

3. Form of Treaty.

It is desirable that treaties, other than agreements between Governments, and including treaties negotiated under the auspices of the League of Nations, should be made in the name of Heads of States. If a treaty is to be signed on behalf of several or all of the nations of the British Commonwealth, it should be made in the name of the King as the symbol of their special relationship, with an indication in the preamble of the several members participating, corresponding to the issue of full powers. The British units on behalf of which the treaty is negotiated should be grouped in the preamble under the King's name in the following description and order: Great Britain, &c.,* Dominion of Canada,† Commonwealth of Australia, Dominion of New Zealand, Union of South Africa, Irish Free State, India. This involves a slight departure in nomenclature, particularly in case of treaties concluded under the auspices of the League of Nations, where it has been customary to use the term "British Empire" for the senior unit, though it is well established that in the appointment of members of the Assembly and Council the payment of contributions, seating, voting, and other League operations it is really the Government at London which is concerned. If the treaty is to apply only to one part, it should be stated to be made by the King in respect of that part, *e.g.*, Great Britain, &c., or Canada, or Australia.

In the signature and final act of treaties the different parts of the Commonwealth participating should be designated in the same manner, if it is necessary to give the names of countries. In non-League treaties the names should be grouped together as above; in League treaties the present alphabetical practice is preferable.

The allegiance of the several States of the Commonwealth to a common King, while not affecting the position of each State as a distinct international entity, including their position as members of the League of Nations, constitutes a relationship between them differing from their relationships to foreign Powers, which is a fundamental element in their international position.

Note.—No paragraph has been included as to ratification; it is considered that the present practice or proposed practice of the League is satisfactory (which is understood to be to count the ratification on behalf of each Empire member as a distinct ratification), as corresponding to the distinct membership of the several parts of the Commonwealth in the League. In special cases, such as the Opium Convention, which could be brought into effect by two ratifications, and which was ratified for "The British Empire" and "India," which, however, did not intend to apply it as between themselves, it might be supposed that any anomaly could be prevented in practice by agreement to allow some other member to share in the first step.

* In League treaties, this appellation might run: "Great Britain and Northern Ireland and all parts of His Majesty's realms which are not separate members of the League." It is more difficult in other treaties to secure a satisfactory excluding phrase; perhaps: "and all other parts of His Majesty's realms exclusive of the Dominions," though this is open to objection.

† Or simply "Canada," "Australia," and so forth.

COMMITTEE ON INTER-IMPERIAL RELATIONS.
TREATY PROCEDURE SUB-COMMITTEE.

E. (I.R./26/T.P.) Series.

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