

if, by these means, they should not be enabled to come to an agreement, a resort shall not, on this account, be had to reprisals, aggression, or hostility of any kind, by the one Republic against the other, until the Government of that which deems itself aggrieved shall have maturely considered, in the spirit of peace and good neighborhood, whether it would not be better that such difference should be settled by the arbitration of commissioners appointed on each side, or by that of a friendly nation. And should such course be proposed by either party, it shall be acceded to by the other, unless deemed by it altogether incompatible with the nature of the difference, or the circumstances of the case.

It is thus seen that the negotiation of twelve treaties of general arbitration is, to use the happy phrase of our Secretary of State, "continual progress toward making the practice of civilized nations conform to their peaceful professions."

SETTLEMENT OF THE CANADIAN QUESTIONS

When Mr. Root took charge of the international relations of this Government as Secretary of State less than three years ago, not the least important of the many matters awaiting his attention was a group of unsettled questions with Great Britain, involving various matters of difference between the United States and Canada and Newfoundland, most of which had been the subject of controversy for a decade at least — some for over half a century — and almost any one of which gave promise, if left longer unadjusted, of developing into a fruitful source of international irritation.

The negotiations for the settlement of these questions which were then initiated by Mr. Root and have since been carried on by him have already produced definite results of great value, and what has actually been accomplished gives assurance that a satisfactory settlement of all of them may now be expected. Final agreements have already been reached with respect to four of these questions, as is shown by the boundary treaty, the boundary-waters fisheries treaty, the conveyance of prisoners, and the wrecking and salvage treaty, which were recently entered into with Great Britain and are printed in the Supplement to this number of the *JOURNAL* at pages 303–325. Moreover, the general arbitration treaty with Great Britain, signed on the 4th day of April, 1908, which is printed in the Supplement at page 298, opens the way for the settlement of at least one other of these questions — the Newfoundland and Canadian fisheries controversy — and a basis of settlement, it is understood, has been reached for several of the others. The

occasion seems to be appropriate, therefore, for a brief outline of the subject-matter and recent history of the questions referred to.

Ten years ago an attempt was made to reach a final adjustment of all the unsettled questions with Canada and Newfoundland then pending, and to that end the Joint High Commission was constituted in 1898 by the United States and Great Britain and empowered to agree upon a treaty or treaties adjusting all such questions, a list of which was then formulated as follows:

1st. The questions in respect to the fur seals in Bering Sea and the waters of the North Pacific Ocean.

2d. Provisions in respect to the fisheries off the Atlantic and Pacific coasts and in the inland waters of their common frontier.

3d. Provisions for the delimitation and establishment of the Alaska-Canadian boundary by legal and scientific experts if the commission shall so decide, or otherwise.

4th. Provisions for the transit of merchandise in transportation to or from either country across intermediate territory of the other, whether by land or water, including natural and artificial waterways and intermediate transit by sea.

5th. Provisions relating to the transit of merchandise from one country to be delivered at points in the other beyond the frontier.

6th. The question of the alien-labor laws applicable to the subjects or citizens of the United States and of Canada.

7th. Mining rights of the citizens or subjects of each country within the territory of the other.

8th. Such readjustment and concessions as may be deemed mutually advantageous of customs duties applicable in each country to the products of the soil or industry of the other, upon the basis of reciprocal equivalents.

9th. A revision of the agreement of 1817 respecting naval vessels on the lakes.

10th. Arrangements for the more complete definition and marking of any part of the frontier line, by land or water, where the same is now so insufficiently defined or marked as to be liable to dispute.

11th. Provisions for the conveyance for trial or punishment of persons in the lawful custody of the officers of one country through the territory of the other.

12th. Reciprocity in wrecking and salvage.

The proceedings of the Joint High Commission have not been made a

matter of public record. It has been authoritatively stated, however, that during the course of its negotiations, which extended over a period of six months or more, much progress was made toward an agreement on several of these questions, but failing to agree upon any adjustment of the Alaskan boundary question it was found impossible to reach a definite agreement on any of the others under consideration, and the Joint High Commission finally suspended its negotiations in March, 1899, and has never since reconvened. Thereafter, under the treaty of January 24, 1903, the Alaskan boundary question was finally settled by the decision of the international tribunal constituted by that treaty, leaving the way open for a renewal of negotiations with respect to the other questions, but the disposition on the other side has always been to make the settlement of each one of them dependent upon the satisfactory and simultaneous adjustment of all the others, which created a most unfavorable situation for making much progress on any of them. Several additional questions of difference also developed after the adjournment of the Joint High Commission, including particularly the use of the waters of the Niagara River for power purposes, and the diversion of the waters of the St. Mary's and Milk rivers for irrigation purposes and the construction of log booms in the St. John River and the overflowing of lands at several points along the boundary by the elevation of the level of boundary waters resulting from the damming of outlets, and generally the use and diversion, for sanitary, domestic, irrigation, navigation, and power purposes, of boundary waters and waters tributary thereto or flowing across the boundary throughout the entire extent of the common frontier between the United States and Canada. Such in brief was the situation when the direction of our foreign affairs came into the hands of our present Secretary of State.

The adherence of the Canadian Government to its former position, that before opening formal negotiations for the settlement of any of these questions they desired to be assured of the probability of reaching an agreement on all of them, made it impossible to take up any one of the questions independently of the others, and if any progress was to be made it obviously devolved upon the United States at the outset to define its position upon each of the pending questions as a basis for a comparison of views. The difficulty of defining with accuracy for this purpose the position of the United States on each of some sixteen or more questions, many of which had been the subject of active controversy at different periods of our history and under varying conditions,

may well be imagined, and Canada's insistence that the negotiations be conducted on this basis may explain to some extent why the final settlement of these questions had been so long postponed.

It also appears that on account of the conditions under which the negotiations were undertaken, and in order to facilitate their progress, it further devolved upon the United States to prepare a series of draft treaties embodying the terms of settlement upon which the United States was willing to agree with respect to the more important questions under consideration.

In view of the situation above outlined, it is evident that the burden of the work of preparing the terms of settlement for these questions and of putting them into treaty form fell upon the United States, and the number, character, and scope of the questions under consideration will give some suggestion of the amount of research and investigation which was necessary in preparing for and carrying on these negotiations. The final outcome rarely discloses the full measure of the preliminary work which enters into an international agreement, and this is no doubt true in this instance, nevertheless an examination of the terms of the three treaties already adopted covering four of these questions will show that their preparation must at least have included an extensive examination of the history of each of these questions and of the attitude thereon in the past not only of the United States but of Canada and Great Britain as well, including the tentative agreements arrived at on some of them by the Joint High Commission, together with the adoption of such revisions and additions as later developments and changed conditions made necessary, and similar preliminary work has doubtless entered into the preparation of the other treaties which are still pending.

In order to assist in the work involved in the preparation of these treaties and of the material necessary for carrying on the negotiations, Mr. Chandler P. Anderson, whose experience as secretary on the part of the United States for the Joint High Commission and as one of the counsel for the United States before the Alaskan Boundary Tribunal and as the secretary for the Bering Sea Claims Commission had specially qualified him for that work, was retained as special counsel in these matters.

Both Governments are certainly under great obligation to the Secretary of State and Mr. Anderson for undertaking the extensive and arduous negotiations which were necessary for breaking the deadlock so long existing with respect to the settlement of these questions, and the

result of which has been to secure the settlement of some and open the way for the final adjustment of all the other pending questions of difference between the United States and Canada, thus at the same time removing the occasion and the possibility of serious friction between the two countries.

OUR NORTHERN BOUNDARY

After the lapse of one hundred and twenty-five years since the northern boundary of the United States was first defined by treaty with Great Britain and of over sixty years since our last treaty defining this boundary was entered into, it would have seemed to be a safe assumption that if anything further was necessary to make definite and certain the location of such boundary appropriate action to that end would long since have been taken by the two Governments. It will doubtless be somewhat surprising, therefore, to those who have not had occasion to look into the matter to find that several important sections of the boundary are insufficiently defined by treaty description, or on treaty charts, or by monuments along its course, as the case may be, and that owing to the inaccuracy of many of the earlier treaty charts and the loss of some of the duplicate originals filed with this Government, it is of considerable importance that the entire line be marked on accurate modern charts having a treaty value. That the situation is as above stated is disclosed by the treaty recently entered into with Great Britain for the more complete definition and demarcation of the international boundary between the United States and Canada throughout its entire extent from the Atlantic to the Pacific. (Supplement, p. 306.)

It appears from the provisions of this treaty that the boundary from the mouth of the St. Croix River to the Atlantic Ocean, extending through Passamaquoddy Bay and about twenty miles in length, has never been defined by treaty or laid down on treaty charts, and that the consequent uncertainty as to its location has brought into dispute the ownership of a small island and of certain fishing grounds in that bay. It further appears that the location of the line throughout the entire extent of the St. Croix River has never been laid down on treaty charts or monumented along its course, although it is defined by treaty as running through the middle of the river. A boundary through the middle of a river, however, has the accepted meaning of through the middle of the main channel of the river, and, as this river is full of