2. As the Opposition will not know what has been passing, a mere paraphrase of Pandit Nehru's Points would perhaps hardly be adequate? I have therefore added introductory and concluding paragraphs so that the statement could, if you saw advantage in that, serve as an aide memoire for their use.

3. I have left our Point 6 of Pandit Nehru's new list of Points. I think the sense of our meeting this morning was that this was not sufficiently substantial to be worth while and, as you yourself pointed out, it involves the President authorising The King to perform certain acts, a proposal to which objection has been made.

(Sd.) P. J. NOEL-BAKER

15th December, 1948

The Indian Constituent Assembly is now considering a draft Constitution which recites that the people of India have solemnly resolved to constitute India into a sovereign democratic republic, and which makes provision for its Government (its head being a President) without any reference to The King. We are advised that the effect of this Constitution, if passed, will be to extinguish His Majesty's sovereignty in India, which will no longer be a part of His Majesty's Dominions, either under Indian law or under United Kingdom law.

2. When Pandit Nehru attended the Prime Ministers' Conference the opportunity was taken to have some informal discussion with him about India's future relationship with the Commonwealth. He also had informal talks with the representatives of Canada, Australia and New Zealand.

3. After leaving this country Pandit Nehru let us have certain propositions which he suggested should form the basis of India's future association. We were very clear from our talks with him that he himself wanted to see India remain in the Commonwealth. But we were clear also that he had to face substantial opposition in India. It was a question in these circumstances of finding a basis for this association that would be acceptable to us and acceptable also to his followers in India.

4. We were advised that the propositions which

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pandit Nehru put to us did not in fact form an adequate basis or one that we could accept. In particular they made no adequate provision for recognition of the position of The King. Both we and the Dominion representatives strongly urged on Pandit Nehru, directly and through his representative in Paris, the vital importance of provision for the position of His Majesty and asked us to consider the matter further. We have now had his reply.

5. The proposals which Pandit Nehru now asks us to consider do not differ very materially from the first proposals that he put before us. They may be summarised as follows:-

(a) No change is proposed in the provision in the draft Constitution that India shall be a sovereign democratic republic.

(b) The substance of the relevant provisions of the British Nationality Act, 1948, will be incorporated in a Nationality Act to be passed by the Indian Legislature coming into effect contemporaneously with the new Constitution. This will have the effect of making Indian nationals Commonwealth citizens and the nationals of any Commonwealth country Commonwealth citizens when they are in India.

(c) In any new legislation or treaties with other countries India will not treat Commonwealth countries as foreign states and their citizens will not be

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treated as foreigners. Any new commercial treaties will make it clear that Commonwealth countries are in a special position for the purposes of the most-favoured-nation clause and that they are not regarded as foreign states.

(d) The Indian Government and the Commonwealth Governments will be free to use one another's ambassadors or ministers as desired in foreign states where the Government concerned has no representation of its own.

(e) As I have already explained, the effect of the draft Constitution, if it is passed, will be to extinguish the King's sovereignty in India. Pandit Nehru makes it clear that it is contemplated that the Indian people and their representatives, including the President of the Republic, will thus exercise all functions of sovereignty.

(f) At the same time, however, the proposals he has put before us state in terms that his propositions "represent a sincere desire to continue the Commonwealth association", and he adds that "no doubt, as the relationship is not a static arrangement, further development by way of association may take place".

6. Pandit Nehru has also told us that he would agree to

(a) Declarations to be made by all the member states of the Commonwealth, including India, that they wish to be and regard themselves as still bound in a special

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form of association within the Commonwealth.

(b) The inclusion in any legislation about nationality of provision that such legislation would remain in force "for such time as India remains a member of the Commonwealth".

But as I have made clear above, although we have put this point to him very strongly he has been unable to make any proposal to us about a link of real substance between India and the Commonwealth by way of The King.

7. That is the situation with which we have now to deal.

8. It seems clear to my colleagues and myself that if India is not prepared to accept the link with the Crown and the position of His Majesty she cannot be regarded as a member of the Commonwealth.

9. On the other hand we are impressed by her expressed and emphatic desire to continue the Commonwealth association. Politically, and in the conditions of the world today, we think it would be a grave misfortune if India were wholly to sever a connection with us which is of such long standing, and to become a purely foreign state. And we think too that while her conception of the Commonwealth may not be the same as ours it would be very difficult to justify a flat refusal to consider what seems to be her anxiety to continue the Commonwealth association.

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10. We think in these circumstances, that we should explore further the possibility of treating India as in a special association with the Commonwealth. The core of the Commonwealth, the members of it, would be the old Dominions and Pakistan and Ceylon if both of them are prepared, as they have told us they are, to accept the position of the King and to regard His Majesty as the link between their countries and the Commonwealth. But because of our long association with India and taking into account the arrangements about Commonwealth citizenship and about trade which she proposes, we think that a case could be made, if the remaining nations of the Commonwealth agreed, for her continuing in a special association with us, though not as a member of the Commonwealth, despite the fact that she was an independent republic and that her Constitution did not make provision for the recognition of The King.