

Commissioners, two on each side, to adjudicate on all claims by the subjects or citizens of either country on the other arising out of the late civil war in the United States. Each Government to name its own Commissioners.

The two Governments, in addition, to agree on an arbitrator or arbitrators, to whose final decision shall be referred any question connected with such claims on which the Commissioners shall be unable to come to an agreement among themselves.

It may be presumed as a matter of course that the Commissioners will differ as to the admissibility of the Alabama and similar claims. The question will then be referred by them to the arbitrator with whom the decision will thus virtually rest.

In the event of this plan being adopted it would appear expedient further to provide that neither Government should make out a case in support of its position with regard to any class of claims, but that any question on which difference may arise between the Commissioners should go from them to the arbitrator as it stands.

Inclosure 3 in No. 20.

Memorandum of the result of a Conference between Lord Stanley, Mr. Reverdy Johnson, and the Attorney-General, at the Foreign Office, November 3, 1868.

[The alterations in red ink show the manner in which the Memorandum was revised at the meeting between Lord Stanley, the Lord Chancellor, and Mr. Disraeli, November 4, 1868. This copy was sent privately to Mr. Reverdy Johnson, to know if he concurred in those alterations, and returned by him with a suggestion, as marked, on paragraph 3.]

IT is proposed by Mr. Reverdy Johnson on behalf of the Government of the United States:

1. That the two Governments shall, in the first place, name Commissioners, two on each side, to determine all claims by subjects or citizens of either country on the other, whether or not arising out of the late civil war in the United States, subject to the qualification mentioned under Section 3.

~~other than those hereinafter mentioned.~~

2. The said Commissioners to agree on an Arbitrator to whose final decision shall be referred any claim [except as hereinafter mentioned] upon which the Commissioners differ.

shall

3. The Commissioners to have power to adjudicate upon the so-called "Alabama" and other similar claims; [but] before such last-mentioned claims are taken into consideration by ~~the Commissioners~~ ^{them}, the respective Governments to fix

* Alteration proposed by Mr. Reverdy Johnson, and accepted by Lord Stanley, "as to such claims."

upon some Sovereign or Head of a friendly State, [as an Arbitrator *pro hâc vice**] to whom the whole of such questions shall be referred in the event of the Commissioners disagreeing upon the same.

4. In the event of a decision on any of such last-mentioned claims being arrived at, involving a question of compensation to be paid, the amount of such compensation to be referred back to the Commissioners for adjudication, and, in the event of their differing, then to the Arbitrator appointed by them under the second Section.

5. The awards of the Commissioners in all cases to be unanimous. Otherwise the matter in dispute to go to the Arbitrator.

6. In regard to the so-called "Alabama" claims, and others included under the same head, it is agreed that neither Government shall make out a case in support of its position, but that the questions at issue, as set forth in the official correspondence between the two Governments, shall be referred to the Commissioners, and, in the event of their making no award, then to the Arbitrator, without comment or the production of further evidence, unless such evidence or argument shall be called for by the Commissioners or Arbitrator as the case may be.
