

The respective Agents having produced and submitted to the Commissioners their respective commissions, Judge Foster produced the draft of Rules which I had submitted to him, and stated that although in the main he was prepared to agree to them, he objected to certain portions which contemplated that Counsel on either side, as well as the respective Agents, should be allowed to address the Court. To this he objected, stating that, in his opinion, this duty should, under the terms of the Treaty, devolve upon the Agents alone.

I submitted that this contention could not be maintained, having in view the wording of the Articles referred to; and Judge Foster having replied in support of his contention, the Commissioners retired to deliberate.

On their return, M. Delfosse announced that the Commissioners had decided that the Agents on either side should be permitted to be heard either personally or by Counsel, but that in the case of the British Agent, he should be limited to five, as representing the maritime Provinces of the Atlantic Coast of British North America, and in the case of the Agent of the United States, he should be allowed a similar number.

The Court was thus fully constituted as follows:—

M. Maurice Delfosse, President;

The Honourable Ensign H. Kellogg and Sir A. T. Galt, K.C.M.G., Commissioners appointed respectively by the United States and Great Britain;

Judge Foster, United States' Agent, and myself in a similar capacity on the part of Great Britain;

Mr. J. H. G. Bergne, Secretary and Protocolist;

Mr. Joseph Doutre, Q.C., of Montreal, representing the Province of Quebec;

Mr. S. R. Thomson, Q. C., of St. John, representing the Province of New Brunswick;

Honourable W. V. Whiteway, Q.C., of St. John's, representing the Colony of Newfoundland;

Honourable Louis H. Davies of Charlottetown, representing the Province of Prince Edward Island; and

Mr. R. L. Weatherbe, Q.C., of Halifax, representing the Province of Nova Scotia,

—as Counsel on the part of Great Britain.

Judge Foster stated that he would request permission to name such Counsel as might be employed on behalf of the United States after the adjournment to be made after the delivery of the Case of Her Britannic Majesty.

I have the honour to inclose herewith a copy of the Rules which were eventually adopted by the Commissioners,\* from which your Lordship will learn the course of procedure which it is proposed to follow; and I also inclose a copy of a solemn Declaration which was made and signed in duplicate by the three Commissioners.\*

The question of the admissibility of *ex parte* affidavits having been previously fully discussed between myself and our Counsel, we had come to the conclusion that it would be desirable to exclude this class of written testimony if possible, and I therefore proceeded to challenge a decision of the Commissioners on this point. Judge Foster maintained a contrary view, and the Commissioners, after consultation decided that such affidavits should be admitted under the terms of Article XXIV of the Treaty.

I then presented to the Commissioners, and to the United States' Agent, copies of the "Case" of Her Majesty's Government,† together with a schedule of the documents to be filed with the Secretary in support of it.

The Commission then adjourned until to-day, when the full minutes of yesterday's proceedings were read and approved, and the Commission thereupon adjourned until the 28th of July.

It has been decided by arrangement that such persons whose presence may be required by either side shall attend the sittings of the Commission. Otherwise the proceedings will be strictly private, and the representatives of the press will be entirely excluded.

I may add that the proceedings thus far have been conducted with the utmost harmony and amicable feeling, and I see no reason to doubt that the inquiry will be conducted in a straightforward and impartial manner, so as to arrive at an equitable solution of the long-pending question under discussion.

Judge Foster proposes, I believe, to return to the United States whilst engaged

\* See Protocol I.—Record of Proceedings.

† See Appendix A.—Record of Proceedings.