

GREAT BRITAIN : AUGUST 6, 1827

Convention Continuing in Force Article 3 of the Convention of October 20, 1818 (Document 40), signed at London August 6, 1827. Original in English.

Submitted to the Senate December 12, 1827. (Message of December 11, 1827.) Resolution of advice and consent February 5, 1828. Ratified by the United States February 21, 1828. Ratified by Great Britain March 29, 1828. Ratifications exchanged at London April 2, 1828. Proclaimed May 15, 1828.

The United States of America, and His Majesty The King of the United Kingdom of Great Britain and Ireland, being equally desirous to prevent, as far as possible, all hazard of misunderstanding between the Two Nations, with respect to the Territory on the North West Coast of America, West of the Stoney or Rocky Mountains, after the expiration of the Third Article of the Convention¹ concluded between Them on the Twentieth of October 1818; and also with a view to give further time for maturing measures which shall have for their object a more definite settlement of the Claims of each Party to the said Territory, have respectively named Their Plenipotentiaries to treat and agree concerning a temporary renewal of the said Article, that is to say:—

The President of the United States of America, Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary to His Britannick Majesty:—

And His Majesty The King of the United Kingdom of Great Britain and Ireland, The Right Honourable Charles Grant, a Member of His said Majesty's Most Honourable Privy Council, a Member of Parliament, and Vice-President of the Committee of Privy Council for Affairs of Trade and Foreign Plantations;—And Henry Unwin Addington, Esquire:—

Who, after having communicated to each other their respective Full Powers, found to be in due and proper form, have agreed upon and concluded the following Articles:—

¹ Document 40.

ARTICLE I.

All the Provisions of the Third Article of the Convention concluded between the United States of America, and His Majesty The King of the United Kingdom of Great Britain and Ireland, on the Twentieth of October 1818, shall be, and they are hereby, further indefinitely extended and continued in force, in the same manner as if all the Provisions of the said Article were herein specifically recited.

ARTICLE II.

It shall be competent, however, to either of the Contracting Parties, in case either should think fit, at any time after the Twentieth of October 1828, on giving due notice of Twelve Months to the other Contracting Party, to annul and abrogate this Convention: and it shall, in such case, be accordingly entirely annulled and abrogated, after the expiration of the said term of notice.

ARTICLE III.

Nothing contained in this Convention, or in the Third Article of the Convention of the Twentieth of October 1818, hereby continued in force, shall be construed to impair, or in any manner affect, the Claims which either of the Contracting Parties may have to any part of the Country Westward of the Stoney or Rocky Mountains.

ARTICLE IV.

The present Convention shall be ratified, and the Ratifications shall be exchanged in Nine Months, or sooner if possible.

In Witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the Seals of their Arms.

Done at London, the Sixth day of August, in the Year of Our Lord One Thousand Eight Hundred and Twenty Seven.

[Seal] ALBERT GALLATIN

[Seal] CHA. GRANT

[Seal] HENRY UNWIN ADDINGTON.

NOTES

This convention and that which follows as Document 57 (continuing in force the convention of July 3, 1815, Document 35), were signed at London on the same day, August 6, 1827; but the two conventions were independent; one might have gone into force without the other; and either by its terms might be denounced without affecting the other.

Following the signature of the convention of November 13, 1826 (Document 53), the negotiations which proceeded between the United States and Great Britain and which, on the part of the United States, were conducted by Albert Gallatin, then Minister at London, resulted in three agreements between the two Governments, the two conventions of August 6, 1827, above mentioned, and the convention of September 29, 1827 (Document 58), for the submission to arbitration of the northeastern boundary question.

The British Plenipotentiaries who signed the three conventions were Charles Grant and Henry Unwin Addington. The former was appointed to the "Commission to negotiate with the United States" on or about July 6, 1827, in consequence of the retirement therefrom of William Huskisson, who with Addington had theretofore conducted the negotiations on the part of the British Government, under the direction of George Canning, British Secretary of State for Foreign Affairs (during part of the negotiations, Prime Minister), until his death on August 8, 1827. Two of the three conventions had been signed two days earlier. From about April 10, 1827, when Canning formed his administration, the Secretary of State for Foreign Affairs was Viscount Dudley, who became the Earl of Dudley September 24, 1827.

Nothing appears in the despatches or elsewhere regarding the full powers of the British Plenipotentiaries except the following statements, extracted from the protocols of the first and twelfth conferences, respectively, of the American and British Plenipotentiaries, held on November 15, 1826, and July 21, 1827 (D. S., 33 Despatches, Great Britain, No. 29, enclosure with Gallatin's despatch of November 25, 1826; 34 *ibid.*, No. 100, enclosure with Gallatin's despatch of July 29, 1827):

After the communication of the respective full powers, it was agreed that the negotiations should be conducted. . . .

In consequence of the retirement from the Commission of one of the former British Plenipotentiaries, and the appointment of a successor in his place, The Plenipotentiaries again examined and exchanged their full Powers.

The full power of Gallatin was dated May 10, 1826, the same day as his full power in respect of the convention of November 13, 1826 (Document 53). It is in the usual form, but the subject-matter of the negotiations was described in language sufficiently broad to include not only the provisions of the three conventions of 1827, but more (D. S., 2 Credences, 41):

To negotiate of and concerning the Commercial intercourse between the United States, and the British Dominions in general or with any part of them, and of all matters and subjects connected therewith, or with the general commerce of the two Nations; or in relation to the boundaries between the United States, and the British Possessions in North America; of and concerning the principles of Maritime Law and Neutrality, which may be interesting to the two Nations; and of and concerning the Navigation of the River St Lawrence; and to conclude and sign a Treaty or Treaties, Convention or Conventions upon all or any of the premises.

The three agreements with Great Britain were together submitted to the Senate with the presidential message of December 11, 1827. That message and the accompanying papers relating to the negotiations are printed in American State Papers, Foreign Relations, VI, 639-706.

THE EXCHANGE OF RATIFICATIONS

The exchange of ratifications of the three agreements took place concurrently in London on April 2, 1828, and they were all proclaimed on the following May 15; but the dates of the three ratifications on the part of the United States differ, and the dates of ratification on the part of Great Britain are not all the same. In the Senate the three conventions were separately considered, and the resolutions of advice and consent to their respective ratifications were adopted at various times.

Nothing was provided in any one of the three conventions regarding the place of the exchange of ratifications. The term allowed in each case was nine months from the date of signature. On February 7, 1828, Secretary of State Clay informed Charles R. Vaughan, the British Minister at Washington (D. S., 3 Notes to Foreign Legations, 429), that the Senate had given its advice and consent to the three conventions and that they would "be forthwith ratified by the President" (one of them, Document 57, had already been ratified on January 12); and he inquired whether Vaughan was empowered "to make the exchange" at Washington. Vaughan replied that he had no instructions regarding the exchange of ratifications "and that he was uninformed of the views of his Government upon that subject" (D. S., 12 Instructions, U. S. Ministers, 61-62, instructions to William B. Lawrence, Chargé d'Affaires at London, February 20, 1828).

The United States instruments of ratification of the three conventions, with instructions under date of February 20, 1828 (*ibid.*), were transmitted to Lawrence by a special "Bearer of despatches," Nathaniel B. Blunt, who delivered them to Lawrence on March 24 (D. S., 35 Despatches, Great Britain, No. 30, March 29, 1828). On the date of receipt of the instruments of ratification Lawrence addressed the British Secretary of State for Foreign Affairs, the Earl of Dudley, as follows (*ibid.*, No. 32, April 5, 1828, enclosure 1):

Though no one of these Conventions designates the place, where the Ratifications are to be exchanged, and though some delay might have been avoided, had Washington been selected for this purpose, yet, as it was understood, on enquiry, that the Minister of His Majesty in America had no instructions on the subject, the President has acquiesced in the presumed wish and expectation of the British Government, that the formal act necessary to give validity to the Treaties should be performed in England. The several Ratifications by the President of the United States of the three Conventions above referred to have been accordingly entrusted to the Undersigned, and he is authorized to exchange the same for those of the King, with any person duly empowered on behalf of the British Government.

That same despatch of April 5, 1828, reported that the exchange of ratifications of the three conventions had taken place three days earlier:

On the evening of the 1st, a note was sent to me by Mr. Grant and Mr. Addington, the late Plenipotentiaries for negotiating with America, inviting me to a meeting on the ensuing day, at the Foreign Office, for the purpose of exchanging the Ratifications. Accordingly, this business was transacted, at the appointed time, with Mess^{rs} Grant and Addington instead of the Secretary of State, as proposed in Lord Dudley's note. The several Ratifications of the British Government will be confided to Mr. Blunt, who leaves London to-morrow to embark in the Packet of the 8th instant from Liverpool. The certificates of exchange are enclosed in the Treaties to which they respectively refer, and duplicates will be sent by the ordinary conveyance next week.

Under date of May 17, 1828, Secretary of State Clay informed Lawrence of the arrival of Blunt with the British instruments of ratification (D. S., 12 Instructions, U. S. Ministers, 102), which were received in the Department of State on May 14, one day before the date of proclamation.

THE FILE PAPERS

At least one original of each of the two conventions signed on August 6, 1827, was transmitted with the despatches of Albert Gallatin, Minister at London, of August 6 and 7 (D. S., 34 Despatches, Great Britain, Nos. 102 and 103). Those despatches, with the enclosed conventions, were received in the Department of State on September 16, 1827.

It seems that this convention was executed at least in triplicate, for there are two signed originals in the treaty file. That original with which the text here printed has been collated has one immaterial comma in the preamble which the other lacks; and the other, which is in a different handwriting, is endorsed "Duplicate" in the upper left-hand corner of the first page; but, except for a few differences in capitalization, no other variances between the two documents have been noticed.

The file lacks the attested resolution of the Senate of February 5, 1828 (Executive Journal, III, 597). The other documents are in customary form; they include a facsimile of the United States instrument of ratification of February 21, recently obtained from the British archives; the British instrument of ratification of March 29; the certificate of the exchange of ratifications at London on April 2, in duplicate; and the proclamation of May 15, 1828, which was communicated to Congress with the presidential message of May 19 (American State Papers, Foreign Relations, VI, 999-1000).

THE NORTHWEST TERRITORY

Article 3 of the convention of October 20, 1818, with Great Britain (Document 40) reads as follows:

It is agreed, that any Country that may be claimed by either Party on the North West Coast of America, Westward of the Stony Mountains, shall, together with it's Harbours, Bays, and Creeks, and the Navigation of all Rivers within the same, be free and open, for the term of ten Years from the date of the Signature of the present Convention, to the Vessels, Citizens, and Subjects of the Two

Powers: it being well understood, that this Agreement is not to be construed to the Prejudice of any Claim, which either of the Two High Contracting Parties may have to any part of the said Country, nor shall it be taken to affect the Claims of any other Power or State to any part of the said Country; the only Object of The High Contracting Parties, in that respect, being to prevent disputes and differences amongst Themselves:

Accordingly, the term of ten years mentioned in that article (indefinitely extended by this convention of August 6, 1827) was to expire on October 20, 1828; and with the provisions of that article should be read the provisions of Article 2 of the same convention, the effect of which was to provide that a line drawn due south from the northwesternmost point of the Lake of the Woods to the forty-ninth parallel of north latitude and thence due west along the said parallel, should form the boundary between the territories of the United States and those of His Britannic Majesty "from the Lake of the Woods to the Stony [Rocky] Mountains" (see the note regarding Article 2 of Document 40). While the point was perhaps never definitely decided, it was later assumed that "to the Rocky Mountains" meant to the summit of the Rocky Mountains; and the boundary with Canada westward from the point of termination under Article 2 of the convention of October 20, 1818, was, by Article 1 of the treaty of June 15, 1846, with Great Britain, fixed as continuing "westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island; and thence southerly through the middle of the said channel and of Fuca's Straits to the Pacific Ocean."