

When we said we had no observations to offer it meant that we had not much interest in this—go ahead with it.

MR. HARDING : But if you had said so, it would have been a different matter.

MR. LATHAM : It is a very easy thing to add that to a letter.

MR. FITZGERALD : I frankly misunderstood it. I meant that when we had no observations to offer we were not in it, but apparently when we were not sufficiently interested to offer observations we were included in it.

DR. SKELTON : Do all treaties fall into the same class? There are those we recognise which are carried on by two parties of the Empire; in the case of those we recognise, those of us in the other Dominions not immediately concerned in the negotiations, that we are probably going to be concerned, and therefore would wish to appoint plenipotentiaries to take a part in framing the deed and be bound whatever conclusion is come to. On the other hand, there are those which do not affect us at all, and which we therefore think should be so drawn up as to apply only to those parts of the Empire that are affected, or is there an intermediate class in which we recognise that there are indirect and minor results which may affect our nationals? We do not want to be excluded from them. We do not want to take a part in the negotiations, but wherever possible accept the consequences, or perhaps a little more than that. We say definitely that we have no objection to having those affect us. I do not think the third is a logical one; but it may be that there are certain cases in which it might be carried out, in which we may have either to take a part in the treaty which is going to affect and bind us or be excluded definitely from the operation of the treaty. That is the logical way of looking at it. There is the third alternative of recognising the binding effect in minor ways of treaties in which we have no direct part, and this might have to be followed.

SIR CECIL HURST : I was going to express a doubt whether Dr. Skelton's classification is quite a logical classification. Does this treaty impose an active obligation upon the Dominion? In that case it is clear that it ought to be signed on behalf of the Dominion so as to introduce an element which will justify that Dominion Government in taking and practically require it to take whatever steps are necessary to bring it into force, whether that be through its Parliament or by joining in the ratification. The other class is where it imposes no obligations except the obligation of recognising the effect. Now that category can fall into two classes: one is sufficiently important for the Dominion to say: "We wish to participate in the negotiations; we wish to join in the appointment of a plenipotentiary or to be represented by a separate plenipotentiary"; the other class of case is where the Dominion says: "My interest in this is so small that I am aware of the general lines that are going to be pursued in this particular negotiation and I accept the result."

DR. SKELTON : Even though it admits that we are being bound by the action of the plenipotentiaries, in whose appointment we have had no share?

SIR CECIL HURST : He is perfectly entitled to say: "The inhabitants of my country will be affected by this negotiation. I should like to join in the appointment of plenipotentiaries." You would then telegraph to London who was going to be nominated as plenipotentiary. In Canada you would do that, for instance.

MR. LATHAM : May I mention also in connection with what Dr. Skelton has said that there is a well-known distinction between a general power and a special power. A Dominion may be perfectly prepared to give a general power in relation to certain matters, which it would define for itself from time to time, by making no comment; and if the Dominions were to intimate to the British Government: "In a case where we do not forward any comments within a reasonable time you can understand that we are content that your plenipotentiary should act generally, with the effect that we would be bound to recognise the results of this treaty," that would correspond to what one might call a limited form of general power, and would be a protection from the constitutional point of view and assist in foreign policy on behalf of the whole of the Empire.

MR. LAPOINTE : I will now read paragraphs 26 and 27 (paragraphs read). Shall we come back now to paragraph 10?

SIR FRANCIS BELL : We shall all have to go very soon. I must go in five minutes.

MR. LAPOINTE : If some of the members of the committee have formed some draft on the preamble or form of treaty, perhaps we might now consider it.

SIR CECIL HURST : I have prepared a form in accordance with your desire. I have prepared a draft form of a resolution and I have prepared also a draft of the "head and tail" of a treaty. Shall I distribute these? (Drafts distributed.)

*"Draft Resolution."*

"The imperial Conference.....agrees as follows:—

1. Though the Dominions separately represented in the League of Nations and India are entitled in virtue of such separate membership to all the rights and privileges of Members of the League, they became members upon the footing that the relationship between the various parts of the Empire is different from the relationship between them and foreign Powers.

2. This special relationship between the various parts of the British Empire whether separately represented in the League or not is a fundamental element in their international position.

3. Treaties (other than agreements between Governments) whether negotiated under the auspices of the League or not should be made in the name of Heads of States, and if the treaty is signed on behalf of the Empire or of any part of it, the treaty should be made in the name of the King as the symbol of the special relationship between the different parts of the Empire. The British units on behalf of which the treaty is signed should be grouped together in the following order:—

Great Britain, &c., Canada, Australia, New Zealand, South Africa, Irish Free State, India.

4. The principles laid down in paragraphs 1 and 2 render superfluous the inclusion in a treaty of any provision that its terms must not be regarded as regulating *inter se* the rights and obligations of the various territories on behalf of which it has been signed in the name of the King.

5. Where a treaty provides that it is to come into force on the deposit of the ratifications of a specified number of Powers, the principle that the treaty does not operate between the various territories on behalf of which it has been separately signed in the name of the King precludes his ratification on behalf of such territories being reckoned as the ratifications of different Powers."

*"Specimen Form of Treaty."*

"The President of the United States of America, His Majesty the King of the Belgians, His Majesty the King of (..... whatever title may be decided on with the concurrence of the Imperial Conference), Emperor of India, His Majesty the King of Bulgaria, &c., &c.

Desiring .....

Have resolved to conclude a treaty for that purpose, and to that end have appointed as their Plenipotentiaries:—

The President .....

His Majesty the King of (*title as above*):

for Great Britain and all parts of the British Empire which are not separate Members of the League (of Nations).  
AB.

for the Dominion of Canada,  
CD.

for the Commonwealth of Australia,  
EF.

for the Dominion of New Zealand,  
GH.