

TREATY SERIES. 1912.

No. 11.

AGREEMENT

BETWEEN

THE UNITED KINGDOM AND  
THE UNITED STATES OF AMERICA

FOR THE

SETTLEMENT OF CERTAIN  
PECUNIARY CLAIMS OUTSTANDING  
BETWEEN  
THE TWO COUNTRIES.

Signed at Washington, August 18, 1910.

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*Presented to both Houses of Parliament by Command of His Majesty.  
May 1912.*

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AGREEMENT BETWEEN THE UNITED KINGDOM  
AND THE UNITED STATES OF AMERICA FOR  
THE SETTLEMENT OF CERTAIN PECUNIARY  
CLAIMS OUTSTANDING BETWEEN THE TWO  
COUNTRIES.

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*Signed at Washington, August 18, 1910.*

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WHEREAS Great Britain and the United States are signatories of the Convention of the 18th October, 1907, for the Pacific Settlement of International Disputes, and are desirous that certain pecuniary claims outstanding between them should be referred to arbitration, as recommended by Article 38 of that Convention :

Now, therefore, it is agreed that such claims as are contained in the Schedules drawn up as hereinafter provided shall be referred to arbitration under Chapter IV of the said Convention, and subject to the following provisions :—

ARTICLE 1.

Either party may, at any time within four months from the date of the confirmation of this Agreement, present to the other party any claims which it desires to submit to arbitration. The claims so presented shall, if agreed upon by both parties, unless reserved as hereinafter provided, be submitted to arbitration in accordance with the provisions of this Agreement. They shall be grouped in one or more Schedules, which, on the part of the United States, shall be agreed on by and with the advice and consent of the Senate, His Majesty's Government reserving the right before agreeing to the inclusion of any claim affecting the interests of a self-governing Dominion of the British Empire to obtain the concurrence thereto of the Government of that Dominion.

Either party shall have the right to reserve for further examination any claims so presented for inclusion in the Schedules; and any claims so reserved shall not be prejudiced or barred by reason of anything contained in this Agreement.

ARTICLE 2.

All claims outstanding between the two Governments at the date of the signature of this Agreement and originating in circumstances or transactions anterior to that date, whether submitted to arbitration or not, shall thereafter be considered as finally barred, unless reserved by either party for further examination, as provided in Article 1.

## ARTICLE 3.

The arbitral tribunal shall be constituted in accordance with Article 87 (Chapter IV) and with Article 59 (Chapter III) of the said Convention, which are as follows:—

“Article 87. Each of the parties in dispute appoints an arbitrator. The two arbitrators thus selected choose an umpire. If they do not agree on this point, each of them proposes two candidates taken from the general list of the members of the Permanent Court, exclusive of the members appointed by either of the parties and not being nationals of either of them; which of the candidates thus proposed shall be the umpire is determined by lot.

“The umpire presides over the tribunal, which gives its decision by a majority of votes.”

“Article 59. Should one of the arbitrators either die, retire, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.”

## ARTICLE 4.

The proceedings shall be regulated by so much of Chapter IV of the Convention and of Chapter III, excepting Articles 53 and 54, as the tribunal may consider to be applicable and to be consistent with the provisions of this Agreement.

## ARTICLE 5.

The tribunal is entitled, as provided in Article 74 (Chapter III) of the Convention, to issue rules of procedure for the conduct of business, to decide the forms, order, and time in which each party must conclude its arguments, and to arrange all formalities required for dealing with the evidence.

The agents and counsel of the parties are authorised, as provided in Article 70 (Chapter III), to present orally and in writing to the tribunal all the arguments they may consider expedient in support or in defence of each claim.

The tribunal shall keep record of the claims submitted and the proceedings thereon, with the dates of such proceedings. Each Government may appoint a secretary. These secretaries shall act together as joint secretaries of the tribunal and shall be subject to its direction. The tribunal may appoint and employ any other necessary officer or officers to assist it in the performance of its duties.

The tribunal shall decide all claims submitted upon such evidence or information as may be furnished by either Government.

The tribunal is authorised to administer oaths to witnesses and to take evidence on oath.

The proceedings shall be in English.

## ARTICLE 6.

The tribunal shall meet at Washington at a date to be hereafter fixed by the two Governments, and may fix the time and place of subsequent meetings as may be convenient, subject always to special direction of the two Governments.

## ARTICLE 7.

Each member of the tribunal, upon assuming the function of his office, shall make and subscribe a solemn declaration in writing that he will carefully examine and impartially decide, in accordance with treaty rights and with the principles of international law and of equity, all claims presented for decision, and such declaration shall be entered upon the record of the proceedings of the tribunal.

## ARTICLE 8.

All sums of money which may be awarded by the tribunal on account of any claim shall be paid by the one Government to the other, as the case may be, within eighteen months after the date of the final award, without interest and without deduction, save as specified in the next Article.

## ARTICLE 9.

Each Government shall bear its own expenses. The expenses of the tribunal shall be defrayed by a rateable deduction on the amount of the sums awarded by it, at a rate of 5 per cent. on such sums, or at such lower rate as may be agreed upon between the two Governments; the deficiency, if any, shall be defrayed in equal moities by the two Governments.

## ARTICLE 10.

The present Agreement, and also any Schedules agreed thereunder, shall be binding only when confirmed by the two Governments by an exchange of notes.

In witness whereof this Agreement has been signed and sealed by His Britannic Majesty's Ambassador at Washington, the Right Honourable James Bryce, O.M., on behalf of Great Britain, and by the Secretary of State of the United States, Philander C. Knox, on behalf of the United States.

Done in duplicate at the city of Washington, this 18th day of August, 1910.

(L.S.) JAMES BRYCE.  
(L.S.) PHILANDER C. KNOX.

## First Schedule of Claims.

FIRST Schedule of Claims to be submitted to arbitration in accordance with the provisions of the Special Agreement for the submission to arbitration of Pecuniary Claims outstanding between Great Britain and the United States, signed on the 18th day of August, 1910, and the terms of such submission.

CLASS I.—Claims based on alleged denial in whole or in part of real property rights.

## BRITISH.

Cayuga Indians, Rio Grande.

## AMERICAN.

Webster, Studer, R. E. Brown, Samuel Clark.

*Fijian Land Claims.*

Burt, Henry, Brower, Williams.

CLASS II.—Claims based on the acts of the authorities of either Government in regard to the vessels of the nationals of the other Government, or for the alleged wrongful collection or receipt of customs duties or other charges by the authorities of either Government.

## BRITISH.

*Shipping Claims.*

Coquitlan, Favourite, Wanderer, Kate, Lord Nelson, Canadienne, Eastry, Lindisfarne, Newehwang, Sidra, Maroa, Thomas F. Bayard, Jessie, Peschawa.

*Canadian Claims for Refund of Hay Duties.*

Peter Anderson, Charles Arpin, Nathaniel Bachelder, Magloire G. Blain, Toussaint Bourassa, continuing partner of Bourassa and Forrester; Pierre Bourgeois, William Burland and Co., Charles S. Rowe, surviving partner; Frederick Catudal; L. N. Charlebois, heir and assignee of Denis

## AMERICAN.

*Fishing Claims.*

## GROUP I.

Against Newfoundland—

Cunningham and Thompson (18 vessels)—Masconomo, Arbutus, Anglo-Saxon, Quickstep, Nourmahal, Puritan, Talisman, Norma, Norumbega, Aloha, Ingomar, Jennie B. Hodgdon, Arkona, Arethusa, Independence II, S. P. Willard, Corona, Saladin.

Davis Brothers (10 vessels)—Oregon, Margaret, Theo. Roosevelt, L. M. Stanwood, Georgie Campbell, Blanche, Veda McKown, E. A. Perkins, Kearsarge, Lena and Maud.

Wm. H. Parsons (12 vessels)—

N. Charlebois; Joseph Couture; Wilfrid Dorais, heir of Louis T. Dorais; John and Francis Ewing, John Ewing, surviving partner; Joseph Jean Baptiste Gosselin, heirs of Joseph A. Lamoureux, deceased.

Corsair, Grace L. Fears, Argo, Lizzie Griffin, Independence, Independence II, Dreadnought, Robin Hood, Helen G. Wells, Colonial, Alice M. Parsons, Mildred V. Lee.

Gorton-Pew Company (37 vessels)—A. M. Parker, Priscilla Smith, Senator Gardner, Corsair, Vigilant, Harry A. Nickerson, Gossip, Flirt, Ella G. King, Helen G. Wells, Ramona, Massachusetts, Ellen C. Burke, J. J. Flaherty, Geo. R. Alston, Maxine Elliott, Vera, Orinoco, Miranda, Madonna, Atlanta, Gov. Russell, Mystery, Jas. A. Garfield, L. I. Lowell, Dora A. Lawson, Tattler, Alice R. Lawson, Olga, J. R. Bradley, Fannie Smith, Rob Roy, Smuggler, Essex, Athlete, Valkyria, Sceptre.

W. H. Jordan (6 vessels)—Lewis H. Giles, O. W. Holmes, The Gatherer, Hattie E. Worcester, Golden Rod, Joseph Rowe.

Orlando Merchant (16 vessels)—Avalon, Constellation, O. W. Holmes, Golden Rod, Grayling, Joseph Rowe, Harvard, Mary E. Harty, Harriet W. Babson, Richard Wainwright, Henry M. Stanley, Lewis H. Giles, Lottie G. Merchant, Oriole, Clintonia, Esperanto.

Jerome McDonald (3 vessels)—Preceptor, Gladiator, Monitor.

John Pew and Sons (5 vessels)—A. E. Whyland, Essex, Columbia, Orinoco, Sceptre.

D. B. Smith and Co. (12 vessels)—Smuggler, Lucinda I. Lowell, Helen F. Whittier, Dora A. Lawson, Carrie W. Babson, Golden Hope, Fernwood, Sen. Gardner, Maxine Elliott, J. J. Flaherty, Tattler, Stranger.

Sylvanus Smith and Co. (7 vessels)—Lucile, Bohemia, Claudia, Arcadia, Parthia, Arabia, Sylvia.

John Chisolm (5 vessels)—Admiral Dewey, Harry G. French, Monarch, Judique, Conqueror.

Carl C. Young (3 vessels)—  
Dauntless, A. E. Whyland, Wil-  
liam E. Morrissey.

Hugh Pankhurst and Co. (6  
vessels)—Rival, Arthur D. Story,  
Patrician, Geo. Parker, Sen. Sauls-  
bury, Diana.

A. D. Mallock (3 vessels)—  
Indiana, Alert, Edna Wallace  
Hopper.

Thomas M. Nickolson (13 ves-  
sels)—Ada S. Babson, Elizabeth  
N., Hiram Lowell, M. B. Stetson,  
A. V. S. Woodruff, T. M. Nickol-  
son, Landseer, Edgar S. Foster,  
A. M. Nickolson, Wm. Matheson,  
Robin Hood, Annie G. Quinner,  
N. E. Symonds.

M. J. Palson (3 vessels)—Barge  
Tillid, schooner J. K. Manning,  
tug Clarita.

M. J. Dillon (1 vessel)—Edith  
Emery.

Russell D. Terry (1 vessel)—  
Centennial.

Lemuel E. Spinney (3 vessels)—  
American, Arbitrator, Dictator.

Wm. H. Thomas (2 vessels)—  
Elmer E. Gray, Thos. L. Gorton.

Frank H. Hall (3 vessels)—  
Ralph H. Hall, Sarah E. Lee,  
Faustina.

M. Walen and Son (7 vessels)—  
Kentucky, Effie W. Prior, Orpheus,  
Hattie A. Heckman, Ella M.  
Goodsin, Bessie N. Devine, Arthur  
James.

Atlantic Maritime Company (7  
vessels)—James W. Parker, Ray-  
nah, Susan and Mary, Elsie, Fannie  
E. Prescott, F. E. Gray, Mildred  
Robinson.

Waldo I. Wonson (5 vessels)—  
American, Mystery, Procyon,  
Effie M. Morrissey, Marguerite.

Edward Trevoy (1 vessel)—  
Edward Trevoy.

Henry Atwood (1 vessel)—  
Fannie B. Atwood.

Fred Thompson (1 vessel)—  
Elsie M. Smith.

## GROUP II.

## Against Newfoundland—

Bessie M. Wells, Elector, Sarah B. Putnam, A. E. Whyland, N. B. Parker, Thomas F. Bayard, Arethusa, Harry A. Nickerson, Arkona, Edna Wallace Hopper, Athlete.

*Fishing Claims.*

## Against Canada—

Frederick Gerring, North, D. J. Adams, R. T. Roy, Tattler, Hurricane, Argonaut, Jonas H. French.

CLASS III.—Claims based on damages to the property of either Government or its nationals, or on personal wrongs of such nationals, alleged to be due to the operations of the military or naval forces of the other Government or to the acts or negligence of the civil authorities of the other Government.

## BRITISH.

*Four Cable Companies Claims.*

Cuban Submarine Telegraph Company, Eastern Extension Cable Company, Canadian Electric Light Company, Great North-Western Telegraph Company.

*"Philippine War" Claims.*

Ackert, Balfour, Broxup, Cundal, Dodson, Fleming, Forbes, Fox, Fyfe, Grace, Grindrod, Hawkins, F., Hawkins, J., Hendery, Hill, Hogge, Holliday, Hong Kong Bank, Iloilo Club, Eastern Extension Telegraph Company, Higgins, W., Higgins, N. L., Hoskyn and Co., Kauffman, Ker Bolton and Co., Lauanders, McLeod, McMeeking, Moore, Philippine Mineral Syndicate, Pohang, Pohoomul, Smith, Stevenson, Strachan, Thomson, Underwood, Warner, Zafiro, C.M. Chiene, N. L. Chiene, Parsons and Walker.

## AMERICAN.

Home Missionary Society, Daniel Johnson, Union Bridge Company, Madeiros.



*"Hawaiian" Claims.*

Ashford, Bailey, Harrison,  
Kenyon, Levy, McDowall, Raw-  
lins, Redward, Reynolds, Thomas.

Hardman, Wrathall, Caden-  
head.

CLASS IV.—Claims based on contracts between the authorities of  
either Government and the nationals of the other Government.

## BRITISH.

## AMERICAN.

King Robert, Yukon Lumber,  
Hemming.

*Terms of Submission.*

1. In case of any claim being put forward by one party which is alleged by the other party to be barred by Treaty, the arbitral tribunal shall first deal with and decide the question whether the claim is so barred, and in the event of a decision that the claim is so barred, the claim shall be disallowed.

2. The arbitral tribunal shall take into account as one of the equities of a claim to such extent as it shall consider just in allowing or disallowing a claim any admission of liability by the Government against whom a claim is put forward.

3. The arbitral tribunal shall take into account as one of the equities of a claim to such extent as it shall consider just in allowing or disallowing a claim, in whole or in part, any failure on the part of the claimants to obtain satisfaction through legal remedies which are open to him or placed at his disposal, but no claim shall be disallowed or rejected by application of the general principle of international law that the legal remedies must be exhausted as a condition precedent to the validity of the claim.

4. The arbitral tribunal, if it considers equitable, may include in its award in respect of any claim interest at a rate not exceeding 4 per cent. per annum for the whole or any part of the period between the date when the claim was first brought to the notice of the other party and that of the confirmation of the Schedule in which it is included.

The foregoing Schedule and terms of submission are agreed upon in pursuance of and subject to the provisions of the Special Agreement for the submission to arbitration of pecuniary claims outstanding between Great Britain and the United States, signed on the 18th day of August, 1910, and require confirmation by the two Governments in accordance with the provisions of that Agreement.

Signed in duplicate at the city of Washington, this 6th day of July, 1911, by His Britannic Majesty's Ambassador at Washington,

the Right Honourable James Bryce, O.M., on behalf of Great Britain,  
and by the Secretary of State of the United States, Philander C. Knox,  
on behalf of the United States.

JAMES BRYCE.  
PHILANDER C. KNOX.

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**Exchange of Notes.**

(1.)

*The Secretary of State of the United States to His Majesty's  
Ambassador.*

*Department of State, Washington,  
April 26, 1912.*

Excellency,

I HAVE the honour to inform you that the Senate, by its resolution of the 19th July, 1911, gave its advice and consent to the ratification of the Special Agreement between the United States and Great Britain, signed on the 18th August, 1910, for the submission to arbitration of outstanding pecuniary claims, and also to the ratification of the Schedule of Claims agreed to thereunder on the 6th July, 1911; and I am now prepared to proceed to the exchange of notes confirming this Special Agreement and Schedule of Claims, pursuant to the requirement of Article 10 of the Agreement, that it, and also any Schedules of Claims agreed upon thereunder, shall be binding only when confirmed by the two Governments by an exchange of notes.

As part of the confirmation of the aforesaid Special Agreement and Schedule of Claims, I have the honour to state further that, in order to facilitate the arbitral proceedings to be instituted pursuant thereto, the Government of the United States agrees with the Government of His Britannic Majesty that, whenever the agents of the respective parties shall, prior to or during the progress of the proceedings, enter into an agreement in writing upon a rule or mode of procedure, such agreement shall have the force of an order of the arbitral tribunal, and shall, together with any proceedings taken pursuant thereto, be entered at the next succeeding session of the arbitral tribunal upon its records as part of the proceedings before the tribunal.

I accordingly convey to you herewith the confirmation by the Government of the United States of the Special Agreement and Schedule, understanding that your Government is prepared to record its confirmation thereof similarly by a note in acknowledgment of this, the date of your note in acknowledgment being taken as the date of confirmation for the requirements of the provisions of Article 1 of the Special Agreement.

I have, &c.  
P. C. KNOX.

His Excellency the Right Honourable  
James Bryce, O.M.,  
Ambassador of Great Britain.

(2.)

*His Majesty's Ambassador to the Secretary of State of the United States.*

*British Embassy, Washington,*

*April 26, 1912.*

Sir,

I HAVE the honour to acknowledge the receipt of your note, dated to-day, in which you inform me that the United States Government confirms the Special Agreement and Schedule for the submission to arbitration of pecuniary claims outstanding between Great Britain and the United States, such confirmation being effected by exchange of notes, as provided by Article 10 of the Special Agreement, and being dated as of date of this my note in reply (*i.e.*, the 26th April), for the requirements of the provisions of Article 1.

I am authorised to inform the United States Government that His Majesty's Government are prepared on their part to confirm the Special Agreement and Schedule, and do hereby convey their confirmation thereof in acknowledgment of that contained in your note and pursuant to the provisions of Article 10.

His Majesty's Government further agrees with the United States Government that whenever the agents of the respective parties shall, prior to or during the progress of the proceedings, enter into an agreement in writing upon a rule or mode of procedure, such agreement shall have the force of an order of the arbitral tribunal, and shall, together with any proceedings taken pursuant thereto, be entered at the next succeeding session of the arbitral tribunal upon its records as part of the proceedings before the tribunal.

I have, &c.

JAMES BRYCE.

The Honourable P. C. Knox,  
Secretary of State,

&c.      &c.      &c.