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“Copy or Extract of a Despatch from Lord John Russell to Lord Lyons, dated November 22, 1860, respecting the San Juan Water Boundary.”

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*Lord J. Russell to Lord Lyons.*

(Extract.)

*Foreign Office, November 22, 1860.*

IN reference to the line of water boundary intended by the Treaty, with respect to which Her Majesty's Government have been invited by the United States' Government to make a proposition for its adjustment, your Lordship will inform General Cass that Her Majesty's Government are glad to reciprocate the friendly sentiments contained in his note of the 25th of June, and will not hesitate to respond to the invitation which has been made to them.

It appears to Her Majesty's Government that the argument on both sides being nearly exhausted, and neither party having succeeded in producing conviction in the other, the question can only be settled by arbitration.

Three questions would arise thereupon :—

1. What is to be the subject matter of arbitration ?
2. Who is to be the arbiter ?
3. What is to be the result of the decision of the arbiter ?

With regard to the first point, Her Majesty's Government are of opinion that the question or questions to be referred should be : What is the true meaning of the words relating to the water boundary contained in Article I of the Treaty of June 15, 1846 ? Or, if the precise line intended cannot be ascertained, is there any line which will furnish an equitable solution of the difficulty, and is the nearest approximation that can be made to an accurate construction of the words of the Treaty ?

In considering these questions the arbiter might fairly consult all the correspondence on the subject, and weigh the testimony of the British and American negotiators of the Treaty as to their intentions in framing the Article. But he should not depart from the true meaning of the Article as it stands if he can deduce it from the words agreed to by both parties, and consigned in a Treaty ratified by both Governments.

Secondly. Her Majesty's Government are of opinion that a reigning Prince or sovereign State should be the arbiter; Her Majesty's Government propose with this view that the King of the Netherlands, or the King of Sweden and Norway, or the President of the Federal Council of Switzerland, should be invited to be the arbiter.

With regard to the third point, Her Majesty's Government are desirous that this long controversy should not be again thrown loose for dispute. They therefore propose that both Governments should bind themselves to accept the decision of the Arbiter, whether he shall give a positive decision or whether he should declare that he cannot fix the precise meaning of the Article in question, but that he has laid down on the chart a line which will furnish an equitable solution of the difficulty, and is the nearest approximation he can make to an accurate construction of the words of the Treaty.

Should these proposals be accepted, Her Majesty's Government flatter themselves that an equitable decision may be arrived at, and a long and dangerous controversy terminated in a manner consistent with the honour and the interests of both Governments.

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