

year after the date of the formal request therefor, in order to afford an opportunity for diplomatic discussion and adjustment of the questions in controversy, if either party desires such postponement.

Whenever a question or matter of difference is referred to the joint high commission of inquiry, as herein provided, each of the high contracting parties shall designate three of its nationals to act as members of the commission of inquiry for the purposes of such reference; or the commission may be otherwise constituted in any particular case by the terms of reference, the membership of the commission and the terms of reference to be determined in each case by an exchange of notes.

The provisions of Articles 9 to 36, inclusive, of the convention for the pacific settlement of international disputes concluded at The Hague on the 18th October, 1907, so far as applicable, and unless they are inconsistent with the provisions of this treaty, or are modified by the terms of reference agreed upon in any particular case, shall govern the organization and procedure of the commission.

#### *Article 3.*

The joint high commission of inquiry instituted in each case, as provided for in Article 2, is authorized to examine into and report upon the particular questions or matters referred to it, for the purpose of facilitating the solution of disputes by elucidating the facts, and to define the issues presented by such questions, and also to include in its report such recommendations and conclusions as may be appropriate.

The reports of the commission shall not be regarded as decisions of the questions or matters so submitted, either on the facts or on the law, and shall in no way have the character of an arbitral award.

It is further agreed, however, that in cases in which the parties disagree as to whether or not a difference is subject to arbitration under Article 1 of this treaty, that question shall be submitted to the joint high commission of inquiry; and if all or all but one of the members of the commission agree and report that such difference is within the scope of Article 1 it shall be referred to arbitration in accordance with the provisions of this treaty.

#### *Article 4.*

The commission shall have power to administer oaths to witnesses and take evidence on oath whenever deemed necessary in any proceeding or inquiry or matter within its jurisdiction under this treaty; and the high contracting parties agree to adopt such legislation as may be appropriate and necessary to give the commission the powers above mentioned, and to provide for the issue of subpoenas and for compelling the attendance of witnesses in the proceedings before the commission.

On the inquiry both sides must be heard, and each party is entitled to appoint an agent, whose duty it shall be to represent his Government before the commission, and to present to the commission, either personally or through counsel retained for that purpose, such evidence and arguments as he may deem necessary and appropriate for the information of the commission.

#### *Article 5.*

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

The United States and British section of the commission may each appoint a secretary, and these shall act as joint secretaries of the commission at its joint sessions, and the commission may employ experts and clerical assistants from time to time, as it may deem advisable. The salaries and personal expenses of the commission and of the agents and counsel and of the secretaries shall be paid by their respective Governments, and all reasonable and necessary joint expenses of the commission incurred by it shall be paid in equal moieties by the high contracting parties.

#### *Article 6.*

This treaty shall supersede the arbitration treaty concluded between the high contracting parties on the 4th April, 1908, but all agreements, awards, and proceedings under that treaty shall continue in force and effect, and this treaty shall not affect in any way the provisions of the treaty of the 11th January, 1909, relating to questions arising between the United States and the Dominion of Canada.

#### *Article 7.*

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty. The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of its ratifications. It shall thereafter remain in force continuously, unless and until terminated by twenty-four months' written notice given by either high contracting party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate, and have hereunto affixed their seals.

Done at Washington, the 3rd day of August, in the year of our Lord 1911.

PHILANDER C. KNOX.  
JAMES BRYCE.