

CLAIMS: THE CASE OF JOHN CELESTIN LANDREAU

Protocol signed at Lima May 21, 1921

Entered into force May 21, 1921

*Article IV modified by agreement of August 4, 1922*¹

*Terminated May 11, 1924, upon fulfillment of its terms*²

Treaty Series 653

PROTOCOL FOR ARBITRATION OF THE LANDREAU CLAIM AGAINST PERU

The Government of the United States of America and the Government of the Republic of Peru, not having been able to reach an agreement concerning the claim against Peru of the heirs and assigns of the American citizen, John Celestin Landreau, arising out of a decree of October 24, 1865, of the Government of Peru, providing for the payment of rewards to John Teophile Landreau, brother of John Celestin Landreau, for the discovery of guano deposits, and out of contracts between John Teophile Landreau and John Celestin Landreau entered into on or about April 6th, 1859, and October 29th, 1875, which claim is supported by the Government of the United States, have resolved to submit the question for decision to an International Arbitral Commission, and to that end have named their respective plenipotentiaries, that is to say, the President of the United States, William E. Gonzales, Ambassador of the United States at Lima, and the President of Peru, doctor Alberto Salomón, Minister of Foreign Relations, who, after having exchanged their full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE I

The questions to be determined by the Arbitral Commission are: First. Whether the release granted the Peruvian Government in 1892 by John Teophile Landreau eliminated any claim which John Celestin Landreau, the American citizen, may have had against the Peruvian Government, and

¹ *Post*, p. 1090.

² The arbitrators rendered an award in favor of the claimants on Oct. 26, 1922, in the amount of \$125,000. On Mar. 29, 1924, Peru paid the amount by check, and on May 11, 1924, Peru paid an additional amount of \$10,062.50 as accrued interest, pursuant to art. XII of the protocol.

if all claims were not thereby extinguished then, second: what sum if any is equitably due the heirs or assigns of John Celestin Landreau.

ARTICLE II

The Commission shall be composed of three members as follows:

The Government of the United States and the Government of Peru shall each, within thirty days after this Protocol becomes effective, appoint one Commissioner, and these two shall, within ninety days after this Protocol becomes effective, select a third Commissioner, who shall act as President of the Commission, and shall be a national of either Denmark, Great Britain or the Netherlands.

If, at the termination of the ninety days period just mentioned, they are unable to agree upon a third Commissioner, he shall be selected, within a further period of thirty days, by the Queen of the Netherlands, provided she is willing.

ARTICLE III

All vacancies occurring from death, resignation or otherwise, in the membership of the Commission, shall be filled as was the original appointment, within thirty days from the occurrence of such vacancy.

ARTICLE IV³

The Commission shall, with the consent of the respective Government, meet at the residence place of the President of the Commission, within sixty days after the case is ready for consideration, according to the 2nd paragraph of article X of this protocol, and shall hold all of its sessions in the same place.

ARTICLE V

The concurrent action of any two members of the Commission shall be adequate for a decision on all matters coming before them, including the making of the final award.

ARTICLE VI

The Government of the United States and the Government of Peru shall each be entitled to appoint an Agent for the presentation and argument of its case before the Commission.

ARTICLE VII

The Commission shall keep a record of all its proceedings. For this purpose the President of the Commission shall appoint a Secretary who shall be of his own nationality.

³ For a modification to art. IV, see agreement of Aug. 4, 1922, *post*, p. 1090.

ARTICLE VIII

In the presentation of its documents, evidence, correspondence or arguments to the Commission, either party may use the English or the Spanish language.

ARTICLE IX

Either party may demand from the other the discovery of any fact or of any document deemed to be or to contain material evidence for the party asking it. Any document desired shall be described with sufficient accuracy for identification, and the demanded discovery shall be made by delivering a statement of the fact or by depositing a copy of such document (certified by its lawful custodian, if it be a public document, and verified as such by the possessor, if a private one) to the Foreign Office of the demanding Government which shall be given opportunity to examine the original through its duly accredited diplomatic representatives. If notice of the desired discovery be given too late to be answered ten days before the Commission herein provided for shall sit for hearings, then the answer desired thereto shall be filed with or documents produced before the Commission as speedily as possible.

ARTICLE X

The case of the United States and supporting evidence shall be presented to the Government of Peru through its duly accredited representative at Washington as soon as possible, and, at the latest, within four months, from the date when this agreement becomes effective. The Government of Peru shall submit in like manner, through its representative at Washington, its full answer to such case within five months from the date of the presentation of the case of the United States. The Government of the United States shall present in like manner its reply to the answer of the Peruvian Government, which reply shall contain only matters in reply to the case of the Government of Peru, within three months from the date of the filing of the Peruvian answer, and Peru may, in like manner, within four months, present a reply to the reply of the Government of the United States. The allegations and documents of each party shall be presented at least in quintuplicate.

The case shall then be ready for consideration by the Commission, which shall hear arguments by the Agents of the respective Governments, and, in its discretion, may, after convening, call for further documents, evidence or correspondence from either Government; and such further documents, evidence or correspondence, shall if possible be furnished within sixty days from the date of the call. If not so furnished within the time specified, a decision in the case may be given without the use of said documents, evidence or correspondence.

ARTICLE XI

The decision of the Commission shall be rendered within four months from the date of its first meeting, unless the Commission, for reasons which shall be communicated to both Governments, shall find it imperatively necessary to extend the time. The decision, when made, shall be forthwith communicated to the Governments at Washington and Lima. It shall be accepted as final and binding upon the two Governments.

ARTICLE XII

The amount granted by the award, if there should be any, shall be made payable in gold coin of the United States, at the Department of State, Washington, within one year after the rendition of the decision by the Commission, with interest at six per centum per annum, beginning to run one month, after the rendition of the decision.

ARTICLE XIII

Each of the parties hereto shall pay its own expenses and one-half of the common expenses of the Arbitration. Each Government shall pay the salary and expenses of the Commissioner appointed by it, but the salary and expenses of the third Commissioner and of the Secretary shall be included in the common expenses of the Arbitration.

In faith whereof, they have drawn up the present protocol, in duplicate, in like terms in English and Spanish, signing and sealing it with their private seals, in Lima, this twenty-first day of May one thousand nine hundred and twenty one.

WILLIAM E. GONZALES

[SEAL]

A. SALOMÓN

[SEAL]