

SIR CECIL HURST: Would it be more acceptable if we left out the words "Whether separately represented in the League or not? This special relationship between the various parts of the Empire is a fundamental element"

MR. BRUCE: If that would do, I do not think anyone could object to it. Will it do without those words?

SIR CECIL HURST: From our point of view it would do.

MR. BRUCE: It would be interpreted quite safely that it did cover a Dominion which, in fact, was a separate member of the League?

SIR CECIL HURST: Yes.

MR. BRUCE: Will it do, then, with those words out, so that it reads: "This special relationship between the various parts of the British Empire is a fundamental element in their international position"?

GENERAL HERTZOG: "In their international position" can only refer to the self-governing Dominions and Great Britain.

MR. BRUCE: If that is gone, that certainly removes every possible objection.

MR. COSTELLO: Would it be possible to strengthen that paragraph by the addition of phrases which occur in the Canadian draft? Would this do?: "This special relationship between the various parts of the British Empire, while not affecting the position of each State as a distinct international entity, is a fundamental element in their international position."

MR. BRUCE: That brings in a word about which we have had very great discussion elsewhere.

MR. FITZGERALD: Do we propose considering the Canadian draft?

DR. SKELTON: Our draft is purely tentative: We are not wedded to it if we can get the essential points in some other way. I assumed our discussion on the first draft would be tentative, subject to review of the whole position when we had completed it.

MR. BRUCE: I have to leave for a meeting in the Dominions Office now; but, so far as I am concerned, I would be prepared to look at that as a draft, taking paragraph 2 and joining it with paragraph 4 and getting those points in paragraphs 2 and 4 expressed, and leaving out 1 and the particular reference to the League of Nations, which I think a little dangerous.

MR. LAPOINTE: Would you mind giving us your views on paragraph 5, as to ratification, before you go?

MR. BRUCE: I agree with that: I agree that there should not be the ratification of Great Britain and India, the two ratifying Powers, and it is all over. That is the view we take at the present moment.

MR. LAPOINTE: Take the case mentioned the other day by Sir Francis Bell as to ratifications in the instance of League treaties and covenants which come into force only after a certain proportion of the Powers have ratified—supposing one-half of the powers. Will all the Dominions be considered as only one unit in that case with Great Britain, to make a proportion?

MR. BRUCE: I have quite got the point you are on, but I see a lot of difficulties in it. I think it would be a very dangerous thing myself if we got to the basis that the fact of Great Britain and Australia ratifying, and only two being necessary to ratify, makes the treaty operate, when we equally frankly say that these treaties do not operate between us, *inter se*.

DR. SKELTON: Is not that rather an extreme case? Let us take the case cited of Great Britain and India ratifying the Opium Convention. Surely in such a case the British and Indian Authorities could get together and decide to wait for some other nations to ratify. It certainly does look anomalous that Great Britain and India should bring a treaty into operation when it is not to apply as between themselves; but, on the other hand, if all seven members of the League count only as one when a treaty comes into force, it makes our position inferior to that of any other fifty members of the League.

MR. FITZGERALD: As I indicated the other day, there are a number of things barring us. It would be perfectly impossible, it seems to me, when we quoted the case of Great Britain and India and proposed to legislate for them. That is an exception and we must legislate for all generally and try to provide for all. I think it a case where it would obviously be futile and ridiculous that three, four or any number of people between whom the thing was not going to operate would count to make the thing effective. All that could have been avoided, I think, and I have no doubt in cases likely to arise it could be avoided.

MR. LAPOINTE: We will come back to this paragraph. I will read those two first paragraphs, and they would be following the suggestions of Mr. Bruce.

MR. FITZGERALD: I am objecting to this up to a point. I am asked what I object to, and my answer is that I do not object to anything specially. If I am reading these two paragraphs I do not find that they say anything very different in this draft, but the effect is that it balances the thing; but the general impression is that it is not taking from us any inherent rights in the League of Nations by a mere, what I may call, stress laid on. Therefore, when one objects to a draft it is not merely necessary to ask what one objects to. I realise that it is going to make a wholly noxious impression—that is, from our point of view.

MR. LAPOINTE: If we have to refer to practically all, we might have to look through the drafts and see which one is best.

SIR FRANCIS BELL: Cannot we arrive at this? I wish we could. You know the objection of some of us to making this settlement of the form of the treaty a vehicle for a declaration to foreign nations as to our status. Why should we want to use this as a vehicle? Our business is only to settle the Foreign Office the form that should be adopted. It is quite true that there is the duplication of the expression "British Empire" which we wish to avoid, and we can state that; but why should we make the settlement of the form of treaty a vehicle for a declaration of our internal relations? We are not likely to agree upon a declaration beyond the status declared in 1923. Let us do it by other means; but do not let us import into this settlement of the mere form, or the principle and form, of the method of treaty, and take that as the occasion for using language which it is not likely that all round this table will agree upon. It may be that by a long process we might arrive at a harmless form, but that would not suit Mr. Fitzgerald. Quite candidly, both he and the General have said that this is a useful occasion for presenting a card to the foreign nations and saying, "this is an extension of the principles of 1923." We are a set of business people settling forms; why make it a vehicle for settling substance? I do not think it is likely that we should be in accord upon any settlement of that kind, though we can be in accord in arriving with Sir Cecil Hurst at a form which the Foreign Office can use without embarrassment. I do not think Mr. Fitzgerald disguises that he would like to use this for something to be shown to foreign nations.

MR. FITZGERALD: I am not disguising that; I am satisfied that it will, in my opinion, have the inverse effect.

SIR FRANCIS BELL: Well, I sympathise with and recognise the object of Mr. Fitzgerald. The difficulty that I can see is that we cannot agree upon that, and we can agree upon a matter of form.

MR. LAPOINTE: Do you suggest that we should take up their form?

SIR FRANCIS BELL: Well, Mr. Bruce put it much the same way. He begins with paragraph 3, which is going straight to business; and you may give a reason if you like and develop the reason, but to use it for the purpose of informing foreign nations of a position which is an extension of that of 1923 is, in my opinion, a purpose upon which it is unlikely that all round this table will agree. Personally, I have very great difficulty, though I don't want to be an obstacle, and I don't think I have been; but in this thing I have been endeavouring to get down to business and also to avoid expressions which are expressions of policy, of high statesmanship, as distinct from expressions of business relations between ourselves and foreigners, which is the purpose of our functions. We are not engaged upon determining what would be treaties between ourselves, but we are engaged on determining what shall be the form of treaty which we enter into individually or collectively with foreign States, and it seems to me that we can settle that form without stating the reasons, upon which reasons we shall almost certainly find ourselves in divergence.

[15543]

D