

The British Government accordingly transmitted in April of last year, for the consideration of the President, the Draft of a Convention to regulate the proceedings of the proposed Commission.

The Preamble of that Draft recited textually, the agreement which had been come to, by means of notes which had been exchanged between the two Governments; and the articles of the Draft were framed, as Her Majesty's Government considered, in strict conformity with that agreement.

But the Government of the United States did not think proper to assent to the Convention so proposed.

That Government did not, indeed, allege that the proposed Convention was at variance with the result of the previous correspondence between the two Governments; but it thought that Convention would establish a joint Commission "of mere exploration and survey," and the President was of opinion that the step next to be taken by the two Governments, ought to bear upon its face stipulations which must necessarily lead to a final settlement under some form or other, and within a reasonable time. The United States' Government accordingly sent to you, for transmission to Her Majesty's Government, a counter Draft of Convention varying considerably, as Mr. Forsyth admitted, in some parts from the Draft as proposed by Her Majesty's Government. But Mr. Forsyth added, that the United States' Government did not deem it necessary to comment upon the alterations so made, as the text of the counter Draft would be found sufficiently perspicuous.

Her Majesty's Government certainly might have expected that some reasons would have been given, to explain why the United States' Government declined to confirm an arrangement which was founded on propositions made by that Government itself, and upon modifications to which that Government had agreed; or that, if the American Government thought that the Draft of Convention thus proposed to it, was not in conformity with the previous agreement, it would have pointed out in what respect the two differed.

Her Majesty's Government, however, in the present state of this question, concur with the Government of the United States in thinking that it is on every account expedient that the next measure to be taken by the two Governments should contain, in its details, arrangements which should necessarily lead to some final settlement; but they think that the Convention which they proposed last year to the President, instead of being framed so as to constitute a mere Commission of Exploration and Survey, did, on the contrary, contain stipulations calculated to lead to the final ascertainment of the boundary which is to be determined.

There was, however, undoubtedly an essential difference between the British Draft and the American counter Draft. The British Draft contained no provision embodying the principle of arbitration. The American counter Draft did contain such a provision.

The British Draft contained no provision for arbitration, because the principle of arbitration had not been proposed on either side during the negotiations upon which that Draft was founded, and because, moreover, it was understood at that time that the principle of arbitration would be decidedly objected to by the United States.

But as the United States' Government have expressed a wish to embody that principle in the proposed Convention, the British Government is perfectly willing to accede to that wish. You are therefore instructed to state to Mr. Forsyth that Her Majesty's Government consent to the two principles which form the main foundation of the American counter Draft; namely, first, that the Commission to be appointed should be so constituted as necessarily to lead to a final settlement of the questions at issue between the two countries; and secondly, that in order to secure such a result, the Convention by which the Commission is to be created should contain a provision for arbitration upon points as to which the British and American Commissioners may not be able to agree.

You will, at the same time, say that there are some matters of detail in the American counter Draft which Her Majesty's Government could not adopt, but that you will, by a very early opportunity, receive an amended Draft to be submitted to the consideration of the President; and that you will, at the same time, be instructed to propose to the President a local and temporary arrangement, for the purpose of preventing collisions within the limits of the disputed territory.

---