

that the delay which had occurred could not with justice be laid to Her Majesty's Government; but your note failed to express the views of Her Majesty's Government as to a compliance with the obligation assumed by the Treaty, or to bring the two Governments nearer to a disposition of the question.

With reference to the question of delay, I may be permitted to remind you, that although it is stated in my note of the 8th of May, that the obligation of the two Governments to bring the Three Rules to the knowledge of the Maritime Powers, and to invite them to accede to them, was assumed at the time the Treaty went into effect, and that no measures had been taken to comply with the obligation, I made no allusion to Her Majesty's Government as being peculiarly and entirely responsible for the delay which had occurred. As you have seen fit, however, to advert to that question at length, it seems proper to refer to some facts and steps in the progress of the negotiations not touched on in your note as part of the history of the case, and to explain what is thought to be the true bearing of some others.

It is true, as stated by you, that shortly after the date of the Treaty some question arose as to the proper construction of the Second Rule, which was raised, however, mainly by Her Majesty's Government. No real difference existed between the two Governments, and when it was suggested that some expression of the views of the United States as to the meaning of this Rule was desired by Great Britain, a telegram was addressed on June 10th to General Schenck, which stated, among other things, that "the President understands and insists that the Second Rule in Article VI does not prevent the open sale of arms and other military supplies in the ordinary course of commerce, as they have been heretofore sold in neutral countries to friendly belligerents."

This telegram was read to Lord Granville, who expressed his entire satisfaction with the views of the United States, as therein expressed, and informed General Schenck that he agreed that it was advisable to incorporate in the note to be addressed to the Maritime Powers the understanding of the two Governments as to the proper construction to be given to the Second Rule.

This view of the President was also, if I am not mistaken, referred to with expressions of approval and assent in the debates in the British Parliament on the Treaty of Washington, and was substantially and almost in terms adopted by Lord Granville in an instruction to you under date of June 13, 1871.

In the month of June 1871 you submitted to me a draft note to be addressed to the Maritime Powers, to which some changes, mostly verbal, were suggested, and concerning which it may be said no important differences remained except as to the insertion of the word "open" before the words "sale of arms," &c., proposed by the United States, and the retention of the words of "export or exportation" proposed by Great Britain.

The words "open sale" of arms, &c., having been used in the original telegram of the 10th June to General Schenck, expressing the understanding of the United States as to the meaning of the Rule, and having been understood to be entirely satisfactory to Great Britain, were insisted on, and the words "or export," &c., which had been suggested by Her Majesty's Government, were objected to by the United States for reasons the force of which seemed afterwards to be appreciated by Her Majesty's Government, and they were omitted from the draft subsequently presented by Her Majesty's Chargé d'Affaires.

In the meanwhile you had left the United States, and as the matter did not progress, and Congress was soon to assemble, I addressed a telegram to General Schenck upon October 26, asking that instructions be sent to Mr. Pakenham, Her Majesty's Chargé d'Affaires *ad interim* during your absence, who appeared to be entirely without authority to proceed, and I was informed by General Schenck, in reply, that he had expressed to Lord Granville, in a conversation upon the 27th of October, the hope that instructions would be sent to Mr. Pakenham to agree to the words "open sale," in the place of the words "sale or export," and that Lord Granville informed him that instructions had been sent to Mr. Pakenham no longer to insist upon the insertion of the words proposed by Her Majesty's Government, and objected to by the United States. The words proposed were "open sale," and the words objected to were the words "or export."

Among the papers relating to this subject submitted to Parliament in 1874 is an instruction addressed by Lord Granville to Mr. Pakenham, dated October 5, 1871, in which his Lordship says:—

"In order to secure identity in the Commissions of the British and American Ministers, I send you a draft in which the alterations suggested by Mr. Fish in the original draft, and reported by Sir E. Thornton in his despatch of the 7th of July, are adopted."

Also another instruction from Lord Granville to Mr. Pakenham, dated October 27,