

## CLAIMS: THE CASE OF THE "VIRGINIUS"

*Agreement signed at Madrid February 27, 1875*

*Declaration of ratification signed at Madrid March 11, 1875*

*Orders for distribution of indemnities signed by the President of the United States July 21, 1875, and January 7, 1876*

Treaty Series 329 <sup>1</sup>

### AGREEMENT

In consideration of the reasons set forth and the declarations made reciprocally in various conferences to that effect had between His Excellency Mr. Caleb Cushing Representative of the United States, and His Excellency D. Alejandro Castro Minister of State, as also of the notes which have passed between them, and desiring at the same time to put an end, by means of an equitable and friendly accord to the reclamations presented by the Government of the United States in consequence of what occurred at Santiago de Cuba in regard to the persons of the officers, crew and passengers of the Steamer "Virginus" it being understood that from these reclamations are to be excluded, in so far as respects the Ship's company all individuals indemnified as British subjects, and, with respect to passengers, including only six American citizens:

They have agreed:

First. The Spanish Government engages to deliver to that of the United States the sum of eighty thousand dollars in coin, or four hundred thousand pesetas, for the purpose of relief of the families or persons of the Ship's company and passengers aforesaid of the "Virginus."

Second. The Government of the United States engages to accept the sum mentioned in satisfaction of reclamations of any sort which, in the sense of personal indemnification in this behalf might hereafter be advanced against the Spanish Government.

Third. When the sum referred to in Article one, shall have been received, the President of the United States will proceed to distribute the same among the families or the parties interested in the form and manner which he may judge most equitable, without being obliged to give account of this distribution to the Spanish Government.

---

<sup>1</sup> Not previously printed.

Fourth. The payment of the eighty thousand dollars, or four hundred thousand pesetas, shall be effected by the Spanish Government at Madrid, in specie and in three periods of two months each: thirty thousand dollars, or one hundred and fifty thousand pesetas for each of the first two instalments, and twenty thousand dollars, or one hundred thousand pesetas, in the last.

Fifth. The present agreement will be ratified by both the undersigned so soon as His Excellency the Representative of the United States shall have presented credential letters which accredit him as Minister Plenipotentiary near His Majesty the King of Spain.

Done at Madrid this twenty seventh day of february in the year one thousand eight hundred and seventy five.

C. CUSHING  
ALEJANDRO CASTRO

#### DECLARATION OF RATIFICATION

His Excellency Mister Caleb Cushing, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, and His Excellency Don Alejandro Castro Minister of State of His Catholic Majesty in fulfilment of the stipulation contained in the fifth article of the agreement provisionally signed by Their Excellencies aforesaid in this City on the twenty seventh of February last past, Declare:

That His Excellency Mister Caleb Cushing having yesterday presented the Letter of His Excellency the President which accredits him as the Envoy Extraordinary and Minister Plenipotentiary of the said States near His Majesty the King of Spain, they ratify, by the present document, all that is stipulated in each one of the five articles of which the abovementioned agreement is composed.

In witness whereof, both the Undersigned have signed their names and set their seals to the present declaration.

Madrid, the eleventh of March of the year one thousand eight hundred and twenty [seventy] five.

*The Minister Plenipotentiary of the United States  
of America*  
C. CUSHING [SEAL]

*The Minister of State of His Catholic Majesty*  
ALEJANDRO CASTRO [SEAL]

#### ORDERS FOR DISTRIBUTION

Whereas, pursuant to the Convention between the United States and Spain for the adjustment of the question of reclamation arising from the capture of

the "Virginus," entered into upon the 27th February, 1875, and duly ratified upon the 11th day of March, 1875, the Spanish Government engaged to deliver to the United States the sum of \$80,000, or 400,000 pesetas, for the purpose of the relief of the families of those of the ships company and of such of the passengers as were citizens of the United States who were executed, and to afford compensation to such of the ships company and to such passengers as in like manner were citizens of the United States who were detained and suffered loss, excluding from any participation therein all individuals indemnified as British subjects:

And whereas, it was therein further provided that when such amount should have been received, the President of the United States would proceed to distribute the same among the parties entitled thereto, in the form and manner which he may judge most equitable: and whereas such amount has been duly paid at Madrid, and the proceeds thereof are now in possession of the Government of the United States, now therefore pursuant to the provisions of Article 3d of said Convention, I, Ulysses S. Grant, President of the United States, do hereby direct that such amount so received, shall be distributed among the parties entitled thereto, in the following amounts and proportions, and pursuant to the following rules.

I. The amounts allowed are determined with a general reference to the rates of wages of Officers & Crew. All of the Ships Company (constituting the Crew) are to be regarded and considered as American Seamen, but inasmuch as the British Government has demanded and received from Spain certain indemnity and promises of further conditional indemnity, for and on account of certain of the crew, as being British subjects, those of the crew or passengers who were British subjects, or who have been claimed as such by the British Government and for whom the British Government demanded or received indemnity from Spain, are to be excluded from the distribution to be made of the indemnity above referred to.

II. Distribution will be made on account of those who were executed, as follows:

For each one (being 13 in number) of the Ship's Company, rated or serving as Fireman, Mariner, Cook, Cabin Boy or otherwise than as one of the officers or petty officers hereafter mentioned, who was executed, and excluding those referred to above, and also to each passenger who was executed being at the time an American citizen, the sum of twenty-five hundred dollars (\$2,500).

For each Assistant Engineer, Second, Third, Fourth Engineer, or Third Mate, forty per cent in addition to the above sum, that is to say, thirty-five hundred dollars each.

For the First Mate & First Engineer, eighty per cent in addition to the said above mentioned sum, that is to say, forty-five hundred dollars each.

For the Captain, one hundred and fifty per cent in addition to the said above mentioned sum, that is to say, six thousand two hundred and fifty dollars.

III. The several amounts allowed as above are to be paid to the widow, children, parents, or brothers and sisters of the deceased, as follows:

1. To the widow of the deceased.
2. If no widow, to the children of the deceased in equal shares. Where such children shall be minors, the same shall be paid to a legally appointed guardian.
3. If no children, then to the father; if no father, to the mother.
4. If no father or mother, then to the brothers and sisters in equal shares.
5. If the deceased shall have left no widow, child, parent, brother or sister, no amount is to be paid on his account.

There shall be allowed to each of the Ship's Company and to such of the passengers as were citizens of the United States who were detained and suffered loss, to be paid on the conditions hereinafter provided, as follows:

To each of the Ship's Crew who was under the age of twenty-one years at the time of the capture, or who was reported at the time as under that age, and to each passenger who was an American citizen, the sum of two hundred and fifty dollars.

To each of the Ship's Crew who was over the age of twenty-one years and who was rated as being a Fireman, Mariner, Cook, Cabin Boy, or otherwise than as one of the officers or petty officer hereafter mentioned, forty per cent in addition to the above allowed sum, that is to say, three hundred and fifty dollars each.

To any Engineer, Second or other Assistant Engineer, Mate, Purser, Assistant Purser or Surgeon, eighty per cent in addition to the above allowed sum, that is to say, four hundred and fifty dollars to each.

In case any of such persons, so entitled to payment, shall have died, such amount shall be paid to the family of the deceased as provided in Article III.

IV. The proofs as to all the necessary facts in each case, including identity, relationship and citizenship, shall be made to the satisfaction of the Department of State, as a condition of payment and a naturalized citizen, where proofs of citizenship is necessary shall produce his certificate of naturalization and furnish satisfactory proof if required, as to residence and his right to such certificate.

V. Payments will be made to the parties entitled thereto, through the Department of State, or in checks to their order, and will not be made to Attorneys.

VI. Prior to any payment being made, the party entitled thereto, shall sign and duly acknowledge before some competent officer, a receipt and release stating that the sum so paid is received in full satisfaction of any claim

or reclamations of any sort which may exist, or which might be advanced against the Spanish Government, by reason of the capture of the "Virginus", or the acts of the Spanish Authorities connected therewith.

VII. Should any further order or direction be required, the same will hereafter be made as an addition hereto.

In witness whereof, I have hereunto set my hand, at the City of Washington, this twenty-first day of July, in the year of Our Lord, one thousand eight hundred and seventy-five, and of the Independence of the United States of America, the One Hundredth.

U. S. GRANT

---

Whereas pursuant to the Convention between the United States and Spain, relating to indemnity growing out of the capture of the "Virginus", eighty thousand dollars were paid to the United States, to be distributed by the President among the parties entitled thereto, in the form and manner which he might judge most equitable; and whereas, a general order or form of distribution was duly signed by the President upon the 21st day of July 1875, by section 8 [VII] of which it is provided that in case any further order or direction be required, the same will be made as an addition thereto; and whereas, a further order or direction is deemed necessary, now therefore as an addition to section 3 of such former order, I, Ulysses S. Grant, President of the United States, do hereby direct, that where any amount shall be payable, pursuant to such general order of distribution, on account of the Execution of any passenger or member of the ships company, and the deceased shall have left a wife, and a child or children by such wife, and also a child or children by any other marriage, that in such case the said wife so surviving shall receive  $\frac{2}{3}$  of said amount so to be paid for herself and her child and children, and such other child or children shall receive one third thereof to be divided equally among them. If however there be a wife only, or a child or children only of such second marriage and a child or children by any other marriage, the amount shall be divided one half to such wife, or to such child or children, and the remainder to the child or children of such former marriage—all which amounts shall be paid in the manner and on the same conditions as is provided by said original order.

U. S. GRANT

*Dated January 7, 1876*