

my mind to see really whether the element sufficient to ensure an international tribunal saying that there was no difference between the relations of the separate parts of the Empire *inter se*, and the relations between the parts of the Empire and the foreigner, would be avoided if we had nothing but the mention of the King in the list of plenipotentiaries.

GENERAL HERTZOG: "Great Britain, Northern Ireland, and all the parts of the Empire which are not separate members of the League." You have the word "Empire" there, and then you go on to say "except those who are separate members of the League, for these AB." Canada, Australia, &c., they all know, are separate members of the League in the Empire. Is it necessary to have "British Empire"?

SIR CECIL HURST: In the list of signatories? Before I answer that question specifically would you give me a little time in which to think it over?

GENERAL HERTZOG: Certainly. We must consider these things.

SIR CECIL HURST: It is an important question and wants thinking out carefully.

Mr. FITZGERALD: Will you consider my suggestion of the King's title, setting out in the title all his Dominions, "His Majesty the King of the United Kingdom of Great Britain"—I do not know what other things may want to come in—and of Canada, Australia, New Zealand, South Africa, the Irish Free State, Emperor of India" at the head; and then, at the bottom, the geographically circumscribed plenipotentiaries would sign "For Great Britain, &c. AB," "For Canada CD," and so on?

SIR CECIL HURST: I hope we shall all consider these various suggestions, because they all merit careful attention.

Mr. COSTELLO: The suggestion really comes to this, that it symbolises the unity you desire by the use of the expression "King" rather than by the use of the expression "British Empire"; and if you use the expression "King" in one place you symbolise that expression and use the expression "British Empire" in another place. That would certainly lead to . . .

SIR FRANCIS BELL: Is not your difficulty this, Mr. Costello, that "the King" must be used in a treaty to which we are not parties? The King is himself an expression which, as a contracting party, is in some cases the personage who is contracting on behalf of certain parts of the Empire. You are describing the person who must be a party to every contract. It seems to me that you do not quite appreciate the difficulty that "the King" is used in treaties which exclude—for instance, Locarno.

Mr. COSTELLO: It is proposed that the expression "British Empire" should be used in precisely the same sense.

SIR FRANCIS BELL: No; because you exclude from the British Empire easily.

Mr. COSTELLO: Why not "King both of Canada, Australia, &c."?

SIR FRANCIS BELL: "British Empire" is a geographical expression, and "the King" is a personal expression.

Mr. COSTELLO: That is why we want it.

SIR FRANCIS BELL: You want to limit a geographical expression to a certain part of the Empire. I want the Empire to include the whole.

Mr. COSTELLO: No, you want to get rid of the "Empire" altogether.

SIR FRANCIS BELL: You cannot get rid of it from the Covenant.

Mr. COSTELLO: You want to get rid of the words "British Empire" altogether.

SIR FRANCIS BELL: You cannot get rid of them altogether.

GENERAL HERTZOG: May I draw your attention to this. Is it allowed to us in the same document to say: "The King appoints Plenipotentiaries"; "for Great Britain, so and so"; "for Canada, so and so"; and then you have AB, CD, and EF signing under the heading "British Empire"; "for Great

Britain, &c., &c., &c." If the words "British Empire" mean nothing, then, of course, they will be signing practically neither for more or for less, nor for something different than what they have been empowered to sign for. Then why British Empire? Do you understand?

SIR CECIL HURST: Yes; but I do not think with deference that would be the effect. May I go back to the words that somebody used—I am not sure it was not myself—at the very first meeting of this Committee, when I was endeavouring to point out the necessity for what I described as an umbrella under which we were all going to march. This system set out at the bottom of page 3 and at the top of page 4—the part at the bottom of page 3 referring to the mention of the plenipotentiaries in the preamble, and that at the top of page 4 the signature which comes at the end of the treaty—involves what I may call a double repetition of the umbrella. In the first case the umbrella is the mention of "the King." In the second part it is the mention of the words "British Empire." The point we still have got to consider is whether two mentions of the umbrella are necessary, or whether only one is necessary.

GENERAL HERTZOG: That is the point.

SIR CECIL HURST: I shall want a little time to think that over.

GENERAL HERTZOG: Take into consideration what I have said before, that with regard to the British Empire it seems to me it is not necessary, because in the Covenant of the League, from which we practically draw whatever result we would like to have in the form of such documents, you have the words "British Empire," and under "British Empire" those saying that these are all members of the British Empire; so that it seems to me that is another reason why, apart from the difference in form, this is not necessary.

SIR CECIL HURST: These suggestions at the bottom of page 3 and at the top of page 4 were also coupled with the proposal which is made in paragraph 12 of this paper, under which it is suggested that we could take some opportunity of just reiterating at Geneva and making people there understand, and make sure that they accept, the principle which you, General, have drawn attention to, that when we entered the League we did all enter upon that special understanding.

GENERAL HERTZOG: Exactly.

Mr. LATHAM: May I make this enquiry of Sir Cecil Hurst? Until the words "British Empire" appeared in the Covenant of the League, did they ever appear in any international document, or is that the first appearance? Were not all international documents, when placed in legal form, in the name of the King?

SIR CECIL HURST: I do not call to mind any case of the use of the term "British Empire" as a technical term in a diplomatic instrument before the Treaty of Versailles and of course the Covenant is a part of the Treaty of Versailles. It appears in the preamble of the Treaty of Versailles.

Mr. LATHAM: It seems to me the use of the words "British Empire" as a matter of legal form is not anything that is consecrated by long usage. It has no particular sentiment about it. It appeared for the first time, as far as I know, and Sir Cecil Hurst has confirmed this opinion, in the Covenant. The ordinary method of making treaties is as between executive Heads of States, and if the executive Head of what we call and what we quite understand by the use of the words "the British Empire" is described by the full Title, as suggested by Mr. Fitzgerald, I think, without binding myself absolutely, it goes very far to meet the difficulties that have been suggested round this table.

SIR FRANCIS BELL: If you described the King and added some diplomatic expression "contracting herein in right of his Dominions of so and so and so and so," that would enable him to exclude the others. You could use the words "contracting herein in right of his Dominion of so and so" if you use "the King" as the umbrella.

Mr. LATHAM: It is very close to that.

SIR CECIL HURST: The form suggested here is very near, because it nominates the plenipotentiary who is to act in the conclusion of a treaty for the purpose of . . .