INTRODUCTION

The essence of diplomacy is communication. It is the means whereby sovereign states—notional persons—communicate with other states through their human representatives. Being notional they, like all such entities, can do so in no other way. And as virtually no state finds it practical or desirable either to live like a hermit or to engage externally in nothing but unannounced and undiscussed war, there is a universal imperative on states to engage in diplomacy. Hence it is a fundamental and ever-present element on the international scene. Martin Wight describes it as ‘the master-institution of international relations’; and Alan James contends that it is one of the three basic requirements for the existence of an international society of states—the others (both of which bear on diplomacy) being an entrance requirement (sovereignty) and rules (international law).\(^1\)

Traditionally, the primary mode for the conduct of diplomacy has been through residential missions. Those called embassies are headed by ambassadors, who are heads of mission of the first class; legations (a more or less extinct category) are headed by ministers, who fall into the second class; and heads of mission called chargés d'affaires make up the third. (Nowadays the latter are almost always temporary heads, which is indicated by the addition of ‘ad interim’ to their title.) However, as hinted in the 1961 Vienna Convention on Diplomatic Relations, the use of one of these titles is not mandatory. In Article 14.1(a), which specifies the first class of heads of mission, the phrase ‘ambassadors or nuncios accredited to Heads of State’ is followed by the words ‘and other heads of mission of equivalent rank’. This, among other things, acknowledged the fact that as between the member states of the Commonwealth, heads of missions were termed ‘high commissioners’, the missions they headed being ‘high commissions’.

A. The Office of High Commissioner

The office of high commissioner dates from the latter part of the nineteenth century. That was when, just over a decade after one of Britain’s

\(^1\) See James (1993) 94–6.
colonies of settlement was designated as a ‘dominion’, it was agreed that her representative in London should be called ‘high commissioner’. Later dominions followed suit. For quite a while these entities remained non-sovereign. However, although it was far from generally recognized at the time, they were embarked on what could later be seen as an inescapable, if somewhat erratic, voyage towards sovereignty. But surprisingly, on the face of it, even after they became unambiguously sovereign the heads of the resident missions which they exchanged with each other continued to be called high commissioners; and this practice has been followed by all subsequent Commonwealth members.\(^2\)

The evolution of the office of high commissioner falls into eight distinctive but sometimes overlapping phases. The first, from 1880 to the outbreak in 1914 of the First World War, saw the emergence of the office of high commissioner. Canada had become a dominion in 1867, and her wish to elevate the level of her representation in London resulted in the appointment of a Canadian high commissioner in 1880. When, in the early years of the twentieth century Australia, New Zealand, and South Africa achieved dominion status, they soon followed the Canadian example—and in the case of New Zealand actually did so two years before becoming a dominion. From the first all these high commissioners had what could fairly convincingly be seen as a diplomatic role.

The second phase, from 1914 until the late 1930s, saw the consolidation of the office. The position of high commissioners in London was enhanced as they gained the same privileges (but not the same immunities) as foreign diplomats, saw an improvement in their status, and engaged in more duties of a typically diplomatic kind. But although they benefited from the intimate Commonwealth relationship, their role was also limited by the existence of other channels of communication between Commonwealth states, the familial nature of intra-Commonwealth relations, and the unwillingness of most of their prime ministers to grant them a full ambassadorial role. However, the office of high commissioner received a boost from some reciprocal appointments by Britain to dominion capitals. Britain had not been keen to make them, but was obliged so to act when some of the dominions—the ranks of

\(^2\) The title ‘high commissioner’ has also been used in a variety of other international contexts: see Appendix 5, and Lloyd (2000) 47–9. But its Commonwealth use is by a considerable margin the most long-lasting and prominent.