

## SETTLEMENT OF CLAIMS

*Convention signed at London February 8, 1853*

*Senate advice and consent to ratification March 15, 1853*

*Ratified by the President of the United States March 17, 1853*

*Ratified by the United Kingdom June 29, 1853*

*Ratifications exchanged at London July 26, 1853*

*Entered into force July 26, 1853*

*Proclaimed by the President of the United States August 20, 1853*

*Article III amended by convention of July 17, 1854<sup>1</sup>*

*Terminated upon fulfillment of its terms<sup>2</sup>*

10 Stat. 988; Treaty Series 123

Whereas claims have, at various times since the signature of the Treaty of Peace and Friendship between the United States of America and Great Britain, concluded at Ghent on the 24th of December, 1814,<sup>3</sup> been made upon the government of the United States on the part of corporations, companies, and private individuals, subjects of her Britannic Majesty, and upon the government of her Britannic Majesty on the part of corporations, companies, and private individuals, citizens of the United States; and whereas some of such claims are still pending, and remain unsettled, the President of the United States of America, and her Majesty the Queen of the United Kingdom of Great Britain and Ireland, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsist between the two countries, have resolved to make arrangements for that purpose by means of a Convention, and have named as their Plenipotentiaries to confer and agree thereupon—that is to say—

The President of the United States of America, Joseph Reed Ingersoll, Envoy Extraordinary and Minister Plenipotentiary of the United States to her Britannic Majesty;

And her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honorable John Russell, (commonly called Lord John

<sup>1</sup> For an extension of time allowed for settlement, see convention signed at Washington July 17, 1854 (TS 125), *post*, p. 121.

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<sup>2</sup> TS 109, *ante*, p. 41.

Russell,) a member of her Britannic Majesty's Most Honorable Privy Council, a member of Parliament, and her Britannic Majesty's Principal Secretary of State for Foreign Affairs;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

#### ARTICLE I

The High Contracting Parties agree that all claims on the part of corporations, companies, or private individuals, citizens of the United States, upon the government of her Britannic Majesty, and all claims on the part of corporations, companies, or private individuals, subjects of her Britannic Majesty, upon the government of the United States, which may have been presented to either government for its interposition with the other since the signature of the Treaty of Peace and Friendship, concluded between the United States of America and Great Britain at Ghent, on the 24th of December, 1814, and which yet remain unsettled, as well as any other such claims which may be presented within the time specified in article III, hereinafter, shall be referred to two commissioners, to be appointed in the following manner—that is to say: One commissioner shall be named by the President of the United States, and one by her Britannic Majesty. In case of the death, absence, or incapacity of either commissioner, or in the event of either commissioner omitting or ceasing to act as such, the President of the United States, or her Britannic Majesty, respectively, shall forthwith name another person to act as commissioner in the place or stead of the commissioner originally named.

The commissioners, so named, shall meet at London at the earliest convenient period after they shall have been respectively named; and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favor, or affection to their own country, upon all such claims as shall be laid before them on the part of the governments of the United States and of her Britannic Majesty, respectively; and such declaration shall be entered on the record of their proceedings.

The commissioners shall then, and before proceeding to any other business, name some third person to act as an arbitrator or umpire in any case or cases on which they may themselves differ in opinion. If they should not be able to agree upon the name of such third person, they shall each name a person; and in each and every case in which the commissioners may differ in opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be the arbitrator or umpire in that particular case. The person or persons so to be chosen to be arbitrator or umpire shall, before proceeding to act as such in any case, make and sub-

scribe a solemn declaration in a form similar to that which shall already have been made and subscribed by the commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing to act as such arbitrator or umpire, another and different person shall be named as aforesaid to act as such arbitrator or umpire in the place and stead of the person so originally named as aforesaid, and shall make and subscribe such declaration as aforesaid.

## ARTICLE II

The commissioners shall then forthwith conjointly proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims, in such order, and in such manner, as they may conjointly think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective governments. They shall be bound to receive and peruse all written documents or statements which may be presented to them by or on behalf of their respective governments, in support of, or in answer to, any claim; 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. Should they fail to agree in opinion upon any individual claim, they shall call to their assistance the arbitrator or umpire whom they may have agreed to name, or who may be determined by lot, as the case may be; and such arbitrator or umpire, after having examined the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the commissioners, shall decide thereupon finally and without appeal. The decision of the commissioners, and of the arbitrator or umpire, shall be given upon each claim in writing, and shall be signed by them respectively. It shall be competent for each government to name one person to attend the commissioners as agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

The President of the United States of America, and her Majesty the Queen of the United Kingdom of Great Britain and Ireland, hereby solemnly and sincerely engage to consider the decision of the commissioners conjointly, or of the arbitrator or umpire, as the case may be, as absolutely final and conclusive upon each claim decided upon by them or him respectively, and to give full effect to such decisions without any objection, evasion, or delay whatsoever.

It is agreed that no claim arising out of any transaction of a date prior to the 24th of December, 1814, shall be admissible under this Convention.

## ARTICLE III

Every claim shall be presented to the commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the commissioners, or of the arbitrator or umpire, in the event of the commissioners differing in opinion thereupon; and then, and in any such case, the period for presenting the claim may be extended to any time not exceeding three months longer.

The commissioners shall be bound to examine and decide upon every claim within one year from the day of their first meeting.<sup>4</sup> It shall be competent for the commissioners conjointly, or for the arbitrator or umpire, if they differ, to decide in each case whether any claim has or has not been duly made, preferred, and laid before them, either wholly, or to any and what extent, according to the true intent and meaning of this Convention.

## ARTICLE IV

All sums of money which may be awarded by the commissioners, or by the arbitrator or umpire, on account of any claim, shall be paid by the one government to the other, as the case may be, within twelve months after the date of the decision, without interest, and without any deduction, save as specified in article VI hereinafter.

## ARTICLE V

The High Contracting Parties engage to consider the result of the proceedings of this commission as a full, perfect, and final settlement of every claim upon either government arising out of any transaction of a date prior to the exchange of the ratifications of the present Convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said commission, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled, barred, and thenceforth inadmissible.

## ARTICLE VI

The commissioners, and the arbitrator or umpire, shall keep an accurate record, and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ a clerk, or other persons, to assist them in the transaction of the business which may come before them.

Each government shall pay to its commissioner an amount of salary not exceeding three thousand dollars, or six hundred and twenty pounds sterling, a year, which amount shall be the same for both governments.

The amount of salary to be paid to the arbitrator (or arbitrators, as the

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<sup>4</sup> For an extension of time allowed for settlement, see convention signed at Washington July 17, 1854 (TS 125), *post*, p. 121.

case may be) shall be determined by mutual consent at the close of the commission.

The salary of the clerk shall not exceed the sum of fifteen hundred dollars or three hundred and ten pounds sterling, a year.

The whole expenses of the commission, including contingent expenses, shall be defrayed by a ratable deduction on the amount of the sums awarded by the commission; provided always that such deduction shall not exceed the rate of five per cent. on the sums so awarded.

The deficiency, if any, shall be defrayed in moieties by the two governments.

#### ARTICLE VII

The present Convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by her Britannic Majesty; and the ratifications shall be exchanged at London as soon as may be within twelve months from the date hereof.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London, the eighth day of February, in the year of our Lord one thousand eight hundred and fifty-three.

J. R. INGERSOLL [SEAL]

J. RUSSELL [SEAL]