

HAWAII : DECEMBER 20, 1849

Treaty of Friendship, Commerce, and Navigation, signed at Washington December 20, 1849. Original in English. Submitted to the Senate December 21, 1849. Resolution of advice and consent January 14, 1850. Ratified by the United States February 4, 1850. Ratified by Hawaii August 19, 1850. Ratifications exchanged at Honolulu August 24, 1850. Proclaimed November 9, 1850.

The United States of America and His Majesty the King of the Hawaiian Islands, equally animated with the desire of maintaining the relations of good understanding which have hitherto so happily subsisted between their respective states, and consolidating the commercial intercourse between them, have agreed to enter into negotiations for the conclusion of a Treaty of Friendship, Commerce and Navigation, for which purpose they have appointed plenipotentiaries, that is to say:

The President of the United States of America, John M. Clayton, Secretary of State of the United States; and His Majesty the King of the Hawaiian Islands, James Jackson Jarves, accredited as his Special Commissioner to the Government of the United States; who, after having exchanged their full powers, found in good and due form, have concluded and signed the following articles:

ARTICLE I.

There shall be perpetual peace and amity between the United States and the King of the Hawaiian Islands, his heirs and his successors.

ARTICLE II.

There shall be reciprocal liberty of commerce and navigation between the United States of America and the Hawaiian Islands.

No duty of customs, or other impost, shall be charged upon any goods, the produce or manufacture of one country, upon importation from such country into the other, other or higher than the duty or impost charged upon goods of the same kind, the produce or manufac-

ture of, or imported from, any other country; and the United States of America and His Majesty the King of the Hawaiian Islands do hereby engage, that the subjects or citizens of any other state shall not enjoy any favor, privilege, or immunity, whatever, in matters of commerce and navigation, which shall not also, at the same time, be extended to the subjects or citizens of the other contracting party, gratuitously, if the concession in favor of that other State shall have been gratuitous, and in return for a compensation, as nearly as possible of proportionate value and effect, to be adjusted by mutual agreement, if the concession shall have been conditional.

ARTICLE III.

All articles the produce or manufacture of either country which can legally be imported into either country from the other, in ships of that other country, and thence coming, shall, when so imported, be subject to the same duties, and enjoy the same privileges, whether imported in ships of the one country, or in ships of the other; and in like manner, all goods which can legally be exported or reexported from either country to the other, in ships of that other country, shall, when so exported or re-exported, be subject to the same duties, and be entitled to the same privileges, drawbacks, bounties, and allowances, whether exported in ships of the one country, or in ships of the other: and all goods and articles, of whatever description, not being of the produce or manufacture of the United States, which can be legally imported into the Sandwich Islands, shall when so imported in vessels of the United States pay no other or higher duties, imposts, or charges than shall be payable upon the like goods, and articles, when imported in the vessels of the most favored foreign nation other than the nation of which the said goods and articles are the produce or manufacture.

ARTICLE IV.

No duties of tonnage, harbor, light-houses, pilotage, quarantine, or other similar duties, of whatever nature, or under whatever denomination, shall be imposed in either country upon the vessels of the other, in respect of voyages between the United States of America and the Hawaiian Islands, if laden, or in respect of any voyage, if in ballast, which shall not be equally imposed in the like cases on national vessels.

ARTICLE V.

It is hereby declared, that the stipulations of the present treaty are not to be understood as applying to the navigation and carrying trade between one port and another situated in the states of either contract-

ing party, such navigation and trade being reserved exclusively to national vessels.

ARTICLE VI.

Steam vessels of the United States which may be employed by the Government of the said States, in the carrying of their Public Mails across the Pacific Ocean, or from one port in that ocean to another, shall have free access to the ports of the Sandwich Islands, with the privilege of stopping therein to refit, to refresh, to land passengers and their baggage, and for the transaction of any business pertaining to the public Mail service of the United States, and shall be subject in such ports to no duties of tonnage, harbor, lighthouses, quarantine, or other similar duties of whatever nature or under whatever denomination.

ARTICLE VII.

The Whaleships of the United States shall have access to the ports of Hilo, Kealahou and Hanalei in the Sandwich Islands, for the purposes of refitment and refreshment, as well as to the ports of Honolulu and Lahaina which only are ports of entry for all Merchant vessels, and in all the above named ports, they shall be permitted to trade or barter their supplies or goods, excepting spiritous liquors, to the amount of two hundred dollars *ad valorem* for each vessel, without paying any charge for tonnage or harbor dues of any description, or any duties or imposts whatever upon the goods or articles so traded or bartered. They shall also be permitted, with the like exemption from all charges for tonnage and harbor dues, further to trade or barter, with the same exception as to spiritous liquors, to the additional amount of one thousand dollars *ad valorem*, for each vessel, paying upon the additional goods, and articles so traded and bartered, no other or higher duties, than are payable on like goods, and articles, when imported in the vessels and by the citizens or subjects of the most favored foreign nation. They shall also be permitted to pass from port to port of the Sandwich Islands for the purpose of procuring refreshments, but they shall not discharge their seamen or land their passengers in the said Islands, except at Lahaina and Honolulu; and, in all the ports named in this article, the whaleships of the United States shall enjoy in all respects, whatsoever, all the rights, privileges and immunities, which are enjoyed by, or shall be granted to, the whaleships of the most favored foreign nation. The like privilege of frequenting the three ports of the Sandwich Islands, above named in this article, not being ports of entry for merchant vessels, is also guaranteed to all the public armed vessels of the United States. But nothing in this article shall

be construed as authorising any vessel of the United States, having on board any disease usually regarded as requiring quarantine, to enter, during the continuance of such disease on board, any port of the Sandwich Islands, other than Lahaina or Honolulu.

ARTICLE VIII.

The contracting parties engage, in regard to the personal privileges that the citizens of the United States of America shall enjoy in the dominions of His Majesty the King of the Hawaiian Islands, and the subjects of his said Majesty in the United States of America, that they shall have free and undoubted right to travel and to reside in the states of the two high contracting parties, subject to the same precautions of police which are practiced towards the subjects or citizens of the most favored nations. They shall be entitled to occupy dwellings and warehouses, and to dispose of their personal property of every kind and description, by sale, gift, exchange, will, or in any other way whatever, without the smallest hinderance or obstacle; and their heirs or representatives, being subjects or citizens of the other contracting party, shall succeed to their personal goods, whether by testament or ab intestato; and may take possession thereof, either by themselves or by others acting for them, and dispose of the same at will, paying to the profit of the respective governments such dues only as the inhabitants of the country wherein the said goods are, shall be subject to pay in like cases. And in case of the absence of the heir and representative, such care shall be taken of the said goods as would be taken of the goods of a native of the same country in like case, until the lawful owner may take measures for receiving them. And if a question should arise among several claimants as to which of them said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are. Where on the decease of any person holding real estate within the territories of one party, such real estate would, by the laws of the land, descend on a citizen or subject of the other, were he not disqualified by alienage, such citizen or subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all duties of detraction on the part of the government of the respective States. The citizens or subjects of the contracting parties shall not be obliged to pay, under any pretence whatever, any taxes or impositions, other or greater than those which are paid, or may hereafter be paid, by the subjects or citizens of the most favored nations, in the respective states of the high contracting parties. They shall be exempt from all mili-

tary service, whether by land or by sea; from forced loans, and from every extraordinary contribution not general and by law established. Their dwellings, warehouses, and all premises appertaining thereto, destined for the purposes of commerce or residence, shall be respected. No arbitrary search of, or visit to, their houses, and no arbitrary examination or inspection whatever of the books, papers, or accounts of their trade, shall be made; but such measures shall be executed only in conformity with the legal sentence of a competent tribunal; and each of the two contracting parties engages that the citizens or subjects of the other residing in their respective states shall enjoy their property and personal security, in as full and ample manner as their own citizens or subjects, or the subjects or citizens of the most favored nation, but subject always to the laws and statutes of the two countries respectively

ARTICLE IX.

The citizens and subjects of each of the two contracting parties shall be free in the states of the other to manage their own affairs themselves, or to commit those affairs to the management of any persons whom they may appoint as their broker, factor or agent; nor shall the citizens and subjects of the two contracting parties be restrained in their choice of persons to act in such capacities, nor shall they be called upon to pay any salary or remuneration to any person whom they shall not choose to employ.

Absolute freedom shall be given in all cases to the buyer and seller to bargain together and to fix the price of any goods or merchandize imported into, or to be exported from the states and dominions of the two contracting parties; save and except generally such cases wherein the laws and usages of the country may require the intervention of any special agents in the states and dominions of the contracting parties. But nothing contained in this or any other article of the present Treaty shall be construed to authorize the sale of spiritous liquors to the natives of the Sandwich Islands farther than such sale may be allowed by the Hawaiian laws.

ARTICLE X.

Each of the two contracting parties may have, in the ports of the other, consuls, vice consuls, and commercial agents, of their own appointment, who shall enjoy the same privileges and powers with those of the most favored nations; but if any such consuls shall exercise commerce, they shall be subject to the same laws and usages to which the private individuals of their nation are subject in the same place. The said Consuls, vice consuls, and commercial agents are authorized

to require the assistance of the local authorities for the search, arrest, detention, and imprisonment of the deserters from the ships of war and merchant vessels of their country. For this purpose, they shall apply to the competent tribunals, judges and officers, and shall in writing demand the said deserters, proving, by the exhibition of the registers of the vessels, the rolls of the crews, or by other official documents, that such individuals formed part of the crews; and this reclamation being thus substantiated, the surrender shall not be refused. Such deserters, when arrested shall be placed at the disposal of the said consuls, vice consuls, or commercial agents, and may be confined in the public prisons, at the request and cost of those who shall claim them, in order to be detained until the time when they shall be restored to the vessel to which they belonged, or sent back to their own country by a vessel of the same nation or any other vessel whatsoever. The agents, owners or masters of vessels on account of whom the deserters have been apprehended, upon requisition of the local authorities shall be required to take or send away such deserters from the states and dominions of the contracting parties, or give such security for their good conduct as the law may require. But if not sent back nor reclaimed within six months from the day of their arrest, or if all the expenses of such imprisonment are not defrayed by the party causing such arrest and imprisonment, they shall be set at liberty and shall not be again arrested for the same cause. However, if the deserters should be found to have committed any crime or offence, their surrender may be delayed until the tribunal before which their cases shall be depending, shall have pronounced its sentence, and such sentence shall have been carried into effect.

ARTICLE XI.

It is agreed that perfect and entire liberty of conscience shall be enjoyed by the citizens and subjects of both the contracting parties, in the countries of the one and the other, without their being liable to be disturbed or molested on account of their religious belief. But nothing contained in this article shall be construed to interfere with the exclusive right of the Hawaiian Government to regulate for itself the Schools which it may establish or support within its jurisdiction.

ARTICLE XII.

If any ships of war or other vessels, be wrecked on the coasts of the states or territories of either of the contracting parties, such ships or vessels, or any parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandize which shall be saved therefrom, or the produce thereof if sold shall be faithfully re-

stored with the least possible delay to the proprietors, upon being claimed by them, or by their duly authorized factors; and if there are no such proprietors or factors on the spot, then the said goods and merchandize, or the proceeds thereof, as well as all the papers found on board such wrecked ships or vessels, shall be delivered to the American or Hawaiian Consul, or vice consul in whose district the wreck may have taken place; and such Consul vice consul, proprietors or factors, shall pay only the expenses incurred in the preservation of the property, together with the rate of salvage and expenses of quarantine which would have been payable in the like case of a wreck of a national vessel; and the goods and merchandize saved from the wreck shall not be subject to duties unless entered for consumption; it being understood that in case of any legal claim upon such wreck, goods or merchandize, the same shall be referred for decision to the competent tribunals of the country.

ARTICLE XIII.

The vessels of either of the two contracting parties which may be forced by stress of weather or other cause into one of the ports of the other, shall be exempt from all duties of port or navigation paid for the benefit of the state, if the motives which led to their seeking refuge be real and evident, and if no cargo be discharged or taken on board, save such as may relate to the subsistence of the crew, or be necessary for the repair of the vessels, and if they do not stay in port beyond the time necessary, keeping in view the cause which led to their seeking refuge.

ARTICLE XIV.

The contracting parties mutually agree to surrender, upon official requisition, to the authorities of each, all persons who, being charged with the crimes of murder, piracy, arson, robbery, forgery or the utterance of forged paper, committed within the jurisdiction of either, shall be found within the territories of the other; provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the person so charged shall be found, would justify his apprehension and commitment for trial if the crime had there been committed: and the respective judges and other magistrates of the two Governments, shall have authority, upon complaint made under oath, to issue a warrant for the apprehension of the person so charged, that he may be brought before such judges or other magistrates respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining

judge or magistrate to certify the same to the proper Executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive.

ARTICLE XV.

So soon as Steam or other mail Packets under the flag of either of the contracting parties, shall have commenced running between their respective ports of entry, the contracting parties agree to receive at the post offices of those ports all mailable matter, and to forward it as directed, the destination being to some regular post office of either country; charging thereupon the regular postal rates as established by law in the territories of either party receiving said mailable matter, in addition to the original postage of the office whence the mail was sent. Mails for the United States shall be made up at regular intervals at the Hawaiian Post Office, and despatched to ports of the United States, the postmasters at which ports shall open the same, and forward the enclosed matter as directed, crediting the Hawaiian Government with their postages as established by law and stamped upon each manuscript or printed sheet.

All mailable matter destined for the Hawaiian Islands shall be received at the several post offices in the United States and forwarded to San Francisco or other ports on the Pacific coast of the United States, whence the postmasters shall despatch it by the regular mail packets to Honolulu, the Hawaiian government agreeing on their part to receive and collect for and credit the Post Office Department of the United States with the United States rates charged thereupon. It shall be optional to prepay the postage on letters in either country, but postage on printed sheets and newspapers shall in all cases be pre-paid. The respective post office Departments of the contracting parties shall in their accounts, which are to be adjusted annually, be credited with all dead letters returned.

ARTICLE XVI.

The present treaty shall be in force from the date of the exchange of the ratifications for the term of ten years, and further, until the end of twelve months after either of the contracting parties shall have given notice to the other of its intention to terminate the same, each of the said contracting parties reserving to itself the right of giving such notice at the end of the said term of ten years, or at any subsequent term.

Any citizen or subject of either party infringing the articles of this treaty shall be held responsible for the same and the harmony and good correspondence between the two governments shall not be interrupted thereby, each party engaging in no way to protect the offender or sanction such violation.

ARTICLE XVII.

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate of the said States, and by His Majesty the King of the Hawaiian Islands, by and with the advice of his Privy Council of State, and the ratifications shall be exchanged at Honolulu within eighteen months from the date of its signature; or sooner if possible.

In witness whereof, the respective Plenipotentiaries have signed the same in triplicate, and have thereto affixed their seals. Done at Washington in the English language, the twentieth day of December, in the year one thousand eight hundred and forty nine.

JOHN M. CLAYTON. [Seal] JAMES JACKSON JARVES. [Seal]

NOTES

The file of this treaty is complete, and the papers are in customary form. There is one original of the treaty, which, according to its final clause, was signed in triplicate; other papers in the file are the attested resolution of the Senate of January 14, the duplicate United States instrument of ratification of February 4, the certificate of the exchange of ratifications at Honolulu of August 24, of which there are triplicate examples in English, and the original proclamation of November 9, 1850. The Hawaiian instrument of ratification of August 19, 1850, is in English and includes the articles of the treaty.

Also in the treaty file is a photograph, received from the archives of Hawaii, of a second original of the treaty; from this it appears that the *alternat* was not observed except in respect of the signatures of the Plenipotentiaries; throughout the clauses the United States is named first, as in the text above printed.

No correspondence or other papers accompanied the message of President Taylor of December 21, 1849, submitting this treaty to the Senate (Executive Journal, VIII, 104). The resolution of advice and consent was adopted on January 14, 1850, by a vote of 44 yeas to 1 nay (*ibid.*, 120). There is mention of the treaty in the annual message of President Fillmore to Congress of December 2, 1850 (Richardson, V, 83).

THE FULL POWERS

In the preamble of the treaty the exchange of the full powers is recited. No record or copy of a full power given to Secretary of State Clayton has been found either in the archives of the Department of State or in the archives of Hawaii. The original full power given to James Jackson Jarves by the King of the Hawaiian Islands under date of April 24, 1849, in English and Hawaiian, is in the treaty file; the English version thereof reads as follows:

Kamehameha By the Grace of God, of the Hawaiian Islands, King.

To all whom these Presents shall come, Greeting:

Know Ye, that reposing special trust and confidence in the knowledge, judgment and integrity of James Jackson Jarves Esquire, accredited as Our Special Commissioner to the Government of the United States, of North America, We have invested him with full and all manner of power and authority, to meet and confer with any person or persons, duly authorized by the President of said United States, being invested with like power and authority, and with him, or them, to agree, treat, consult and negotiate of, and concerning peace friendship and commerce between Our Kingdom of the Hawaiian Islands, and the said United States, and to conclude and sign a Treaty or Treaties, Convention or Conventions, touching the premises, and all others for the good of Our Kingdom, transmitting the same to Us, for Our final ratification, by and with the advice of our Privy Council of State.

Given at Our Palace, in Honolulu, this twenty fourth day of April 1849, the twenty fourth year of Our Reign.

KEONI ANA

KAMEHAMEHA

By the King and Premier

R. C. WYLLIE

Minister of Foreign Relations

Also in the treaty file is the Hawaiian full power of August 19, 1850, in English and Hawaiian, running to Robert Crichton Wyllie, Minister of Foreign Relations of Hawaii, to exchange the ratifications. The full power given to Charles Bunker, consul of the United States at Lahaina, for the same purpose, is under date of May 7, 1850 (D.S., 3 Credences, 352).

RECOGNITION

This was the first formal treaty between the United States and Hawaii to be submitted to the Senate. For the "Articles of Arrangement" with the King of the Sandwich Islands negotiated by Captain Thomas ap Catesby Jones, U.S.N., and signed at Honolulu December 23, 1826, see Document 54.

Various agreements between Hawaii and European powers had been made prior to 1849, including (a) articles of November 16, 1836, with Great Britain (Foreign Relations, 1894, appendix II, 37); (b) a convention of July 24, 1837, with France (Von Martens, *Nouveau recueil général de traités*, IV, 282-83); (c) a convention of July 12, 1839, with France (*ibid.*, 285-86; Foreign Relations, 1894, appendix II, 37-38); (d) a convention of July 17, 1839, with France (Von Martens, *Nouveau recueil général de traités*, IV, 286-87; Foreign Relations, 1894, appendix II, 38); (e) articles of July 31, 1843, with

Great Britain (with other papers in British and Foreign State Papers, XXXI, 1023-35); (f) a convention of February 12, 1844, with Great Britain (*ibid.*, XLIV, 671-73; Foreign Relations, 1894, appendix II, 65-66); (g) a treaty of March 26, 1846, with Great Britain (British and Foreign State Papers, XXXIV, 22-23); (h) a similar treaty of the same date with France (*ibid.*, XXXV, 1258-59; Foreign Relations, 1894, appendix II, 68-69); (i) a general convention or treaty of October 19, 1846, with Denmark (British and Foreign State Papers, XXXV, 252-54); (j) a general convention or treaty of January 8, 1848, with Hamburg; (k) an agreement of January 25, 1848, under the two treaties last mentioned.

Seven of those agreements (not including the conventions of July 24, 1837, and July 12, 1839, with France, and the agreements of 1843 and 1844 with Great Britain) are printed in *Treaties and Conventions Concluded between the Hawaiian Kingdom and Other Powers since 1825*, 3-20.

Definitive and formal recognition by the United States of the independence of the Hawaiian Kingdom is generally dated from 1842. Secretary of State Calhoun, in a note of July 6, 1844, addressed to Timoteo Haalilio and William Richards, Commissioners of the Hawaiian Government, wrote that "the President regarded his message to Congress of the 31st [30th] December, 1842, the proceedings of the House of Representatives thereon, and the appropriation made for the compensation of a commissioner of the United States, who was subsequently appointed to reside in the islands, as a full recognition on the part of the United States of the independence of the Hawaiian Government" (quoted in *Foreign Relations*, 1894, appendix II, 69). The message of President Tyler to Congress of December 30, 1842, communicated copies of the correspondence which had passed between the Hawaiian Commissioners and Secretary of State Daniel Webster (*ibid.*, 39-45). The former, in their note of December 14, 1842, expressed the desire that the Hawaiian Kingdom should be formally acknowledged as a sovereign and independent state and stated that they were authorized "to enter into negotiation with the authorities of the United States, by convention, treaty, or otherwise, whenever the latter shall acknowledge the sovereignty" of the King of the Hawaiian Islands. The answering note of December 19 was not precise on the question of recognition, containing these paragraphs (*ibid.*, 44-45):

The advantages of your country to the navigators in the Pacific, and in particular to the numerous vessels and vast tonnage of the United States frequenting that sea, are fully estimated; and just acknowledgments are due to the Government and inhabitants of the islands for their numerous acts of hospitality to the citizens of the United States.

The United States have regarded the existing authorities in the Sandwich Islands as a Government suited to the condition of the people, and resting on their own choice; and the President is of opinion that the interests of all the commercial nations require that that Government should not be interfered with by foreign powers. Of the vessels which visit the islands, it is known that a great majority belong to the United States. The United States, therefore, are more interested in the fate of the islands, and of their Government, than any other nation can be; and this consideration induces the President to be quite willing to

declare, as the sense of the Government of the United States, that the Government of the Sandwich Islands ought to be respected; that no power ought either to take possession of the islands as a conquest, or for the purpose of colonization, and that no power ought to seek for any undue control over the existing Government, or any exclusive privileges or preferences in matters of commerce.

Entertaining these sentiments, the President does not see any present necessity for the negotiation of a formal treaty, or the appointment or reception of diplomatic characters. A consul or agent from this Government will continue to reside in the islands. He will receive particular instructions to pay just and careful attention to any claims or complaints which may be brought against the Government or people of the islands by citizens of the United States, and he will also be instructed to receive any complaint which may be made by that Government for acts of individuals (citizens of the United States) on account of which the interference of this Government may be requested, and to transmit such complaint to this Department.

It is not improbable that this correspondence may be made the subject of a communication to Congress, and it will be officially made known to the governments of the principal commercial powers of Europe.

It seems, indeed, that the views of Webster were not wholly in accord with those expressed later by Calhoun in the note of July 6, 1844, quoted above, for the first instruction written to a Commissioner of the United States to Hawaii contained this opening paragraph (D.S., Legation Archives, Hawaii, 1 Instructions, Hawaii, No. 1, March 15, 1843, original; Foreign Relations, 1894, appendix II, 60-61):

The accompanying message of the President to Congress of the 30th. of December, last, transmitting a correspondence between this Department and certain agents of the Sandwich Islands, then in this City, will acquaint you with the view which he entertains of the relations between the United States and those Islands, and with the objects and motives of this Government for cultivating and strengthening those relations. Congress having complied with his suggestion by providing for a Commissioner to reside at the Islands, you have been chosen for that purpose. A commission appointing you to the office will be found with the papers which you will receive herewith, and a letter from this Department addressed to that Minister of the King of the Islands who may be charged with their foreign relations, accrediting you in your official character. The title selected for your mission has reference, in part, to its purposes. It is not deemed expedient at this juncture fully to recognize the independence of the Islands, or the right of their Government to that equality of treatment and consideration which is due and usually allowed to those Governments to which we send, and from which we receive, diplomatic agents of the ordinary ranks. By this, however, it is not meant to intimate that the Islands, so far as regards all other powers, are not entirely independent; on the contrary, this is a fact respecting which no doubt is felt, and the hope that through the agency of the Commissioner that independence might be preserved, has, probably in a great degree, led to the compliance by Congress with the recommendation of the President.

EARLY NEGOTIATIONS

The first "Commissioner of the United States for the Sandwich Islands" was George Brown, of Massachusetts, who was appointed on March 3, 1843, and who reached Honolulu on the following October 16 (D.S., 1 Despatches, Hawaii, No. 5, October 26, 1843). In the earliest instructions to Brown, of March 15, 1843, from Secretary of State Webster, the only allusion to the negotiation of a treaty is the following (D.S., Legation Archives, Hawaii, 1 Instructions, Hawaii, No. 1, original):

Your attention is particularly requested to the nature of the fiscal regulations in force there [in Hawaii], to their effects upon foreign commerce generally, and to the policy of the Government in regard to this subject. If those regulations should be frequently changed, or if there should be cause to apprehend the imposition of discriminating duties upon our navigation and trade, the expediency of negotiating a treaty with that government, which would determine for a series of years the reciprocal rights and duties of the parties in regard to those subjects, will be taken into consideration.

Not until January 10, 1845, was a full power issued to Brown "to agree, treat, consult and negotiate of and concerning peace, friendship and commerce" (*ibid.*, original); and the accompanying instructions on the subject, of January 20, 1845, from Secretary of State Calhoun, were not very pressing, as will be seen from the following excerpt (*ibid.*, No. 4, original):

The United States, if it be desired by the Hawaiian government, are willing to enter into treaty stipulations, on the basis of those now existing between it and Great Britain [the convention of February 12, 1844, cited above]; and I herewith transmit to you full powers to conclude such a Convention. But it is to be understood that the treaty is not to bar the claim for damages in the case of Mr [John] Wiley,¹ (if any have been sustained) nor of any citizen or citizens of the United States for injuries accruing prior to its adoption, should it be made. I have further to say that if Great Britain or France should hereafter consent, in cases involving the rights of their respective citizens, to a trial by Jury *de mediate lingua*, the United States would be willing to make the same concession. But whether there be or be not treaty stipulations between us and the Islands, the United States can never consent that their citizens should be put on any other footing than those of the most favored nations.

However, some months before the date of those instructions a letter from King Kamehameha III to President Tyler had informed the latter that "Mr Brown . . . is not agreeable to my Government" (D.S., 1 Despatches, Hawaii, No. 18, September 24, 1844, enclosure of September 20, 1844; received February 15, 1845). Moreover, the instruction to Brown of January 20, 1845, was not received by him until the following August 12 (D.S., 3 Despatches, Hawaii, No. 35, August 27, 1845); and by note of the Hawaiian Minister of Foreign Relations of July 29, 1845, Brown had been formally interdicted "from all future correspondence with this or any other department of His Majesty's Government, from the time you receive this communication" (*ibid.*, No. 34, August 18, 1845, enclosure M). That interdiction was not removed until after the arrival at Honolulu of Brown's successor and only two or three days before the presentation of the latter to the King on June 20, 1846 (*ibid.*, No. 70, June 20, 1846, enclosure A; and 2 *ibid.*, No. 1, June 22, 1846).

The successor of Brown as Commissioner was Anthony Ten Eyck, of Michigan, who was appointed on April 19, 1845, and who reached Honolulu on June 9, 1846 (*ibid.*). Ten Eyck was furnished with a full power dated September 10, 1845, "to agree, treat, consult and negotiate of and concerning peace, friendship and commerce"

¹ As to this case, see Correspondence between H.H.M. Secretary of State and the U.S. Commissioner, in the Case of John Wiley, an American Citizen, a pamphlet of seventy-eight pages; also Foreign Relations, 1894, appendix II, 66-68.

(D.S., Legation Archives, Hawaii, 1 Instructions, Hawaii, original), and his instructions of the same date from Secretary of State Buchanan included the following (*ibid.*, No. 1, original):

You will be furnished with full powers to negotiate a Treaty with the Hawaiian Government. I transmit you a copy of the Treaty now in existence between His Majesty and Great Britain. This may serve as a model for your Treaty; although you are not limited to its provisions should experience present to your mind, after you reach the Islands, any other stipulation of importance. It has the merit of being both brief and comprehensive. If the Governments of Great Britain and France have modified the sixth article of their Treaties [the conventions of February 12, 1844, and July 17, 1839, respectively, cited above] in such a manner as to enable the Hawaiian Government to impose a higher duty than five per cent upon the importation of wines and ardent spirits, you will consent to a similar modification. The cause of morality requires this concession. The United States in their commercial arrangements desire no advantage over other powers; and least of all would they wish to obtain them from the Hawaiian Government.

The mission of Ten Eyck was not considered to be terminated until December 31, 1849 (D.S., 2 Despatches, Hawaii, No. 63, December 8, 1849); his despatches are all in the volume last cited. The treaty negotiations of Ten Eyck extended intermittently over a period of about two years (October 1846 to December 1848) and were wholly unsuccessful; they are described in detail in the despatches and enclosures thereto (No. 5, October 1, 1846; No. 8, December 21, 1846; No. 12, March 27, 1847; No. 15, May 25, 1847; No. 17, June 2, 1847; No. 21, November 3, 1847; No. 30, February 15, 1848; No. 31, March 2, 1848; No. 34, May 4, 1848; No. 36, June 8, 1848; No. 47, March 5, 1849; No. 51, April 2, 1849); while Ten Eyck knew from the outset of the Hawaiian treaties with Great Britain and France of March 26, 1846 (cited above), his first proposals went much farther than did the terms of those treaties,¹ were of a harsh and drastic character, and were also quite lengthy; almost from the beginning of his mission the attitude of Ten Eyck toward the Hawaiian Government was critical and hostile (No. 3, July 18, 1846); his proposals were not only wholly unacceptable to the Hawaiian Government, but were disapproved by the Department of State in the instruction from Secretary of State Buchanan of June 18, 1847, from which these para-

¹ To Articles 3 and 6 of which the Hawaiian Government took exception; those articles read as follows in the treaty with Great Britain (Treaties and Conventions Concluded between the Hawaiian Kingdom and Other Powers since 1825, 9-10) and similarly in that with France (*ibid.*, 7-8):

ARTICLE III. No British subject accused of any crime whatever shall be judged otherwise than by a jury composed of native or foreign residents, proposed by the British Consul and accepted by the Government of the Sandwich Islands.

ARTICLE VI. British merchandise or goods recognized as coming from the British dominions, shall not be prohibited, nor shall they be subject to an import duty higher than five per cent. *ad valorem*. Wines, brandies, and other spirituous liquors are however excepted from this stipulation, and shall be liable to such reasonable duty as the Hawaiian Government may think fit to lay upon them, provided always that the amount of duty shall not be so high as absolutely to prohibit the importation of the said articles.

graphs are excerpted (D.S., Legation Archives, Hawaii, 1 Instructions, Hawaii, No. 6; perhaps the original, but unsigned):

I scarcely deem it probable that the Hawaiian Government will conclude a Treaty with the United States in conformity with the projet which you have transmitted to the Department. They will consider that this would trench too much upon their rights as an independent nation. Nor can I concur with you in opinion that if such a Treaty, however desirable, cannot be procured, we would be as well off without any. I have reexamined the British Treaty [of March 26, 1846, cited above] with the Hawaiian Government, and confess I think that a similar Treaty with the United States could not fail to prove advantageous to our interests. You are, therefore, again instructed to conclude such a Treaty if a better cannot be obtained.

It appears that the Hawaiian Government has appealed to Great Britain to annul the third article of that Treaty, which provides that "no British subject accused of any crime whatever, shall be judged otherwise than by a Jury composed of foreign residents proposed by the British Consul and accepted by the Government of the Sandwich Islands": and a similar application has been made to France. This fact renders it highly improbable that you will obtain the assent of that Government to the terms of your projet.

Following the receipt on January 28, 1848, of the instruction just cited, Ten Eyck resumed negotiations for a treaty and presented a new draft based partly on the treaties of 1846 but containing, also, articles regarding the holding of real estate (D.S., 2 Despatches, Hawaii, No. 30, February 15, 1848, and enclosures); these proved unacceptable, and Ten Eyck finally offered (with a revised draft as an alternative) to sign a treaty similar to those of 1846 (*ibid.*, No. 34, and enclosure; No. 36 and enclosure A); but the Hawaiian Government, on February 29, 1848, had formally protested against Articles 3 and 6 of the treaties of 1846, was unwilling to make another treaty to the same effect, and preferred to await the opinions and the pleasure of the President of the United States (*ibid.*, No. 36, enclosures C and D, May 26 and June 7, 1848); Ten Eyck then wrote (June 8, 1848) that he would transmit the whole correspondence to his Government (*ibid.*, enclosure E). Notwithstanding this, there were some further exchanges, including a Hawaiian draft, beginning late in the following September (see *ibid.*, No. 47, March 5, 1849, enclosures); but all official intercourse between Ten Eyck and the Government of Hawaii was terminated by the decision of the latter, dated December 11, 1848 (see *ibid.*, Nos. 44 and 45, December 19, 1848, and enclosures; and also Official Correspondence between Anthony Ten Eyck, Esquire, and Robert Crichton Wyllie, Esquire, His Hawaiian Majesty's Minister of Foreign Relations, Showing the Causes of the Cessation of Official Intercourse with Anthony Ten Eyck, Esquire, as U.S. Commissioner). Notice of the cessation of official intercourse with Ten Eyck from December 14, 1848, was given in the note of Wyllie to the Secretary of State dated January 8, 1849, received June 20, 1849 (D.S., 2 Notes from the Hawaiian Legation); with that note are voluminous supporting enclosures, among which are various prints from the Polynesian (the official journal of the Hawaiian Government) of official correspondence, including that in the pamphlet last cited.

The general course of Ten Eyck in his mission was the subject of lengthy disapproval and censure in the instruction of Secretary of

State Buchanan of August 28, 1848 (D.S., Legation Archives, Hawaii, 1 Instructions, Hawaii, No. 7, copy enclosed with instruction No. 8, of September 20, 1848; received by Ten Eyck some time between March 11 and 14, 1849; see D.S., 2 Despatches, Hawaii, No. 48, March 14, 1849). For Ten Eyck's explanation and defense, see *ibid.*, No. 47, March 5, 1849, and enclosures, and No. 51, April 2, 1849.

THE TWO COMMISSIONERS FROM HAWAII

In 1849 three treaties between the United States and Hawaii were negotiated; the earliest in date was that signed at San Francisco on October 22, 1849, by Charles Eames on behalf of the United States and by Gerrit Parmile Judd on behalf of Hawaii; the second was signed at Washington on December 6, 1849, by Secretary of State Clayton and James Jackson Jarves; the third, the present treaty, which alone of the three went into force, was also signed at Washington by the two Plenipotentiaries last named, on December 20, 1849; those three treaties are, for convenience, hereinafter generally mentioned, respectively, as the San Francisco Treaty, the treaty of December 6, and the final treaty.

Of the two Hawaiian Commissioners mentioned, the first to be appointed was James Jackson Jarves, whose full power from the King of the Hawaiian Islands, dated April 24, 1849, has been described above. Jarves had sailed from Honolulu in February 1848 (D.S., 2 Despatches, Hawaii, No. 30, February 15, 1848) and was located at Boston, Massachusetts. Before leaving Hawaii Jarves had been editor of the Polynesian, the official journal of the Hawaiian Government, published weekly at Honolulu.

Besides his full power, Jarves had the following letter of credence of the same date (and also, it seems, one of September 10, 1849), signed by the Minister of Foreign Relations of Hawaii, Robert Crichton Wylie (D.S., 2 Notes from the Hawaiian Legation):

DEPARTMENT OF FOREIGN RELATIONS

Honolulu 24 April 1849.

SIR The King of the Hawaiian Islands, has commanded me to acquaint you that, His Majesty has appointed James Jackson Jarves Esquire, His special Commissioner, to the Government of the United States, and to make known to that Government, through you, His Majesty's views and wishes, upon all matters relating to the Foreign Relations of His Kingdom, to the formation of a Treaty of Peace, friendship and Commerce, with the United States, (so just and reciprocal in its obligations, as may lead to its adoption, by the Governments of Great Britain and France), to the preservation of his Independence, the security of His neutrality, during all Wars, that may arise, and the greater regularity and uniformity of His Relations, with all Foreign Nations.

Mr Jarves is intimately acquainted with these Islands, in all their internal, and external Relations; he possesses the confidence of the King, in an eminent degree, and His Majesty has commanded me, to request you, to attach full credit to all that Mr Jarves may communicate to you, on the part of the Hawaiian Government, on important matters, that he will submit to you, and to afford him that assistance, which the King considers you, so well able to give, and which, from experience of their past beneficence, He believes the United States, will willingly sanction.

Mr Jarves will deliver this letter, and assure you of the Kings desire to continue in the enjoyment of the friendly sympathy of the Government, and people of the

United States; and His Majesty commands me, to add, in the most emphatic terms, that He desires to cultivate the most friendly Relations with the United States, Great Britain, France, and all other Foreign Nations, upon the principle of perfect equality and fairness, to all, and of meriting the friendly interest which they have been pleased to express, in favour of His right to govern His own Islands, independent of all Foreign Control.

The King and His Government believe that such a policy is the most favourable, to all Great Maritime Nations, which have commercial interests, in the Pacific Ocean, and one, which, if disregarded by any one nation, might afford an excuse to some other, to attempt to subjugate His Majesty's small Kingdom.

I am glad to have this opportunity to convey to you, the assurance of the very high consideration, with which I have the honour to be, Sir, Your most obedient humble servant

R. C. WYLLIE

To the Honourable the SECRETARY OF STATE
Washington

The Plenipotentiary of Hawaii second to be appointed was Dr. Gerrit Parmile Judd, who had gone to the Hawaiian Islands in 1828 as a medical missionary, had been Hawaiian Minister of Foreign Relations, and was at the time Minister of Finance. His full power from the King of the Hawaiian Islands was dated September 10, 1849, the day before his departure from Honolulu; like that previously given to Jarves (described above), it is written in English and Hawaiian, and it is generally in the same form; but Judd is said to be "accredited as Our Special Commissioner and Plenipotentiary Extraordinary to the Government of the United States of North America", he is given authority to treat "either separately from or jointly with Mr Jarves", and the instrument contains this additional paragraph, which is not in the earlier power (D.S., 2 Notes from the Hawaiian Legation, copy sent by Charles Eames with his despatch of October 22, 1849, cited and quoted below):

And further, either separately or jointly, as aforesaid, We grant full power to, and We command him the said Gerrit Parmile Judd Esquire, to represent and vindicate all our Rights as Sovereign of the Hawaiian Islands, and all Our just claims for damages, reparations and redress, under the late unjust Demands and Outrages made and perpetrated, by the Naval Forces of France, and, with that view if, necessary, to obtain the friendly meditation [mediation] of the Government of the United States

The credential letter given to Judd was not presented by him in person, but was sent to the Secretary of State with a note of December 11, 1849 (quoted below); it was, like that of Jarves, not merely formal, and it is written throughout in the hand of the Minister of Foreign Relations of Hawaii, as follows (D.S., 2 Notes from the Hawaiian Legation):

DEPARTMENT OF FOREIGN RELATIONS
Honolulu 10th September 1849

SIR I have the honour to refer you to my credential letters of the 24th April last, and of this date, by James Jackson Jarves Esquire, and, I am directed by the King, further to make known to you, that under the recent unjust hostilities and reprisals, perpetrated on this unoffending and unresisting Kingdom, by the Admiral and the Consul of France, His Majesty has seen fit to nominate and appoint Gerrit Parmile Judd Esquire, His Minister of Finance to be associated with Mr Jarves, as His Majesty's Special Commissioner and Plenipotentiary

Extraordinary, to the Governments of the United States, Great Britain and France, to act, either separately from, or jointly with Mr Jarves, as His Majesty's interests may require.

The late unhappy events, originating in personal feelings and objects of M Dillon the Consul of France will, it is hoped, in your view and in that of the President, place in a stronger light the necessity of forming with this Government such a Treaty, and establishing such Diplomatic regulations as Mr Jarves was instructed to frame, in concert with the Government of the United States, in the hope of, afterwards, being able to induce the Governments of Great Britain and of France, to adopt, precisely, the same, as the rule of their relations, with this Kingdom.

Mr Judd having been on the Islands, since 1828, and since 1842, having held several important appointments under this Government, whereby he has acquired much knowledge relating to the Islands, to the native inhabitants, to the interests of foreigners and to the policy of this Government, on all these matters, and on others embraced in his instructions, you are, respectfully, requested to attach full faith and credit to what he may say.

Mr Judd is accompanied by Alexander Liholiho, the King's Heir presumptive (by adoption, and by his brother Lot Kamehameha, the former born on the 9th February 1834, and the latter, on the 11th December 1830. The King and Government take great interest, in the improvement of these young Chiefs, who, if spared, in default of direct issue from the King, are destined to exercise an important influence upon the Hawaiian people.

I am happy to have this opportunity to renew the assurance of the most distinguished respect and consideration with which I have the honour to be, Sir Your most obedient humble Servant

R. C. WYLLIE

The Honourable The SECRETARY OF STATE at Washington

The mission of Judd was, in the view of the Hawaiian Government, made necessary by the serious controversy which had arisen with the Government of France. The chief question at issue was the rate of duties upon imports of French liquors under the treaty between France and Hawaii of March 26, 1846. Coercive measures were taken by French naval forces beginning August 25, 1849, to which no resistance was offered by the Hawaiian Government. The French demands (ten in number) had been presented three days earlier. The correspondence of the latter part of August and the early part of September 1849 and an account of the measures taken are in the Polynesian of September 8, 1849 (D.S., 2 Despatches, Hawaii, No. 56, September 10, 1849, enclosure; see also Foreign Relations, 1894, appendix II, 70-78; a summary is in Kuykendall, History of Hawaii, 180-83).

The instructions to Jarves and to Judd for the missions to the United States, France, and Great Britain (a copy whereof is in D.S., 4 Despatches, Hawaii, with despatch No. 8; of March 31, 1851), were the same, dated in part April 28 and in part September 10, 1849. Insofar as they were for the governance of the mission to Washington, they dealt with relations with France and Great Britain, particularly the former, as well as with the United States. They referred to ad-valorem duties; they recommended a declaration by the United States similar to that of Great Britain and France signed at London on November 28, 1843 (British and Foreign State Papers, XLIV, 646; Foreign Relations, 1894, appendix II, 64, 120); they suggested treaties of identic "tenor and effect" between Hawaii and

the three powers, respectively; they represented the advantage of a joint agreement between those powers to respect the neutrality of Hawaii; and they discussed the conduct of foreign agents, the most-favored-nation clause, and forms and ceremonies. In respect of a treaty with the United States they directed the submission of the draft proposed to Ten Eyck on October 13, 1848, adding that the Commissioners were not to consider themselves "fettered" by that draft "further than as showing the views of this Government generally". The draft in question, with a preamble and a final clause, contains the following ten articles (D.S., 2 Despatches, Hawaii, No. 47, March 5, 1849, enclosure; collated here with the copy enclosed with the note of Wyllie to the Secretary of State dated January 8, 1849, and received June 20, 1849, in D.S., 2 Notes from the Hawaiian Legation; a pencil addendum to that copy suggests "an article embracing a Postal arrangement"):

I, There shall be perpetual peace, and amity, between the United States of America and the King of the Hawaiian Islands, His Hevis [Heirs] and successors.

II, The Citizens of the United States, residing within the Dominions of the King of the Hawaiian Islands, shall enjoy the same protection, in regard to their civil rights as well as to their persons and properties, as native subjects; and the King of the Hawaiian Islands engages to grant to the Citizens of the United States, the same rights & privileges, which now are or here-after may be, granted to, or enjoyed by, any other foreigners, subjects of the most favoured nation.

III, The protection of the King of the Hawaiian Islands, shall be extended to all vessels of the United States, their officers & crews. In case of shipwreck, the Chiefs and inhabitants of the different parts of the Hawaiian Islands, shall succour them, & secure them from plunder. The salvage dues shall be regulated, in case of dispute, by Arbitrators chosen by both parties.

IV, The desertion of Seamen embarked on board of Vessels of the United States, shall be severely repressed, by the local authorities, who shall employ all the means, at their disposal, to arrest Deserters; and all reasonable expences of capture, shall be defrayed, by the Captains, or Owners of the said vessels.

V, Merchandise of the U.S., or goods recognized as coming from Ports belonging to the U.S. shall not be subject to an import duty, higher, than that levied upon the Merchandise & goods of the most favoured nation.

VI, All goods, the produce or Manufacture of the Hawaiian Islands, shall be admitted into the ports of the U.S. bordering on the Pacific, at precisely the same rate of duty, that goods the produce or Manufacture of the U.S. and their Territories are admitted at, into the ports of the Hawaiian Islands.

VII, No Tonnage, Import or other duties shall be levied on vessels of the U.S., or goods imported in vessels of the U.S. beyond what are levied, on vessels or goods of the most favoured nation; and no tonnage, import or other duties shall be levied on Hawaiian vessels, or goods imported in Hawaiian vessels, in ports belonging to the U.S., beyond what are levied on vessels or goods of the most favoured nation.

VIII, The subjects of the King of the Hawaiian Islands, shall in their commercial or other relations with the U.S. be treated at the footing of the most favoured nation.

IX, This treaty shall endure for _____ years from the date of its ratification by the President of the United States.

X, The stipulations contained in this Treaty shall not be permanently binding, till it be ratified by the President of the U.S.; but it is mutually agreed that, provisionally, it shall take effect, from the date of its ratification, by His Majesty the King of the Hawaiian Islands.

THE SAN FRANCISCO TREATY

Charles Eames, of New York, was appointed Commissioner to the Sandwich Islands on January 12, 1849; his full power "to agree, treat, consult and negotiate of and concerning general commerce between the United States and the Sandwich Islands" was dated February 10 (D.S., 3 Credences, 262), and his instructions from Secretary of State Buchanan were of February 16, 1849, as follows (D.S., 2 Instructions, Hawaii, 14-19):

The opportunity which has been afforded you to peruse the instructions to your predecessors and their communications to this Department, has made you acquainted with the history and present state of our diplomatic relations with the Hawaiian Government. Neither Mr Brown nor Mr Ten Eyck has been able to succeed in negotiating a treaty with that government under their instructions. This is a principal object of your mission and all the instructions addressed to either of them upon this subject you will consider applicable to yourself.

You are authorized, as your predecessors were, to conclude a Treaty with the Hawaiian Government similar in all respects to their Treaties with Great Britain and France [of March 26, 1846, cited above]. But surely that Government would prefer to conclude a Treaty of commerce and navigation with the United States similar to our Treaties with other civilized and independent Nations and this the President would prefer.

The commercial treaties between the United States and foreign powers are based upon principles recognized by the laws of the United States which have from time to time been enacted for the purpose of regulating our foreign trade. The only two enactments upon this subject now in force are contained in the 4th Section of the Act of Congress approved the 7th January, 1824 [4 Statutes at Large, 2-3] . . . and the first section of the Act approved 24th May 1828 [*ibid.*, 308-9]. . . .

The effect of these enactments is to authorize the President to admit the vessels of foreign countries into the United States upon the same terms with our own vessels, either when those vessels bring the productions of the Countries to which they belong or those of any other foreign country, provided similar privileges are extended to vessels of the United States. Consequently, the coasting trade is the only branch of our commerce in which foreigners cannot participate. The President is willing to conclude with the Hawaiian government a treaty of reciprocity. To entitle a Treaty to this appellation, however, it will be necessary to take the circumstances of the respective countries into consideration. To offer to admit the Hawaiian vessels into our ports upon the basis of the act of Congress of 1828 would obviously give those sailing or claiming to sail under that flag an undue advantage. The vast extent, the great and increasing population of the United States with their various wants, would offer to Hawaiian vessels inducements for supplying them with the productions of other countries, either from Hawaiian ports or elsewhere, which the comparatively limited territory and sparse population of the Sandwich Islands could not in return offer to the vessels of the United States. This basis for a treaty would be the more objectionable if the Department is correctly informed that the right to use the Hawaiian flag is easily obtained by foreigners, and that many engaged in the navigation of the Islands are enterprising and not very scrupulous Europeans.

The President is consequently of opinion that a Treaty with the Sandwich Islands based upon the Act of Congress of 1824, above referred to, the principles of which were adopted in the two first articles of our Convention with Great Britain of 1815 [Document 35], would be the most equitable and expedient. As those parts of the Treaty which do not relate to trade are comparatively unimportant, you can introduce any other articles of our recent Treaties which you may deem necessary. It would be advisable, however, to make the Treaty for a term of years, say eight, to end at a year's notice by either party after that time.

In the 8th volume of the Statutes at large you will find a collection of all our Treaties with Foreign nations up to the date of that publication. Several of these Treaties are of Direct reciprocity, such as you are authorized to conclude

with the Hawaiian Government. The last of the kind concluded by the United States was with the two Sicilies, with a copy which, dated on the 1st December 1845 [Document 118] you are furnished. You may adopt this as your general model. The sixth article of it provides for the succession to personal property only. This ought, also, to be extended to real estate; because many American citizens hold lands in the Islands. If this cannot be accomplished in its full extent, then you might agree to the 7th Article of our Treaty with Hanover of the 20th May 1840 [Document 92], substituting this for the 6th Article of the Treaty with Naples.

Should the Hawaiian Government decline to conclude a general Treaty of direct reciprocity with the United States; and object to the conclusion of a Treaty similar to those with Great Britain and France on account of objections to the third and sixth articles of these Treaties, you can answer that whilst the United States are unwilling to be placed in a worse condition than the most favored nation, yet they will agree to any reasonable modification of these articles which may be made in the existing Treaties with these Powers. Indeed, should, this become necessary, you might propose to insert the following article or something like it in the Treaty.

ARTICLE 9. Should the Hawaiian Government and the Governments of Great Britain and France, abolish, change or modify the third and sixth articles of their existing Treaties the corresponding third and sixth Articles of the present Treaty shall no longer remain in force, provided the United States shall continue in all respects to be placed on the footing of the most favored nation.

This would obviate every objection; and still place us in as favorable a position as any other nation: and it cannot be denied that these articles are open to serious objections.

The Hawaiian authorities have uniformly professed a friendly disposition towards the United States. It must be acknowledged that this profession is vouched for by too many obvious motives of sympathy and interest to allow its sincerity to be disbelieved. Still under all the circumstances we shall have a right to consider and shall in fact consider the issue of your negotiation for a treaty the test of the sincerity of the professions of that Government.

The great impulse which the intercourse between the Islands and our territory on the Pacific has recently received, and the probability that this intercourse will augment in a rapid ratio, makes it important that the commercial relations between the two countries should be regulated by a treaty. This is important, not to the United States alone. Without a treaty, the productions of the Islands introduced into the United States in Hawaiian vessels, would, according to the 11th section of the tariff act of 1842 [act of August 30, 1842, 5 Statutes at Large, 561], be chargeable with an addition of ten per cent to the respective rates of duty imposed on the articles of merchandize of which the cargo may consist, by the Tariff act of 1846 [act of July 30, 1846, 9 *ibid.*, 42-49]. The exaction of this duty would, it is believed, seriously and injuriously affect the trade between the United States and the Islands in Hawaiian vessels, and even if that government should countervail it by the adoption of any regulation which would discourage United States vessels from engaging in the same trade, the restriction would probably so increase the freight on Hawaiian sugar and other productions which now find a nearer and ready market in California and Oregon, as to give a preference to similar articles from the Mexican or Peruvian coast. As the encouragement of the cultivation of sugar is understood to be a favorite object of Hawaiian policy, the willingness of that government to avoid a result apparently so well calculated to thwart it, cannot be doubted.

You are aware how greatly the Sandwich Islanders are indebted to the Christian missionaries resident among them for their progress in civilization. The zealous and disinterested labors of those missionaries have probably resulted in causing their advice and opinions upon other subjects than those relating to their calling to be respectfully listened to and to be perhaps decisive with the Hawaiian people and government.

You will consequently by all honorable means cultivate the most friendly relations with the missionaries.

Sailing from an Atlantic port on July 2, 1849, on the U.S. frigate *Savannah*, the flagship of the Pacific Squadron, under command of Captain Philip F. Voorhees, U.S.N., Eames arrived at San Francisco on the following August 27¹ (D.S., 4 Despatches, Hawaii, August 30, 1849; Naval Records and Library, Pacific Squadron, Commodore Jones' Cruise, November 4, 1847, to July 1, 1850, No. 108, despatch No. 64, of August 29, 1849). There, on October 4, he met Judd, who had left Honolulu on September 11 (D.S., 2 Despatches, Hawaii, No. 56, September 10, 1849; Judd, *Honolulu Sketches of Life in the Hawaiian Islands*, 195). The negotiations which ensued resulted in the signing of a treaty on October 22, 1849, and Eames thus reported under the same date (D.S., 4 Despatches, Hawaii, No. 1):

I have the honor to transmit to you, herewith, a Treaty of Amity, Commerce and Navigation, between the United States and the Sandwich or Hawaiian Islands, which, in pursuance of my Instructions bearing date of 16th of February last, I have, this day, concluded and signed, in quadruplicate, with Hon G. P. Judd, Special Commissioner and Plenipotentiary Extraordinary of his Hawaiian Majesty. I transmit also a copy, duly certified, of Mr Judd's Full Power [described and cited above], together with copies of two notes [of October 5, 1849] interchanged between him and myself, and explaining the circumstances which induced us to enter upon Negotiations at this place. It is proper, however, for me to add that Mr Judd distinctly informed me that he deemed it altogether improbable, that the Hawaiian Government would be willing to negotiate with me at Honolulu, during his absence; his mission being a special one, and instituted expressly for the purpose of committing to his hands, the management of Negotiations with the United States and other Powers.

By reference to my Instructions, the Department, will, I think, perceive that the Treaty secures to the United States every advantage which I was instructed to ask, and grants, in return, nothing, which I was not instructed to offer.

The concluding clause of Article II contains a stipulation in favor of the United States, and not reciprocal. This, I was not instructed to ask, but I deemed it important, in view of the fact, that the trade between the Sandwich Islands, and China and South America, is already considerable and is increasing, while the Hawaiian Government is compelled, under its existing Treaties with England and France, to admit *all goods whatever*, (except spirituous liquors,) when imported *in vessels of those nations*, at a duty of only five per cent. The clause in question places vessels of the United States on the same footing with English or French vessels, in respect to the Chinese or South American Trade.

I was instructed to secure if possible to American Citizens, the right of succession to Real, as well as Personal, Property in the Islands. This question has heretofore been much and ineffectually discussed, between my predecessors and the Hawaiian Government. It will be found, I trust, to be settled, in a satisfactory manner in Article IX which secures to our Citizens such right of succession in its fullest extent, without derogating in other respects from the established policy of either Government, in regard to the acquisition of Real Property by Aliens.

The subjects of the Mail Steam vessels, and the Whale-Ships of the United States, were not specially referred to, in my Instructions; but the stipulations contained in Articles VI and VII, concerning these two classes of vessels, being wholly in favor of the United States, and inserted without any special equivalent, will, I hope, be deemed judicious.

Mr Judd expressed a strong desire to insert in the Treaty, some such provision as that contained in Article XIV, with a view to the securing some similar stipulation on the part of the French Government; and the Article as it stands, seems wholly unobjectionable.

In view of the declaration and engagement [cited above] jointly put forth and reciprocally entered into, by the English and French Governments, under date

¹ A short passage around the Horn for that period.

of 28th November 1843, to the effect that both those Governments will consider the Sandwich Islands as an Independent State, and will never take possession of any part of them, either under the form of a Protectorate or otherwise, Mr Judd pressed very earnestly the insertion in the Treaty, of a separate and independent declaration and engagement to the same effect, by the Government of the United States.

In reply, I stated that, while, in my judgment, no higher evidence of the disposition of the Government of the United States, fully to respect the independence of the Sandwich Islands, could be given, than was to be found in my Instructions to negotiate, with the Government of those Islands, a Treaty of direct reciprocity, similar to those which the United States have negotiated with other civilised and independent Powers, I yet could not regard those Instructions as authorising me to insert in the Treaty, any such unusual declaration or engagement. In this view Mr Judd acquiesced, and he will probably bring his proposition to the attention of the Department at Washington.

It may be beyond my province to express any opinion on the topic, yet I would respectfully suggest to the Department, that Mr Judd may, possibly, be willing, in return for such an engagement on the part of the United States, to concede to all American Citizens the unlimited right to acquire and hold Real Property in the Islands. In that case, considering the present situation of the Islands, the state of things here in California and Oregon, and the position already assumed on the subject by two other great Powers, the Department may regard the proposition, if so presented, with some degree of favor.

Having by the Negotiation of this Treaty, accomplished what my Instructions designate as the "principal object" of my mission, and not perceiving any particular exigency of the public Service, requiring my immediate presence at Honolulu, I beg leave very respectfully, in pursuance of my original intentions, well understood when I left Washington, to offer my resignation¹ of my appointment as Commissioner, unless it may be the pleasure of the Department to grant me, under these special circumstances, a short leave of absence.

The San Francisco Treaty (D.S., Unperfected P1) was signed in quadruplicate in English and Hawaiian. Two examples were sent by Eames to Washington; one of these (hereinafter called the first original) has the pages of the English version preceding those of the Hawaiian; in the other (called the second original) the order of binding the versions is reversed; but in all four versions the signature of Charles Eames is on the line above the signature of Gerrit Parmile Judd.

The two examples were transmitted separately, the first original with the cited despatch of October 22, 1849, by the hands of Acting Lieutenant Edward F. Beale, U.S.N., who was bringing naval despatches and who had discretion to go either by the isthmus route or by the overland route through Mexico, and the second original by Edward Conner, of New York, as bearer of despatches, who traveled by the isthmus route, thought to require some ten days longer than the other (D.S., 4 Despatches, Hawaii, No. 2, October 25, 1849, with postscript of November 1; Naval Records and Library, Pacific Squadron, Commodore Jones' Cruise, November 4, 1847, to July 1, 1850, No. 132, October 31, 1849). As notations on the various writings show, both sets of papers reached the Department of State on the same day, December 8, 1849, those carried by Lieutenant Beale being stated to have been delivered at 9 a.m. The date, it will be observed, is two days later than that of the treaty of December 6 and thus inter-

¹ Accepted to take effect February 12, 1850 (D.S., Legation Archives, Hawaii, 1 Instructions, Hawaii, No. 4, December 31, 1849).

mediate the signing of that treaty and the signing of the final treaty on December 20, 1849.

The English version of the San Francisco Treaty (collated with the first original) follows:

The United States of America and His Majesty the King of the Hawaiian or Sandwich Islands, equally animated with the desire of maintaining the relations of good understanding which have hitherto so happily subsisted between their respective States, and regulating the Commercial intercourse between them, have agreed to enter into Negotiations for the Conclusion of a Treaty of Amity Commerce and Navigation, for which purpose, they have appointed Plenipotentiaries, that is to say: The President of the United States of America, has conferred full powers on Charles Eames appointed Commissioner of the United States to the Sandwich Islands; and His Majesty the King of the Hawaiian or Sandwich Islands, has conferred like full powers on Gerrit Parmile Judd his said Majesty's Minister of Finance and Special Commissioner and Plenipotentiary Extraordinary to the United States; and the said Plenipotentiaries having met at San Francisco in California on their routes respectively to the Sandwich Islands, and to the City of Washington, and having exchanged their full powers, found in good and due form, have concluded and signed the following Articles:

ARTICLE I.

There shall be reciprocal liberty of navigation and commerce between the United States of America and the Kingdom of the Hawaiian or Sandwich Islands.

No higher or other duty of customs or other impost shall be imposed on the importation into the Sandwich Islands of any goods or articles of the growth, produce or manufacture of the United States, and no higher or other duty of customs or other impost shall be imposed on the importation into the United States of any goods or articles of the growth produce or manufacture of the Sandwich Islands, than are or shall be imposed upon the like goods or articles being of the growth produce or manufacture of any other foreign country.

No other or higher duties or charges shall be imposed in the Sandwich Islands, on the exportation of any articles to the United States, or in the United States on the exportation of any articles to the Sandwich Islands, than such as are or shall be payable on the exportation of the like articles to any other foreign Country.

No prohibition shall be imposed on the exportation or importation of any articles, of the growth, produce or manufacture of the United States, or of the Sandwich Islands, to or from the Ports of the said Islands or of the said United States, which shall not equally extend to all other nations: and the United States of America, and His Majesty the King of the Kingdom of the Sandwich Islands do hereby engage, that the subjects or citizens of any other State or nation shall not enjoy any favor, privilege, or immunity, whatever, in matters of commerce and navigation which shall not also and at the same time be extended to the subjects or citizens of the other high contracting party, gratuitously if the concession in favor of that other state shall have been gratuitous, and in return for a compensation, as nearly as possible of proportionate value and effect, if the concession shall have been conditional.

ARTICLE II.

All goods and articles of the produce or manufacture of either Country, which can be legally imported into either country, from the other in ships of that other country, and thence coming, shall, when so imported, be subject to the same duties, and enjoy the same privileges, whether imported in ships of the one Country, or in ships of the other: and in like manner, all goods, and articles which can legally be exported or reexported from either country to the other, in ships of that other country, shall, when so exported or reexported, be subject to the same duties, and be entitled to the same privileges, drawbacks, bounties, and allowances, whether exported in ships of the one country, or in ships of the other: and all goods and articles, of whatever description, not being of the produce or

manufacture of the United States, which can be legally imported into the Sandwich Islands, shall when so imported in vessels of the United States pay no other or higher duties, imposts, or charges than shall be payable upon the like goods, and articles, when imported in the vessels of the most favored foreign nation, other than the nation of which the said goods and articles are the produce or manufacture.

ARTICLE III.

No duties or charges of tonnage harbor, lighthouses, pilotage, quarantine or other similar duties, of whatever nature or under whatever denomination, shall be imposed in either country upon the vessels of the other, in respect of voyages between the United States of America and the Sandwich Islands, if laden, or in respect of any voyage, if in ballast, which shall not be equally imposed in the like cases on national vessels.

ARTICLE IV.

It is hereby declared, that the stipulations of the present treaty are not to be understood as applying to the navigation and carrying trade between one port and another, situated in the States or territories of either contracting party, such navigation and trade being reserved exclusively to national vessels: vessels of either country, shall however be permitted to load or unload the whole or part of their cargoes, at one or more ports in the States or territories of either of the high contracting parties, and then to proceed to complete the said loading or unloading at any other port or ports in the same states or territories.

ARTICLE V.

Neither of the two governments, nor any corporation or agent acting in behalf or under the authority of either Government, shall, in the purchase of any article which, being the growth, produce, or manufacture of the one country, shall be imported into the other, give, directly or indirectly, any priority or preference on account of, or in reference to, the national character of the vessel in which such article shall have been, imported; it being the true intent and meaning of the high contracting parties that no distinction or difference whatever shall be made in this-respect.

ARTICLE VI.

Steam vessels of the United States which may be employed by the Government of the said States, in the carrying of their Public Mails across the Pacific Ocean, or from one port in that ocean to another, shall have free access to the ports of the Sandwich Islands, with the privilege of stopping therein to refit, to refresh, to land passengers and their baggage, and for the transaction of any business pertaining to the public Mail service of the United States, and shall be subject in such port to no duties of tonnage, harbor, lighthouses quarantine, or other similar duties of whatever nature or under whatever denomination.

ARTICLE VII.

The whaleships of the United States shall have access to the ports of Hilo, Kealakekua and Hanalei in the Sandwich Islands, for the purposes of refitment and refreshment, as well as to the ports of Honolulu and Lahaina which only are ports of entry for all Merchant vessels, and in all the above named ports, they shall be permitted to trade or barter their supplies or goods, excepting spirituous liquors, to the amount of two hundred dollars *ad valorem* for each vessel, without paying any charge for tonnage or harbor dues of any description, or any duties or imposts whatever upon the goods or articles so traded or bartered. They shall also be permitted, with the like exemption from all charges for tonnage and harbor dues, further to trade or barter, with the same exception as to spirituous liquors, to the additional amount of one thousand dollars *ad valorem*, for each vessel, paying upon the additional goods, and articles, so traded and bartered, no other or higher duties, than are payable on like goods, and articles, when imported in

the vessels and by the citizens or subjects of the most favored foreign nation. They shall also be permitted to pass from port to port of the Sandwich Islands for the purpose of procuring refreshments, but they shall not discharge their seamen or land their passengers in the said Islands, except at Lahaina and Honolulu, and, in all the ports named in this article, the whaleships of the United States shall enjoy in all respects, whatsoever, all the rights, privileges and immunities, which are enjoyed by, or shall be granted to, the whaleships of the most favored foreign nation. The like privilege of frequenting the three ports of the Sandwich Islands, above named in this Article, not being ports of entry for merchant vessels, is also guaranteed to all the public armed vessels of the United States. But nothing in this article shall be construed as authorizing any vessel of the United States, having on board any disease usually regarded as requiring quarantine, to enter, during the continuance of such disease on board, any port of the Sandwich Islands, other than Lahaina or Honolulu.

ARTICLE VIII.

The high contracting parties engage, in regard to the personal privileges that the citizens of the United States of America shall enjoy in the dominions of his Majesty the King of the Hawaiian or Sandwich Islands and the subjects of his said Majesty in the United States of America, that they shall have free and undoubted right to travel and to reside in the States of the two high contracting parties, subject to the same precautions of police which are practised towards the subjects or citizens of the most favored nations.

They shall be entitled to occupy dwellings and warehouses, and to dispose of their personal property of every kind and description, by sale, gift, exchange, will or in any other way whatever, without the smallest hinderance or obstacle; and their heirs or representatives, being subjects or citizens of the other high contracting party, shall succeed to their personal goods, whether by testament or *ab intestato*; and may take possession thereof, either by themselves or by others acting for them, and dispose of the same at will, paying to the profit of the respective Governments such dues only as the inhabitants of the country wherein, the said goods are, shall be subject to pay in like cases. And in case of the absence of the heir and representative, such care shall be taken of the said goods as would be taken of the goods of a native of the same country in like case, until the lawful owner may take measures for receiving them. And if a question should arise among several claimants as to which of them said goods belong; the same shall be decided finally by the laws and judges of the land wherein the said goods are.

They shall not be obliged to pay, under any pretence whatever, any taxes or impositions, other or greater than those which are paid, or may hereafter be paid, by the subjects or citizens of the most favored nations, in the respective States of the high contracting parties.

They shall be exempt from all military service, whether by land or by sea; from forced loans, and from every extraordinary contribution not general and by law established. Their dwellings, warehouses, and all premises appertaining thereto, destined for purposes of commerce or residence, shall be respected. No arbitrary search of, or visit to, their houses, and no arbitrary examination or inspection whatever of the books, papers, or accounts of their trade shall be made, but such measures shall be executed only in conformity with the legal sentence of a competent tribunal; and each of the two high contracting parties engages that the citizens or subjects of the other, residing in their respective States, shall enjoy their civil rights, their property and personal security, in as full and ample manner as their own citizens or subjects, or the subjects or citizens of the most favored nation.

ARTICLE IX.

In respect to the right to acquire and hold lands, tenements and real property of every description whatsoever, and to dispose of the same at will, by testament, sale, donation, or otherwise, the citizens & subjects of each of the high contracting parties shall enjoy, respectively in the country of the other, all the rights, privileges and immunities, which shall be enjoyed by or granted to the citizens and

subjects of the most favored foreign nation; and their heirs and representatives, being subjects or citizens of the other high contracting party, shall succeed to their said real property of every description, whether by testament or *ab intestato*: and may take possession thereof by themselves, or by others acting for them, and hold, or dispose of the same, at will paying, to the profit of the respective governments, such dues only as the inhabitants of the country where the said property is shall be subject to pay in like cases. *Provided* however that nothing in this article shall be so construed or understood, as to contravene or in any way effect the validity of any general provisions in the laws of either country, regulating, restricting or prohibiting the acquisition of such real estate, by aliens, in any other manner than by the right of succession or inheritance herein secured.

ARTICLE X.

The citizens and the subjects of each of the two high contracting parties shall be free in the States of the other to manage their own affairs themselves, or to commit those affairs to the management of any persons whom they may appoint as their broker, factor, or agent; nor shall the citizens and subjects of the two high contracting parties be restrained in their choice of persons to act in such capacities, nor shall they be called upon to pay any salary or remuneration to any person whom they shall not choose to employ.

Absolute freedom shall be given in all cases to the buyer and seller to bargain together, and to fix the price of any goods or merchandise imported into, or to be exported from the States and dominions of the two high contracting parties; save and except generally such cases wherein the laws and usages of the country may require the intervention of any Special agents in the States and dominions of the high contracting parties. But nothing contained in this or any other article of the present Treaty shall be construed to authorise the sale of Spirituous liquors to the natives of the Sandwich Islands farther than such sale may be allowed by the Hawaiian laws.

ARTICLE XI.

Each of the two high contracting parties may have, in the ports of the other, consuls, vice consuls, and commercial agents, of their own appointment, who shall enjoy the same privileges and powers as those of the most favored nations; but if any such consuls shall exercise commerce, they shall be subject to the same laws and usages to which the private individuals of their nation are subject in the same place.

The said consuls, vice consuls, and commercial agents are authorized to require the assistance of the local authorities for the search, arrest, detention, and imprisonment of the deserters from the Ships of war and other vessels of their country. For this purpose, they shall apply to the competent tribunals, judges, and officers, and shall in writing demand the said deserters, proving, by the exhibition of the registers of the vessels, the rolls of the crews or by other official documents, that such individuals formed part of the crews, and this reclamation being thus substantiated, and the proper and lawful charge for their apprehension being defrayed the surrender shall not be refused.

Such deserters, when arrested, shall be placed at the disposal of the said consuls, vice consuls, or commercial agents, and may be confined in the public prisons, at the request and cost of those who shall claim them, in order to be detained until the time when they shall be restored to the vessel to which they belonged, or sent back to their own country by a vessel of the same nation or any other vessel whatsoever.

But if not sent back within six months from the day of arrest, or if all the expenses of such imprisonment are not defrayed by the party causing such arrest and imprisonment, they shall be set at liberty, and shall not be again arrested for the same cause.

However, if the deserter should be found to have committed any crime or offence, his surrender may be delayed until the tribunal, before which his case shall be depending, shall have pronounced its sentence, and such sentence shall have been carried into effect.

ARTICLE XII.

If any ships of war or other vessels be wrecked on the coasts of the States of either of the high contracting parties, such ships or vessels, or any parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandise which shall be saved therefrom, or the produce thereof, if sold, shall be faithfully restored with the least possible delay, to the proprietors, upon being claimed by them, or their duly authorized factors, and if there are no such proprietors or factors on the spot, then the said property, or the proceeds thereof, as well as all the papers found on board such wrecked ships or vessels, shall be delivered to the American or Hawaiian Consul or vice consul in whose district the wreck may have taken place; and such consul, vice consul, proprietors, or factors, shall pay only the expenses incurred in the preservation of the property, together with the rate of salvage, and expenses of quarantine which would have been payable in the like case of a wreck of a national vessel; and all goods and merchandise saved from the wreck shall not be subject to duties, unless destined for consumption, it being understood that in case of any legal claim, upon such wreck, goods or merchandise, the same shall be referred for decision to the competent tribunals of the country.

ARTICLE XIII.

The merchant vessels of each of the two high contracting parties which may be forced by stress of weather or other cause into one of the ports of the other, shall be exempt from all duty of port or navigation paid for the benefit of the State, if the motive which led to take refuge be real and evident, and if no operation of commerce be done by loading or unloading merchandise; well understood, however, that the loading or unloading, which may regard the subsistence of the crew, or be necessary for the reparation of the vessel, shall not be considered operations of commerce, which lead to the payment of duties, and that the said vessels do not stay in port beyond the time necessary, keeping in view the cause which led to taking refuge.

ARTICLE XIV.

It is agreed that perfect and entire liberty of conscience shall be enjoyed by the citizens and subjects of both the contracting parties, in the countries of the one and the other, without their being liable to be disturbed or molested on account of their religious belief. But nothing contained in this article shall be construed to interfere with the exclusive right of the Hawaiian Government to regulate for itself the Schools which it may establish or support within its jurisdiction.

ARTICLE XV.

The present treaty shall be in force from the date of the exchange of the ratifications and for the term of eight years, and further, until the end of twelve months after either of the high contracting parties shall have given notice to the other of its intention to terminate the same, each of the said high contracting parties reserving to itself the right of giving such notice at the end of the said term of eight years or at any subsequent term.

ARTICLE XVI.

The present treaty shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate of the said States, and by his Majesty the King of the Kingdom of the Hawaiian Islands and the ratifications shall be exchanged at Honolulu, at the expiration of ten months, from the date of its signature or sooner if possible.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto their seals.

Done in quadruplicate at San Francisco the twenty second day of October, in the year One thousand eight hundred and forty nine.

CHARLES EAMES. [Seal]
GERRIT PARMILE JUDD [Seal]

The basis of the San Francisco Treaty was, in accord with the instructions to Eames, the treaty with the Two Sicilies of December 1, 1845 (Document 118); of the thirteen articles of that treaty, twelve¹ were taken almost literally (*mutatis mutandis*) into the San Francisco Treaty; provisions in the San Francisco Treaty which (as compared with the treaty with the Two Sicilies) were new were the concluding, most-favored-nation clause of Article 2, the last sentence of Article 10, regarding spirituous liquors, and Articles 6, 7, 9, and 14.

Comparison of texts shows that in many respects the San Francisco Treaty and the final treaty are quite similar; there are differences in the respective preambles and final clauses and also in the articles of duration and ratification (15 and 16 of the San Francisco Treaty; 16 and 17 of the final treaty); the latter portion of Article 4 and also Article 5 of the San Francisco Treaty have no equivalent in the final treaty; the subject of real estate (Article 9 of the San Francisco Treaty) is much more briefly dealt with in one sentence of Article 8 of the final treaty; otherwise, the later agreement has in it everything of substance of the earlier; but the final treaty contains various provisions which are not in the San Francisco Treaty in any form; these are clauses of friendship (Article 1 and the second paragraph of Article 16), one of the passages regarding deserters (antepenultimate sentence of Article 10), extradition clauses (Article 14), and postal clauses (Article 15).

The letter of credence of Eames of February 10, 1849 (D.S., 3 Credences, 261), was forwarded by him from San Francisco to Wyllie with a note of January 1, 1850, was presented to the King and Council on January 24, and was received as if presented by Eames himself (see D.S., 4 Despatches, Hawaii, Wyllie to the Secretary of State and the same to Eames, January 26, 1850).

THE TREATY OF DECEMBER 6, 1849

Aside from material obtained in 1935 from the archives of Hawaii, which is later discussed, very little appears in the archives of the Department of State regarding the treaty signed on December 6, 1849 (D.S., Unperfected V8), by Secretary of State Clayton and Commissioner Jarves;² the negotiations were wholly verbal; it seems that they could not have commenced until after³ November 19, for on that day (Monday) Clayton wrote as follows to Jarves at Boston (D.S., 37 Domestic Letters, 363-64):

I very much regret that owing to the great pressure of business upon this Department, during your recent visit to this City, it was not in my power to see you. Being now, however, somewhat relieved from that pressure, if you will

¹ The exception was Article 11 of the treaty with the Two Sicilies, of special application.

² In the report in Foreign Relations, 1894, appendix II, 13, there is no mention of the instrument of December 6, 1849.

³ Perhaps Jarves reached Washington on November 25; in D.S., 2 Notes from the Hawaiian Legation, are copies of his full power and his commission, each certified by him at Washington on that day, which was Sunday; the earlier visit, when he did not see Clayton, began on November 3; see Library of Congress, 7 Clayton Papers, 1233, Jarves to Clayton of that date.

repair hither at any time which may suit your convenience, I will be pleased to confer with you upon any matters which you may have occasion to present.

It seems, too, that by the end of the following week the terms had been agreed upon and the instruments were being drawn up for signature, for on December 2 (Sunday) Jarves wrote from Philadelphia to William Hunter, Jr., then Claims Clerk and apparently Acting Chief Clerk of the Department of State, that he "proposed being in Washington to sign the treaties on Monday the 3rd", but that he would not arrive until the evening and accordingly proposed being at the Department for the purpose on the ensuing morning (D.S., 2 Notes from the Hawaiian Legation; see also Jarves to Clayton, December 4, 1849, in Library of Congress, 7 Clayton Papers, 1329).

As has previously been stated, the originals of the San Francisco Treaty signed by Eames on October 22, 1849, reached the Department of State two days after the signature of the treaty of December 6. On the day of their receipt Hunter wrote to Jarves, and, while there is available no record copy of that communication, its tenor sufficiently appears from this answering note of Jarves to Clayton dated at New York December 12 (*ibid.*):

To day, I received a note from Mr Hunter, dated 8th Dec. requesting me not to forward [to the Hawaiian Government] the Treaty signed by us, for the present. I defer doing so, until I see you, which I expect to be able to do the ensuing week. Mr Judd sails for England to day — & has taken with him one of the treaties¹ signed at Washington to the intent of obtaining similar from England & France. Either treaty, would meet the views of the Hawaiian Government, though the one negotiated by Mr Eames, is not considered by either Mr. Judd or myself so satisfactory as the one signed by you. I shall be in Washington as early as possible next week, which I trust will meet your views.

Obviously, it was thought at Washington that the terms of the treaty of December 6 should be somewhat recast in the light of the provisions of the San Francisco Treaty, that neither of those treaties should be deemed definitive, and that they should be replaced by a new agreement comprising to some extent at least the wording of each of the earlier treaties. The result was the final treaty, that of December 20, 1849.

There is certain correspondence other than that already mentioned which is of some relevance both to the treaty of December 6 and to the final treaty of December 20, 1849.

Judd reached New York on December 8, 1849 (Judd, Honolulu Sketches of Life in the Hawaiian Islands, 196). Information of his arrival was given to the Secretary of State by the following letter of Jarves of December 10 (D.S., 2 Notes from the Hawaiian Legation):

I have the honor to inform you of the arrival in this city of Mr. G. P. Judd, Minister of Finance to His Majesty, the King of the Hawaiian Islands, accompanied by the heir apparent and his brother. Mr Judd has been made joint Commissioner & Plenipotentiary with myself to the Governments of the United States, England & France. Finding that I have completed with yourself the negotiation of a Treaty, he proceeds in the Steamer of the 12th inst to Liverpool, to negotiate if possible, similar treaties at London & Paris. Believing that the

¹ Meaning one of the two originals which were for the Hawaiian Government; the treaty of December 6 was signed in triplicate.

friendly aid & counsel of the Ministers of the United States at London & Paris would be of essential service to our joint mission, I take the liberty to ask of you, letters to those gentlemen. If this be agreeable to you, you will confer an important favor, by enclosing them to me, at Boston.

I shall not proceed¹ to Europe until after the ratification of the Treaty of 6th Dec. by the U.S. Senate, which I trust will meet their approbation

Judd himself wrote to the Secretary of State on December 11 in these terms (*ibid.*):

I have the honor to enclose herewith my letter of Credence [printed above].

A strict conformity with my Instructions would require that I should proceed immediately to Washington, present the letter in person and pay my respects to yourself and to His Excellency the President; indeed I had determined to do so until I learned from Mr. Jarves the particulars of his negotiations with you, which rendered my presence at Washington by no means indispensable, and taking into consideration the importance of reaching Paris as early as possible I have arranged with Mr. Jarves that he remain in the U.S. while I proceed to Europe by the Steamer which leaves this city tomorrow.

In relation to the Treaty and all other matters I take the liberty of referring you to Mr Jarves.

Thus Judd did not participate in the negotiations at Washington; he did not arrive at New York until two days after the signature of the treaty of December 6, and he left for England on December 12, 1849.

From the archives of Hawaii there has been obtained a photographic facsimile of a copy of the treaty of December 6; that copy was an enclosure to Jarves's despatch No. 5, of December 27, 1849; it has this endorsement, dated December 13 and signed by Jarves:

Copy of Treaty.—

One of the triplicate Originals Judd took with him to Europe—(12 Dec)—another I keep at request of Mr Clayton, note rec'd to day—until we can confer upon the subject of Eames' Treaty with Judd. I shall go to Washington for that purpose in a few days—This contains three important clauses for the Haw. Govt. *not in Judd's—In haste*

The treaty of December 6, 1849, was written in English only and was signed in triplicate. The available copy of the text is somewhat imperfect, showing various errors and omissions of the scrivener. The treaty contains a preamble, twelve articles, and the usual final clauses. Comparison with the final treaty shows that the entire text of the treaty of December 6 was taken over almost literally into the treaty of December 20; the wording of Article 10 of the earlier treaty (Article 13 of the final treaty; cf. Article 10 of the treaty with the Two Sicilies of December 1, 1845, Document 118) was somewhat recast, but otherwise only a few very minor changes of wording were made. The articles of the final treaty which correspond to the twelve articles of the treaty of December 6 are those numbered respectively 1 to 5, inclusive, 8 to 10, inclusive, 12, 13, 16, and 17; but the concluding, most-favored-nation clause of Article 3 of the final treaty and the concluding sentence of Article 9 of that treaty, regarding spirituous liquors, were not in the treaty of December 6.

¹ Jarves remained in the United States and did not join Judd in the mission to Great Britain and France.

It follows that when the treaty of December 6 was framed, Secretary of State Clayton adopted for his own guidance the instruction of February 16, 1849, written by his predecessor to Eames (printed above); with little change, nearly everything in the treaty of December 6 was taken (*mutatis mutandis*) from the treaty with the Two Sicilies¹ of December 1, 1845 (Document 118), which had been given to Eames as his "general model"; clauses which were new (as compared with the treaty with the Two Sicilies) were Article 1, the concluding words of Article 6 (Article 8 of the final treaty), a sentence of Article 8 ("The agents, owners or masters", etc.; Article 10 of the final treaty), and the final paragraph of Article 11 (Article 16 of the final treaty); and the clause regarding real estate (in Article 6 of the treaty of December 6, as in Article 8 of the final treaty) was copied from the sixth paragraph of Article 7 of the treaty with Hanover of May 20, 1840 (Document 92), also mentioned in the instructions to Eames.

THE FINAL TREATY

The treaty of December 20, 1849, was, as has been seen, based in large part on that signed at Washington two weeks earlier by the same Plenipotentiaries, and to some extent, also, on the San Francisco Treaty of the previous October 22; there is nothing in the archives of the Department of State regarding the concluding discussions between Clayton and Jarves; they could not have begun earlier than December 17 (see the note of Jarves of December 12, 1849, quoted above).

The previous analyses of texts show that the final treaty included all the provisions of the treaty of December 6. To those provisions were added clauses taken from the San Francisco Treaty and written into the final treaty as Articles 6; 7, and 11, the most-favored-nation clause concluding Article 3, and the last sentence of Article 9, regarding spirituous liquors; and there were also added two articles which had not been in any form in either of the earlier instruments; these are the extradition and postal clauses, Articles 14 and 15. The extradition article was patterned after that of the Webster-Ashburton Treaty (Document 99, Article 10).

It may be surmised that a proposal of extradition and postal clauses was put forward by Jarves, for his instructions (cited previously) included this sentence:

You are to represent that a Postal arrangement to the same effect, with each of the three Nations [United States, Great Britain, and France] would also be advantageous, and likewise some arrangement in regard to refugees from Justice, in compatibility with the respect due to the right of Hawaiian Jurisdiction.

The treaty of December 20, 1849, was, according to the final clause thereof, signed in triplicate. One original of the treaty for the Hawaiian Government was taken by Elisha H. Allen, consul at Honolulu, who left New York on January 17, 1850, and arrived at Hono-

¹ And everything of substance in that treaty with the Two Sicilies except Articles 5 and 11 and the final sentence of Article 4 is in the treaty of December 6.

lulu on the following March 10 (D.S., 2 Notes from the Hawaiian Legation, Jarves to the Secretary of State, January 17, 1850; Judd, Honolulu Sketches of Life in the Hawaiian Islands, 194).

THE EXCHANGE OF RATIFICATIONS

Charles Bunker was appointed consul at Lahaina (on the island of Maui), some eighty statute miles to the east-southeast of Honolulu (on the island of Oahu), on April 22, 1850. There was at the time no Commissioner of the United States to Hawaii in office; the resignation of Charles Eames had been accepted, and his successor, Luther Severance, was not appointed until June 7, 1850. To Bunker was entrusted the duty of exchanging the ratifications of the treaty at Honolulu; he was furnished with a full power for that purpose dated May 7, 1850 (D.S., 3 Credences, 352); and, pursuant to his instructions of the same date, he took with him the United States instrument of ratification (D.S., 13 Instructions to Consuls, 282-83).

The exchange of ratifications took place at Honolulu on August 24, 1850, between "Robert Crichton Wyllie, Minister of Foreign Relations of His Majesty, the King of the Hawaiian Islands, and Charles Bunker, Consul of the United States for Lahaina". The original and duplicate of the certificate of exchange were transmitted by Bunker respectively with his despatches of August 26 and September 3, 1850, received on the following November 8 and 25 (D.S., 4 Despatches, Hawaii). The proclamation of November 9, 1850, followed the receipt of the original certificate. The triplicate certificate, "sealed up with the Treaty [Hawaiian instrument of ratification] and left in safe deposit at Honolulu", was apparently delivered at the Department with the Hawaiian instrument of ratification, which has a notation to the effect that it was received on March 23, 1855, "from C. Bunker late Consul".

THE PROJECT OF AUGUST 21, 1838

Benjamin Franklin Butler (1795-1858), of New York, at one time a law partner of Martin Van Buren, was Attorney General of the United States from November 15, 1833, to August 31, 1838; from 1838 to 1841 he was United States Attorney for the Southern District of New York; on March 29, 1839, he wrote from New York the following letter to Secretary of State Forsyth (D.S., Miscellaneous Letters, January-April 1839):

I have the honor to enclose a letter recently received by me, from the Rev. W^m Richards, one of the American Missionaries resident in the Sandwich Islands, written, as you will perceive, at the request of the King of those Islands, & accompanied by the *projet* of a treaty executed by the King & his Secretary, and which he desires to have laid before the President for his consideration.

The letter of Mr Richards sufficiently explains the motives which have led to this communication, & the advantages which will result to American interests, from the conclusion of some such arrangement as that proposed. You will perceive, that a general authority was designed to be given to me in the premises; but for obvious reasons I cannot exercise or accept any such authority, & my interference is only to be regarded as that of an individual, in which character

alone could I have acted in the matter, had the official connexion which led the parties to address me, continued to exist.

Although the documents do not come through a regular diplomatic channel; yet if the President should think it advisable to enter into a treaty on the terms proposed, or on any others, I take it for granted, that it will be easy to complete the necessary arrangements, through the new consul at Honolulu. This gentleman, I presume, has by this time entered on his duties; & it is doubtless known to you, that he enjoys the confidence of the local authorities.

In support of the suggestions offered by Mr Richards, I will add, that the wonderful advances made by the inhabitants of the Sandwich Islands, within the last twenty years, have, under Providence, been effected by the agency of the American Missions. It seems, therefore, peculiarly proper that the desire of the local government for the cultivation of such relations with the United States, as are just in themselves & agreeable to usage, should be responded to in a liberal spirit. Such a policy, will, I am sure, be very gratifying to that large portion of our people, who have contributed to the missions, & who consider the American name as honorably identified with the civilization of this rising people. Looking to the growing importance of our trade in the Pacific, & to the probable extension of our settlements in the region of the Oregon, & it would appear, that the establishment of such relations with them, as will prevent the valuable harbor of Honolulu from falling into adverse hands, is a matter of great national concern.

The suggestion of Mr R. in regard to the possible desire of one or both of the great powers named in his letter, to possess these Islands, seems to me, also, to be very deserving of consideration.

I need scarcely add, that should it be thought needful by the Department, it will give me great pleasure to be the medium of communication with any of the parties.

The letter enclosed with the foregoing and printed below, while signed by William Richards, is to be deemed an official communication, as "Kamehameha III", appearing at the foot, is the signature of the King. The advance authority contained in it for alterations in the project transmitted is unusual perhaps to the extent of being without precedent (*ibid.*):

LAHAINA ISLAND OF MAUI
Sandwich Islands, August 21st 1838

To the Hon. BENJ. F. BUTLER,
Attorney general of the United States.

HONOURED AND DEAR SIR Though I had the honor of an introduction to you at Albany in Sept. last, and also of addressing you a private letter a few weeks later, yet I can scarcely hope that you recollect me, and should not presume to address you from this distance, were there not in my own mind very important considerations urging me to it, and such considerations too as I can but believe will be satisfactory to yourself. I should however by no means, either address you or even desire to do it, were it not for the confidence I feel in your readiness to promote the interest of other nations as well as our own.

The Sandwich Islands are now becoming of considerable importance in a variety of respects. The principal port, which is at Honolulu, on the island of Oahu, is vastly the best, and may almost be said to be the only Harbor within six or eight thousand miles. The harbors on the western coast of America are generally quite inferior to it, and there are few good harbors found among all the thousands of islands scattered through this vast ocean. These islands have long been of great importance on account of the refreshments they have afforded to the multitude of ships engaged in the whale fishery. I have often seen from two to three millions of America property in that harbor at the same time.

But these Islands are becoming vastly important for other reasons. A large amount of business is now done by vessels running from the western coast of America to China, by way of the Sandwich Islands, and Honolulu is of importance as a place of deposit, as well as for the increasing trade carried on by the people themselves. This nation too is rising in importance. The people are becoming

in a good degree intelligent. Probably as large a proportion of the inhabitants under thirty years of age are able to read, as among the European nations generally. The resources of the country are now in a progressive state of development, and will soon be extensive. They even now attract the attention of numerous merchants, and a considerable amount of foreign capital is already invested here.

The people having but just emerged from a state of barbarity, and having acquired but a very limited acquaintance with the laws and usages of nations, and being called to transact business with those who are far superior to themselves in intelligence, (if not in morals,) difficulties often arise, and in some instances to the exposure of American interests. If a regular treaty could be established between this government and the United States, I can not doubt it would be of material benefit to the interests of American merchants, as well as to the inhabitants of the Sandwich Islands.

In the year 1826, Capt. Jones of the U.S.A. Ship of War Peacock proposed some articles of agreement [Document 54], to which this government assented, but whether those articles were ever noticed by the President is not known, and even if they had been they are not sufficient for the present emergency. Various papers have also been presented to the Sandwich Island government by the American consul, to some of which he has obtained the signature of persons in authority, not by the fairest means. In view of this subject the king has caused a treaty to be drawn up in his own language, of such a character as he desires should be ratified by the President of the United States.

A translation in English signed by his own hand, and also the native copy made by his own private secretary accompanies this letter. At the urgent request of the king I have consented to forward these documents to you, and present his request that you will examine this Treaty, and if in a suitable form and of suitable character to be ratified, that you would present it to the President, and take such measures, as your wisdom shall direct to forward its ratification. But if there is any error in the form, or anything unsuitable in the matter, he further requests that you would have the goodness to make the necessary alterations, and than present it to the President.

I have been the more ready to make this request from an apprehension entertained by many that some of the Governments of Europe may yet seize on these Islands for their own advantage. A formal treaty between this government and the United States, would tend to prevent such an attempt, and thus not only secure in some degree the welfare of this people, but also to prevent future difficulties between the United States and England or Russia, the nations most likely to take possession of these Islands.

There are some items in the Treaty proposed, not customarily considered as subjects of Treaty, but the peculiar circumstances of the nation will at once be seen to be the reason for introducing them.

Should the Treaty for any reason fail of being ratified, or the subject fail of receiving the attention of government, a *private* letter from yourself either communicated directly or indirectly stating what course it is advisable for the king to pursue in order to secure such objects as he now hopes to secure by the Treaty, would be a favor most highly prized.

Forgive me, Sir, the liberty I have taken in thus addressing you. It is to the spiritual welfare of the Sandwich Islanders that I am devoted; but that can not be promoted in its highest degree, without some regard to the political interests of the nation, which must be my apology for thus addressing you, though at the request of the King.

With the highest respect and esteem, I am, Honored Sir,
Your Obedient Serv^t,

WILLIAM RICHARDS

By the request of, KAMEHAMEHA III
BENJ. F. BUTLER
Attorney General of the U.S.A.

The project enclosed with the foregoing letter of Richards is, as therein stated, written in English and Hawaiian; and each version is signed. Only the English version is here printed (*ibid.*):

Treaty of Peace, Amity & Commerce between the United States of America and his Majesty, the King of the Sandwich Islands.

ARTICLE I.

There shall be sincere, firm and perpetual peace and amity between the United States of America and his Majesty, the king of the Sandwich Islands; and between the respective subjects of the two nations.

ART. II.

The inhabitants and citizens of the United States within the territorial jurisdiction of the Sandwich Islands, together with their ships, vessels and all their property of whatever kind it may be, shall enjoy the same inviolable protection against every foreign enemy as is enjoyed by native born citizens.

ART. III.

The contracting parties being desirous to avail themselves of the bounties of divine Providence by promoting the commercial intercourse and friendship subsisting between the respective nations for the better security of these desirable objects, his Majesty and his government agents pledge themselves to receive into their ports and harbors, all ships and vessels of the United States not violating the established laws of the land, and to protect as they do their own property, all such ships and vessels and their cargoes, officers and crews, so long as they behave themselves peaceably; and for the purposes of commerce the citizens of the United States shall be permitted to hire and occupy houses and warehouses in accordance with the laws and customs of the country.

ART. IV.

His majesty and government agents do further agree to extend the fullest protection within their control to all ships and vessels of the United States which may be wrecked on their shores, and to render every assistance in their power to save the wreck and her apparel and her cargo, and as a reward for the assistance and protection which the Sandwich Islands shall afford to all such distressed vessels of the United States they shall be entitled to a salvage, or a portion of the property so saved which proportion shall be fixed by a commission of disinterested persons who shall be chosen equally by the parties

ART. V.

All citizens of the United States having come on shore at the Sandwich Islands in accordance with the regulations of the several ports, shall, whether resident or transient be inviolably protected in all their commercial pursuits and business so long as they conform to the laws of the country, and in their intercourse with each other and with the subjects of his Majesty shall enjoy the same protection of law as is enjoyed by native born citizens. They shall be allowed to sue for and to recover by judgment all claims against each other and against the subjects of his Majesty, according to the strict principles of equity and the acknowledged practice of enlightened nations.

ART. VI.

His Majesty and his government Agents do further agree to discountenance, and to use all practicable means to prevent desertion from all American ships which shall visit the Sandwich Islands, and to this end it shall be the duty of all

governors, magistrates and chiefs of districts, and all other persons in authority to apprehend all deserters and deliver them over to the master of the vessel from which they have deserted, it being understood that said governor or magistrate may demand of the master aforesaid the sum of six dollars, which sum may be increased according to the distance from the vessel at which said deserter shall be apprehended, but the demand shall never exceed forty dollars.

ART. VII.

Whenever a citizen of the United States shall decease at the Sandwich Islands, his goods, chattles and effects, together with all his personal property of whatever kind it may be shall be delivered into the hands of his lawful heirs or executors if present; but if no heir or executor appear, then the American consul or his agent shall be permitted to act as executor and dispose of said property entirely at his own discretion, paying of course all lawful demands against the estate of said citizen of the United States.

ART. VIII.

No higher or other duties or charges on account of tonage, harbor dues, pilotage or other local charges shall be exacted of any citizen of the United States, than are exacted of the subjects of the most favored nation.

ART. IX.

It shall be free for the United States to appoint consuls for the protection of trade, to reside at the Sandwich Islands, but before any consul shall act as such, he shall in the usual form be admitted and approved by the government; and it is further agreed that in case of illegal or improper conduct towards the laws or legal authorities, his Majesty, together with his government agents, may then refuse to transact business with him, assigning however to the government of the United States, their reasons for the same.

ART. X.

Whereas, there is a considerable number of citizens of the United States now residing at the Sandwich Islands, occupying building lots and other real estate, but without any written security or title, and without having rendered an equivalent, but have come in possession of said estate, by a mere temporary grant of favor, according to a former usage of the country; for a better understanding of the subject it is hereby agreed, that no citizen of the United States conforming to the laws of the Sandwich Islands shall be dispossessed of any building lot or privilege of soil within a less period than ten years from the time he came in possession, nor shall he then be dispossessed without being paid for all buildings, fixtures and improvements, erected and made at his own expense. And it is further agreed that no citizen of the United States shall be dispossessed of any building lot or estate contrary to the common rules of the country in relation to native born citizens.

ART. XI.

Should any of the citizens of the Sandwich Islands or their vessels visit the United States, it is hereby agreed that they shall enjoy the same protection and privileges as are granted by the United States to the subjects of other free & independant nations, and all favors and advantages promised in this treaty to citizens of the United States visiting the Sandwich Islands shall also be granted to the citizens of the Sandwich Islands visiting the United States, according to the principles of strict reciprocity.

ART. XII.

This treaty when ratified by the President and Senate of the United States and the ratification received by his Majesty, the king of the Sandwich Islands, shall then take effect and shall forthwith be published and shall be in full force

for the term of fifteen years, and all other treaties, conventions or articles of agreement entered into by the two nations, or by any of the authorities or officers of the two nations are hereby made null and void.

Done at Lahaina on the Island of Maui this Twenty first day of August in the year of our Lord, one thousand, eight hundred and thirty eight.

KAAHUMANU 2

KAMEHAMEHA III

It does not appear from the archives of the Department of State that any attention was paid to the project of August 21, 1838. No mention of the project has been noticed either in the despatches from Honolulu or in the instructions to consuls, and there is not even of record an acknowledgment to either of the writers of the two letters above printed.

RELATIONS WITH HAWAII

The annexation of Hawaii became complete on August 12, 1898, pursuant to the joint resolution of July 7, 1898 (30 Statutes at Large, 750-51). Since June 14, 1900, Hawaii has been a territory of the United States under the act of April 30, 1900 (31 Statutes at Large, 141-62).

Relations with Hawaii prior to annexation, from 1820, are discussed in Moore, *Digest*, I, 475-520. A convenient summary for the period 1820-93 is in *Foreign Relations, 1894*, appendix II, 8-28; that volume, on "Affairs in Hawaii", of 1437 pages, comprises various Senate and House documents, with some duplication of papers. The literature on the subject is extensive, as may be seen from the Bemis and Griffin Guide, under "Hawaii"; some of the official correspondence in the archives of the former Kingdom and much of that in the archives of the Department of State has been printed (see under "Printed Sources" in the work last cited); but the papers unpublished are very numerous; a catalogue of the manuscript volumes in the latter archives, with valuable comment, is in Kuykendall, *Hawaiian Diplomatic Correspondence in the Department of State*.