

To whom we do acknowledge all faith and constant obedience, with all hearty and humble affection, beseeching God, by whom Kings and Queens do Reign, to Bless the Royal Prince Edward the Eighth with long and happy years to Reign over us. Ends.

7.

*Memorandum*<sup>1</sup>

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January 21, 1936

1. The effect of the demise of the Crown upon the office of Governor General is determined by the Demise of the Crown Act, 1901 (I Ed. VII, c.5). This statute provides:

1(1) The holding of any office under the Crown, whether within or without His Majesty's dominions, shall not be affected, nor shall any fresh appointment thereto be rendered necessary, by the demise of the Crown.

2. There can be no doubt that this statute applies to the office of the Governor General. It was enacted before the Statute of Westminster, and no legislation has been enacted by the Parliament of Canada since the Statute of Westminster, inconsistent with its provisions.

3. Accordingly, there can be no doubt that the demise of the Crown has no effect upon the legal position of His Excellency the Governor General. He should, of course, take anew the Oath of Allegiance, as an Act of homage to the new Sovereign, but the taking of this oath does not affect his capacity to do any act that is within the authority of his office.

4. Further, there can be no doubt that His Excellency would be bound by the provisions of Demise of the Crown Act, R.S.C. 1927, c.46, which imposes a legal obligation upon the Governor General to issue the proclamation provided for in Section 2 of the Act.

5. It would not be proper to await a telegram from the Dominions Office, corresponding to that which was sent by the Colonial Office in 1910. It would be inconsistent with the present position of the Governor General for the Colonial Office to send such instructions at the present time. The Governor General's office under his appointment extends, uninterrupted by the demise of the Crown, and is subject to termination only by an expression of the new King's pleasure. In the event that the new King expressed his intention to cancel the Commission, the present appointment could be brought to an end. In the absence of any indication of such an intention on the part of His Majesty, it must be presumed that it is his pleasure that His Excellency shall carry on.

<sup>1</sup> J. E. Read au Premier ministre/J. E. Read to Prime Minister.