

occupation of a subject or citizen of the other party; such effect shall be given to such occupation as reason, justice, the principles of international law and the equities of the case, shall in the opinion of the tribunal require.

It seemed to us that was a very fair rule. We proposed it to the American commissioners, but they would not accept it unless it were coupled with this rider:

That all towns and settlements on tide water, settled under the authority of the United States, and under the jurisdiction of the United States at the date of this treaty shall remain under the authority and jurisdiction of the United States.

We would not agree to such a condition. This condition has been maintained by the United States from 1899 up to the year 1903; but in the treaty which has been negotiated and signed by Sir Michael Herbert and Mr. John Hay, this rider has been removed; and now the United States go to the arbitration with Canada without any condition of that kind, but agreeing that both parties shall submit to the award which shall be given by those six jurists of repute.

Now, it seems to me that we could not have more than has been given by this treaty. As my hon. friend from Haldimand (Mr. Thompson) has said, we do not want any territory which is not ours; neither do we want to part with any territory which is ours. We are willing to take the consequences of this commission. We may lose or we may gain. If we lose, we shall pay the consequences; if we gain, our opponents must pay the consequences. This is the position in which we now go before the court to have this question determined. So far as the treaty itself is concerned, or that part of it at all events, there is no point that has been gained by anybody. It has been said by the press that Canada has made a surrender. I am glad to say, and the House will agree with me, that there is not a particle of surrender in this treaty. It is fair and honourable to both parties, and I am more than pleased that our American neighbours should have come to that conclusion. With regard to the composition of the tribunal, the article of the treaty referring to it provides for a tribunal of six impartial jurists of repute, three to be appointed by the United States and three by Great Britain; and therefore we have a fair tribunal. If impartial jurists are appointed on either side, we shall have as fair a tribunal as it is possible to have. I have said there is a blemish in the composition of the tribunal. The only blemish I can see in it is that it is not so composed as to ensure finality of decision. If there were seven jurists, or five, instead of six, there would be of a certainty a majority in any event, and the matter would be finally disposed of; but as the tribunal is constituted, it is possible there may be three on one side and three on the

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other, in which case there will be no decision. But even if we have no decision, we shall have obtained what my hon. friend attaches some importance to—the best education possible for the American people, the British people and the Canadian people, as to the merits of this question. But I may say for my part that I do not apprehend any such result. It seems to me that six impartial men ought to be able to come to a conclusion on a question of this kind.

I agree with my hon. friend on one suggestion he made—that if we are to appoint commissioners on this tribunal, they must not be partisans, but they must be the best men and men of the highest character that the British empire can supply. We had at one time reason to believe that on the American side as well as on the British side the jurists of repute would be taken from the bench. We would have been glad indeed if the President had seen fit to take the commissioners from the bench of the Supreme Court of the United States.

But now I come to the crucial point of this question, the only one on which at this moment I feel some delicacy about speaking. It has been rumored in the press that the President had selected men who were not judges, and men who, from their previous record, could not be called impartial jurists. I am not aware that Mr. Root, the Secretary for War, has expressed any opinion at all; but he is a member of the administration of President Roosevelt, and it seems to some of us anomalous that a member of a party who is before the court as a suitor should sit on the bench as a judge in the case. With regard to Mr. Turner, I understand that he has expressed himself somewhat against the Canadian contention. However, I have not seen any word he has spoken except something in the form of a short report in the press. As to Mr. Lodge, he has certainly given utterance to expressions of such a character as to cause some reflection upon the advisability of placing him upon that court. We have made representations to Great Britain upon all these matters. The correspondence in which we have been engaged was concluded only yesterday, and it is not yet possible for me to place it on the Table of the House. Perhaps it is preferable that I should not proceed any further on this question, until the whole of the correspondence can be placed on the Table of the House, so that members on both sides shall have an opportunity to judge of the action we have taken. Therefore I shall not say any more at present, but in a few days I will bring to the House the whole of the correspondence. In fact, I think I shall have authority to lay before parliament the whole of the correspondence which has taken place between the Canadian government and the imperial government from the time the Joint High Commission adjourned in Washington in 1899.