

which refers to the interview above mentioned with General Schenck, and states that General Schenck deemed it advisable that he (Mr. Pakenham) should be instructed to agree to the words suggested in my telegram of the 10th of June, that "the President understands and insists that the second rule of Article VI does not prevent the open sale of arms or other military supplies in the ordinary course of commerce," and adds, "I informed General Schenck that I sent information to you on the 5th to inform Mr. Fish that Her Majesty's Government would no longer insist upon the insertion of the words proposed and objected to."

Mr. Pakenham soon after, namely, on the 30th of October, 1871, submitted to me a proposed form of a note. He stated that Great Britain had adopted all our suggestions, but proposed some changes of expression to make the language more euphonious. An examination of the form of the note left by Mr. Pakenham with me showed that the word "open" before "sale," which had been one of the suggestions made in behalf of the United States, was omitted. Mr. Pakenham's assurance to me that all of the suggestions had been adopted led me to the belief that the omission of this word was a clerical error; the subsequent publication of the instructions of Lord Granville to Mr. Pakenham, before referred to, tended to confirm that belief.

After a conference with Mr. Pakenham on the 2nd November, I addressed him a note upon the 3rd of November, inclosing a counter-draft of the note, in which certain changes were suggested in phrasology, and the word "open" was inserted as the correction of a clerical omission.

Subsequently Mr. Pakenham informed me that Lord Granville raised some further question in reference to the use of the words "open sale," and I addressed an instruction upon the subject to General Schenck, who was not able, however, to obtain an interview with Lord Granville, or reach any adjustment of the matter prior to the meeting of Congress in December following.

Upon the 16th and 18th December General Schenck had interviews with Lord Granville, from which it appears that the omission of the word "open" in the draft forwarded to Mr. Pakenham for protestation was claimed to have been intentional, and Lord Granville strongly objected to the use of the word, and on December 22, 1871, addressed a note to you on the subject, which on January 12, 1872, you did me the honour to read to me, on which a copy was left with me.

In this instruction Lord Granville gave reason why the United States should not, in the opinion of Her Majesty's Government, further insist upon the insertion of the word "open."

You state in your note that fifteen months elapsed from this date before the question was again brought forward. The interruption, which thus as you say suspended for some months the discussion of this question, arose from circumstances which have now passed into history, and cannot in any sense be attributed to the United States.

A conversation occurred between us on the subject, however, upon the 26th of January, 1872, but within a few days thereafter questions arose involving the existence and carrying out the entire Treaty, pending the adjustment of which a step in this particular matter was clearly inexpedient.

In the summer of 1872 these questions were adjusted, and the arbitration proceeded at Geneva, but General Schenck informed me that after these questions were disposed of Lord Granville had asked his opinion as to taking up this question prior to the conclusion of the proceedings of the Tribunal of Arbitration, and had fully concurred in the opinion which he expressed, that after the delay which had occurred, the Rules could hardly be submitted in advance of the award, which was then soon to be made.

It will be remembered, therefore, that when the negotiations were interrupted early in 1872 by the causes to which I have adverted, the two Governments were perfectly in accord as to the fact that the Treaty imposed an obligation upon each to submit the Rule; that the proper manner of submission was by an identic note, and that the terms of this note were substantially agreed upon, except that the United States had proposed the use of the words "open sale," and Her Majesty's Government had desired that word to be omitted.

The Geneva Tribunal having made its award, the time appeared to have arrived for a renewal of the negotiations and a disposal of the subject.

In an interview between us on the 23rd of April, 1873, some reference was made as to which of us was to make the next advances. I stated that, dismissing formality of intercourse, I should be pleased to know the intention of Her Majesty's Government as to the note, to which you replied, referring back to the question of a reply to a note addressed to Mr. Pakenham, that it was for this Government to take the next step.