

Covenant can scarcely be covered by an interpretative resolution, unless you are going to place a very extreme meaning on that phrase. Those are some of the difficulties which confronted us.

MR. FITZGERALD: There are two meanings of the words "British Empire," particularly as to where the League of Nations is concerned. It is a question as to which one of those you will encourage.

SIR CECIL HURST: You must not think I am obstructive —

MR. FITZGERALD: Perhaps you will think I am obstructive, too.

SIR CECIL HURST: —but there are two meanings of "British Empire," the right and the wrong. That is the only extent to which there are.

MR. FITZGERALD: Is it harder to establish the right than the wrong?

SIR CECIL HURST: That is not really quite the case. We have been driven in practice to seem to use the words "British Empire" in the wrong sense, and we want to get rid of it.

MR. FITZGERALD: To get rid of it properly means an amendment of the Covenant.

SIR CECIL HURST: I think it does.

MR. FITZGERALD: At the same time, you think it would be better to face an amendment of the Covenant rather than go with the tide. As I said before, I do not want to appear obstructive.

SIR CECIL HURST: If we think we can get by general admission of practice what we want in matters that are really important, *i.e.*, to secure in these treaties that the language implied shall be such as to prevent any suggestion of want of equality between the constituent members.

MR. FITZGERALD: Of course, we are interested in impression as well as what is called "legal interpretation." If we have the words "British Empire" used one time not including us, and another time including us, we are afraid it would tend rather for the less to contain the greater than for the greater to contain the less. If we have the label "Great Britain" one time and "British Empire" at another time, even though the British Empire label is used for matters of an unimportant nature, to my mind, at this moment at any rate, it seems that it is likely to carry on the misinterpretation.

SIR CECIL HURST: I think, Mr. Fitzgerald, I have already pointed out that we have framed our proposals on a less courageous basis than you have put forward, and which we would be prepared to recommend to the Conference to adopt. From you the suggestion came that we should endeavour to secure at Geneva the use of the term "the King."

MR. FITZGERALD: Quite.

SIR CECIL HURST: If you think our proposals suffer from want of courage, can you frame an alternative which you think would be suitable?

MR. FITZGERALD: It seemed to me earlier, as I said, referring to a note at the bottom of the page here, to my mind the "British Empire" used there on page 9 meant one definite thing; and then you ask: "Would I insist upon the retention there of the 'British Empire' and reject the substitution by usage of the term 'Great Britain'?" I do not really, provided it is feasible, but in this paragraph it seems to me not to be quite feasible.

SIR CECIL HURST: What exactly would you suggest with regard to the whole of this paragraph 15?

MR. FITZGERALD: I do not know as much as you do about all that these things imply, but, on the one hand, if we retain the words "British Empire" we give them a new meaning or the wrong meaning; if we change to the words "Great Britain," it implies a change in the Covenant. It is a very doubtful thing; it is a thing one would have to consider.

SIR CECIL HURST: One formula that might be quite satisfactory with these final acts would be to group the Powers together, try to secure the dropping of the

words "British Empire" and the substitution of the words "Great Britain," but to group the various parts of the Empire together so that they would go after each other without any mention of the British Empire at all.

MR. FITZGERALD: Yes; or would it not be necessary, or could you make a statement to the League that in the Covenant the term "British Empire" had a special meaning. Would that help you?

SIR CECIL HURST: But surely that would be very dangerous. If the special meaning you propose to suggest is "Great Britain," you are at once going to destroy your unity.

MR. FITZGERALD: Except for the one "umbrella."

SIR CECIL HURST: There is one thing one must bear in mind. The Empire itself is going through a very rapid state of development; similarly, the usages and practices at Geneva at these International Conferences can without difficulty be left to develop; in fact, they will be more acceptable to the foreign people concerned if they are allowed to develop a little more slowly. If we can secure a general system for League treaties, is it not quite likely that we could after, let us say, the next Imperial Conference, secure whatever definite changes are necessary in order to regularise the position and practice? I put that to you as an alternative. I do not think that it is necessary that we should try to achieve everything at once.

MR. FITZGERALD: Quite; I am not in a hurry. I do not want any change to be made which can give rise to further misunderstanding. I am not so anxious to have everything made clear at once, but I do not want us to take any positive act which may make our position more difficult to be understood. Therefore, any change, to my mind, should be explanatory of the position as we want it to be understood.

SIR CECIL HURST: The only change which is suggested in paragraph 15 is that the legal solution for the prevention of the anomalous situation should be to adopt "Great Britain, &c." in the preamble, by which I mean the list of the contracting parties in the preamble.

MR. LAPOINTE: That would come after the words "British Empire," instead of being inserted as we are at present.

SIR CECIL HURST: Our original suggestion would have meant they would have come under the term "British Empire." Now, we are practically agreed to substitute "the King" for "the British Empire," but it is not quite so easy to see how that would work.

MR. FITZGERALD: Would the substitution of "the King" actually do what is proposed to be done by Article 15? It is not drafted on the assumption of changing the form of the preamble. Do you not think it is possible, if we have "the King" in the preamble, that it would save the double change in the preamble and in the signature?

SIR CECIL HURST: I am not sure that it is easy to draw up in that way a final act of a Conference, which is merely a historical document in the sense that it does not embody agreement, but merely just what has happened. For instance, you have all had one before you in connection with the Conference at Geneva in relation to the American desire to participate in the Court at The Hague. I am not sure that these things are always drawn up in the name of the State, but Mr. Malkin has gone to see if he can find any precedents.

MR. HARDING: I intervene in this discussion with great diffidence, but it occurs to me it might meet the views expressed both by Mr. Fitzgerald and Mr. Havenga if an interpretative resolution was sent to the League to the effect that the man who appears at International Conferences under the title of "British Empire" is appointed by His Majesty's Government in Great Britain and represents Great Britain and Northern Ireland and all parts of the British Empire which are not separate members of the League.

SIR CECIL HURST: How are you going to find any value in the phrase "British Empire" as an umbrella in cases where you want to use that phrase as an umbrella?