

explained, it would be desirable to retain the terms of Article V, though not embodied in a distinct Article.

They further agree in the principle involved in Mr. Seward's proposed insertion in Article I, under which reference to the decision of a friendly Sovereign or State would be admissible in certain cases.

It appears, however, to Her Majesty's Government that besides involving a very wide departure from the terms of the same Article in the Convention of 1853, the proposed insertion would render the Article obscure and complicated, difficult of construction, and still more difficult in operation, and would tend to protract almost indefinitely the labours of the Commission.

Her Majesty's Government fully concur in the necessity of providing in the Convention for a more solemn arbitration where questions of principle, in which the Commissioners cannot agree, are involved, than could be expected from any private individuals selected by the Commissioners. Such questions may arise not only in regard to the "Alabama" claims, but in regard to many other classes of claims which may be brought before the Commissioners; and it seems to Her Majesty's Government highly important that such questions should be decided by the arbitration of a foreign Sovereign or State, inasmuch as they will turn on points of international law, comity, or equity, in the consideration of which a foreign Sovereign or Head of a State may call to his assistance the learning and intelligence of any of their subjects who have made such matters their especial study.

But it seems to Her Majesty's Government that it would scarcely be courteous to any Sovereign or Head of a friendly foreign State, in default of the two Governments agreeing within six months as to whom reference should be made, to leave to the Commissioners to select him. Such selection could only rightly be made by the two Governments themselves, as being co-ordinate in rank and dignity, and therefore fitting applicants for the good offices of one of their compeers; while, on the other hand, for the reasons that I have stated, the questions on which the Commissioners may be at issue can only be satisfactorily determined by a friendly foreign Sovereign or State.

Her Majesty's Government do not anticipate that any difficulty need arise between the two Governments in selecting an arbiter of that class. No such difficulty was felt in the corresponding case of the Convention of 1827, respecting the North-West Boundary, when the King of the Netherlands was agreed upon by the British Secretary of State and the United States' Minister in London.

Her Majesty's Government observe, moreover, that in Mr. Seward's proposed insertion no allusion is made to the production before the Commissioners or Arbitrator of the official correspondence which may have taken place between the two Governments respecting any claims. This they conclude to be an oversight; but if not, Her Majesty's Government would not be disposed to insist upon it.

They observe, further, that no provision is made for accepting the decision of the Arbitrator, whether chosen by the Commissioners or chosen by the Governments as ruling not only the specific claim submitted to him, but all other claims of the same class. Her Majesty's Government think it very essential that some such provision should be made, as otherwise the same principle may be submitted to arbitration over and over again, and so the sittings of the Commissioners might be indefinitely prolonged.

Bearing all these considerations in mind, Her Majesty's Government have framed a fresh draft of Convention which I now inclose, and which I have to instruct you to submit to Mr. Seward together with a copy of this despatch. This draft has been framed on the principle of adhering as closely as possible to the terms of the Convention of 1853.

Thus, the Ist Article, with the exception of the introduction of the words "by and with the advice and consent of the Senate," and the substitution of "Washington" for "London" nearly textually reproduces the same Article of the Treaty of 1853.

The IInd Article has necessarily been altered to meet the special requirements of the present case. The proposed alterations up to the end of the third paragraph, are printed in *italics* so that they may be more easily distinguished. The reasons for proposing them are already explained.

After the third paragraph, a paragraph has been introduced varying but slightly from the Vth Article of the signed Convention. It seems necessary to adopt this provision to meet the case of the principle of a claim being decided by an Arbitrator, leaving to the Commissioners and the general Arbiter named by them,