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GREAT BRITAIN : MAY 4, 1796

Explanatory Article to Article 3 of the Jay Treaty (Document 16), signed at Philadelphia May 4, 1796. Original in English.

Submitted to the Senate May 5, 1796. Resolution of advice and consent May 9, 1796. Ratified by the United States May 9, 1796. Ratified by Great Britain July, 1796. Ratifications exchanged at Philadelphia October 6, 1796. Proclaimed November 4, 1796.

Explanatory Article.

Whereas by the third Article of the treaty of amity, commerce and navigation concluded at London on the nineteenth day of November, one thousand seven hundred and ninety four, between his Britannic Majesty and the United States of America, it was agreed that it should at all times be free to his Majesty's subjects and to the Citizens of the United States, and also to the Indians dwelling on either side of the boundary-line assigned by the treaty of peace to the United States, freely to pass and repass by land or inland navigation, into the respective territories and Countries of the two contracting parties, on the continent of America (the country within the limits of the Hudson's bay company only excepted) and to navigate all the Lakes, rivers and waters thereof, and freely to carry on trade and commerce with each other, subject to the provisions and limitations contained in the said Article: And Whereas by the eighth Article of the treaty of peace and friendship¹ concluded at Greenville on the third day of August, one thousand seven hundred and ninety five, between the United States and the Nations or tribes of Indians called the Wyandots, Delawares, Shawanoes, Ottawas, Chippewas, Putawatimies, Miamis, Eel-River, Weeas, Kickapoos, Piankashaws, and Kaskaskias, it was stipulated that no person should be permitted to reside at any of the towns or hunting Camps of the said Indian tribes as a trader, who is not furnished with a licence for that purpose, under the authority of the United States: Which latter stipulation has excited doubts whether in its operation it may not interfere with the due execution of the said third

¹ For the text of this treaty, see Kappler, Indian Affairs; Laws and Treaties, II, 39-45; or 7 Statutes at Large, 49-54.

Article of the treaty of amity, commerce and navigation: And it being the sincere desire of his Britannic Majesty and of the United States that this point should be so explained as to remove all doubts, and promote mutual satisfaction and friendship: And for this purpose his Britannic Majesty having named for his Commissioner, Phineas Bond Esquire his Majesty's Consul-General for the middle and southern States of America (and now his Majesty's chargé d'affaires to the United States) and the President of the United States having named for their Commissioner Timothy Pickering Esquire, Secretary of State of the United States, to whom, agreeably to the laws of the United States he has intrusted this negotiation; They the said Commissioners, having communicated to each other their full powers, have in virtue of the same, and conformably to the spirit of the last Article of the said treaty of Amity, Commerce, and Navigation, entered into this explanatory Article, and do by these presents explicitly Agree and declare, That no stipulations in any treaty subsequently concluded by either of the contracting parties with any other State or Nation, or with any Indian tribe, can be understood to derogate in any manner from the rights of free intercourse and commerce secured by the aforesaid third Article of the treaty of Amity, commerce and navigation, to the subjects of his Majesty and to the Citizens of the United States and to the Indians dwelling on either side of the boundary-line aforesaid; but that all the said persons shall remain at full liberty freely to pass and repass by land or inland navigation, into the respective territories and countries of the contracting parties, on either side of the said boundary-line, and freely to carry on trade and commerce with each other, according to the stipulations of the said third Article of the treaty of Amity, Commerce and Navigation.

This explanatory Article, when the same shall have been ratified by his Majesty, and by the President of the United States by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be added to and make a part of the said treaty of amity, commerce and navigation, and shall be permanently binding upon his Majesty and the United States.

In Witness whereof We the said Commissioners of his Majesty the King of Great Britain and the United States of America, have signed this present explanatory Article, and thereto affixed our seals.

Done at Philadelphia, this fourth day of May—, in the Year of our Lord, one thousand seven hundred and ninety six.

P. BOND [Seal]

TIMOTHY PICKERING [Seal]

NOTES

The British instrument of ratification does not give the exact date of its execution; the month and year are given, but the place for the day of the month is blank.

A facsimile of the United States instrument of ratification in the British archives is now in the Department of State file. It includes a signed original of the treaty; so the agreement was signed at least in triplicate, for there is an original in the Department of State file, from which the text here printed is taken.

With the facsimile of the ratification is a facsimile of a certificate, signed by Pickering on October 6, 1796, and under the seal of the Department of State, acknowledging the delivery of the British instrument of ratification on that date. A copy of this paper is in D. S., 9 Domestic Letters, 322; and at page 345 is a copy of a similar certificate, executed on the same day by Bond (the original of which has not been found), from which it appears that the United States instrument of ratification was delivered to him on May 9, 1796, the date of its execution; and it seems that a duplicate was delivered on May 10 (*ibid.*, 111); but the exchange of ratifications was completed on October 6, 1796.

The original proclamation has not been found; the text of the treaty itself was published at the time; it is in *The Laws of the United States*, Folwell ed., II, 496-98 (printed in 1796); that edition was official in the strict sense, as it was issued pursuant to the act of March 3, 1795 (1 *Statutes at Large*, 443); but no print of the proclamation, as such, has been noticed except that printed in English, with a French translation, in Martens, *Recueil des principaux traités*, 1st ed., VI, 600-5, and 2d ed., V, 696-703. The proclamation appears to have been in the usual form, with the signature of President Washington, the attest of Pickering as Secretary of State, and the Great Seal.