

MR. LAPOINTE: Sir Cecil Hurst has prepared a specimen form of treaty and a projected resolution of this Sub-Committee, and since he has done that there has been another draft report suggested by the Canadian Delegation as a basis of discussion, so that these two matters are for consideration this afternoon. I suppose everybody has read the papers prepared by Sir Cecil Hurst. Would you like me to read the draft resolution prepared for consideration by him, which reads 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 British Empire is different from the relationship between them and foreign Powers."

SIR CECIL HURST: Almost the same phrase occurs in Dr. Skelton's draft.

DR. SKELTON: The only suggestion I could make is on the question of the form that any statement is to take, and then how far we can usefully make it less a pronouncement directed at the head of the League, by making it more or less complementary to the 1923 Resolution and as general as possible in its terms. I have a feeling that the less we say here as to what our position in the League of Nations is the better, from the points of view both of whether we have the right as seven members of the League to lay that down in general terms and of the possibility of raising discussion in the League after a general statement has been made.

SIR CECIL HURST: There would be a great advantage in adopting some procedure which would prevent this question being constantly raised at Geneva. I will not say it has been raised constantly in the past, but it has cropped up not infrequently when Conferences have been taking place, and it would be a great advantage to escape, if we could, from having any similar repetition of the matter in future by making what Dr. Skelton calls a pronouncement once and for all.

MR. FITZGERALD: What has been raised in the League? Have they questioned the special relationship between us or questioned whether it is not rather more than—

SIR CECIL HURST: What they have questioned is the application of the special relationship, more particularly in matters dealing with Imperial preference.

MR. FITZGERALD: What has been questioned so much in America is the right of us to be seven in the League. This draft begins: "Though the Dominions are separately represented in the League." Regarding that "although" as exceptional, it seems to me to say: "There is an exceptional circumstance, and by virtue of that exceptional circumstance we claim all rights and privileges of the members of the League."

SIR CECIL HURST: That was not the intention at all. It was intended to make abundantly clear that there is a special footing upon which they were accepted.

MR. FITZGERALD: Well, it seems to me, taking paragraph 1 as it is, that we should base our claims to the rights and privileges of members of the League on our inherent right to be members of the League, and not to the fact merely that we are members of the League. That right to the rights and privileges exists by virtue of the integrity of each separate member who has gone through the formality of joining the League. This begins with: "Though the Dominions are separately represented in the League of Nations." It states that because we are separate members who have all the rights and privileges, and then it seems to go on to stress the oneness.

SIR CECIL HURST: I should have thought that would be the order in which you would put it.

MR. FITZGERALD: The way of looking at it is this. The autonomy and the national entity of these various members are separate, and as such they had a perfect right to join the League; having joined the League deriving more from the very nature of their existence rather than from their membership of the League—there would not be any question—we naturally have the same rights and privileges of members of the League as anybody else, because we joined the League on the same footing with a special relationship existing between us, and therefore in many cases, such as multilateral treaties, the application of those treaties will not apply as between us.

MR. COSTELLO: Sir Cecil, what is the advantage of the draft circulated on your behalf to that suggested by Dr. Skelton, comparing the two?

SIR CECIL HURST: The draft that I circulated I understood was at the request of the Committee; the draft is composed of two things, a specimen form of treaty and a draft resolution, and they were both prepared two or three days before the document submitted by Dr. Skelton.

MR. COSTELLO: I am discussing those two points in paragraph 1 of your draft and the suggested reforms of Dr. Skelton. I want those two compared. It is not so much the form, what I want to get at is, is there any essential difference between Dr. Skelton's suggestion and the suggestion in paragraph 1 of your draft?

MR. BRUCE: It seems to me a point arises, quite apart from which of these two drafts would be the more suitable, in this fact, that what we are concerned about, I understand, is the question of the form in which a treaty shall be signed and the general procedure in regard to treaties. But I did not understand that the object of this Committee was to endeavour to lay down in words what is the exact position of Great Britain and the various Dominions at the League of Nations, and I think it would be an extraordinarily undesirable thing to attempt to do anything of the sort from the point of view of the Dominions in particular. We have a very wonderful recognition at the League of Nations, and I think the last thing we should do is to try and promote any discussion about it. In the Prime Ministers' Committee we, as a preface to anything that is coming in under any of these reports, are trying to frame a few words to define that which we take as an accepted fact, namely, what the position of the British Empire is; and inside that definition—it is not a definition—but inside that preface to the question we deal with generally, you will have that fact that all the self-governing parts of the Empire are autonomous, but that they are in a peculiar relationship one to another owing to the fact that they are all members of the British Nation. Surely that covers 1 and 2 straight away. There is no need to touch this; and that avoids the bringing up of this question to the League of Nations and possibly having foreign countries arguing about it, which, I think, is extremely undesirable. The suggestion I would make is, if we can agree upon the method of dealing with treaties—for example, the substitution of the Head of the State for the British Empire as far as League treaties are concerned—that we should merely reaffirm the Resolution which we passed in 1923 and add on to it "and in addition with regard to treaties the following procedure should be observed: that treaties"—I would not mention the League of Nations—I would merely say "that treaties generally should be entered into by the Head of the State," and then follow out the general procedure suggested and outlined here. I think that will avoid a lot of difficulty which we shall otherwise get into in attempting a definition.

MR. LAPOINTE: I am willing to agree with you.

MR. FITZGERALD: Picture what would be written by an American journalist who had taken up the attitude taken by so many now. What would he say on the first paragraph? He would say the British Government managed to slip into the League of Nations as separate members its various component parts. Having done that, they now proceed to claim on the strength that, having put that across the League of Nations, all rights and privileges, and then they come along and show the cloven hoof that they are all one at the same time. That first paragraph undoubtedly would cause a tremendous amount of comment which, as Mr. Bruce said, would certainly be to the injury of the position of the Dominions in the League of Nations.

SIR FRANCIS BELL: Mr. Bruce has raised the point I myself raised on two occasions, that while the Prime Ministers are in their own higher sphere, for it is a higher sphere, endeavouring to arrive at something like any addition that may be necessary to the Resolution of 1923, we here were endeavouring to frame something which might conflict with, or at all events, would embarrass the process of the Prime Ministers. I agree entirely with Mr. Bruce because he is only repeating what I raised myself. General Hertzog thought that, without conflicting with the matters that he was one of those determining in another place, we could proceed in this to arrive at a formula declaratory of our relations without embarrassing or interfering with the Prime Ministers. But it appears to me, as it does, I understand, to Mr. Bruce, if I understood him aright, that what is proposed by us here is to lay down a line of definition of status which may, or may not, correspond with that which is arrived at at the Prime Ministers' Committee. At

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