

# TREATIES AND CONVENTIONS

CONCLUDED BETWEEN

THE UNITED STATES OF AMERICA AND OTHER POWERS

SINCE JULY 4, 1776.

CONTAINING NOTES, WITH REFERENCES TO NEGOTIATIONS PRECEDING THE  
SEVERAL TREATIES, TO THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL  
CONSTRUCTION OF THEM, AND TO THE CAUSES OF THE  
ABROGATION OF SOME OF THEM; A CHRONOLOGICAL  
LIST OF TREATIES; AND AN ANALYTICAL INDEX.



WASHINGTON:  
GOVERNMENT PRINTING OFFICE.

1889.

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

Done at London this twentieth day of October, in the year of our Lord one thousand eight hundred and eighteen.

[SEAL.]

[SEAL.]

[SEAL.]

[SEAL.]

ALBERT GALLATIN.

RICHARD RUSH.

FREDERICK JOHN ROBINSON.

HENRY GOULBURN.

1822.

CONVENTION FOR INDEMNITY UNDER AWARD OF EMPEROR OF RUSSIA  
AS TO TRUE CONSTRUCTION OF FIRST ARTICLE OF TREATY OF DE-  
CEMBER 24, 1814.

*Concluded* <sup>June 30,</sup> 1822; *Ratifications exchanged at Washington* <sup>July 12,</sup> *January 10,*  
*10, 1823; Proclaimed January 11, 1823.*

In the name of the Most Holy and Indivisible Trinity.

The President of the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland, having agreed, in pursuance of the fifth article of the convention concluded at London on the 20th day of October, 1818, to refer the differences which had arisen between the two Governments, upon the true construction and meaning of the first article of the treaty of peace and amity concluded at Ghent on the 24th day of December, 1814, to the friendly arbitration of His Majesty the Emperor of all the Russias, mutually engaging to consider his decision as final and conclusive. And his said Imperial Majesty having, after due consideration, given his decision upon these differences in the following terms, to wit:

Reference of differences to the Emperor of Russia.

Award to be considered final.

United States entitled to indemnification for certain slaves.

"That the United States of America are entitled to claim from Great Britain a just indemnification for all private property which the British forces may have carried away; and, as the question relates to slaves more especially, for all the slaves that the British forces may have carried away from places and territories of which the treaty stipulates the restitution, in quitting these same places and territories.

"That the United States are entitled to consider as having been so carried away, all such slaves as may have been transferred from the above-mentioned territories to British vessels within the waters of the said territories, and who for this reason may not have been restored.

"But that if there should be any American slaves who were carried away from territories of which the first article of the treaty of Ghent has not stipulated the restitution to the United States, the United States are not entitled to claim an indemnification for the said slaves."

No indemnification for certain slaves.

Now, for the purpose of carrying into effect this award of His Imperial Majesty, as arbitrator, his good offices have been farther invoked to assist in framing such convention or articles of agreement between the United States of America and his Britannic Majesty as shall provide the mode of ascertaining and determining the value of slaves and of other private property, which may have been carried away in contravention of the treaty of Ghent, and for which indemnification is to be made to

the citizens of the United States, in virtue of His Imperial Majesty's said award, and shall secure compensation to the sufferers for their losses, so ascertained and determined. And His Imperial Majesty has consented to lend his mediation for the above purpose, and has constituted and appointed Charles Robert Count Nesselrode, His Imperial Majesty's Privy Councillor, member of the Council of State, Secretary of State directing the Imperial Department of Foreign Affairs, Chamberlain, Knight of the Order of St. Alexander Nevsky, Grand Cross of the Order of St. Vladimir of the first class, Knight of that of the White Eagle of Poland, Grand Cross of the Order of St. Stephen of Hungary, of the Black and of the Red Eagle of Prussia, of the Legion of Honor of France, of Charles III of Spain, of St. Ferdinand and of Merit of Naples, of the Annunciation of Sardinia, of the Polar Star of Sweden, of the Elephant of Denmark, of the Golden Eagle of Wirtemberg, of Fidelity of Baden, of St. Constantine of Parma, and of Guelph of Hannovre; and John Count Capodistrias, His Imperial Majesty's Privy Counsellor, and Secretary of State, Knight of the Order of St. Alexander Nevsky, Grand Cross of the Order of St. Vladimir of the first class, Knight of that of the White Eagle of Poland, Grand Cross of the Order of St. Stephen of Hungary, of the Black and of the Red Eagle of Prussia, of the Legion of Honour of France, of Charles III of Spain, of St. Ferdinand and of Merit of Naples, of St. Maurice and of St. Lazarus of Sardinia, of the Elephant of Denmark, of Fidelity and of the Lion of Zahringen of Baden, Burgher of the Canton of Vaud, and also of the Canton and of the Republic of Geneva, as his Plenipotentiaries to treat, adjust, and conclude such articles of agreement as may tend to the attainment of the above-mentioned end, with the Plenipotentiaries of the United States and of His Britannic Majesty, that is to say:

*Russian mediators.*

On the part of the President of the United States, with the advice and consent of the Senate thereof, Henry Middleton, a citizen of the said United States, and their Envoy Extraordinary and Minister Plenipotentiary to His Majesty the Emperor of all the Russias; and on the part of His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honorable Sir Charles Bagot, one of His Majesty's most Honorable Privy Council, Knight Grand Cross of the most honorable Order of the Bath, and his Majesty's Ambassador Extraordinary and Plenipotentiary to His Majesty the Emperor of all the Russias;

*Negotiators on part of the United States and Great Britain.*

And the said Plenipotentiaries, after a reciprocal communication of their respective full powers, found in good and due form, have agreed upon the following articles:

#### ARTICLE I.

For the purpose of ascertaining and determining the amount of indemnification which may be due to citizens of the United States under the decision of His Imperial Majesty, two Commissioners and two Arbitrators shall be appointed in the manner following, that is to say: One Commissioner and one Arbitrator shall be nominated and appointed by the President of the United States of America, by and with the advice and consent of the Senate thereof; and one Commissioner and one Arbitrator shall be appointed by His Britannic Majesty. And the two Commissioners and two Arbitrators, thus appointed, shall meet and hold their sittings as a board in the city of Washington. They shall have power to appoint a secretary,

*Arbitrators and Commissioners to be appointed.*

and before proceeding to the other business of the commission, they shall, respectively, take the following oath (or affirmation) in the presence of each other; which oath or affirmation, being so taken, and duly attested, shall be entered on the record of their proceedings, that is to say: "I, A. B., one of the Commissioners (or Arbitrators, as the case may be) appointed in pursuance of the convention concluded at St. Petersburg on the <sup>30th</sup>/<sub>12th</sub> day of <sup>June,</sup>/<sub>July,</sub> one thousand eight hundred and twenty-two, between His Majesty the Emperor of all the Russias, the United States of America, and His Britannic Majesty, do solemnly swear (or affirm) that I will diligently, impartially, and carefully examine, and, to the best of my judgment, according to justice and equity, decide all matters submitted to me as Commissioner (or Arbitrator, as the case may be) under the said convention."

All vacancies occurring by death or otherwise shall be filled up in the manner of the original appointment, and the new Commissioners or Arbitrators shall take the same oath or affirmation, and perform the same duties.

Oath or affirmation.

How vacancies are to be filled.

## ARTICLE II.

If, at the first meeting of this board, the Governments of the United States and of Great Britain shall not have agreed upon an average value, to be allowed as compensation for each slave for whom indemnification may be due; then, and in that case, the Commissioners and Arbitrators shall conjointly proceed to examine the testimony which shall be produced under the authority of the President of the United States, together with such other competent testimony as they may see cause to require or allow, going to prove the true value of slaves at the period of the exchange of the ratifications of the treaty of Ghent; and, upon the evidence so obtained, they shall agree upon and fix the average value. But in case that the majority of the board of Commissioners and Arbitrators should not be able to agree respecting such average value, then, and in that case, recourse shall be had to the arbitration of the Minister or other Agent of the mediating Power accredited to the Government of the United States. A statement of the evidence produced, and of the proceedings of the board thereupon, shall be communicated to the said Minister or Agent, and his decision, founded upon such evidence and proceedings, shall be final and conclusive. And the said average value, when fixed and determined by either of the three before-mentioned methods, shall, in all cases, serve as a rule for the compensation to be awarded for each and every slave, for whom it may afterwards be found that indemnification is due.

Average value.

In case of disagreement.

## ARTICLE III.

When the average value of slaves shall have been ascertained and fixed, the two Commissioners shall constitute a board for the examination of the claims which are to be submitted to them, and they shall notify to the Secretary of State of the United States that they are ready to receive a definite list of the slaves and other private property for which the citizens of the United States claim indemnification; it being understood and hereby agreed that the commission shall not take cognizance of, nor receive, and that his Britannic Majesty shall not be required to make, compensation for any claims for private property under the first article of the treaty of Ghent not

Commissioners to constitute a board for the examination of claims.

contained in the said list. And his Britannic Majesty hereby engages to cause to be produced before the commission, as material towards ascertaining facts, all the evidence of which his Majesty's Government may be in possession, by returns from His Majesty's officers or otherwise, of the number of slaves carried away. But the evidence so produced, or its defectiveness, shall not go in bar of any claim or claims which shall be otherwise satisfactorily authenticated.

Evidence of the number of slaves carried away to be produced by Great Britain.

#### ARTICLE IV.

The two Commissioners are hereby empowered and required to go into an examination of all the claims submitted, thro' the above-mentioned list, by the owners of slaves or other property, or by their lawful attorneys or representatives, and to determine the same, respectively, according to the merits of the several cases, under the rule of the Imperial decision hereinabove recited, and having reference, if need there be, to the explanatory documents hereunto annexed, marked A and B. And, in considering such claims, the Commissioners are empowered and required to examine, on oath or affirmation, all such persons as shall come before them touching the real number of the slaves, or value of other property, for which indemnification is claimed; and, also, to receive in evidence, according as they may think consistent with equity and justice, written depositions or papers, such depositions or papers being duly authenticated, either according to existing legal forms, or in such other manner as the said Commissioners shall see cause to require or allow.

Examinations and evidence.

#### ARTICLE V.

In the event of the two Commissioners not agreeing in any particular case under examination, or of their disagreement upon any question which may result from the stipulations of this convention, then and in that case they shall draw by lot the name of one of the two Arbitrators, who, after having given due consideration to the matter contested, shall consult with the Commissioners; and a final decision shall be given, conformably to the opinion of the majority of the two Commissioners and of the Arbitrator so drawn by lot. And the Arbitrator, when so acting with the two Commissioners, shall be bound in all respects by the rules of proceeding enjoined by the IVth article of this convention upon the Commissioners, and shall be vested with the same powers, and be deemed, for that case, a Commissioner.

If the Commissioners shall not agree.

#### ARTICLE VI.

The decision of the two Commissioners, or of the majority of the board, as constituted by the preceding article, shall in all cases be final and conclusive, whether as to number, the value, or the ownership of the slaves, or other property, for which indemnification is to be made. And His Britannic Majesty engages to cause the sum awarded to each and every owner in lieu of his slave or slaves, or other property, to be paid in specie, without deduction, at such time or times and at such place or places as shall be awarded by the said Commissioners, and on condition of such releases or assignments to be given as they shall direct: Provided, that no such payment shall be fixed to take place sooner than twelve months from the day of the exchange of the ratifications of this convention.

Decision to be final.

Payment.

## ARTICLE VII.

\* It is farther agreed that the Commissioners and Arbitrators shall be respectively paid in such manner as shall be settled between the Governments of the United States and Great Britain at the time of the exchange of the ratifications of this convention. And all other expenses attending the execution of the commission shall be defrayed jointly by the United States and His Britannic Majesty, the same being previously ascertained and allowed by the majority of the board.

## ARTICLE VIII.

A certified copy of this convention, when duly ratified by His Majesty the Emperor of all the Russias, by the President of the United States, by and with the advice and consent of their Senate, and by His Britannic Majesty, shall be delivered by each of the contracting parties, respectively, to the Minister or other Agent of the mediating Power accredited to the Government of the United States, as soon as may be after the ratifications shall have been exchanged; which last shall be effected at Washington in six months from the date hereof, or sooner if possible.

In faith whereof, the respective Plenipotentiaries have signed this convention, drawn up in two languages, and have hereunto affixed their seals.

Done in triplicate at St. Petersburg, this <sup>thirtieth</sup> ~~twelfth~~ day of <sup>June,</sup> ~~July,~~ one thousand eight hundred and twenty-two.

[SEAL.]  
[SEAL.]  
[SEAL.]  
[SEAL.]

NESSELRODE.  
CAPODISTRIAS.  
HENRY MIDDLETON.  
CHARLES BAGOT.

## A.

*Count Nesselrode to Mr. Middleton.*

[Translation.]

The undersigned, Secretary of State, directing the Imperial Administration of Foreign Affairs, has the honor to communicate to Mr. Middleton, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, the opinion which the Emperor, his master, has thought it his duty to express upon the object of the differences which have arisen between the United States and Great Britain, relative to the interpretation of the first article of the treaty of Ghent.

Mr. Middleton is requested to consider this opinion as the award required of the Emperor by the two Powers.

He will doubtless recollect that he, as well as the Plenipotentiary of His Britannic Majesty, in all his memorials, has principally insisted on the grammatical sense of the first article of the treaty of Ghent, and that, even in his note of the 4th (16th) November, 1821, he has formally declared that it was on the *signification of the words in the text of the article as it now is* that the decision of His Imperial Majesty should be founded.

The same declaration being made in the note of the British Plenipotentiary dated 8th (20th) October, 1821, the Emperor had only to conform to the wishes expressed by the two parties, by devoting all his attention to the examination of the grammatical question.

The above-mentioned opinion will show the manner in which His Imperial Majesty judges of this question; and in order that the Cabinet of Washington may also know the motives upon which the Emperor's judgment is founded, the undersigned has hereto subjoined an extract of some observations upon the literal sense of the first article of the treaty of Ghent.

In this respect the Emperor has confined himself to following the rules of the language employed in drawing up the act, by which the two Powers have required his arbitration, and defined the object of their difference.

His Imperial Majesty has thought it his duty, exclusively, to obey the authority of these rules, and his opinion could not but be the rigorous and necessary consequence thereof.

The undersigned eagerly embraces this occasion to renew to Mr. Middleton the assurances of his most distinguished consideration.

• NESSELRODE.

ST. PETERSBURG, 22d April, 1822.

### HIS IMPERIAL MAJESTY'S AWARD.

[Translation.]

Invited by the United States of America and by Great Britain to give an opinion, as Arbitrator, in the differences which have arisen between these two Powers, on the subject of the interpretation of the first article of the treaty which they concluded at Ghent, on the 24th December, 1814, the Emperor has taken cognizance of all the acts, memorials, and notes in which the respective Plenipotentiaries have set forth to his administration of foreign affairs the arguments upon which each of the litigant parties depends in support of the interpretation given by it to the said article.

After having maturely weighed the observations exhibited on both sides:

Considering that the American Plenipotentiary and the Plenipotentiary of Britain have desired that the discussion should be closed;

Considering that the former, in his note of the 4th (16th) November, 1821, and the latter, in his note of the 8th (20th) October, of the same year, have declared that it is *upon the construction of the text of the article as it stands*, that the Arbitrator's decision should be founded, and that both have appealed, only as subsidiary means, to the general principles of the law of nations and of maritime law;

The Emperor is of opinion "that the question can only be decided according to the literal and grammatical sense of the first article of the treaty of Ghent."

As to the literal and grammatical sense of the first article of the treaty of Ghent:

Considering that the period upon the signification of which doubts have arisen, is expressed as follows:

"All territory, places, and possessions whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction or carrying away any of the artillery or other public property *originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty*, or any slaves, or other private property; and all archives, records, deeds, and papers, either of a public nature, or belonging to private persons, which, in the course of the war, may have fallen into the hands of the officers of either party, shall be, as far as may be practicable, forthwith restored and delivered to the proper authorities and persons to whom they respectively belong."

Considering that, in this period, the words *originally captured, and which shall remain therein upon the exchange of the ratifications*, form an incidental phrase, which can have respect, *grammatically*, only to the substantives or subjects which precede;

That the first article of the treaty of Ghent thus prohibits the contracting parties from carrying away from the places of which it stipulates the restitution, only the public property *which might have been originally captured there, and which should remain therein upon the exchange of the ratifications*, but that it prohibits the carrying away from these same places any private property whatever;

That, on the other hand, these two prohibitions are solely applicable to the places of which the article stipulates the restitution;

The Emperor is of opinion:

"That the United States of America are entitled to a just indemnification, from Great Britain, for all private property carried away by the British forces; and as the question regards slaves more especially, for all such slaves as were carried away by the British forces, from the places and territories of which the restitution was stipulated by the treaty, in quitting the said places and territories;

"That the United States are entitled to consider, as having been so carried away, all such slaves as may have been transported from the above-mentioned territories on board of the British vessels within the waters of the said territories, and who, for this reason, have not been restored;

"But that, if there should be any American slaves who were carried away from territories of which the first article of the treaty of Ghent has not stipulated the restitution to the United States, the United States are not to claim an indemnification for the said slaves."