

GREAT BRITAIN : MARCH 15, 1798

Explanatory Article to Article 5 of the Jay Treaty (Document 16), signed at London March 15, 1798. Original in English. Submitted to the Senate May 29, 1798. Resolution of advice and consent June 5, 1798. Ratified by the United States June 7, 1798. Ratified by Great Britain March 15, 1798. Ratifications exchanged at Philadelphia June 9, 1798. Not proclaimed; but the text of the article was published at the time.

Explanatory Article.

Whereas by the Twenty Eighth Article of the Treaty of Amity, Commerce and Navigation, between His Britannick Majesty, and the United States, signed at London on the Nineteenth day of November, One Thousand Seven Hundred and Ninety Four, it was agreed, that the contracting Parties would from Time to Time, readily treat of and concerning such further Articles, as might be proposed, that they would sincerely endeavour so to form such Articles, as that they might conduce to mutual Convenience, and tend to promote mutual Satisfaction and Friendship; and that such Articles, after having been duly ratified should be added to and make a Part of that Treaty: And whereas Difficulties have arisen with respect to the Execution of so much of the Fifth Article of the said Treaty as requires that the Commissioners appointed under the same should in their Description particularize the Latitude and Longitude of the source of the River which may be found to be the one truly intended in the Treaty of Peace between His Britannick Majesty and the United States under the name of the River S^t Croix, by reason whereof it is expedient that the said Commissioners should be released from the obligation of conforming to the Provisions of the said Article in this respect. The Undersigned being respectively named by His Britannick Majesty and the United States of America their Plenipotentiaries for the Purpose of treating of and concluding such Articles as may be proper to be added to the said Treaty in conformity to the above-mentioned Stipulation and having communicated to each other their respective full Powers have agreed

and concluded and do hereby declare in the name of His Britannick Majesty and of the United States of America—That the Commissioners appointed under the fifth Article of the above-mentioned Treaty shall not be obliged to particularize in their Description, the Latitude and Longitude of the source of the River which may be found to be the one truly intended in the aforesaid Treaty of Peace, under the name of the River S^t Croix, but they shall be at liberty to describe the said River in such other manner as they may judge expedient which Description shall be considered as a compleat Execution of the Duty required of the said Commissioners in this respect by the article aforesaid. And to the end that no uncertainty may hereafter exist on this subject, it is further Agreed, That as soon as may be after the decision of the said Commissioners, measures shall be concerted between the Government of the United States and His Britannick Majesty's Governors or Lieutenant Governors in America, in order to erect and keep in repair a suitable monument at the place ascertain'd and described to be the source of the said River S^t Croix, which measures shall immediately thereupon, and as often afterwards as may be requisite, be duly executed on both sides with punctuality and good Faith.

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 Treaty of Amity, Commerce and Navigation between His Majesty and the United States, signed at London on the nineteenth day of November One Thousand Seven Hundred and Ninety Four and shall be permanently binding upon His Majesty and the United States

In witness whereof We the said undersigned Plenipotentiaries of His Britannick Majesty and the United States of America have signed this present Article and have caused to be affixed thereto the Seal of Our Arms. Done at London this Fifteenth Day of March, One Thousand Seven Hundred and Ninety Eight.

GRENVILLE [Seal]

RUFUS KING [Seal]

NOTES

The original article and the British instrument of ratification form together one document, wholly executed on March 15, 1798; that is, the document begins with the usual recitals of an instrument of ratification, then contains the treaty with the signatures and seals of

Grenville and of Rufus King, and terminates with the customary words of ratification, with the signature of George III, and with the Great Seal. The ratification by Great Britain was thus concurrent with the signature of the agreement. The procedure was suggested in the instructions to Rufus King of January 2, 1798 (D. S., 4 Instructions, U. S. Ministers, 216). While such form and practice are not usual, they made possible a prompt exchange of the ratifications; King wrote on the date of signature (D. S., 7 Despatches, Great Britain, No. 68):

We executed four copies; two of them with their original ratifications will be sent by Lord Grenville to Mr. Liston with an Instruction to exchange them with you, when the President shall have ratified the same on our part.

The text here printed is from the document above mentioned.

The Department of State file now contains also a facsimile of the original signed treaty which is in the British archives, and a facsimile of the United States instrument of ratification, which likewise embodies as part thereof a signed original of the treaty.

A certificate of the exchange of ratifications on June 9, 1798, was signed by Pickering on June 11 under the seal of the Department of State. A facsimile thereof, from the British archives, is now in the Department of State file.

The testimonium clause of the treaty is omitted in 8 Statutes at Large, 132; but it appears in 18 Statutes at Large, pt. 2, Public Treaties, 284.

No record of a proclamation of this treaty has been found; but it was published at the time (*e. g.*, Claypoole's American Daily Advertiser, August 3, 1798; the newspaper print purports to be "by authority"). The text was printed in *The Laws of the United States*, Folwell ed., IV, 239-40. That volume is dated 1799; but its second part, with the acts of the second session of the Fifth Congress and including the text of this treaty, certainly appeared in pamphlet form in 1798.