

CLAIMS

Convention signed at Washington September 10, 1857
Ratified by New Granada,¹ with exception of article VII and with
explanations, July 8, 1858^{2 3}
Senate advice and consent to ratification, with amendments, March 8,
1859⁴
Ratified by the President of the United States, with amendments,
March 12, 1859^{3 4}
Ratified by New Granada March 13, 1860
Senate advice and consent to exchange of ratification May 8, 1860
Ratified by the President of the United States November 1, 1860
Ratifications exchanged at Washington November 5, 1860
Entered into force November 5, 1860
Proclaimed by the President of the United States November 8, 1860
Joint Commission extended by convention of February 10, 1864⁵
Terminated July 29, 1874, upon payment of claims

12 Stat. 985; Treaty Series 56⁶

The United States of America and the Republic of New Granada¹ desiring to adjust the claims of citizens of said States against New Granada and to cement the good understanding which happily subsists between the two Republics have, for that purpose, appointed and conferred full powers, respectively, to wit:—

¹ See footnote 1, *ante*, p. 865.

² For text of Granadan explanations, see p. 891.

³ The first instruments of ratification were not delivered.

⁴ The Senate in its resolution of advice and consent and the President in his instrument of ratification accepted the exception of art. VII and the Granadan explanations and called for amending the first sentence in art. I to read “. . . which shall have been presented, prior to the First day of September 1859 . . .” instead of “. . . which have been presented, prior to the signature of this Convention . . .” and art. VIII to read “This Convention shall be ratified and the ratifications exchanged within nine months from this 8th day of March 1859” instead of “This Convention shall be ratified, and the ratifications exchanged in Washington, within nine months after the date hereof, or sooner if possible.”

The text printed here is the amended text.

⁵ TS 57, *post*, p. 893.

⁶ For a detailed study of this convention, see 7 Miller 661.

The President of the United States upon Lewis Cass, Secretary of State of the United States, and the President of New Granada upon General Pedro A. Herran, Envoy Extraordinary and Minister Plenipotentiary of that Republic in the United States, who, after exchanging their full powers, which were found in good and proper form, have agreed to the following articles:—

ARTICLE I

All claims on the part of Corporations, Companies, or Individuals, citizens of the United States, upon the Government of New Granada, which shall have been presented, prior to the First day of September 1859, either to the Department of State at Washington or to the Minister of the United States at Bogota, and especially those for damages which were caused by the riot at Panama on the 15th April, 1856, for which the said Government of New Granada acknowledges its liability, arising out of its privilege and obligation to preserve peace and good order along the transit route, shall be referred to a board of Commissioners, consisting of two members, one of whom shall be appointed by the Government of the United States and one by the Government of New Granada. In case of the death, absence or incapacity of either Commissioner, or in the event of either Commissioner omitting or ceasing to act, the Government of the United States or that of New Granada, respectively, or the Minister of the latter in the United States acting by its direction, shall forthwith proceed to fill the vacancy thus occasioned.

The Commissioners, so named, shall meet in the City of Washington within ninety days from the exchange of the ratifications of this Convention, and before proceeding to business, shall make and subscribe a solemn oath that they will carefully examine and impartially decide, according to justice and equity, upon all the claims laid before them, under the provisions of this Convention, by the Government of the United States. And such oath shall be entered on the record of their proceedings.

The Commissioners shall then proceed to name an Arbitrator or Umpire to decide upon any case or cases on which they may differ in opinion. And if they cannot agree in the selection, the Umpire shall be appointed by the Minister of Prussia to the United States whom the two high contracting parties shall invite to make such appointment and whose selection shall be conclusive on both parties.

ARTICLE II

The Arbitrator being appointed, the Commissioners shall proceed to examine and determine the claims which may be presented to them, under the provisions of this Convention, by the Government of the United States, together with the evidence submitted in support of them,

and shall hear, if required, one person in behalf of each Government, on every separate claim. Each Government shall furnish, upon request of either of the Commissioners, such papers in its possession as the Commissioners may deem important to the just determination of any claims presented to them. In cases where they agree to award an indemnity, they shall determine the amount to be paid, having due regard, in claims which have grown out of the riot of Panama of April 15, 1856, to damages suffered through death, wounds, robberies, or destruction of property. In cases where they cannot agree the subjects of difference shall be referred to the Umpire, before whom each of the Commissioners may be heard, and whose decision shall be final.

ARTICLE III

The Commissioners shall issue certificates of the sums to be paid, by virtue of their awards, to the claimants, and the aggregate amount of said sums shall be paid to the Government of the United States at Washington in equal semi-annual payments, the first payment to be made six months from the termination of the Commission, and the whole payment to be completed within eight years from the same date; and each of said sums shall bear interest (also payable semi-annually) at the rate of six per cent per annum from the day on which the awards respectively shall have been decreed. To meet these payments the Government of New Granada hereby specially appropriates one half of the compensation which may accrue to it from the Panama Railroad Company in lieu of postages, by virtue of the thirtieth Article of the Contract between the Republic of New Granada and said Company, made April 15th 1850, and approved June 4th, 1850, and, also, one half of the dividends which it may receive from the net profits of said road, as provided in the fifty fifth Article of the same contract; but if these funds should prove insufficient to make the payments as above stipulated, New Granada will provide other means for that purpose.

ARTICLE IV

The Commission, herein provided, shall terminate its labors in nine months from and including the day of its organization, shall keep an accurate record of its proceedings, and may appoint a Secretary, to assist in the transaction of its business.

ARTICLE V

The proceedings of this Commission shall be final and conclusive with respect to all the claims before it, and its awards shall be a full discharge to New Granada of all claims of citizens of the United States against that Republic which may have accrued prior to the signature of this Convention.

ARTICLE VI

Each Government shall pay its own Commissioner; but the Umpire, as well as the incidental expenses of the Commission, shall be paid, one half by the United States, and the other half by New Granada.

ARTICLE VII ⁷

[Whereas the United States may desire to purchase or lease a piece of ground upon one of the Islands in the Bay of Panama for a Coal depôt, the Government of New Granada, willing to promote, in this manner, the wishes of a friendly nation, concedes to the United States the privilege of purchasing or leasing such a piece of ground not exceeding one hundred English acres in extent, whereon the United States may erect wharves, piers, and any buildings which may be necessary for the enjoyment of the same for the above mentioned purpose, and while the said land is held by the United States no tax of any kind shall be levied thereon, nor upon the wharves, piers, or other buildings erected thereon, nor upon the property of the United States employed or deposited there.

[But it is understood and expressly stipulated that the aforesaid concession is in no respect to impair or affect the territorial sovereignty of the Republic of New Granada over the land so purchased or leased.]

ARTICLE VIII

This Convention shall be ratified and the ratifications exchanged within nine months from this 8th day of March 1859.

In faith whereof, we the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our seals.

Done at Washington, this Tenth day of September, in the year of our Lord one thousand eight hundred and fifty-seven.

LEW CASS [SEAL]
P. A. HERRAN [SEAL]

EXPLANATIONS

1st. It is understood that the obligation of New Granada to maintain peace and good order on the interoceanic route of the Isthmus of Panama, of which Article 1st. of the convention speaks, is the same by which all nations are held to preserve peace and order within their territories, in conformity with general principles of the law of nations, and of the public treaties which they may have concluded.

⁷ Art. VII was deleted (see footnote 4, p. 888).

2d. The claims of corporations, companies, and individuals that have entered into contracts with New Granada, are not comprehended within the stipulations of the convention, provided such claims grew out of facts relative to said contracts.

3d. Wherever in the Spanish text, *arbitro* is mentioned, it shall be understood as *arbitro, arbitrador, amigable componedor*, in conformity with the English text.