

RUSSIA : APRIL 17, 1824

Convention Regarding Navigation, Fishing, and Trading, and Establishments on the Northwest Coast of America, signed at St. Petersburg (Leningrad) April 17, 1824 (April 5, Old Style). Original in French. Submitted to the Senate December 15, 1824. (Message of December 13, 1824.) Resolution of advice and consent January 5, 1825. Ratified by the United States January 7, 1825. Ratified by Russia May 22, 1824 (May 10, Old Style). Ratifications exchanged at Washington January 11, 1825. Proclaimed January 12, 1825.

[Translation]

Au Nom de la très Sainte et Indivisible Trinité.

Le Président des Etats-Unis d'Amérique, et Sa Majesté l'Empereur de toutes les Russies, voulant cimenter les liens d'amitié qui les unissent et assurer entre eux le maintien invariable d'un parfait accord, moyennant la présente Convention, ont nommé pour Leurs Plénipotentiaires à cet effet, savoir: le Président des Etats Unis d'Amérique, le Sieur Henry Middleton, Citoyen des dits Etats, et Leur Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté Impériale: et Sa Majesté l'Empereur de toutes les Russies, Ses amés et féaux les Sieurs Charles Robert Comte de Nesselrode, Conseiller Privé actuel, Membre du Conseil d'Etat, Secrétaire d'Etat Dirigeant le Ministère des affaires

In the name of the Most Holy and Indivisible Trinity.

The President of the United States of America and His Majesty the Emperor of all the Russias, wishing to cement the bonds of amity which unite them and to secure between them the invariable maintenance of a perfect concord by means of the present convention, have named as their Plenipotentiaries to this effect, to wit: the President of the United States of America, Henry Middleton, a citizen of said States and their Envoy Extraordinary and Minister Plenipotentiary near His Imperial Majesty; and His Majesty the Emperor of all the Russias, his beloved and faithful Charles Robert, Count of Nesselrode, actual Privy Counselor, Member of the Council of State, Secretary

étrangères, Chambellan actuel, Chevalier de l'ordre de S^t Alexandre Nevsky, Grand Croix de l'ordre de S^t Wladimir de la 1^{re} classe, Chevalier de celui de l'aigle blanc de Pologne, Grand Croix de l'ordre de S^t Etienne d'Hongrie, Chevalier des ordres du S^t Esprit et de S^t Michel et Grand Croix de celui de la Légion d'honneur de France, Chevalier Grand-Croix des ordres de l'aigle noir et de l'aigle rouge de Prusse, de l'annonciade de Sardaigne, de Charles III d'Espagne, de S^t Ferdinand et du mérite de Naples, de l'Éléphant de Danemarck, de l'Etoile Polaire de Suède, de la Couronne de Wurtemberg, des Guelphes de Hanovre, du Lion Belge, de la Fidélité de Bade, et de S^t Constantin de Parme, et Pierre de Poletica, Conseiller d'Etat actuel, Chevalier de l'ordre de S^{te} Anne de la 1^{re} classe et Grand Croix de l'ordre de S^t Wladimir de la seconde; lesquels apres avoir échangé leurs pleinpouvoirs, trouvés en bonne et due forme, ont arrêté et signé les stipulations suivantes.

ARTICLE PREMIER.

Il est convenu que dans aucune partie du Grand Océan, appelé communément Océan pacifique ou Mer du Sud, les Citoyens ou Sujets respectifs des hautes Puissances contractantes ne seront ni

of State directing the administration of foreign affairs, actual Chamberlain, Knight of the order of St. Alexander Nevsky, Grand Cross of the order of St. Vladimir of the first class, Knight of that of the White Eagle of Poland, Grand Cross of the order of St. Stephen of Hungary, Knight of the orders of the Holy Ghost and of St. Michael and Grand Cross of the Legion of Honor of France; Knight Grand Cross of the orders of the Black and of the Red Eagle of Prussia, of the Annunciation of Sardinia, of Charles III of Spain, of St. Ferdinand and of Merit of Naples, of the Elephant of Denmark, of the Polar Star of Sweden, of the Crown of Wurtemberg, of the Guelphs of Hanover, of the Belgic Lion, of Fidelity of Baden, and of St. Constantine of Parma; and Pierre de Poletica, actual Counselor of State, Knight of the order of St. Anne of the first class and Grand Cross of the order of St. Vladimir of the second; who, after having exchanged their full powers, found in good and due form, have agreed upon and signed the following stipulations.

ARTICLE I

It is agreed that in any part of the Great Ocean commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the high contracting powers shall be neither disturbed nor re-

troublés, ni gênés, soit dans la navigation, soit dans l'exploitation de la pêche, soit dans la faculté d'arboreur aux côtes sur des points qui ne seroient pas déjà occupés, afin d'y faire le commerce avec les Indigènes, sauf toutefois les restrictions et conditions déterminées par les articles qui suivent

ARTICLE DEUXIÈME.

Dans la vue d'empêcher que les droits de navigation et de pêche exercés sur le grand Océan par les Citoyens et Sujets des hautes Puissances contractantes ne deviennent le prétexte d'un commerce illicite, il est convenu, que les Citoyens des Etats Unis n'aborderont à aucun point où il se trouve un établissement Russe, sans la permission du Gouverneur ou Commandant; et que réciproquement les Sujets Russes ne pourront aborder sans permission à aucun établissement des Etats-Unis sur la Côte nord ouest.

ARTICLE TROISIÈME.

Il est convenu en outre, que dorénavant il ne pourra être formé par les Citoyens des Etats-Unis, ou sous l'autorité des dits Etats, aucun établissement sur la Côte nord ouest d'Amérique, ni dans aucune des îles adjacentes *au nord* du cinquante quatrième degré et quarante minutes de latitude septentrionale; et que de

strained, either in navigation, or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles.

ARTICLE 2

With the view of preventing the rights of navigation and of fishing exercised upon the Great Ocean by the citizens and subjects of the high contracting powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the governor or commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the northwest coast.

ARTICLE 3

It is, moreover, agreed that hereafter there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the northwest coast of America, nor in any of the islands adjacent, *to the north* of fifty-four degrees and forty minutes of north latitude; and that in the

même il n'en pourra être formé aucun par des Sujets Russes, ou sous l'autorité de la Russie, *au sud* de la même parallèle

same manner there shall be none formed by Russian subjects, or under the authority of Russia, *south* of the same parallel.

ARTICLE QUATRIÈME.

Il est néanmoins entendu que pendant un terme de dix années à compter de la signature de la présente Convention, les Vaisseaux des deux Puissances, ou qui appartiendroient à leurs Citoyens ou Sujets respectifs, pourront réciproquement fréquenter sans entrave quelconque, les mers intérieures, les golfes, havres et criques sur la Côte mentionnée dans l'article précédent, afin d'y faire la pêche et le commerce avec les naturels du pays.¹

It is, nevertheless, understood that during a term of ten years, counting from the signature of the present convention, the ships of both powers, or which belong to their citizens or subjects respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country.¹

ARTICLE 4

ARTICLE CINQUIÈME.

Sont toutefois exceptées de ce même commerce accordé par l'article précédent, toutes les liqueurs spiritueuses, les armes à feu, armes blanches, poudre et munitions de guerre de toute espèce, que les deux Puissances s'engagent réciproquement à ne pas vendre, ni laisser vendre aux Indigènes par leurs Citoyens et Sujets respectifs, ni par aucun individu qui se trouveroit sous leur autorité. Il est également stipulé que cette restriction ne pourra jamais servir de prétexte, ni être alléguée, dans aucun cas, pour autoriser soit la visite ou la détention des Vaisseaux, soit la saisie de la

ARTICLE 5

All spirituous liquors, firearms, other arms, powder, and munitions of war of every kind, are always excepted from this same commerce permitted by the preceding article, and the two powers engage, reciprocally, neither to sell nor suffer them to be sold to the natives by their respective citizens and subjects, nor by any person who may be under their authority. It is likewise stipulated that this restriction shall never afford a pretext nor be advanced in any case to authorize either search or detention of the vessels, seizure of the merchandise, or, in fine, any measures of

¹ See the note regarding Article 4.

marchandise, soit enfin des mesures quelconques de contrainte envers les armateurs ou les équipages qui feroient ce commerce; les hautes Puissances contractantes s'étant réciproquement réservé de statuer sur les peines à encourir, et d'infliger les amendes encourués en cas de contravention à cet article, par leurs Citoyens ou Sujets respectifs.

ARTICLE SIXIÈME.

Lorsque cette Convention aura été duement ratifiée par le Président des Etats-Unis de l'avis et du consentement du Sénat, d'une part, et de l'autre par Sa Majesté l'Empereur de toutes les Russies, les ratifications en seront échangées à Washington dans le délai de dix mois de la date ci-dessous ou plutôt si faire se peut. En foi de quoi les Plénipotentiaires respectifs l'ont signée, et y ont fait apposer les cachets de leurs armes.

Fait à St Petersburg le 17/5
Avril de l'an de grâce mil huit
cent vingt quatre.

[Seal]

HENRY MIDDLETON

[Seal]

LE COMTE CHARLES
DE NESSELRODE

[Seal]

PIERRE DE POLETICA

constraint whatever towards the merchants or the crews who may carry on this commerce, the high contracting powers reciprocally reserving to themselves to determine upon the penalties to be incurred, and to inflict the punishments, in case of the contravention of this article by their respective citizens or subjects.

ARTICLE 6

When this convention shall have been duly ratified by the President of the United States with the advice and consent of the Senate on the one part, and on the other by His Majesty the Emperor of all the Russias, the ratifications shall be exchanged at Washington in the space of ten months from the date below, or sooner if possible. In faith whereof the respective Plenipotentiaries have signed this convention and thereto affixed the seals of their arms.

Done at St. Petersburg the
5/17 April of the year of grace
one thousand eight hundred and
twenty-four.

[Seal]

HENRY MIDDLETON

[Seal]

LE COMTE CHARLES
DE NESSELRODE

[Seal]

PIERRE DE POLETICA

NOTES

Unless otherwise stated, dates in the headnote and in these notes are in the New Style, or present calendar, which was then twelve days later than the Old Style.

THE FILE PAPERS

The file papers of this convention are complete, except for the attested resolution of advice and consent of the Senate of January 5, 1825 (Executive Journal, III, 403). The convention was executed in duplicate (American State Papers, Foreign Relations, V, 469); the original in the file, which was received in the Department of State on July 26, 1824, with the despatch of Henry Middleton, Minister at St. Petersburg, of May 24, 1824 (D. S., 10 Despatches, Russia), is within the duplicate United States instrument of ratification. The Russian instrument of ratification of May 22, 1824 (May 10, Old Style), is accompanied by a French translation certified by Baron de Tuyl, Russian Minister at Washington. The certificate of the exchange of ratifications on January 11, 1825, is in customary form, in duplicate, one written in French and one in English. The original proclamation of January 12, 1825, includes the French text of the convention and an English translation which appears to have been made in the Department of State. There is also in the treaty file a duplicate of that translation, in the same handwriting as that which is copied into the proclamation. The proclamation is printed in American State Papers, Foreign Relations, V, 583-84, with the presidential message of January 18, 1825, communicating it to Congress. It is the translation in the proclamation which is printed above and which is in the Statutes at Large and in treaty collections generally.

The papers accompanying the presidential message of December 13, 1824, transmitting this convention to the Senate, are in American State Papers, Foreign Relations, V, 432-71.

The attested resolution of advice and consent of the Senate of January 5, 1825, is in D. S., Miscellaneous Letters, January-March, 1825.

Regarding the exchange of ratifications at Washington on January 11, 1825, Secretary of State Adams wrote as follows (Memoirs of John Quincy Adams, VI, 465):

I went immediately to the office, and exchanged with Baron Tuyl the ratifications of the N. W. Coast Convention. Baron Maltitz was with him, and read the original treaty. I held the Russian ratified copy, Baron Tuyl ours, and Mr. Ironside the copy received from Baron Tuyl from his Government. We executed in French and English two certificates of the exchange.

THE RUSSIAN UKASE

The convention does not mention the Russian ukase, or edict, of September 4, 1821 (Old Style), which was the cause of the negotia-

tions from which the convention resulted and against which the United States promptly protested, following its communication to Secretary of State Adams by Pierre de Poletica, then Russian Minister at Washington, on February 11, 1822 (D. S., 1 Notes from the Russian Legation; the enclosure, in English, is entitled "Edict of His Imperial Majesty Autocrat of all the Russias. . . . Printed at St. Petersburg in the Senate, 7th September 1821"; accompanying it is the "Rules," a pamphlet of fourteen pages). As to that ukase, see Moore, International Arbitrations, I, 755-60; its text, with the rules above mentioned, in English translation, is in British and Foreign State Papers, IX, 472-82.

The Russian territorial claims are discussed at some length in the instructions of Secretary of State Adams to Henry Middleton, Minister at St. Petersburg, dated July 22, 1823 (D. S., 10 Instructions, U. S. Ministers, 54-60; American State Papers, Foreign Relations, V, 436-38), and in the enclosures therewith; they are also discussed in the instructions to Richard Rush, Minister at London, of the same date, from which the following statement regarding the Russian ukase is extracted (D. S., 10 Instructions, U. S. Ministers, 62; American State Papers, Foreign Relations, V, 446):

By the Ukaze of the Emperor Alexander of 4/16 September 1821 an exclusive territorial right on the North west Coast of America is asserted as belonging to Russia, and as extending from the Northern extremity of the Continent to Latitude 51, and the Navigation and fishery of all other Nations are interdicted by the same Ukaze to the extent of 100 Italian [or geographical] miles from the Coast.

In the Russian full power, however, the Russian ukase of September 16, 1821, is mentioned. In Middleton's despatch reporting the negotiations, under date of April 19, 1824, he wrote on the subject of the full powers as follows (D. S., 10 Despatches, Russia, No. 35; American State Papers, Foreign Relations, V, 458):

Having received an invitation from Ct Nesselrode, I waited on him on Wednesday 20th Feby [Old Style] at one o'clock P. M. I found Mr Poletica with the Count, & a *rescrit* from the Emperor to these Gentlemen was exhibited to me, empowering them to treat and adjust a settlement of the differences which had arisen in consequence of His Majesty's Ukase of 4/16th Sept^r 1821. . . . I exhibited to them my Power from the President of the United States to the Same effect, & we exchanged Copies of the Same.

With that despatch was enclosed a copy of a certified translation, in French, of the Russian full power, which is dated February 12, 1824, Old Style. An English translation of the French is printed in American State Papers, Foreign Relations, V, 464. The substance of that full power as there printed, omitting the styles and titles there recited, is as follows:

We, Alexander the First, by the Grace of God Emperor and Autocrat of all the Russias, etc., etc., make known that, certain disputes having arisen between Our Government, that of His Majesty the King of the United Kingdom of Great Britain, and that of the United States of America, in consequence of Our ukase dated September 4/16, 1821, and having considered the necessity of terminat-

ing these disputes by means of an amicable negotiation, We have resolved to appoint, and do appoint, for Our Plenipotentiaries in the said negotiation, Our beloved and faithful Charles Robert, Count of Nesselrode, Our actual Privy Counselor, member of the Council of State, Secretary of State directing the administration of foreign affairs, etc., etc., and Pierre Poletica, Our actual Counselor of State, etc., etc., promising, on Our imperial word, to make good and ratify all the arrangements which the said Plenipotentiaries shall conclude and sign in regard to the objects above pointed out, with the Plenipotentiaries duly authorized to that effect by His Majesty the King of the United Kingdom of Great Britain, and by the United States of America.

In faith whereof We have signed the present full powers and have hereto caused to be affixed the seal of Our Empire.

In the American full power the Russian ukase is not in terms referred to; in general it is in the customary form of full powers issued by this Government, but it authorized either joint negotiations with British and Russian Plenipotentiaries or several negotiations with the latter. Its text follows (D. S., 1 Credences, 360):

James Monroe, President of the United States of America,

To all to whom these Presents may come, Greeting:

Know Ye, That reposing special Trust and Confidence in the Integrity, Prudence and Abilities of Henry Middleton, Envoy Extraordinary and Minister Plenipotentiary of the United States at the Court of His Imperial Majesty, the Emperor of all the Russias, I have invested him with full and all manner of Power, for and in the name of the United States to meet and confer with any person or persons furnished with like Powers on the part of His said Imperial Majesty, and with him or them to negotiate and conclude a Convention or Conventions, Treaty or Treaties, of and concerning the commerce and Navigation of the two Countries; of and concerning their respective Rights and Claims in respect to Navigation Fishery and Commerce on the North West Coast of America, and the Ocean and Islands thereto adjoining or appertaining; of and concerning the abolition of the African Slave Trade; and of and concerning the principles of Maritime War and Neutrality. And I do further invest him with full Power, also to meet and confer, on the said subjects with any Person or Persons furnished with like powers on the part of His Majesty the King of the United Kingdom of Great Britain and Ireland; and with the said Russian and British Plenipotentiaries jointly to conclude a Treaty or Treaties, Convention or Conventions, in relation to the respective rights and claims of the three Powers in and to the said Navigation, Fishery, Commerce and Territorial possessions, on the said North West Coast of America, and adjoining Ocean and Islands: or in relation to the abolition of the African Slave trade; or in relation to the principles of Maritime War and Neutrality—He the said Henry Middleton transmitting any and every such Convention or Treaty whether concluded jointly with British and Russian, or severally with Russian Plenipotentiaries to the President of the United States for his ratification, by and with the advice and Consent of the Senate of the United States if the same shall be given.

In Testimony whereof, I have caused the Seal of the United States to be hereunto affixed. Given under my hand at the City of Washington (L. S.) the twenty Ninth day of July A. D. 1823; and of the Independence of the United States of America, the Forty Eighth.

JAMES MONROE,

By the President,
JOHN QUINCY ADAMS,
Secretary of State.

ARTICLE 4

During the negotiations at St. Petersburg between Henry Middleton and Count Nesselrode, a narrative of which is in American State Papers, Foreign Relations, V, 457-71, the form of Article 4 was much discussed and "became the subject of warm debate." As first agreed upon it contained a phrase to the effect that after a term of ten years "the reciprocal right granted by this article shall cease, on both sides." This seemed to Middleton to have "still too much the appearance of a substantive stipulation" and was changed to the language of the convention, which simply provides for the reciprocal privilege "during a term of ten years"; but a protocol, noting that the change did "not essentially alter the sense" of the earlier draft, and which was among the papers before the Senate, was signed by the three Plenipotentiaries (in French) on April 14, 1824, three days before the date of the convention.

The following French text is from the original protocol (D. S., 10 Despatches, Russia, No. 35, enclosure *r* with Middleton's despatch of April 19, 1824); the English is from a contemporary translation made in the Department of State and bound with the original; that translation is printed in American State Papers, Foreign Relations, V, 469.

[Translation]

Protocole.

Les Soussignés après avoir discuté dans plusieurs conférences un projet de convention proposé pour applanir tous les différens qui se sont élevés entre les Etats-Unis d'Amérique et la Russie à la suite d'un règlement publié par la dernière de ces Puissances, le 4/16 Septembre 1821, ont définitivement arrêté la rédaction des divers articles dont se compose cette convention, les ont revêtus de leurs paraphe et se sont engagés réciproquement à les signer tels qu'ils se trouvent annexés au présent Protocole.

En arrêtant le 4^m de ces articles, les Plenipotentiaries de Russie ont rappelé qu'ils avoient proposé au Plenipotentiaire des Etats-Unis de rédiger le dit article dans les termes suivans:

"Article 4^m. Il est néanmoins entendu que les vaisseaux des deux Puissances ou qui appartiendroient à leurs citoyens ou sujets respectifs, pourront réciproquement fréquenter sans entraves quelconques les mers intérieures, les golphes, havres et criques sur la dito côte, afin d'y faire la pêche et le commerce avec les

Protocol

The undersigned, after having discussed in several conferences a *projet* of a convention proposed for settling all the differences which arose between the United States of America and Russia in consequence of a regulation published by the latter of these powers on the 4/16 September, 1821, definitively drew up the different articles of which this convention is composed, added to them their sign manual, and mutually engaged to sign them as they are found annexed to the present protocol.

In drawing up the fourth of these articles the Plenipotentiaries of Russia recollected that they had proposed to the Plenipotentiary of the United States to arrange the said article in the following terms:

Article 4. "It is, nevertheless, understood that the ships of the two powers, or which belong to their citizens or subjects, respectively, may mutually frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks upon the said coast, for the purpose of there fishing and trading with the natives of the country. But

“naturels du pays, mais le droit réciproque accordé par cet article, cessera de part et d'autre après un terme de dix ans à compter de la signature de la présente convention.”

Les Plénipotentiaires de Russie ont ajouté qu'après être tombé d'accord de cette rédaction, le Plénipotentiaire des Etats-Unis les avoit ensuite invités à changer la finale de ce même article et à l'arrêter tel qu'il se trouve consigné dans la convention; observant que cette seconde rédaction plus conforme à la lettre des instructions qu'il a reçues, est la seule qu'il se croie autorisé à signer; mais que d'ailleurs cette rédaction ne change pas essentiellement le sens de celle qui avoit été proposée par les Plénipotentiaires de Russie, puisqu'à la fin du terme indiqué la stipulation devant cesser également par les deux rédactions, la faculté réciproque de faire le commerce, accordée par cette stipulation, ne sauroit être prolongée au delà du dit terme que d'une mutuel accord.

Sur ces observations l'article en question a été paraphé avec la modification que le Plénipotentiaire des Etats-Unis avoit demandé à y introduire.

Après quoi tous les autres articles ont pareillement été revêtus des paraphes respectifs, et il a été résolu de procéder à la signature de la convention elle-même le cinq suivant.

fait à St. Petersbourg, le 14/2 Avril 1824.

HENRY MIDDLETON
NESSELRODE
POLETICA

the reciprocal right granted by this article shall cease, on both sides, after a term of ten years to be counted from the signing of the present convention.”

The Plenipotentiaries of Russia added that, after agreeing to this arrangement, the Plenipotentiary of the United States had afterwards invited them to change the ending of this very article and agree to it as it is found signed in the convention, observing that this second arrangement, more conformable to the letter of the instructions which he received, is the only one which he thinks himself authorized to sign; but, moreover, that this arrangement does not essentially alter the sense of that which had been proposed by the Plenipotentiaries of Russia, because at the end of the term mentioned the stipulation ceasing equally by the two arrangements, the reciprocal power of trading granted by that stipulation cannot be prolonged beyond the said term but by mutual agreement.

Under these observations the article in question has been signed, with the modification which the Plenipotentiary of the United States had demanded to be there introduced.

After which, all the other articles were also signed respectively, and it was resolved to proceed to the signature of the convention itself on the fifth [April 17, New Style] following.

Done at St. Petersburg the 2/14 April, 1824.

HENRY MIDDLETON
NESSELRODE
POLETICA

Upon the expiration of the ten-year period described in Article 4 the Government of Russia declined to renew its provisions. The question was discussed in the presidential message of December 3, 1838 (Richardson, III, 483, 487-88). The printed correspondence and other papers on the subject which were communicated to Congress with that message are in Senate Document No. 1, 25th Congress, 3d session, serial 338, pages 24-74.

A PROPOSED MODIFICATION

A proposal on the part of the Russian Government to explain and modify the convention was made at Washington shortly before the convention was submitted to the Senate. The conference on

December 6, 1824, between Baron de Tuijl, the Russian Minister at Washington, and Secretary of State Adams, is thus described by the latter (Memoirs of John Quincy Adams, VI, 435-37):

Baron Tuijl, the Russian Minister, wrote me a note requesting an immediate interview, in consequence of instructions received yesterday from his Court. He came, and, after intimating that he was under some embarrassment in executing his instructions, said that the Russian-American Company, upon learning the purport of the Northwest Coast Convention concluded last June [April] by Mr. Middleton, were extremely dissatisfied (a jetée de hauts cris), and, by means of their influence, had prevailed upon his Government to send him these instructions upon two points. One was, that he should deliver, upon the exchange of the ratifications of the Convention, an explanatory note, purporting that the Russian Government did not understand that the Convention would give liberty to the citizens of the United States to trade on the coast of Siberia and the Aleutian Islands. The other was, to propose a modification of the Convention, by which our vessels should be prohibited from trading on the Northwest coast north of latitude 57°. With regard to the former of these points, he left me a minute in writing.

I told him that we should be disposed to do everything to accommodate the views of his Government that was in our power, but that a modification of the Convention *could* be made no otherwise than by a new Convention, and that the construction of the Convention as concluded belonged to other Departments of the Government, for which the Executive had no authority to stipulate; that if on the exchange of the ratifications he should deliver to me a note of the purport of that which he now informally gave me, I should give him an answer of that import, namely, that the construction of treaties depending here upon the judiciary tribunals, the Executive Government, even if disposed to acquiesce in that of the Russian Government as announced by him, could not be binding upon the Courts, nor upon this nation. I added that the Convention would be submitted immediately to the Senate; that if anything affecting its construction, or, still more, modifying its meaning, were to be presented on the part of the Russian Government before, or at the exchange of, the ratifications, it must be laid before the Senate, and could have no other possible effect than of starting doubts, and perhaps hesitation, in that body, and of favoring the views of those, if such there were, who might wish to defeat the ratification itself of the Convention. This was an object of great solicitude to both Governments, not only for the adjustment of a difficult question which had arisen between them, but for the promotion of that harmony which was so much in the policy of the two countries, which might emphatically be termed natural friends to each other. If, therefore, he would permit me to suggest to him what I thought would be his best course, it would be to wait for the exchange of the ratifications, and make it purely and simply; that afterward, if the instructions of his Government were imperative, he might present the note, to which I now informed him what would be in substance my answer. It necessarily could not be otherwise. But if his instructions left it discretionary with him, he would do still better to inform his Government of the state of things here, of the purport of our conference, and of what my answer must be if he should present the note. I believed his Court would then deem it best that he should not present the note at all. Their apprehensions had been excited by an interest not very friendly to the good understanding between the United States and Russia. Our merchants would not go to trouble the Russians on the coast of Siberia, or north of the fifty-seventh degree of latitude, and it was wisest not to put such fancies into their heads. At least, the Imperial Government might wait to see the operation of the Convention before taking any further step, and I was confident they would hear no complaint resulting from it. If they should, then would be the time for adjusting the construction or negotiating a modification of the Convention; and whoever might be at the head of the Administration of the United States, he might be assured that every disposition would be cherished to remove all causes of dissatisfaction, and to accommodate the wishes and the just policy of the Emperor.

The Baron said that these ideas had occurred to himself; that he had made this application in pursuance of his instructions; but he was aware of the distribution of powers in our Constitution, and of the incompetency of the Executive to adjust such questions. He would therefore wait for the exchange of the ratifications without presenting his note, and reserve for future consideration whether to present it shortly afterwards, or to inform his Court of what he has done, and ask their further instructions upon what he shall definitively do on the subject. He therefore requested me to consider what had now passed between us as if it had not taken place (*non avenu*); to which I readily assented, assuring him, as I had done heretofore, that the President had the highest personal confidence in him, and in his exertions to foster the harmony between the two countries. I reported immediately to the President the substance of this conversation, and he concurred in the propriety of the Baron's final determination.

THE INVOCATION

This convention begins with the invocation, "In the name of the Most Holy and Indivisible Trinity." Some comments on the use of that invocation in treaties are in the notes to Document 55, the treaty with Sweden and Norway of July 4, 1827.

EXECUTION OF THE CONVENTION

Under date of May 19, 1828, there was enacted a statute "for the punishment of contraventions of the fifth article of the treaty between the United States and Russia" (4 Statutes at Large, 276).