

Majesty, which may have been presented to either Government for its interposition with the other since the 26th of July, 1853, the day of the exchange of the ratifications of the Convention concluded between Great Britain and the United States of America, at London, on the 8th of February, 1853, and which yet remain unsettled; as well as any other such claims which may be presented within the time specified in Article III of this Convention, whether or not arising out of the late civil war in the United States, shall be referred to four Commissioners, to be appointed in the following manner, that is to say: two Commissioners shall be named by Her Britannic Majesty, and two by the President of the United States, *by and with the advice and consent of the Senate*. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act as such, Her Britannic Majesty, or the President of the United States, as the case may be, shall forthwith name another person to act as Commissioner in the place or stead of the Commissioner originally named.

The Commissioners so named shall meet at *Washington* at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn Declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favour, or affection, to their own country, upon all such claims as shall be laid before them on the part of the Governments of Her Britannic Majesty and of the United States, respectively; and such Declaration shall be entered on the record of their proceedings.

The Commissioners shall then, and before proceeding to any other business, name some person to act as an Arbitrator or Umpire, to whose final decision shall be referred any claim upon which they may not be able to come to a decision. If they should not be able to agree upon an Arbitrator or Umpire, the Commissioners on either side shall name a person as Arbitrator or Umpire; and in each and every case in which the Commissioners may not be able to come to a decision, the Commissioners shall determine by lot which of the two persons so named shall be the Arbitrator or Umpire in that particular case. The person or persons so to be chosen as Arbitrator or Umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration, in a form similar to that made and subscribed by the Commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity, of such person or persons, or of his or their omitting, or declining, or ceasing to act as such Arbitrator or Umpire, another person shall be named, in the same manner as the person originally named, to act as Arbitrator or Umpire in his place and stead, and shall make and subscribe such Declaration as aforesaid.

ARTICLE II.

The Commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective Governments. *The official correspondence which has taken place between the two Governments respecting any claims shall be laid before the Commissioners, and they shall, moreover, be bound to receive and pursue all other written documents or statements which may be presented to them by or on behalf of the respective Governments, in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each Government, as counsel or agent for such Government, on each and every separate claim.* Should they fail to decide by a majority upon any individual claim, they shall call to their assistance the Arbitrator or Umpire whom they may have agreed upon, or who may be determined by lot, as the case may be; and such Arbitrator or Umpire, after having examined *the official correspondence which has taken place between the two Governments, and the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the Commissioners, shall decide thereupon finally and without appeal.*

**[If, however, it shall appear to the Commissioners, or any two of them, that from the nature of any particular claim in regard to which they may have been unable to come to a decision, it is desirable that a Special Arbitrator or Umpire shall be named, to whose decision such claim shall be referred,] the Commissioners shall report to that effect to their respective Governments, who shall thereupon, within six months, agree upon some Sovereign or Head of*

* Subsequently altered in the signed Convention, see page 37.