

induce them to change the opinion which they had previously expressed. They then asked whether the American Commissioners had any further proposal to make.

The American Commissioners replied that, in view of the position taken by the British Commissioners, it appeared that the Treaty of June 15, 1846, might have been made under a mutual misunderstanding, and would not have been made had each Party understood at that time the construction which the other Party puts upon the language whose interpretation is in dispute; they therefore proposed to abrogate the whole of that part of the Treaty, and rearrange the boundary line which was in dispute before that Treaty was concluded.

The British Commissioners replied that the proposal to abrogate a Treaty was one of a serious character, and that they had no instructions which would enable them to entertain it; and at the Conference on the 20th of March the British Commissioners declined the proposal.

At the Conference on the 19th of April the British Commissioners proposed to the American Commissioners to adopt the Middle Channel (generally known as the Douglas Channel) as the channel through which the boundary line should be run, with the understanding that all the channels through the Archipelago should be free and common to both Parties.

The American Commissioners declined to entertain that proposal. They proposed that the Joint High Commission should recognize the Haro Channel as the channel intended by the Treaty of June 15, 1846, with a mutual agreement that no fortifications should be erected by either Party to obstruct or command it, and with proper provisions as to any existing proprietary rights of British subjects in the Island of San Juan.

The British Commissioners declined this proposal, and stated that, being convinced of the justice of their view of the Treaty, they could not abandon it except after a fair decision by an impartial Arbitrator. They therefore renewed their proposal for a reference to arbitration, and hoped that it would be seriously considered.

The American Commissioners replied that they had hoped that their last proposal would be accepted. As it had been declined, they would, should the other questions between the two Governments be satisfactorily adjusted, agree to a reference to arbitration to determine whether the line should run through the Haro Channel or through the Rosario Straits, upon the condition that either Government should have the right to include in the evidence to be considered by the Arbitrator such documents, official correspondence, and other official or public statements bearing on the subject of the reference as they may consider necessary to the support of their respective cases. This condition was agreed to.

The British Commissioners proposed that the Arbitrator should have the right to draw the boundary through an intermediate channel. The American Commissioners declined this proposal, stating that they desired a decision, not a compromise.

The British Commissioners proposed that it should be declared to be the proper construction of the Treaty of 1846 that all the channels were to be open to navigation by both Parties. The American Commissioners stated that they did not so construe the Treaty of 1846, and therefore could not assent to such a declaration.

The discussion of this subject was continued during this Conference, and in the Conference of the 22nd of April the Treaty Articles XXXIV to XLII were agreed to.

The Joint High Commissioners approved this Statement, and directed it to be entered in the Protocol.

The Conference was adjourned to the 6th of May.

(Signed)

TENTERDEN.

J. C. BANCROFT DAVIS.

*XXXVIIIth Protocol of Conference between the High Commissioners on the part of Great Britain and the High Commissioners on the part of the United States of America.*

*Washington, May 6, 1871.*

THE High Commissioners having met, the Protocol of the Conference held on the 4th of May was read and confirmed.

Lord de Grey said that, as the Joint High Commission would not meet again after to-day, except for the purpose of signing the Treaty, he desired, on behalf of himself and his colleagues, to express their high appreciation of the manner in which Mr. Fish and his American colleagues had, on their side, conducted the negotiations. It had been most