scribed under which, in spite of the absence of any one member from illness or other cause, a valid decision might yet be given.

The difficulty of conducting, on the more rigid rule, a lengthened inquiry, involving frequent decisions, is a matter of ordinary experience. A common mode of escape from it is to fix some number, short of the entire complement, as the quorum or minimum number which must be present to give validity to a decision. The framers of the Washington Treaty adopted an arrangement somewhat different in form, but similar in effect. They laid down that the decisions should be valid so long as they were adopted by a number not less than the majority of the whole body. That this is the meaning of the three passages in which the word majority appears may be gathered both from the expressions themselves and from the connection in which they are found. The following is a portion of the first paragraph of Article XIII on the Commission of Civil War Claims:—

"They shall be bound to receive and consider all written documents or statements which may be presented to them by or on behalf of the respective Governments in support of, or in answer to, any claims; and to hear, if required, one person on each side, on behalf of each Government, as Counsel, or Agent for such Government, *on each and every separate claim*. A majority of the Commissioners shall be sufficient for an Award in each case."

Here it is evident that the multiplicity of the claims was the matter specially under consideration; and that "the sufficiency of a majority of the Commission for an Award" was stipulated with a view to the possible delay which the requirement of a full Tribunal in each case might cause. That the majority should be sufficient for an Award in the case of one member being absent was a rule which it was necessary to lay down; for where frequent decisions are not required, provisions of the kind are not customary. On the other hand, it is a universal practice that upon public Arbitrations thus constituted, in case of difference of opinion, the majority shall prevail. It is, therefore, consistent with sound principles of interpretation, to assume that the phrase was meant to apply to the point on which a provision was necessary, and not to the point on which a provision was superfluous.

The same reasoning is applicable to the case of the Geneva Tribunal, which had to decide on the alleged failure of neutral duty in Great Britain as to seventeen different ships, besides questions arising in respect to damages. The Board of Assessors which was provided in case the Geneva Tribunal had not awarded a gross sum was a Commission of Claims which would have had to adjudicate upon a very large number of individual losses. In these cases, therefore, as in that which has been just adverted to, the Joint High Commission took a natural and a judicious course in providing that a decision should not be invalid by reason of the absence of a member of the Tribunal, so long as a majority concurred in the Award.

On the other hand, no such provision was necessary in the case of the Halifax Commission, which, beyond questions of procedure, had but one issue before it, and but one decision to pronounce. In this case it was not necessary to lay down, as in the other cases, that "a majority of the Commissioners should be sufficient for an Award," or that "all questions should be decided by a majority of *all* the Arbitrators."

This construction of the Treaty appears to Her Majesty's Government more natural and more respectful to the Joint High Commission than the assumption that, having resolved to leave one particular case to a mode of Arbitration which was entirely novel, and wholly unlikely to issue in a decision, they carefully abstained from the use of any words to indicate the unusual resolution they had formed.

It further appears to Her Majesty's Government that a distinct intimation of the true meaning of the Joint High Commission in respect to the Fishery Award is to be found in the composition of the Tribunal which they adopted. This constitution is consistent with the intention that the majority should decide; it is not consistent with the supposed intention that the dissent of one Commissioner should prevent any decision from being pronounced. The XXIIIrd Article of the Treaty makes the following provision for the constitution of the Tribunal:—

"The Commissioners referred to in the preceding Article shall be appointed in the following manner, that is to say:—

"One Commissioner shall be named by Her Britannic Majesty, one by the President of the United States, and a third by Her Britannic Majesty and the President of the United States conjointly; and in case the third Commissioner shall not have been so named within a period of three months from the date when this Article shall take effect, then the third Commissioner shall be named by the Representative at London of His Majesty the Emperor of Austria and King of Hungary. In case of the death,