

## Article 4 in the Treaty

### An Analysis

#### THE OATH OF FIDELITY.

The part of Article 4—"and that I will be faithful to his Majesty King George V, his heirs and successors by law in virtue of the common citizenship of Ireland and Great Britain, and his adherence to, and membership of, the group of nations forming the British Commonwealth of Nations"—is qualified by conditions laid down in certain other articles of the Treaty. It does deal, however, with the relation of the crown to the Irish Free State, and as this is the object of our inquiry let us examine these sentences. For this purpose we must first refer back to Article 2, where it is provided that the relationship of George V to Canada shall be the relationship of George V to Ireland, "subject to the provisions hereinafter set out," and these provisions are contained in Article 4. The proper order to approach the problem, therefore, is first by working on the Canadian analogy to define what the relationship of George V to the Irish Free State should be, and secondly to calculate to what extent that relationship will be modified by the provisions set out in Article 4.

#### "KING OF IRELAND." NO CANADIAN ANALOGY.

A common and fundamental error on the part of opponents of the Treaty has been to assume that George V is, according to constitutional law, King of Canada, the immediate inference therefrom being that George V is, therefore, under Article 2 of the Treaty, King of Ireland. This is a fallacy which goes to the root of the whole controversy and brings in its train a series of deductions such as that George V, in Mr. de Valera's words, is "direct monarch of Ireland" and the ministers of the Irish Free State the King's ministers. These conclusions are wrong because the premise is wrong. George V is not King of Canada, and, therefore, neither is he King of Ireland. The real state of affairs is that George V is King of England, and, therefore, as head of the British Commonwealth of Nations, of which Canada is a member, possesses in Canada a number of rights, which he exercises to a lesser extent year by year, and these rights are possessed by him in virtue of an oath about which there can be no doubt. Its terms are—"I..... do swear that I will be faithful and bear allegiance to his Majesty (etc.)." Supposing that the relationship of George V was reproduced in the case of the Irish Free State, it is undeniably correct that George V, as head of the British Commonwealth of Nations, would possess in Ireland certain rights; but that relationship is not reproduced in Ireland, for Article 2 of the Treaty states that the relationship of the Crown to the Irish Free State, although supposed to be on the Canadian model, "is subject to the provisions hereinafter set out." These provisions, which are given in Article 4, transform completely the relationship of the Crown to Ireland so completely that under the Treaty the relationship of the Crown to the Irish Free State does not bear even the shadow of a resemblance to the relationship of the Crown and the Canadian Dominions.

#### THE RELATIONSHIP OF FIDELITY.

We will find the sum total of the relationship of the Crown to the Irish Free State defined in Article 4, and we can pass over the first provision in the article, as it deals solely with Irish allegiance to the Free State constitution, and confine our examination to the remaining sentences.

What nature of allegiance, if any, do we owe George V as a consequence of these provisions, "and that I will be faithful to his Majesty George," etc.? We owe fidelity to George V. Fidelity is the relation which binds equals, and in using the term political fidelity to describe the relations between the Crown and the Irish Free State, England admitted for the first time that we were on terms of political equality, that is to say, that as sovereign states we contracted upon the same political level. Some opponents of the Treaty treat the difference between allegiance and fidelity as merely a difference of words, and argue as if the difference did not exist at all but had been manufactured by supporters of the Treaty.

Allegiance in the medieval order signified the relation of an inferior with a superior, of a vassal with his liege-lord. Fidelity represents an altogether different relationship—that between equals. It was a relationship which could be entered into only between equals. It is comparable with sovereignty and creates reciprocal obligations,

that is to say, it binds George V equally with the Irish Free State; and if he deviated in the slightest from the terms of the Treaty, the Irish Free State would automatically cease to owe fidelity to him.

#### THE FINAL COURT OF APPEAL—THE SOVEREIGN PEOPLE.

Enough has perhaps been said to show that in the present political position in Ireland there are a multiplicity of views mutually exclusive. Coolness and sanity are necessary if the nation is to be saved from hideous disaster, if it is not to be rent asunder by conflicting factions each a law unto itself, each determined to force its particular nostrum upon the country. The Treaty issue is now up for decision by the final court of appeal—the Sovereign People. In times of conflicting counsels and enthusiasms there must be some final authority if we are not to drift blindly to anarchy. Political parties must be content to work constitutionally as political parties, working with a proper perspective and a proper sense of their proportion to the whole of which they form a part, working with a realisation of the fact that the nation's rights and interests are above creeds and formulas, and that the nation's rights are violated and its interests imperilled by an attempt by any section to force its creed upon the citizens at the point of the gun. Mutinies and incitements to mutiny, attempts by intimidation to prevent the free exercise or expression of individual opinion—these things are deadly poison in the body politic, and those who have recourse to them are criminals, not in any narrow legal sense, but in the fact that they violate a natural right and sin against the common weal.

#### THE LESSON OF LIMERICK.

The Limerick incident should give people pause; negligible in itself, it was significant in its implications. The Minister for Defence stated clearly that the only guarantee that is asked for from troops occupying positions vacated by the British is an undertaking that they will not use their power to prevent the free expression of the people's will at a General Election nor turn their arms against any Government that may be returned as a result of such election. To ask for such an undertaking involves no "subversion" of any existing institution. It does involve a recognition of the sovereignty of the will of the Irish people in Ireland. That there should be any hesitation in recognising the fact that the will of the majority of the citizens must be the deciding factor, now and always, in our political affairs, is a symptom of the country's feverish condition.

#### THE DUTY OF LEADERSHIP.

It is the clear duty of sane leadership to assuage that fever. To do or say anything calculated to increase it would be unworthy of one holding a responsible position at this grave moment. Mr. de Valera cannot disclaim responsibility for the actions of those who have lined up with him on this Treaty issue, or for the inflammatory speeches of certain of his followers. Nothing but harm can come of the talk of an "existing Republic" being "subverted" and the calls to people to rally to its "defence." If last July the Republican oath taken by members of Dail Eireann was nothing more than "a pledge to the Irish people to do the best for them in any circumstances that arise," then assuredly those who advocate acceptance of the Treaty believing with Richard Mulcahy that "Ireland has no spot of solid ground on which to place her political feet except the Treaty"—such men are not "national apostates" engaged in subverting an "existing Republic."

#### THE RIGHT OF THE PEOPLE.

Each of the many schools of political thought is entitled to propagate its view, but if we are to be saved from anarchy one thing must be common ground with all—a recognition of the right of the Sovereign People to decide between them. The man who denies that right, be he Treatyite, Document Two-ite, Republican, or Workers' Republican, is no patriot but a traitor to his country.

—C. O'HIGGINS, in the *Free State*.

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