

ARBITRATION WITH GREAT BRITAIN

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN AUTHENTICATED COPY OF A TREATY SIGNED BY THE PLENIPOTENTIARIES OF THE UNITED STATES AND GREAT BRITAIN ON AUGUST 3, 1911, EXTENDING THE SCOPE AND OBLIGATION OF THE POLICY OF ARBITRATION ADOPTED IN THE PRESENT ARBITRATION TREATY OF APRIL 4, 1908, BETWEEN THE TWO COUNTRIES, SO AS TO EXCLUDE CERTAIN EXCEPTIONS CONTAINED IN THAT TREATY AND TO PROVIDE MEANS FOR THE PEACEFUL SOLUTION OF ALL QUESTIONS OF DIFFERENCE WHICH IT SHALL BE FOUND IMPOSSIBLE IN FUTURE TO SETTLE BY DIPLOMACY :: ::



AUGUST 12, 1911.—On motion by Mr. LODGE, ordered to be printed with amendments reported from the Committee on Foreign Relations.

WASHINGTON

1911



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AUGUST 5, 1911.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

AUGUST 5, 1911.—Injunction of secrecy removed.

AUGUST 12, 1911.—Reported by Mr. CULLOM, with amendments.

Injunction of secrecy removed from proposed amendments.

(Strike out the parts in brackets and insert those in italics.)

To the Senate:

With a view to receiving the advice and consent of the Senate to the ratification of the treaty, I transmit herewith an authenticated copy of a treaty signed by the plenipotentiaries of the United States and Great Britain on August 3, 1911, extending the scope and obligation of the policy of arbitration adopted in the present arbitration treaty of April 4, 1908, between the two countries, so as to exclude certain exceptions contained in that treaty and to provide means for the peaceful solution of all questions of difference which it shall be found impossible in future to settle by diplomacy.

W. M. H. TAFT.

THE WHITE HOUSE,
Washington, August 4, 1911.

1 The United States of America and His Majesty the King of the
2 United Kingdom of Great Britain and Ireland and of the British
3 Dominions beyond the Seas, Emperor of India, being equally
4 desirous of perpetuating the peace, which has happily existed
5 between the two nations, as established in 1814 by the Treaty of
6 Ghent, and has never since been interrupted by an appeal to
7 arms, and which has been confirmed and strengthened in recent
8 years by a number of treaties whereby pending controversies
9 have been adjusted by agreement or settled by arbitration or
10 otherwise provided for; so that now for the first time there are
11 no important questions of difference outstanding between them,
12 and being resolved that no future differences shall be a cause of
13 hostilities between them or interrupt their good relations and
14 friendship;

15 The High Contracting Parties have, therefore, determined, in
16 furtherance of these ends, to conclude a treaty extending the
17 scope and obligations of the policy of arbitration adopted in
18 their present arbitration treaty of April 4, 1908, so as to exclude
19 certain exceptions contained in that treaty and to provide
20 means for the peaceful solution of all questions of difference
21 which it shall be found impossible in future to settle by diplo-
22 macy, and for that purpose they have appointed as their respec-
23 tive Plenipotentiaries:

24 The President of the United States of America, the Honorable
25 Philander C. Knox, Secretary of State of the United States;
26 and

27 His Britannic Majesty, the Right Honorable James Bryce,
28 O. M., his Ambassador Extraordinary and Plenipotentiary
29 at Washington;

30 Who, having communicated to one another their full powers,
31 found in good and due form, have agreed upon the following
32 articles:

ARTICLE I.

34 All differences hereafter arising between the High Contracting
35 Parties, which it has not been possible to adjust by diplomacy,
36 relating to international matters in which the High Contracting
37 Parties are concerned by virtue of a claim of right made by one
38 against the other under treaty or otherwise, and which are justiciable
39 in their nature by reason of being susceptible of decision by

1 the application of the principles of law or equity, shall be sub-
2 mitted to the Permanent Court of Arbitration established at The
3 Hague by the Convention of October 18, 1907, or to some other
4 arbitral tribunal, as *shall* [may] be decided in each case by special
5 agreement, which special agreement shall provide for the organ-
6 ization of such tribunal if necessary, define the scope of the powers
7 of the arbitrators, the question or questions at issue, and settle
8 the terms of reference and the procedure thereunder.

9 The provisions of Articles 37 to 90, inclusive, of the Conven-
10 tion for the Pacific Settlement of International Disputes con-
11 cluded at the Second Peace Conference at The Hague on the 18th
12 October, 1907, so far as applicable, and unless they are incon-
13 sistent with or modified by the provisions of the special agree-
14 ment to be concluded in each case, and excepting Articles 53
15 and 54 of such Convention, shall govern the arbitration proceed-
16 ings to be taken under this Treaty.

17 The special agreement in each case shall be made on the part of
18 the United States by the President of the United States, by and
19 with the advice and consent of the Senate thereof, His Majesty's
20 Government reserving the right before concluding a special agree-
21 ment in any matter affecting the interests of a self-governing
22 dominion of the British Empire to obtain the concurrence therein
23 of the government of that dominion.

24 Such agreements shall be binding when confirmed by the two
25 Governments by an exchange of notes.

26 **ARTICLE II.**

27 The High Contracting Parties further agree to institute as
28 occasion arises, and as hereinafter provided, a Joint High Com-
29 mission of Inquiry to which, upon the request of either Party,
30 shall be referred for impartial and conscientious investigation
31 any controversy between the Parties within the scope of Article
32 I, before such controversy has been submitted to arbitration,
33 and also any other controversy hereafter arising between them
34 even if they are not agreed that it falls within the scope of
35 Article I; provided, however, that such reference may be post-
36 poned until the expiration of one year after the date of the
37 formal request therefor, in order to afford an opportunity for
38 diplomatic discussion and adjustment of the questions in con-
39 troversy, if either Party desires such postponement

1 Whenever a question or matter of difference is referred to the
2 Joint High Commission of Inquiry, as herein provided, each of
3 the High Contracting Parties shall designate three of its nationals
4 to act as members of the Commission of Inquiry for the pur-
5 poses of such reference; or the Commission may be otherwise
6 constituted in any particular case by the terms of reference,
7 the membership of the Commission and the terms of reference
8 to be determined in each case by an exchange of notes.

9 The provisions of Articles 9 to 36, inclusive, of the Convention
10 for the Pacific Settlement of International Disputes concluded
11 at The Hague on the 18th October, 1907, so far as applicable and
12 unless they are inconsistent with the provisions of this Treaty,
13 or are modified by the terms of reference agreed upon in any
14 particular case, shall govern the organization and procedure of
15 the Commission.

ARTICLE III.

17 The Joint High Commission of Inquiry, instituted in each case
18 as provided for in Article II, is authorized to examine into and
19 report upon the particular questions or matters referred to it,
20 for the purpose of facilitating the solution of disputes by eluci-
21 dating the facts, and to define the issues presented by such
22 questions, and also to include in its report such recommenda-
23 tions and conclusions as may be appropriate.

24 The reports of the Commission shall not be regarded as deci-
25 sions of the questions or matters so submitted either on the
26 facts or on the law and shall in no way have the character of an
27 arbitral award.

28 It is further agreed, however, that in cases in which the Par-
29 ties disagree as to whether or not a difference is subject to
30 arbitration under Article I of this Treaty, that question shall be
31 submitted to the Joint High Commission of Inquiry; and if all
32 or all but one of the members of the Commission agree and report
33 that such difference is within the scope of Article I, it shall be
34 referred to arbitration in accordance with the provisions of this
35 Treaty.】

ARTICLE IV.

37 The Commission shall have power to administer oaths to
38 witnesses and take evidence on oath whenever deemed necessary
39 in any proceeding, or inquiry, or matter within its jurisdiction

1 under this Treaty; and the High Contracting Parties agree to
2 adopt such legislation as may be appropriate and necessary to
3 give the Commission the powers above mentioned, and to pro-
4 vide for the issue of subpœnas and for compelling the attend-
5 ance of witnesses in the proceedings before the Commission.

6 On the inquiry both sides must be heard, and each Party is
7 entitled to appoint an Agent, whose duty it shall be to represent
8 his Government before the Commission and to present to the Com-
9 mission, either personally or through counsel retained for that
10 purpose, such evidence and arguments as he may deem necessary
11 and appropriate for the information of the Commission.

ARTICLE V.

13 The Commission shall meet whenever called upon to make an
14 examination and report under the terms of this Treaty, and the
15 Commission may fix such times and places for its meetings as
16 may be necessary, subject at all times to special call or direction
17 of the two Governments. Each Commissioner, upon the first
18 joint meeting of the Commission after his appointment, shall,
19 before proceeding with the work of the Commission, make and
20 subscribe a solemn declaration in writing that he will faithfully
21 and impartially perform the duties imposed upon him under this
22 Treaty, and such declaration shall be entered on the records of
23 the proceedings of the Commission.

24 The United States and British sections of the Commission may
25 each appoint a secretary, and these shall act as joint secretaries
26 of the Commission at its joint sessions, and the Commission may
27 employ experts and clerical assistants from time to time as it
28 may deem advisable. The salaries and personal expenses of
29 the Commission and of the agents and counsel and of the sec-
30 retaries shall be paid by their respective Governments and all
31 reasonable and necessary joint expenses of the Commission
32 incurred by it shall be paid in equal moieties by the High Con-
33 tracting Parties.

ARTICLE VI.

35 This Treaty shall supersede the Arbitration Treaty concluded
36 between the High Contracting Parties on April 4, 1908, but all
37 agreements, awards, and proceedings under that Treaty shall
38 continue in force and effect and this Treaty shall not affect in any
39 way the provisions of the Treaty of January 11, 1909, relating to

1 questions arising between the United States and the Dominion
2 of Canada.

ARTICLE VII.

4 The present Treaty shall be ratified by the President of the
5 United States of America, by and with the advice and consent
6 of the Senate thereof, and by His Britannic Majesty. The rati-
7 fications shall be exchanged at Washington as soon as possible
8 and the Treaty shall take effect on the date of the exchange of
9 its ratifications. It shall thereafter remain in force continuously
10 unless and until terminated by twenty-four months' written
11 notice given by either High Contracting Party to the other.

12 In faith whereof the respective Plenipotentiaries have signed
13 this Treaty in duplicate and have hereunto affixed their seals.

14 Done at Washington the third day of August, in the year of
15 our Lord one thousand nine hundred and eleven.

[SEAL.]

PHILANDER C. KNOX.

[SEAL.]

JAMES BRYCE.

I certify that the foregoing is a true copy of the original treaty this
day signed.

PHILANDER C. KNOX,

Secretary of State.

AUGUST 3, 1911.