

The form of signature would then follow the same principle, and would be as follows:—

British Empire—
Great Britain and Northern Ireland and all parts of the Empire which are not separate members of the League: A. B.
Canada: C. D.
Australia: E. F.
&c.

11. The objection to this course is that it does not emphasize to the same extent as the present procedure the important principle described in paragraph 9, and that if it were adopted it would be difficult to maintain that principle in connection with Treaties.

12. This objection, however, would to a great extent be overcome if all the Governments represented at the Imperial Conference definitely placed on record their view that the principle in question forms the basis of their international position, and communicated to the League, and, if necessary, to individual foreign Powers, an expression of their intention to maintain it in relation to treaties to which they become parties.

Inter-Imperial Clause.

13. Further formal expression of the principle described in paragraph 9 has in the past been given by a Clause in League Treaties which runs as follows:—

"It is understood that this Convention/Statute must not be interpreted as regulating in any way rights and obligations *inter se* of territories forming part or placed under the protection of the same sovereign State, whether or not these territories are individually members of the League of Nations."

This Article was originally inserted in the instruments signed at Barcelona in 1921; it has been inserted in some, but not all, of the League treaties signed since that date. The present position in this respect is unsatisfactory, first, because it is difficult to decide in each particular case whether the general interests of the British Empire require the insertion of the Clause or not, and, secondly, because there is always a risk of the insertion of the clause being opposed by foreign representatives, with the result that it may be impossible to secure its insertion, while its omission is always liable to give rise to a suggestion that the principle which it embodies is no longer upheld. The question was discussed at the Arms Traffic Conference in 1925, and the Legal Committee of that Conference laid it down that the principle which the Clause embodied underlies all international conventions. In these circumstances, the best course would seem to be to deal with the point specifically in any Resolution on the subject passed at the Imperial Conference, and not to attempt in any future case to secure the insertion of the Article. Where, as not infrequently happens, the Governments of different parts of the Empire are willing that certain provisions of a treaty should be applied between themselves as an administrative measure, they should be prepared to state the extent to which, and the terms on which, such provisions are to apply.

*Order of Precedence.**

14. The order in which the British Empire plenipotentiaries appear in the preamble and sign should be the order of precedence adopted at the Imperial Conference, *i.e.*, Great Britain, Canada, Australia, New Zealand, South Africa, Irish Free State, India.

Final Act, &c.

15. The Final Act of a League Conference is not a conventional instrument but merely a record of what has been done at the conference. At present the practice is that the signatures of the representatives of the different parts of the British Empire to the Final Act are not grouped together as in the case of signatures to a convention, but appear in the alphabetical order of members of the League under the names of the Dominions which they represent, the representatives appointed by the

* This paragraph applies also to non-League treaties.

Government in London figuring under the name "British Empire." No mention is made of Great Britain, and as Great Britain is not a member of the League it would be difficult in present circumstances to justify that designation in the Final Act. The logical solution for the present anomalous situation would be to adopt the formula proposed for the preamble of League treaties. No change would appear to be necessary in the existing practice as regards the order of seating, voting, &c., at League Conferences. For these purposes the alphabetical order of the members of the League (including the Dominions and India) should be retained.

Mandated Territories.

16. There has in the past been some uncertainty as to the effect in relation to mandated territories of the signature of a League treaty on behalf of the different parts of the British Empire. It is suggested that for the future it should be laid down that the plenipotentiary representing "Great Britain and all parts of the Empire which are not separate members of the League" should be regarded as representing the mandated territories of Palestine (including Trans-Jordan), Tanganyika Territory, the Cameroons, Togoland and Nauru, and that his signature should bind them, and that similarly the plenipotentiary representing a Dominion should be regarded as representing any territories mandated to that Dominion and that his signature should bind them. The result will be that, in cases where it is not desired that a treaty should apply to a mandated territory, it will be necessary for the plenipotentiary concerned to make a declaration excluding such territory from his signature, unless the treaty excludes mandated territories or contains a "colonial clause" under which mandated territories can be excluded at the time of ratification. As regards Iraq, the signature of the plenipotentiary will not bind Iraq unless he is authorised to sign by the Iraq Government. In that case Iraq must appear separately in the list of contracting States and signatures.

*Ratification.**

17. Where a treaty is ratified by means of an instrument which reproduces the text of the document as signed, there is no need to repeat in the ratification instrument any declaration made at the moment of signature and appearing in the text of the document, which excludes from the operation of the treaty any specific part of the Empire; but where the ratification is to apply only to part of the area for which the treaty was signed, the part to be excluded from the ratification must be specified in the instrument.

Coming into Force of League Treaties.

18. Practically all League treaties contain a ratification clause and a provision that the treaty will come into force on the deposit of a certain number of ratifications. The question has sometimes arisen whether, for the purpose of making up the number of ratifications necessary to bring a treaty into force, ratifications on behalf of different parts of the Empire which are separate members of the League should be counted as separate ratifications.† There has been a case recently where it was suggested that a treaty which only required two ratifications to bring it into force could come into force because ratifications had been deposited on behalf of the "British Empire" (excluding all the Dominions, none of whom were parties to the convention) and India. Constitutionally, there can be no doubt that ratification is the act of the King, and that, even though it may happen that separate ratifications have been deposited in His Majesty's name, this does not make the King more than one High Contracting Party for the purpose in question. Further, the opposite view is inconsistent with the principle that the various parts of the Empire stand in relation to one another in a position entirely different from that in which each stands in relation to foreign countries, and also with the proposal made in paragraph 13 as regards the "Inter-Imperial Clause."

* This paragraph applies also to non-League treaties which are of such a nature that any question of exclusion may arise.

† Every ratification is a ratification by the King, and the question whether, in the case of a League treaty, one or more ratifications are deposited on behalf of His Majesty depends entirely on whether the different Governments of the Empire concerned are all ready to advise ratification at the same time. If they are, only one ratification would be deposited; if they are not, one ratification would be deposited on behalf of those which were, followed by separate ratifications on behalf of any which came in subsequently.