

bringing out the difference between us and Jamaica. We are basing everything on the special relationship existing between States represented here among themselves and also between Jamaica and Great Britain.

GENERAL HERTZOG: May I just make a suggestion in connection with what Sir Francis Bell has said? I am going to ask something and make a suggestion which follows on something he said a little while ago. I think we agreed that the reason for all this is that your League of Nations and, therefore, the outside world, should know what our position is, now that we have adopted a different form for our treaties and know how far hereafter we will stand in the same position as before. Take paragraph 3. If it is simply said and intimated to the League more or less in these terms:—

“Treaties (other than agreements between Governments), whether negotiated under the auspices of the League or not, should be made in the name of Heads of States, and if the treaty is signed on behalf of the Empire or any part of it, the treaty should be made in the name of the King as a symbol of the special relationship between the different parts of the Empire.”

Does not that sentence by itself contain everything that you seek to convey as information to the League? There it is in the first place, “the treaty is signed on behalf of the Empire or any part of it”—you have the word Empire. The treaty shall in future be made in the name of the King as a symbol of the special relationship. This will have served for whatever purpose may have been served previously by the words “British Empire,” which now disappear. Here you see the symbol of the special relationship, the King practically standing for what the words “British Empire” previously stood for, and when he signs he signs really, although he is King of this, nevertheless with that special relationship which has always obtained. It seems to me almost that those few words convey everything that we seek to achieve.

Mr. LAPOINTE: You would eliminate 2 and 4?

GENERAL HERTZOG: Yes.

SIR CECIL HURST: Surely it is not safe to assume, without saying so, that that special relationship covers the matters which were dealt with in paragraph 4. “Special relationship” is a vague phrase; there may be special relationships of many kinds.

GENERAL HERTZOG: The special relationship in which they stand as the Empire.

SIR CECIL HURST: I think it would be very difficult to ensure that no extraneous organ will attempt to interfere between them, or no international tribunal will say that there is nothing to prevent the operation of an international treaty

GENERAL HERTZOG: You want 4 included?

SIR CECIL HURST: Yes.

GENERAL HERTZOG: I have no objection, to make it clear. “The principles laid down render superfluous the inclusion in the treaty of any provision that its terms must not be regarded as *inter se*” I have no objection to that.

SIR FRANCIS BELL: You would have to add something to the effect that nothing binds any part of the Empire unless it assents.

GENERAL HERTZOG: That is what 4 dealt with.

SIR FRANCIS BELL: I think it would be well to put it in there.

Mr. LAPOINTE: Would that be acceptable to you, Sir Cecil?

SIR CECIL HURST: Let me be clear before I give an answer to that. Is it meant that we drop the whole of paragraph 2.

Mr. LAPOINTE: Yes, because after all it refers to the special relationship which will always be included in 1.

SIR FRANCIS BELL: What we are trying to do is this. Speaking from my own point of view, I do not want to add anything to the Resolution of 1923, and my friends on my left, so long as their position is not deteriorated, so long as they

are not prejudiced by anything we say, are content. That is open to the objection that it may or may not be used to their prejudice—that expression.

SIR CECIL HURST: Which expression?

SIR FRANCIS BELL: The 2.

GENERAL HERTZOG: I am afraid that 2 will raise questions from the League, and I am anxious about the position we should take up with the League with regard to any nation belonging to the League, and that we should say simply, “Look here, we maintain that the position of the British Empire is that it stands in a special relationship, and in this case that special relationship is in this”; whereas, if you put in this I am afraid you will then have a number of objections made before it is necessary, which may prejudice us.

SIR FRANCIS BELL: Do you not think we ought to give them a little reason: that the expression “British Empire” is misleading and, therefore, we cannot treat in the name of States; so that it has been forced upon us that we should have it in the name of the King? That would be reasonable to be put in.

GENERAL HERTZOG: Yes.

SIR FRANCIS BELL: Otherwise we should be dictating to the League without giving a reason why we adopt it.

GENERAL HERTZOG: Exactly. I would say: “Look here, Gentlemen, we have changed the form. You must know that by changing its form we do not mean to surrender the rights *inter se* that we had before.”

SIR FRANCIS BELL: I am sure we all agree, because none of us want to use it for the purpose of making a change in our relations, but only in the form.

SIR CECIL HURST: As I understand it, the present proposal is that the whole document should be as follows: “Treaties (other than agreements between Governments), whether negotiated under the auspices of the League or not, should be made in the name of Heads of States”

SIR FRANCIS BELL: If you begin with this difficulty about the Empire.

Mr. FITZGERALD: If you will allow me, I would like to submit this. Sir Cecil wants something for the League of Nations.

Would this meet your point, Sir Cecil:—

“As the term ‘British Empire,’ as used in the Covenant, tends to convey a wrong impression, the States members of the League of Nations who are also members of the British Commonwealth of Nations desire that the present form of treaties be changed. As the fact that the several States of the Commonwealth are united by the common bond of the King creates a special relationship, they desire that in all treaties the name of the King should appear, and that the names of the various nations of the Commonwealth who are parties to such treaties should be grouped after his name.

“In view of the common bond uniting these several States, they desire also that it be understood that in the case of multilateral treaties to which two or more States of the Commonwealth are parties, such treaties shall not apply as between themselves.”

Would not that convey all you want to convey?

SIR FRANCIS BELL: “As between themselves,” that would want a little altering, otherwise it expresses what I mean, and you do give the reason.

Mr. FITZGERALD: I say—

“As the fact that the several States of the Commonwealth are united by the common bond of the King creates a special relationship”

SIR FRANCIS BELL: I think you should refer to the special difficulties created by the words “British Empire.”

Mr. FITZGERALD: I have done that in the beginning:—

“As the term ‘British Empire,’ as used in the Covenant, tends to convey a wrong impression, the States Members of the League of Nations who are also members of the British Commonwealth of Nations desire that the present form of treaties be changed.”