



SIR KENNETH WHEARE

Elliott Fry

KENNETH CLINTON WHEARE

1907-1979

I

DESPITE his service as university administrator, constitutional adviser, and head of an Oxford college, it is as Gladstone Professor of Government and Public Administration that many will remember Sir Kenneth Wheare. It was as Gladstone Professor that he established his role as the leading authority on the constitution and government of Britain and the Commonwealth.

Kenneth Clinton Wheare was born at Warragul, Victoria, on 26 March 1907, the eldest son of Eustace Leonard and Kathleen Frances Wheare. He attended Scotch College, Melbourne, and later the University of Melbourne, taking first-class honours in Greek and Philosophy. In 1929 as the holder of a Rhodes scholarship, he entered Oriel College, Oxford (having, it is said, travelled by tramp steamer to the United Kingdom). Like many Rhodes scholars who followed him he read Philosophy, Politics, and Economics, the new Modern Greats combination, then only recently established. His inclination towards the politics side of the syllabus was due in some measure to the advice of one of his Melbourne Professors, Macmahon Ball. But it is possible that the philosopher W. D. Ross may have borne some responsibility for it. Years later¹ Wheare recalled the manner of his first meeting with Ross:

He fixed the time for my tutorial at noon on Saturdays. As I was about to take my leave, he said, 'This, I imagine, will be a new experience for you, Wheare, to work on Saturday morning . . . I understand that nobody in Australia works on Saturday.' 'No, sir', I said, 'We all do.' 'Indeed', he said. But I felt that he did not entirely believe me.

To be disbelieved by an authority on the Right and the Good must have seemed an awkward preliminary to the career of a Rhodes scholar. But Wheare survived it. He went on:

I was an enthusiastic, even dedicated student of philosophy, but unfortunately I was no good at it. His (Ross's) relief when I decided to specialise in what he described as 'the rather less rigorous' study of political science must have been considerable.

In 1932 Wheare gained a First in the Final Honour School and began work in the following year for the Beit Prize in Colonial

¹ British Academy Presidential Address 7 July 1971.

History on a topic that remained for him one of permanent interest. In 1931, the National Government had secured the enactment of the Statute of Westminster, the legislation that became the legal cornerstone of the Commonwealth of Nations—possibly the most important United Kingdom Act of Parliament of the twentieth century. Wheare's essay on the Statute won him the Beit prize and the essay was published by the Clarendon Press in 1934. In that year he was appointed as University Lecturer in Colonial History and to a research lecturership at Christ Church. It was also the year of his first marriage (to Helen Mary Allen).

During the four years of his Christ Church appointment Wheare continued to work on the topic that he had sketched out in his prize essay. The development and legal implications of Dominion status was in fact a subject that had at this period occupied the attention of a small distinguished group of scholars, some historians, some lawyers. W. K. Hancock was engaged on his wide-ranging survey of Commonwealth affairs. Professor Berriedale Keith had recently published his work on the sovereignty of the British Dominions. There was also at All Souls Richard Latham, in whose brief monograph 'The Law and the Commonwealth' lay the seeds of a revolution in constitutional thought. To these may be added the work that Wheare completed and published in 1938. *The Statute of Westminster and Dominion Status* went through five editions between 1938 and 1953. It was his first major work and has remained the standard authority on the legal and political effects of the legislation of 1931.

In 1939 John Maud (later to be Lord Redcliffe Maud) left University College to become Master of Birkbeck College. A tutorial Fellowship in Politics thus became vacant and Wheare was elected to it. In the following year he also took on two university offices, serving as a Pro-Proctor and (like his predecessor) as a university member of the City Council. The University enjoyed at that time the privilege of electing a body of councillors and aldermen to take part in the municipal government of Oxford. The system was not universally esteemed outside the University and was abolished in the local government reorganization of 1974. But for many years it provided a small group of councillors tied to neither of the two major parties, many of whom gave useful service to the council and its committees. Wheare himself was, for a time, chairman of the City Education Committee and was a councillor for seventeen years. It was a sensible form of corporate representation, now sadly lost.

In 1944 the academic study of politics in Oxford took a step

forward when the single chair of Political Theory and Institutions was divided, with the creation of separate chairs for the study of Social and Political Theory (G. D. H. Cole being the first incumbent) and of Government. Wheare was elected to the Gladstone chair at the relatively early age of thirty-seven. Its remit was the study of government and public administration—though public administration has always been conceived in a broad and liberal spirit.

Wheare's second marriage (to Joan Randell) had taken place in the previous year and the following decade was an active period of research and travel in which he saw something of the practical mechanics of constitution-building. In the years between 1942 and 1948 there were significant developments in Commonwealth affairs. Australia and New Zealand adopted the relevant sections of the Statute of Westminster and the changed status of India, Pakistan, and Ceylon required new and complex British legislation. Wheare's advice was sought both by the British and by overseas governments. In 1946–7 he served as constitutional adviser to the National Convention of Newfoundland. The convention was elected to discuss the status of Newfoundland which had been under commission government since a financial crisis in 1933. Under Wheare's constitutional guidance the committee proposed confederation with the Dominion of Canada, an object that was achieved, after the holding of a referendum in Newfoundland, by the enactment in Britain of the British North America Act (No. 1) of 1949. Two years later Wheare was invited to assist the Conference on Central African Federation. That federal association was to prove an unsuccessful one, though its failure was one of politics rather than constitutional machinery.

Academically this was a remarkably productive period. In 1945, encouraged by Sir William Beveridge, a leading figure in the Federal Union movement, Wheare had published his *Federal Government*, probably the best known, or at least the most widely quoted, of his works. In 1948 there was a small volume on *Abraham Lincoln and the United States*. In 1951 the first edition of his introductory textbook *Modern Constitutions* appeared and in 1955 *Government by Committee*, an original approach to one of the major institutional devices of British government.

Few could have been better qualified to describe the anatomy and strategy of the committee world. If the Gladstone Professor did not collect committees, committees collected him. As well as advising on colonial and commonwealth matters he took on in 1947 the chairmanship of a departmental committee on Children

and the Cinema (the committee that invented the 'X' certificate with ultimate consequences for both the cinema and children that Wheare afterwards regretted and deprecated). In 1948 he became a Rhodes Trustee, and in 1952 a member of the General Advisory Committee of the BBC. In 1956-7 he served on the Franks Committee on Tribunals and Enquiries. From 1959 to 1963 he was on the University Grants Committee. In Oxford, besides his local government committees, he held, in addition to his All Souls Fellowship, a Faculty Fellowship at Nuffield College from 1944 to 1957 and there was also the Hebdomadal Council on which he sat for twenty years.¹ The committee role was one in which a number of his characteristic qualities were displayed. It was said by one who knew him well that on Hebdomadal Council he was 'unobtrusively the most significant influence whilst noisier members came and went'. His interventions and phraseology would often be recalled when the substance of the issue had been forgotten. 'Over my dead body, Mr Vice-Chancellor,' he was once heard to say, of some proposal that displeased him, 'if I may take up a moderate position in this matter.'

In 1956 Wheare was elected to the Rectorship of Exeter College and relinquished his tenure of the Gladstone chair and his membership of the City Council. He was to be Rector of Exeter for the next sixteen years and to devote much of his time to its affairs. In 1956-7, however, he joined Sir Oliver (later Lord) Franks on the Committee to survey the machinery of administrative appeals and inquiries, that had been appointed in the wake of the Crichton Down affair and the agitation that emerged in the 1950s about the discretionary powers of ministers and departments. The Committee's terms of reference were to consider the working of tribunals other than the ordinary courts of law and also the procedures for holding public inquiries, particularly into the compulsory acquisition of land. The Committee sessions produced a notable collision between two different views of the administrative process. Much of the evidence given by government witnesses supported the existing arrangements (as it generally does). But the Committee set out a number of proposals designed to promote openness and impartiality in the tribunal and public inquiry mechanism and most of them were accepted and embodied in part in the 1959 Tribunals and Inquiries Act. It was one of the more successful departmental inquiries and something of a landmark in post-war English administrative law.

¹ He also, from 1974 to 1978, held the office of Clerk of the Market (for which he received from the University a salary of £8 per annum).

Shortly afterwards Wheare was again associated with Franks in the commission of inquiry set up by Oxford University into its own machinery of government. In 1964 Heads of Houses were still rotated into the Vice-Chancellorship of the University and in that year Wheare as Rector of Exeter took office as Vice-Chancellor. As a member of Hebdomadal Council he had been associated with the setting up of the Committee of Inquiry under Franks's chairmanship. Though a great deal of evidence (including the Vice-Chancellor's) was received, the report of the Committee did not lead to any radical reshaping of the University's affairs. The principal change was certainly assisted by Wheare's support. This was the creation of a consultative Conference of Colleges. The Commission had wanted something stronger—a senate or council with decision-making powers, but the University opted for a confederal rather than a federal solution. Wheare became the first chairman of the Conference of Colleges and presided over its emergence into a seemingly permanent quasi-decision-making body.

In 1966 Wheare received a knighthood and in the following year was elected to the Presidency of the British Academy (having been a member since 1952). During his presidency relations with the Royal Society were improved by the initiation of joint symposia, the first being held in December 1969 on the impact of the natural sciences on archaeology. Other developments were the move to Burlington House from Burlington Gardens and a considerable increase in the government grant to the Academy (an increase of 100 per cent from 1966–7 to 1971–2). The Academy's responsibilities in the field of the social sciences were also extended. Closer relations were established with the Social Sciences Research Council, and the annual Keynes and Radcliffe-Brown lectures were instituted in economics and social anthropology.

In 1972 Wheare resigned the Rectorship of Exeter College. For a decade he had been busy in the administration of the College and the University and had had little time to give to research. His retirement from these activities gave him an opportunity to return to writing and reviewing and to some of his earlier academic interests. In the year following his retirement from the Rectorship he delivered the Hamlyn Lectures. Miss Hamlyn, a lady of Devon and a patriot, had endowed an annual lecture series whose object was to be the

furthering among the Common People of the United Kingdom of Great Britain and Northern Ireland of the knowledge of comparative jurisprudence . . . to the intent that the Common People of the United

Kingdom may realise the privileges which in law and custom they enjoy in comparison with other European Peoples.

Wheare chose the title 'Maladministration and its Remedies' to illustrate Miss Hamlyn's thesis. In the previous year he had also delivered the British Academy lecture on a Master Mind taking as his subject Walter Bagehot. The opening words of the lecture are reminiscent of his style. A recent author, he said, seemed to disapprove of Bagehot on the ground that he was a banker and liked money. The author, moreover, found it suspicious that nobody had a word to say against him. 'But ill-nature abhors a vacuum and our author does his best to redress the balance.'

Wheare's manner of speech and writing both on public and private occasions was brisk, cheerful, and inventive. When he was installed as Chancellor of Liverpool University in 1972, he said:

What is a Chancellor for? A figurehead. I am proud to be a figurehead of this ship. I shall hope like most figureheads—not all but most—to be pointing in the same direction as the ship is going.¹

Dr T. C. Thomas, Vice-Chancellor of Liverpool until 1979, recalls a letter written after Wheare had delivered the University sermon in Oxford on 'The Sin of Pride'.

I prayed for the University of Liverpool in the bidding prayer [he wrote]—the first time it has been done. It was strictly speaking irregular, but once you are in the pulpit they cannot stop you. It is too soon to expect any striking results, but in the long term they may appear.

II

Any assessment of the contribution of Sir Kenneth Wheare to the study of politics in the United Kingdom must conclude that it was both substantial and known to be so. In the post-war years he was one of the small group of academics who, through their writings and through the founding of the Political Studies Association and its journal, put the teaching of politics on a satisfactory professional basis (the others who come to mind are W. A. Robson, Sir Ivor Jennings, Sir Denis Brogan, W. J. M. Mackenzie, Sir Norman Chester, and Wilfrid Harrison). About some of the claims made for the discipline of political science Wheare had reservations. He thought, for example, that Robson went too far

¹ Shortly after this Wheare was enrolled as an Honorary Admiral of the Isle of Man Herring Fishery Fleet—an appointment that gave him much pleasure (and a box of kippers each year). Unfortunately no account is available of the duties of this office or of the manner in which they were discharged.

in describing political science as a master science or a key to the greater welfare, dignity, and happiness of mankind. The term itself he did not object to. But, he added: 'If I am told that what claims to be political science is no more than recent or current political and constitutional history I am prepared to postpone the argument and get on with my studies.'¹ International relations, too, he thought of as being like politics in general, a subject-matter fit to be studied by historians, lawyers, sociologists, or any other type of scholar, rather than as a separate academic discipline. He did not think of himself as very philosophically minded, but he thought it a good thing that politics in Oxford had been linked to the study of philosophy. He did not believe that philosophy was a mere service activity for political science (as Robson perhaps did).

Of his writings *Federal Government* is probably the most widely known of his works. What most undergraduates know about Federalism is that Wheare defined it. But this is not altogether true. In the first two chapters of *Federal Government* he attempts to identify a federal *principle*. 'By the federal principle', he writes, 'I mean the method of dividing powers so that the general and regional governments are each within a sphere co-ordinate and independent.'² Some writers have considered Wheare's approach to be both legalistic and rigid but it is neither. What he proposes is that the terms 'federal government' and 'federal constitution' should be used widely. The federal principle should be stated rigidly or precisely because it is convenient to have a name for a distinct and different principle of organization from that which has commonly been called the unitary principle. But he explains that many political constitutions that we treat as substantially federal (including the governments of Australia, Canada, and Switzerland) depart in important ways from the federal principle. The 'rigidity' of the federal principle is simply a preference for a clear and precise identification of an idea or concept. Some have preferred to treat the concept permissively, as being a matter of infinite degree, or (like chastity) less a mechanical arrangement than a state of mind; so that it is found broadly distributed in a wide range of circumstances. On such a view it can be said to occur wherever there are social, financial, or psychological signs or 'instrumentalities' of regional independence. But this is to leave no serious or clear use for the term 'federal'.

The facility for comparison and selection that appeared in *Federal Government* can be seen in the two small volumes originally

¹ 'The Teaching of Political Science', *Political Studies*, 3 (1955), 70.

² *Federal Government*, 4th edn. (1963), p. 10.

published in the Home University library, *Modern Constitutions* and *Legislatures*. *Modern Constitutions*, though an introductory work, stood almost alone when it appeared, in a field that had been greatly neglected. It is simply conceived and written, defining and describing various types of constitution, discussing their establishment and authority, and explaining the way in which they are amended or changed by formal and informal processes. It concludes with a discussion of constitutional usage and convention—a topic that Wheare had found important in his study of commonwealth government (and which is the subject of chapter 1 of *The Statute of Westminster and Dominion Status*). He accepts the view propounded in Dicey's *Law of the Constitution* that conventions are rules of behaviour regarded as obligatory by those engaged in the working of the constitution and not enforced (though they may in some circumstances be recognized) by courts of law. Wheare did not subscribe to the view of some writers that law and convention can be treated as fundamentally similar in character, though he notes the possibility that conventions may be as important as or more important than laws; or may nullify the effects of laws; or may be incorporated by legislation into constitutional laws. He dissents from Dicey's opinion that in the British Parliamentary system conventions are designed to secure the ultimate supremacy of the electorate as the sovereign power in the state, pointing out that the purpose and ambit of conventions is much wider than this. They may protect civil liberties, or regulate the relationships of two Houses of the legislature or fix the relative powers of the executive and legislative branches of government, or link the workings of political parties with that of the formal legal institutions of the political system.

The little companion volume *Legislatures* has many of the virtues of its predecessor. One of them is that it helps the student to resolve a dilemma that confronts him in beginning the study of political institutions. It is impossible to compare institutions in general without some fairly detailed knowledge of some particular governments or institutions. Yet the working of particular governments may only become significant against a background knowledge of institutions that work differently. You cannot—as Bagehot knew—see what the important characteristics of cabinet government are without knowing what they are not and what happens in a non-cabinet system. So the utility of a simply written comparative work that exhibits with examples the varieties of legislative behaviour is very great, since it gives the beginner a readable framework in which he can arrange his ideas about

British Parliamentary behaviour. It is also a specific against parochialism and the view that what is familiar cannot be arranged differently—a common enough view in the philosophy of British administration. Wheare tells us, for example, that the British House of Commons is uncommonly large. The physical arrangements made for our elected representatives, though lately improved, are by comparative standards spartan. Unlike some political systems ours has in the post-war years been slow to contemplate intermediate situations between cabinet autocracy and *gouvernement d'assemblée*. These questions, clearly posed in Wheare's small study in the early 1960s, have not become less important in the 1980s.

In *Government by Committee* published in the mid-1950s Wheare used his comparative technique within the British political system to cut a furrow that would expose the character of a particular type of behaviour—namely, that form of behaviour exemplified at various levels by committee work. The book (subtitled 'An Essay on the British Constitution') was an ambitious one and perhaps a narrower focus might have improved it, but it is ingeniously constructed and a joy to read. Committees are classified by function. There is negotiation, administration, legislation, scrutiny, and inquiry. Within each function there are strategies and tactics of committee-making. There are committees to pacify, committees to delay, committees to kill, and committees for form's sake. There are committee characters of various kinds, some of their ploys being reminiscent of Stephen Potter's gamblers (*One-Upmanship* was published in 1952). A particular feature of the committee world, clearly painted, is the blending of the professional and non-professional—the collaboration of the expert with what Jeremy Bentham called the 'lay-gent', the common law's ordinary reasonable man, found at every level of British administration. The good layman, Wheare tells us:

must have all the virtues of the reasonable man and all the virtues of the unreasonable woman. Indeed some of the best laymen are women and unreasonable women at that. It is the quality . . . of being unable to see the sense of what is being done, of questioning the whole basis of organisation . . . It is against criticism of this kind that officials and experts should be required to justify their proposals and procedures in public administration.¹

That intuition about the control of administration was perhaps vindicated in the 1960s when the debate on administrative reform

¹ *Government by Committee* (1955), p. 23.

terminated not in the creation of more specialized instruments of control but in the creation of a 'lay-gent' in the person of the ombudsman to investigate public complaints about the Civil Service. In *Maladministration and its Remedies*, his last published work, Wheare sets out the history of the adoption of the Parliamentary Commissioner system, compares it with the operations of the French administrative courts and discusses the complexity of the term 'maladministration'. His conclusion is that the Parliamentary Commissioner had been effective in strengthening the machinery of control over ministerial discretion, though he adds that the success of an ombudsman is likely to be greatest in the sort of political and constitutional community that needs him least, being more likely to make good government better than to make bad government good. There are also some reflections on the impact of recent changes on the traditional theory of individual ministerial responsibility. There are occasions, for example, he says, when it may be the duty of a civil servant to thrust responsibility on a minister ('one can see that the nastiest moment for a minister is when a civil servant says to him "Will you order me to do this? If so I will obey." That is individual ministerial responsibility with a vengeance.'). He is equally clear that the legislation of 1967 has made a difference in both theory and practice to that sense of ministerial responsibility in which civil servants remain anonymous and have their sins and successes attributed to ministers. The activities of the Parliamentary Commissioners can only work on the supposition that there is a separation of some acts of an administrator from those of his minister, a supposition that the traditional theory finds it hard to accommodate.

Bureaucracy and the British Constitution continued to occupy Wheare's thoughts and it was one of the major themes of a manuscript that he had almost completed at the time of his death. He had given it the title 'Towards a Working Theory of the British Constitution'. It was to be a study of the present-day theory of checks and balances within the British political system. Prominent amongst the external checks on government is, he suggests, the right to strike, which can be considered in effect as a part of the machinery of government (in a wide sense). The book would have been a venture of a more theoretical kind than any of Wheare's previous writings. A section of the manuscript deals with the role of beliefs and doctrines held by the public at large, some of which may be inconsistent with each other. Egalitarianism, for example, may be at odds with 'differentialism'.

(‘The same trade unionists who claim egalitarianism in the franchise, in pensions, in the National Health Service and in Social Security may be strongly in favour of differentials.’) There is also a pervasive idea of fairness that finds a place in many statutory contexts. (Fair rents, fair hearings, fair dismissals, and fair employment practices.) But a threat to balanced government besides being posed by possibly unstable external forces is also to be found within the government machine in the bureaucracy itself, now increased in size and increasingly unionized. This last development has threatened the separation of the bureaucracy as servants of the Crown from political activity. (Many bureaucrats, of course, never have been servants of the Crown, but that only shows that our theory of state functions and public employees is an untidy one.)

Some modern developments, Wheare thought, reinforced the imbalance rather than remedying it. Devolution and decentralization of power, for example, created more governmental activity at more levels and bred more officials.

Most of these themes are briefly sketched. Fully developed they would have illuminated the non-Parliamentary parts of the constitution that Wheare came to see as having taken on as large a role as the central legislative machinery. He was prepared to dub the modern British system not Parliamentary or cabinet government but ‘Parliamentary Bureaucracy’.

The other project on which Wheare had been working in the late 1970s was a biography of Sir George Cornwall Lewis, the Victorian statesman and author. Many people now remember Lewis as an author, if they remember him at all, only because Walter Bagehot made a joke about him. Lewis wrote a large number of books and articles on a large number of subjects including early Roman history, ancient astronomy, the law of extradition, and the government of dependencies. In 1849 he published *The Influence of Authority in Matters of Opinion*, about which Bagehot said that it was written to show that if you did not know anything about a subject you should ask somebody who did. Wheare’s interest, however, was almost certainly drawn to Lewis by his two works on political science, *Remarks on the Use and Abuse of Some Political Terms* and the much longer and duller *Treatise on the Methods of Observation and Reasoning in Politics*. The first of these, Wheare thought, was a praiseworthy exercise in clarification and an attempt to do in part for political science what John Austin had done for jurisprudence. Wheare’s judgement on Lewis was that ‘he clarified and purified part of the vocabulary of political

studies'. This, he added, 'is a small achievement, but it is not trivial nor negligible'.¹

If one had to make a judgement about Wheare's own contribution to political science it would be that his writings on the structure and development of the Commonwealth will be thought of as his most distinctive and valuable work. In the forefront stands the classic study of the Statute of Westminster. The Statute and its interpretation are still a matter of severe disagreement and Wheare's book, remarkable for the clarity of its exposition of the complex issues involved, is still appealed to as an authority on the Statute. What its intentions were in many respects remained unclear after 1931. At the time of its passage Mr Winston Churchill said that it was the plainest Act of Parliament that he had ever read and that it was not obscure or cryptic. But Churchill was wrong and it has proved to be both. The general intent of the Statute was indeed clear—namely, to give legal effect to the political equality of status of the Dominions, recognized in the Balfour declaration of 1926 and echoed in the statutory preamble in 1931. It was intended, therefore, to release the Dominions from the paramountcy of the Imperial Parliament and to empower them to amend their own constitutions. But besides raising basic and as yet unanswered questions about the sovereignty of the United Kingdom Parliament, it has given rise to difficult internal questions for the constitutions of the Commonwealth countries. The technique of Imperial abdication involved what in current terms might be called a patriation of constituent authority to the Parliaments of Australia, South Africa, Canada, New Zealand, Newfoundland, and the Irish Free State. But in the federal Dominions that power if unqualified would have arguably enabled their federal Parliaments to overturn the federal structure and so it was qualified. In the other dominions it was not. But both the qualifications and their absence have caused constitutional crises and litigation, first in Ireland, then in South Africa, and most recently in Canada. But all the major questions that have come into issue were foreseen by Wheare and are discussed in the various editions of *The Statute of Westminster and Dominion Status* published between 1938 and 1953.

Then there was the invention or exposition of the theory of constitutional 'autochthony'—one of the few (perhaps Cornwall Lewis-like) innovations in the vocabulary of post-war political science. It is to be found in Wheare's *Constitutional Structure of the*

¹ 'Sir George Cornwall Lewis as a Political Scientist', *Political Studies*, xx (1972), 407, at 420.

Commonwealth written in the late 1950s and published in 1960. This was not a revision or remodelling of his earlier work. It is written to an entirely different plan and discusses a wider range of topics. It is an examination, not of the original Dominion constitutions but of all the Commonwealth constitutions as they have developed in the post-war years. The method is, of course, selective, rather than comprehensive. Each chapter introduces and illustrates an idea or concept. There are chapters on the vocabulary of the Commonwealth, on its symbols, on the concept of membership, and on the modes of co-operation. Three of the central chapters are devoted to the ideas and implications of 'Equality of Status', of 'Autonomy', and of 'Autochthony'. 'Autochthony' puts a name to a pattern of behaviour that needed one. It differs from autonomy since that merely indicates the ability of a Commonwealth member country (as we must now clumsily call it) to change all of its laws without the intervention of the United Kingdom Parliament. But some members, Wheare pointed out, having tasted autonomy wanted a stronger brew. They wanted to say not merely that their institutions were no longer legally subordinate to those of the Imperial Parliament but that they were in some sense rooted in their own soil and had the force of law for that reason and not because they were given it by British legislation. Wheare traces the search for this ideal in Ireland, India, Pakistan, and Canada. He predicts that as Commonwealth countries gain independence and autonomy they will embody their constitutional instruments in a local document which they will claim owes its validity to no outside authority but to themselves. (In legal terms this will be false, but in most cases there will be no occasion or necessity for testing its falsity.)

We see here a genuine piece of constitutional metaphysics. Many questions about the Commonwealth and its headship and its forms of association indeed border on the metaphysical. But many of these formal, legal, or symbolic questions throw their shadows into the real world. Kenneth Wheare knew this and showed this. No one has more clearly explained and analysed the connections between formal structures and political reality in the government of the Commonwealth and the United Kingdom.

III

In 1979 Wheare was compelled to resign his office as Chancellor of Liverpool University when the illness against which he had struggled for some time seriously restricted his physical

capacities. He died on 7 September 1979. Throughout the difficulties of his illness his determination and cheerfulness stayed with him. Those indeed were qualities that at any time would have been brought to mind by any mention of his name in Oxford in the post-war years. His colleagues would have added shrewdness and a breadth of judgement that was direct but never immodest or self-promoting. Those who were taught and examined by him would have added generosity. His criticism could be sharply expressed but he always wanted to let a viewpoint emerge or to find the merits that would get the candidate through. Sir Norman Chester, who knew him well, wrote of him that:

He was a Politics man in the older sense of the term. He was familiar with the great writers in the field—both in theory and in institutions and concerned himself with the issues which had fascinated them. I suppose he was considered old fashioned. Certainly he would readily admit an inadequate knowledge of the socio-political forces in left-wing Patagonia or an inability to benefit from much of the fare provided for example by the *European Journal of Political Research*. . . . He believed that those who taught how political systems worked should be able to analyse any form of government.¹

Sir Edgar Williams in his annual private letter to Rhodes scholars, written as Warden of Rhodes House in 1979, set down some reminiscences of his public manner:

As a speaker he was uniquely a creator of mood. When you came away chuckling still it would have been difficult to face a viva on exactly what he had said, how it had been phrased, but the tonic did not die with midnight. . . . He had a gift for parody, especially of his opponents' position, which he undermined so thoroughly that it was impossible to return to it, the foundations having been laughed away.

He added that:

He seemed to have reached some curious decision by the time I got to know him well . . . that he would go straight from the role of the young professor, eschewing middle age, to the privileges, without the disadvantages, of ripe old age. Behind this superficial whimsicality there was a very remarkable will. . . . People who threatened resignation were handed a pen across the table to put it in writing forthwith. . . . Physically he seemed frail, but he was a man of the utmost resolution and when he held something to be wrong, wrong it remained and he would stand against it.

Sir Edgar concluded:

He had a habit of backing into the limelight and quickly disappearing

¹ *Political Studies*, xxviii (1980), pp. i-ii.

again to get on with his work. He was an irreplaceable spirit, a wise and witty scholar who mocked the bogus and pricked the pretentious, and who found in the happiness of his family a safe refuge and a chaotic serenity.

That portrait would be recognized immediately by all who knew Kenneth Wheare, and especially by that large number of us who were guided and encouraged by him in the way of scholarship. He was immune to bluster or fashion and he cherished his privacy, the character of the public person being shaped by the instinct and humour of the man.

GEOFFREY MARSHALL

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