

agree on the choice of a third; or if they cannot so agree, they shall each propose one person, and of the two names so proposed, one shall be drawn by lot in the presence of the two original commissioners. And the three commissioners so appointed, shall be sworn impartially to examine and decide the said question according to such evidence as shall respectively be laid before them on the part of the British government and of the United States. The said commissioners shall meet at Halifax, and shall have power to adjourn to such other place or places as they shall think fit. They shall have power to appoint a secretary, and to employ such surveyors or other persons as they shall judge necessary. The said commissioners shall by a declaration under their hands and seals decide what river is the river St. Croix intended by the treaty.—The said declaration shall contain a description of the said river, and shall particularize the latitude and longitude of its mouth and of its source. Duplicates of this declaration and of the statements of their accounts, and of the journal of their proceedings shall be delivered by them to the agent of his majesty and to the agent of the United States, who may be respectively appointed and authorized to manage the business on behalf of the respective governments. And both parties agree to consider such decision as final and conclusive, so as that the same shall never thereafter be called in question, or made the subject of dispute or difference between them.

Art. VI. Whereas it is alleged by divers British merchants and others his majesty's subjects, that debts to a considerable amount, which were *bona fide* contracted before the peace, still remain owing to them by citizens or inhabitants of the United States, and that by the operation of various lawful impediments since the peace, not only the full recovery of the said debts has been delayed, but also the value and security thereof have been, in several instances impaired and lessened, so that by the ordinary course of judicial proceedings, the British creditors cannot now obtain, and actually have and receive full and adequate compensation for the losses and damages which they have thereby sustained: it is agreed, in all such cases where full compensation for such losses and damages cannot for whatever reason be actually obtained, had and received by the said creditors in the ordinary course of justice, the United States will make full and complete compensation for the same to the said creditors: but it is distinctly understood, that this provision is to extend to such losses only as have been occasioned by the lawful impediments aforesaid, and is not to extend to losses occasioned by such insolvency of the debtors or other causes as would equally have operated to produce such loss, if the said impediments had not existed, nor to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission of the claimant.

For the purpose of ascertaining the amount of any such losses or damages, five commissioners shall be appointed, and authorized to meet and act in manner following, viz. Two of them shall be appointed by his majesty, two of them by the president of the United States by and with the advice and consent of the senate thereof, and the fifth by the unanimous voice of the other four; and if they should not agree in such choice, then the commissioners named by the two parties shall respectively propose one person, and, of the two names so proposed, one shall be drawn by lot in the presence of the four original commissioners.—When the five commissioners thus appointed shall first meet, they shall, before they proceed to act 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, viz. I, A. B. one of the commissioners appointed in pursuance of the 6th article of the treaty of amity, commerce and navigation, between his Britannic majesty and the United States of America, do solemnly swear, or affirm, that I will honestly, diligently, impartially, and carefully examine, and to the best of my judgment, according to justice and equity, decide all such complaints, as under the said article shall be preferred to the said commissioners: and that I

will forbear to act as a commissioner, in any case in which I may be personally interested.

Three of the said commissioners shall constitute a board, and shall have power to do any act appertaining to the said commission, provided that one of the commissioners named on each side, and the fifth commissioner shall be present, and all decisions shall be made by the majority of the voices of the commissioners then present: 18 months from the day on which the said commissioners shall form a board, and be ready to proceed to business, are assigned for receiving complaints and applications; but they are nevertheless authorized in any particular cases in which it shall appear to them to be reasonable and just, to extend the same term of 18 months for any term not exceeding six months, after the expiration thereof. The said commissioners shall first meet at Philadelphia, but they shall have power to adjourn from place to place as they shall see cause.

The said commissioners in examining the complaints and applications so preferred to them, are empowered and required, in pursuance of the true intent and meaning of this article, to take into their consideration all claims, whether of principal or interest, or balances of principal and interest, and to determine the same respectively, according to the merits of the several cases, due regard being had to all the circumstances thereof, and as equity and justice shall appear to them to require. And the said commissioners shall have power to examine all such persons as shall come before them on oath or affirmation touching the premises; and also to receive in evidence according as they may think most consistent with equity and justice, all written depositions, or books, or papers, or copies, or extracts thereof, every such deposition, book, or paper, or copy or extract being duly authenticated, either according to the legal forms now respectively existing in the two countries, or in such other manner as the said commissioners shall see cause to require or allow.

The award of the said commissioners, or of any three of them, shall in all cases be final and conclusive, both as to the justice of the claim, and to the amount of the sum to be paid to the creditor or claimant; and the United States undertake to cause the sum so awarded to be paid in specie to such creditor or claimant without deduction; and 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 by the creditor or claimant, as by the said commissioners may be directed: Provided always, that no such payment shall be fixed by the said commissioners to take place sooner than twelve months from the day of the exchange of the ratifications of this treaty.

Art. VII. Whereas complaints have been made by divers merchants and others, citizens of the United States, that during the course of the war in which his majesty is now engaged, they have sustained considerable losses and damage, by reason of irregular or illegal condemnation or capture of their vessels and other property under colour of authority or commissions from his majesty, and that from various circumstances belonging to the said cases, adequate compensation for the losses and damages so sustained cannot now be actually obtained, had and received by the ordinary course of judicial proceedings, it is agreed, that in all such cases where adequate compensation cannot, for whatever reason, be now actually obtained, had and received by the ordinary course of justice, full and complete compensation for the same will be made by the British government to the said complainants. But it is distinctly understood that this provision is not to extend to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission of the claimants.

That for the purpose of ascertaining the amount of any such losses and damages, five commissioners shall be appointed and authorized to act in London, exactly in the manner directed with respect to those mentioned in the preceding article, and after having taken the same oath or affirmation (*mutatis mutandis*) the same term of eighteen months is also assigned for the reception of claims, and they are in like manner authorized to extend the same in particular cases. They shall

receive testimony, books, papers and evidence in the same latitude, and exercise the like discretion and powers respecting that subject; and shall decide the claims in question according to the merits of the several cases, and to justice, equity, and the laws of nations. The award of the said commissioners, or any such three of them as aforesaid, shall, in all cases, be final and conclusive, both as to the justice of the claim, and the amount of the sum to be paid to the claimant; and his Britannic majesty undertakes to cause the same to be paid to such claimant in specie, without any deduction, at such place or places, and at such time or times as shall be awarded by the said commissioners, and on condition of such releases to be given by the claimants, as by the said commissioners may be directed.

And whereas certain merchants and others his majesty's subjects complain that in the course of the war they have sustained loss and damage by reason of the capture of the vessels and merchandise taken within the limits and jurisdiction of the states, and brought into the ports of the same, or taken by vessels originally armed in ports of the said states.

It is agreed that in all cases where restitution shall not have been made agreeably to the tenor of the letter from Mr. Jefferson to Mr. Hammond, dated at Philadelphia, September 5th, 1793, a copy of which is annexed to this treaty; the complaints of the parties shall be and hereby are referred to the commissioners to be appointed by virtue of this article, who are hereby authorized and required to proceed in the like manner relative to these as to the other cases committed to them; and the United States undertake to pay to the complainants or claimants in specie, without deduction, the amount of such sums as shall be awarded to them respectively by the said commissioners, and at the times and places which in such awards shall be specified; and on conditions of such releases or assignments to be given by the claimants as in the said awards may be directed: And it is further agreed that not only the now existing cases of both descriptions but also all such as shall exist at the time of exchanging the ratifications of this treaty shall be considered as being within the provisions, intent and meaning of this article.

Art. VIII. It is further agreed, that the commissioners mentioned in this and in the two preceding articles shall be respectively paid in such manner as shall be agreed between the two parties; such agreement being to be settled at the time of the exchange of the ratifications of this treaty. And all other expences attending the said commissions shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the majority of the commissioners. And in the case of death, sickness or necessary absence, the place of every such commissioner respectively shall be supplied in the same manner as such commissioner was first appointed, and the new commissioners shall take the same oath or affirmation and do the same duties.

Art. IX. It is agreed that British subjects who now hold lands in the territories of the United States and American citizens who now hold lands in the dominions of his majesty shall continue to hold them according to the nature and tenure of their respective estates therein; and may grant, sell or devise the same to whom they please, in like manner as if they were natives; and that neither they nor their heirs or assigns shall so far as may respect the said lands and the legal remedies incident thereto, be regarded as aliens.

Art. X. Neither the debts due from individuals of the one nation to individuals of the other, nor shares nor monies which they may have in the public funds, or in the public or private banks shall ever in any event of war or national differences be sequestered or confiscated; it being unjust and impolitic that debts and engagements contracted and made by individuals, having confidence in each other and in their respective governments, should ever be impaired by national authority on account of national differences and contentions.

Art. XI. It is agreed between his majesty and the United States of America, that there shall be a reciprocal and entirely perfect liberty of navigation and commerce between their respective people, in the manner, under the limitar-

tations and on the conditions specified in the following articles.

Art. XII. His majesty consents that the time herein after limited for the citizens of the United States to carry on any of his majesty's islands and ports in the West Indies from the United States, in their own vessels, not being above the burden of seventy tons, goods or merchandises being of the growth, manufacture or produce of the said states, which it is or may be lawful to carry to the said islands or ports, and that the said American vessels shall be subject there to no other or higher tonnage duties or charges than shall be payable by British vessels in the ports of the United States; and that the cargoes of the said American vessels shall be subject there to no other or higher duties or charges than shall be payable on the like articles if imported there from the said states in British vessels.

And his majesty also consents that it shall be lawful for the said American citizens to purchase, load and carry away in their said vessels to the United States from the said islands and ports all such articles being of the growth, manufacture or produce of the said islands as may now by law be carried from thence to the said states in British vessels, and subject only to the same duties and charges on exportation to which British vessels and their cargoes are or shall be subject in similar circumstances.

Provided always that the said American vessels do carry and land their cargoes in the United States only, it being expressly agreed and declared that during the continuance of this article, the United States will prohibit and restrain the carrying any molasses, sugar, coffee, cocoa or cotton in American vessels, either from his majesty's islands, or from the United States to any part of the world except the United States, reasonable sea stores excepted. Provided also, that it shall and may be lawful, during the same period, for British vessels to import from the said islands into the United States, and to export from the United States to the said islands, all articles whatever being of the growth, produce or manufacture of the said islands, or of the United States respectively, which now may, by the laws of the said states, be so imported and exported. And that the cargoes of the said British vessels shall be subject to no other or higher duties or charges, than shall be payable on the same articles if so imported or exported in American vessels.

It is agreed that this article and every matter and thing therein contained shall continue to be in force during the continuance of the war in which his majesty is now engaged; and also for two years from and after the day of the signature of the preliminary or other articles of peace, by which the same may be terminated.

And it is further agreed, that at the expiration of the said term, the two contracting parties will endeavour further to regulate their commerce in this respect according to the situation in which his majesty may then find himself with respect to the West Indies, and with a view to such arrangements as may best conduce to the mutual advantage and extension of commerce. And the said parties will then also renew their discussions, and endeavour to agree, whether in any and what cases, neutral vessels shall protect enemy's property; and in what cases provisions and other articles, not generally contraband, may become such. But in the mean time their conduct towards each other in these respects, shall be regulated by the articles herein after inserted on those subjects.

Art. XIII. His majesty consents that the vessels belonging to the citizens of the United States of America shall be admitted and hospitably received in all the sea-ports and harbours of the British territories in the East Indies. And that the citizens of the said United States may freely carry on a trade between the said territories and the United States in all articles of which the importation or exportation respectively to or from the said territories, shall not be entirely prohibited. Provided only, that it shall not be lawful for them in any time of war between the British government and any other power or state whatever, to export from the said territories, without the special permission of the British government there, any military stores, or ma-