

CHILI.

CHILI, 1832.

May 16, 1832.

GENERAL CONVENTION OF PEACE, AMITY, COMMERCE, AND NAVIGATION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CHILI, CONCLUDED MAY 16, 1832; RATIFICATION ADVISED BY SENATE DECEMBER 19, 1832; RATIFIED BY PRESIDENT APRIL 26, 1834; RATIFICATIONS EXCHANGED AT WASHINGTON APRIL 29, 1834; PROCLAIMED APRIL 29, 1834.

[This treaty and the explanatory convention which follows it were terminated January 20, 1850, pursuant to notice by the Chilian Government under Article XXXI.]

Contracting parties.

In the name of God, Author and Legislator of the Universe.

The United States of America and the Republic of Chili, desiring to make firm and lasting the friendship and good understanding which happily prevail between both nations, have resolved to fix, in a manner clear, distinct, and positive, the rules which shall in future be religiously observed between the one and the other, by means of a treaty or general convention of peace and friendship, commerce, and navigation.

Negotiators.

For this most desirable object, the President of the United States of America, by and with the advice and consent of the Senate thereof, has appointed and conferred full powers on John Hamm, a citizen of said States, and their Chargé d'Affaires near the said Republic; and His Excellency the President of the Republic of Chili has appointed Señor Don Andres Bello, a citizen of the said Republic;

And the said Plenipotentiaries, after having mutually produced and exchanged copies of their full powers in due and proper form, have agreed upon and concluded the following articles, videlicet:

ARTICLE I.

Peace and friendship.

There shall be a perfect, firm, and inviolable peace and sincere friendship between the United States of America and the Republic of Chili, in all the extent of their possessions and territories, and between their people and citizens, respectively, without distinction of persons or places.

ARTICLE II.

Favors granted to other nations to become common.

The United States of America and the Republic of Chili, desiring to live in peace and harmony with all the other nations of the earth, by means of a policy frank and equally friendly with all, engage, mutually, not to grant to any particular favor to other nations in respect of commerce and navigation, which shall not, immediately, become common to the other party, who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation if the concession was conditional. It is understood, however, that the relations and convention which now exist, or may hereafter exist, between the Republic of Chili and the Republic of Bolivia, the Federation of the Centre of America, the Republic of Colombia, the United States of Mexico, the Republic of Peru, or the United Provinces of the Rio de la Plata, shall form exceptions to this article.

Exceptions.

[See Article I, treaty of 1833, p. 112.]

ARTICLE III.

The citizens of the United States of America may frequent all the coasts and countries of the Republic of Chili, and reside and trade there in all sorts of produce, manufactures, and merchandise, and shall pay no other or greater duties, charges, or fees, whatsoever, than the most favored nation is or shall be obliged to pay; and they shall enjoy all the rights, privileges, and exemptions in navigation and commerce, which the most favored nation does or shall enjoy, submitting themselves, nevertheless, to the laws, decrees, and usages there established, and to which are submitted the citizens and subjects of the most favored nations.

Freedom of commerce and navigation.

In like manner the citizens of the Republic of Chili may frequent all the coasts and countries of the United States of America, and reside and trade there, in all sorts of produce, manufactures, and merchandise, and shall pay no other or greater duties, charges, or fees, whatsoever, than the most favored nation is or shall be obliged to pay, and they shall enjoy all the rights, privileges, and exemptions in commerce and navigation which the most favored nation does or shall enjoy, submitting themselves, nevertheless, to the laws, decrees, and usages there established, and to which are submitted the citizens and subjects of the most favored nations. But it is understood that this article does not include the coasting trade of either country, the regulation of which is reserved by the parties, respectively, according to their own separate laws.

Coasting trade.

ARTICLE IV.

It is likewise agreed that it shall be wholly free for all merchants, commanders of ships, and other citizens of both countries, to manage, themselves, their own business, in all ports and places subject to the jurisdiction of each other, as well with respect to the consignment and sale of their goods and merchandise, by wholesale and retail, as with respect to the loading, unloading, and sending off their ships, they being in all these cases to be treated as citizens of the country in which they reside, or at least to be placed on a footing with the citizens or subjects of the most favored nation.

Merchants and others free to manage their own business.

ARTICLE V.

The citizens of neither of the contracting parties shall be liable to any embargo, nor be detained with their vessels, cargoes, merchandise, or effects for any military expedition, nor for any public or private purpose whatever, without allowing to those interested a sufficient indemnification.

Embargo or detention.

ARTICLE VI.

Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other, with their vessels, whether of merchant or of war, public or private, through stress of weather, pursuit of pirates, or enemies, they shall be received and treated with humanity, giving to them all favor and protection for repairing their ships, procuring provisions, and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

Vessels in distress.

ARTICLE VII.

All the ships, merchandise, and effects belonging to the citizens of one of the contracting parties, which may be captured by pirates, whether within the limits of its jurisdiction or on the high seas, and may be carried or found in the rivers, roads, bays, ports, or dominions of the other, shall be delivered up to the owners, they proving in due and

Captures by pirates.

proper form their rights before the competent tribunals; it being well understood that the claim should be made within the term of one year, by the parties themselves, their attorneys, or agents of their respective Governments.

ARTICLE VIII.

Wrecks.

When any vessel belonging to the citizens of either of the contracting parties shall be wrecked, foundered, or suffer any damage on the coasts or within the dominions of the other, there shall be given to them all assistance and protection in the same manner which is usual and customary with the vessels of the nation where the damage happens, permitting them to unload the said vessel, if necessary, of its merchandise and effects, without exacting for it any duty, impost, or contribution whatever, until they may be exported, unless they be destined for consumption in the country.

ARTICLE IX.

Disposal and inheritance of personal property.

The citizens of each of the contracting parties shall have power to dispose of their personal goods within the jurisdiction of the other, by sale, donation, testament, or otherwise, and their representatives, being citizens of the other party, shall succeed to their said personal goods, whether by testament or ab intestato, and they may take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein the said goods are shall be subject to pay in like cases; and if in the case of real estate the said heirs would be prevented from entering into the possession of the inheritance, on account of their character of aliens, there shall be granted to them the term of three years to dispose of the same, as they may think proper, and to withdraw the proceeds without molestation, and exempt from any other charges than those which may be imposed by the laws of the country.

Heirs to real estate.

ARTICLE X.

Protection to residents.

[See Article II, treaty of 1833, p. 113.]

Both the contracting parties promise and engage formally to give their special protection to the persons and property of the citizens of each other, of all occupations, who may be in the territories subject to the jurisdiction of the one or the other, transient or dwelling therein, leaving open and free to them the tribunals of justice for their judicial recourse on the same terms which are usual and customary with the natives or citizens of the country in which they may be; for which they may employ in defence of their rights such advocates, solicitors, notaries, agents, and factors as they may judge proper, in all their trials at law; and such citizens or agents shall have free opportunity to be present at the decisions and sentences of the tribunals, in all cases which may concern them, and likewise at the taking of all examinations and evidence which may be exhibited in the said trials.

ARTICLE XI.

Security of conscience.

It is likewise agreed that the most perfect and entire security of conscience shall be enjoyed by the citizens of both the contracting parties in the countries subject to the jurisdiction of the one and the other, without their being liable to be disturbed or molested on account of their religious belief, so long as they respect the laws and established usages of the country. Moreover, the bodies of the citizens of one of the contracting parties, who may die in the territories of the other, shall be buried in the usual burying grounds, or in other decent or suitable places, and shall be protected from violation or disturbance.

Rights of burial.

ARTICLE XII.

It shall be lawful for the citizens of the United States of America and of the Republic of Chili to sail with their ships, with all manner of liberty and security, no distinction being made, who are the proprietors of the merchandise laden thereon, from any port to the places of those who now are or hereafter shall be at enmity with either of the contracting parties. It shall likewise be lawful for the citizens aforesaid to sail with the ships and merchandise before mentioned, and to trade with the same liberty and security from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy, before mentioned, to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the one power or under several. And it is hereby stipulated that free ships shall also give freedom to goods, and that every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the citizens of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to both or either, they are not to be taken out of that free ship unless they are officers or soldiers, and in the actual service of the enemies: Provided, however, and it is hereby agreed, that the stipulations in this article contained, declaring that the flag shall cover the property, shall be understood as applying to those powers only who recognize the principle; but if either of the two contracting parties should be at war with a third, and the other neutral, the flag of the neutral shall cover the property of enemies whose Governments acknowledge this principle, and not of others.

Neutral trade.

Free ships make free goods.

Limitation of the principle.

ARTICLE XIII.

It is likewise agreed that in the case where the neutral flag of one of the contracting parties shall protect the property of the enemies of the other, by virtue of the above stipulation, it shall always be understood that the neutral property found on board such enemy's vessels shall be held and considered as enemy's property, and as such shall be liable to detention and confiscation, except such property as was put on board such vessel before the declaration of war, or even afterwards, if it were done without the knowledge of it; but the contracting parties agree that, four months having elapsed after the declaration, their citizens shall not plead ignorance thereof. On the contrary, if the flag of the neutral does not protect the enemy's property, in that case the goods and merchandise of the neutral embarked in such enemy's ship shall be free.

Neutral property on board enemy's vessel.

ARTICLE XIV.

This liberty of commerce and navigation shall extend to all kinds of merchandises, excepting those only which are distinguished by the name of contraband, and under this name of contraband, or prohibited goods, shall be comprehended—

Contraband articles.

1st. Cannons, mortars, howitzers, swivels, blunderbusses, muskets, fuzes, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberds, and grenades, bombs, powder, matches, balls, and all other things belonging to the use of these arms.

2. Bucklers, helmets, breastplates, coats of mail, infantry belts, and clothes made up in the form and for a military use.

3. Cavalry belts, and horses with their furniture.

4. And generally all kinds of arms and instruments of iron, steel, brass, and copper, or of any other materials manufactured, prepared, and formed expressly to make war by sea or land.

ARTICLE XV.

All other merchandise.

Definition of blockade.

All other merchandise and things not comprehended in the articles of contraband expressly enumerated and classified as above, shall be held and considered as free, and subjects of free and lawful commerce, so that they may be carried and transported in the freest manner by both the contracting parties, even to places belonging to an enemy, excepting only those places which are at that time besieged or blockaded; and, to avoid all doubt in this particular, it is declared that those places only are besieged or blockaded which are actually attacked by a belligerent force capable of preventing the entry of the neutral.

ARTICLE XVI.

Condemnation of contraband articles.

The articles of contraband, before enumerated and classified, which may be found in a vessel bound for an enemy's port, shall be subject to detention and confiscation, leaving free the rest of the cargo and the ship, that the owners may dispose of them as they see proper. No vessel of either of the two nations shall be detained on the high seas on account of having on board articles of contraband, whenever the master, captain, or supercargo of said vessel will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great, and of so large a bulk, that they cannot be received on board the capturing ship without great inconvenience; but in this and in all other cases of just detention, the vessel detained shall be sent to the nearest convenient and safe port, for trial and judgment according to law.

ARTICLE XVII.

Blockaded ports.

And whereas it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is besieged, blockaded, or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place, but shall not be detained, nor shall any part of her cargo, if not contraband, be confiscated, unless after warning of such blockade or investment from any officer commanding a vessel of the blockading forces she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel of either that may have entered into such port before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo, nor if found therein after the reduction and surrender, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof; and if any vessel having thus entered the port before the blockade took place, shall take on board a cargo after the blockade be established, she shall be subject to be warned by the blockading forces, to return to the port blockaded, and discharge the said cargo; and, if after receiving the said warning, the vessel shall persist in going out with the cargo, she shall be liable to the same consequences as a vessel attempting to enter a blockaded port after being warned off by the blockading forces.

ARTICLE XVIII.

Visits at sea.

In order to prevent all kinds of disorder in the visiting and examination of the ships and cargoes of both the contracting parties on the high seas, they have agreed, mutually, that whenever a vessel of war, public or private, shall meet with a neutral of the other contracting party, the first shall remain at the greatest distance compatible with making the visit, under the circumstances of the sea and wind, and the degree of suspicion attending the vessel to be visited, and shall send its smallest boat in order to execute the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extor-

tion, violence, or ill-treatment, for which the commanders of the said armed ships shall be responsible with their persons and property; for which purpose the commanders of the said private armed vessels shall, before receiving their commissions, give sufficient security to answer for all damages they may commit. And it is expressly agreed, that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting her papers, or for any other purpose whatever.

ARTICLE XIX.

To avoid all kind of vexation and abuse in the examination of the papers relating to the ownership of the vessels belonging to the citizens of the two contracting parties, they have agreed, and do agree, that, in case one of them shall be engaged in war, the ships and vessels belonging to the citizens of the other must be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship, as also the name and place of habitation of the master or commander of said vessel, in order that it may thereby appear that the ship really and truly belongs to the citizens of one of the parties; they have likewise agreed that, such ships being laden, besides the sea-letters or passports, shall also be provided with certificates containing the several particulars of the cargo, and the place whence the ship sailed, so that it may be known whether any forbidden or contraband goods be on board the same; which certificates shall be made out by the officers of the place whence the ship sailed, in the accustomed form; without which requisites said vessel may be detained, to be adjudged by the competent tribunal, and may be declared legal prize, unless the said defect shall be proved to be owing to accident, and be satisfied or supplied by testimony entirely equivalent.

ARTICLE XX.

It is further agreed that the stipulations above expressed, relative to the visiting and examination of vessels, shall apply only to those which sail without convoy; and when said vessels shall be under convoy, the verbal declaration of the commander of the convoy, on his word of honor, that the vessels under his protection belong to the nation whose flag he carries, and when they are bound to an enemy's port that they have no contraband goods on board, shall be sufficient.

ARTICLE XXI.

It is further agreed that in all cases the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either party shall pronounce judgment against any vessel or goods or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded, and an authenticated copy of the sentence or decree and of all the proceedings in the case, shall, if demanded, be delivered to the commandant or agent of said vessel, without any delay, he paying the legal fees for the same.

ARTICLE XXII.

Whenever one of the contracting parties shall be engaged in war with another State, no citizen of the other contracting party shall accept a commission or letter of marque for the purpose of assisting or cooperating hostilely with the said enemy against the said party so at war, under the pain of being treated as a pirate.

ARTICLE XXIII.

Privileges of residents in case of war.

If, by any fatality, which cannot be expected, and which God forbid, the two contracting parties should be engaged in a war with each other, they have agreed, and do agree, now for then, that there shall be allowed the term of six months to the merchants residing on the coasts and in the ports of each other, and the term of one year to those who dwell in the interior, to arrange their business and transport their effects wherever they please, giving to them the safe conduct necessary for it, which may serve as a sufficient protection until they arrive at the designated port. The citizens of all other occupations who may be established in the territories or dominions of the United States of America, and of the Republic of Chili, shall be respected and maintained in the full enjoyment of their personal liberty and property, unless their particular conduct shall cause them to forfeit this protection, which, in consideration of humanity, the contracting parties engage to give them.

ARTICLE XXIV.

Debts, &c., not to be confiscated.

Neither the debts due from the individuals of the one nation to the individuals of the other, nor shares, nor money which they may have in public funds, nor in public or private banks, shall ever, in any event of war or of national difference, be sequestered or confiscated.

ARTICLE XXV.

Envoys, ministers, &c.

Both the contracting parties, being desirous of avoiding all inequality in relation to their public communications and official intercourse, have agreed, and do agree, to grant to their Envoys, Ministers, and other Public Agents, the same favors, immunities, and exemptions which those of the most favored nation do, or shall enjoy; it being understood that whatever favors, immunities, or privileges the United States of America or the Republic of Chili may find it proper to give to the Ministers and Public Agents of any other power, shall, by the same act, be extended to those of each of the contracting parties.

ARTICLE XXVI.

Consuls and Vice-Consuls.

To make more effectual the protection which the United States of America and the Republic of Chili shall afford in future to the navigation and commerce of the citizens of each other, they agree to receive and admit Consuls and Vice-Consuls in all the ports open to foreign commerce, who shall enjoy in them all the rights, prerogatives, and immunities of the Consuls and Vice-Consuls of the most favored nations; each contracting party, however, remaining at liberty to except those ports and places in which the admission and residence of such Consuls may not seem convenient.

ARTICLE XXVII.

Exequaturs.

In order that the Consuls and Vice-Consuls of the two contracting parties may enjoy the rights, prerogatives, and immunities which belong to them, by their public character, they shall, before entering on the exercise of their functions, exhibit their commission or patent, in due form, to the Government to which they are accredited; and, having obtained their exequatur, they shall be held and considered as such, by all the authorities, magistrates, and inhabitants, in the consular district in which they reside.

ARTICLE XXVIII.

Immunities of consular officers.

It is likewise agreed that the Consuls, their Secretaries, officers, and persons attached to the service of Consuls, they not being citizens of the country in which the Consul resides, shall be exempt from all public

service, and also from all kinds of taxes, imposts, and contributions, except those which they shall be obliged to pay on account of commerce, or their property, to which the citizens and inhabitants, native and foreign, of the country in which they reside are subject; being in everything besides subject to the laws of their respective States. The archives and papers of the consulate shall be respected inviolably; and under no pretext whatever shall any magistrate seize or in any way interfere with them.

ARTICLE XXIX.

The said Consuls shall have power to require the assistance of the authorities of the country for the arrest, detention, and custody of deserters from the public and private vessels of their country; and for that purpose they shall address themselves to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving by an exhibition of the registers of the vessels or ship's roll, or other public documents, that those men were part of said crews; and on this demand, so proved, (saying, however, where the contrary is proved,) the delivery shall not be refused. Such deserters, when arrested, shall be put at the disposal of said Consuls, and may be put in the public prison at the request and expense of those who reclaim them, to be sent to the ships to which they belonged, or to others of the same nation. But if they be not sent back within two months, reckoning from the day of their arrest, they shall be set at liberty, and shall no more be arrested for the same cause. It is understood, however, that if the deserter should be found to have committed any crime or offence, his surrender may be delayed until the tribunal before which the case may be depending shall have pronounced its sentence, and such sentence shall have been carried into effect.

Deserters from vessels.

[See Article III, treaty of 1833, p. 113.]

ARTICLE XXX.

For the purpose of more effectually protecting their commerce and navigation, the two contracting parties do hereby agree, as soon hereafter as circumstances will permit them, to form a consular convention, which shall declare, specially, the powers and immunities of the Consuls and Vice-Consuls of the respective parties.

Consular convention.

ARTICLE XXXI.

The United States of America and the Republic of Chili, desiring to make, as durable as circumstances will permit, the relations which are to be established between the two parties, by virtue of this treaty or general convention of peace, amity, commerce, and navigation, have declared solemnly, and do agree to the following points:

1st. The present treaty shall remain in full force and virtue for the term of twelve years, to be reckoned from the day of the exchange of the ratifications; and, further until the end of one year after either of the contracting parties shall have given notice to the other of its intention to terminate the same; each of the contracting parties reserving to itself the right of giving such notice to the other, at the end of said term of twelve years: and it is hereby agreed between them that, on the expiration of one year after such notice shall have been received by either, from the other party, this treaty in all the parts relating to commerce and navigation, shall altogether cease and determine; and in all those parts which relate to peace and friendship it shall be permanently and perpetually binding on both powers.

Duration of convention.

2d. If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizen shall be held personally responsible for the same, and the harmony and good correspondence between the nations shall not be interrupted thereby; each party engaging in no way to protect the offender, or sanction such violation.

Infringement of convention.

Reprisals and
declarations of
war.

3d. If, (which, indeed, cannot be expected,) unfortunately, any of the articles contained in the present treaty shall be violated or infringed in any other way whatever, it is expressly stipulated that neither of the contracting parties will order or authorize any acts of reprisal, nor declare war against the other, on complaints of injuries or damages, until the said party, considering itself offended, shall first have presented to the other a statement of such injuries or damages, verified by competent proof, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.

Treaties with
other nations not
affected.

4. Nothing in this treaty contained shall, however, be construed to operate contrary to the former and existing public treaties with other Sovereigns or States.

Ratifications.

The present treaty of peace, amity, commerce, and navigation shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the President of the Republic of Chili, with the consent and approbation of the Congress of the same; and the ratifications shall be exchanged in the city of Washington within nine months, to be reckoned from the date of the signature hereof, or sooner if practicable.

Signatures.

In faith whereof we, the underwritten plenipotentiaries of the United States of America and of the Republic of Chili, have signed, by virtue of our powers, the present treaty of peace, amity, commerce, and navigation, and have hereunto affixed our seals, respectively.

Date.

Done and concluded, in triplicate, in the city of Santiago, this sixteenth day of the month of May, in the year of our Lord Jesus Christ one thousand eight hundred and thirty-two, and in the fifty-sixth year of the Independence of the United States of America, and the twenty-third of that of the Republic of Chili.

[L. S.]
[L. S.]

JNO. HAMM.
ANDRES BELLO.

CHILI, 1833.

Sept. 1, 1833.

AN ADDITIONAL AND EXPLANATORY CONVENTION TO THE TREATY OF PEACE, AMITY, COMMERCE, AND NAVIGATION, CONCLUDED IN THE CITY OF SANTIAGO ON THE 16TH DAY OF MAY, 1832, BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CHILI; CONCLUDED SEPTEMBER 1, 1833; RATIFICATION ADVISED BY SENATE APRIL 24, 1834; RATIFIED BY PRESIDENT APRIL 26, 1834; RATIFICATIONS EXCHANGED AT WASHINGTON APRIL 29, 1834; PROCLAIMED APRIL 29, 1834.

Treaty of 1832
to be carried into
effect.

[See pp. 104-112.]

Whereas the time stipulated in the treaty of amity, commerce, and navigation, between the United States of America and the Republic of Chili, signed at the city of Santiago on the 16th day of May, 1832, for the exchange of ratifications in the city of Washington has elapsed, and it being the wish of both the contracting parties that the aforesaid treaty should be carried into effect with all the necessary solemnities, and that the necessary explanations should be mutually made to remove all subject of doubt in the sense of some of its articles, the undersigned Plenipotentiaries, namely, John Hamm, a citizen of the United States of America and their Chargé d'Affaires, on the part and in the name of the United States of America, and Señor Don Andres Bello, a citizen of Chili, on the part and in the name of the Republic of Chili, having compared and exchanged their full powers, as expressed in the treaty itself, have agreed upon the following additional and explanatory articles:

ARTICLE I.

Stipulation of
the 2d article.
[Article II, treaty
of 1832, p. 104.]

It being stipulated by the second article of the aforesaid treaty that the relations and conventions which now exist, or may hereafter exist, between the Republic of Chili and the Republic of Bolivia, the Federa-

tion of the Centre of America, the Republic of Colombia, the United States of Mexico, the Republic of Peru, or the United Provinces of the Rio de la Plata, are not included in the prohibition of granting particular favors to other nations which may not be made common to the one or the other of the contracting powers; and these exceptions being founded upon the intimate connection and identity of feelings and interests of the new American States, which were members of the same political body under the Spanish dominion, it is mutually understood that these exceptions will have all the latitude which is involved in their principle; and that they will accordingly comprehend all the new nations within the ancient territory of Spanish America, whatever alterations may take place in their constitutions, names, or boundaries, so as to include the present States of Uruguay and Paraguay, which were formerly parts of the ancient Vice-Royalty of Buenos Ayres, those of New Granada, Venezuela, and Equador in the Republic of Colombia, and any other States which may in future be dismembered from those now existing.

ARTICLE II.

It being agreed by the tenth article of the aforesaid treaty that the citizens of the United States of America, personally or by their agents, shall have the right of being present at the decisions and sentences of the tribunals, in all cases which may concern them, and at the examination of witnesses and declarations that may be taken in their trials, and as the strict enforcement of this article may be in opposition to the established forms of the present due administration of justice, it is mutually understood that the Republic of Chili is only bound by the aforesaid stipulation to maintain the most perfect equality in this respect between American and Chilian citizens, the former to enjoy all the rights and benefits of the present or future provisions which the laws grant to the latter in their judicial tribunals, but no special favors or privileges.

Tenth article.
[See Article X,
treaty of 1832, p.
106.]

ARTICLE III.

It being agreed by the twenty-ninth article of the aforesaid treaty that deserters from the public and private vessels of either party are to be restored thereto by the respective Consuls; and whereas it is declared by the article 132 of the present constitution of Chili that "there are no slaves in Chili," and that "slaves touching the territory of the Republic are free," it is likewise mutually understood that the aforesaid stipulation shall not comprehend slaves serving under any denomination on board the public or private ships of the United States of America.

29th article.
[See Article
XXIX, treaty of
1832, p. 111.]

ARTICLE IV.

It is further agreed, that the ratifications of the aforesaid treaty of peace, amity, commerce, and navigation, and of the present additional and explanatory convention, shall be exchanged in the city of Washington within the term of eight months, to be counted from the date of the present convention.

Ratifications.

This additional and explanatory convention, upon its being duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the President of the Republic of Chili, with the consent and approbation of the Congress of the same, and the respective ratifications mutually exchanged, shall be added to, and make a part of, the treaty of peace, amity, commerce, and navigation between the United States of America and the Republic of Chili, signed on the said 16th day of May, 1832, having the same force and effect as if it had been inserted word for word in the aforesaid treaty.

Effect of convention.

In faith whereof we, the undersigned Plenipotentiaries of the United States of America and the Republic of Chili, have signed, by virtue of

Signatures.

our powers, the aforesaid additional and explanatory convention, and have caused to be affixed our hands and seals, respectively.

Date.

Done in the city of Santiago this first day of September, 1833, and in the 58th year of the Independence of the United States of America, and the 24th of the Republic of Chili.

[L. S.]
[L. S.]

JNO. HAMM.
ANDRES BELLO.

CHILI, 1858.

Nov. 10, 1858.

CONVENTION WITH CHILI FOR THE ARBITRATION OF THE MACEDONIAN CLAIMS, CONCLUDED AT SANTIAGO, NOVEMBER 10, 1858; RATIFICATION ADVISED BY SENATE MARCH 8, 1859; RATIFIED BY PRESIDENT AUGUST 4, 1859; RATIFICATIONS EXCHANGED AT SANTIAGO OCTOBER 15, 1859; PROCLAIMED DECEMBER 22, 1859.

Convention between the United States of America and the Republic of Chili.

Preamble.

The Government of the United States of America and the Government of the Republic of Chili, desiring to settle amicably the claim made by the former upon the latter for certain citizens of the United States of America, who claim to be the rightful owners of the silver, in coin and in bars, forcibly taken from the possession of Capt. Eliphalet Smith, a citizen of the United States of America, in the valley of Sitana, in the territory of the former Vice-Royalty of Peru, in the year 1821, by order of Lord Cochrane, at the time Vice-Admiral of the Chilian squadron, have agreed, the former to name John Bigler, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, and the latter Don Geronimo Urmeneta, Minister of State in the Department of the Interior and of Foreign Relations, in the name and in behalf of their respective Governments, to examine said claim and to agree upon terms of arrangement just and honorable to both Governments.

Negotiators.

Submission of claims to arbitration of King of Belgium.

The aforesaid Plenipotentiaries, after having exchanged their full powers, and found them in due and good form, sincerely desiring to preserve intact and strengthen the friendly relations which happily exist between their respective Governments, and to remove all cause of difference which might weaken or change them, have agreed, in the name of the Government which each represents, to submit to the arbitration of His Majesty the King of Belgium, the pending question between them, respecting the legality or illegality of the above referred to capture of silver in coin and in bars, made on the ninth day of May, 1821, by order of Lord Cochrane, Vice-Admiral of the Chilian squadron, in the valley of Sitana, in the territory of the former Vice-Royalty of Peru, the proceeds of sales of merchandise imported into that country in the brig Macedonian, belonging to the merchant marine of the United States of America.

Therefore the above-named Ministers agree to name His Majesty the King of Belgium as arbiter, to decide with full powers and proceedings ex æquo et bono, on the following points:

Points for arbiter to decide.

First. Is, or is not, the claim which the Government of the United States of America makes upon that of Chili, on account of the capture of the silver mentioned in the preamble of this convention, just in whole or in part?

Second. If it be just in whole or in part, what amount is the Government of Chili to allow and pay to the Government of the United States of America, as indemnity for the capture?

Third. Is the Government of Chili, in addition to the capital, to allow interest thereon; and, if so, at what rate and from what date is interest to be paid?

The contracting parties further agree that his Majesty the King of Belgium shall decide the foregoing questions upon the correspondence which has passed between the representatives of the two Governments at Washington and at Santiago, and the documents and other proofs produced during the controversy on the subject of this capture, and upon a memorial or argument thereon to be presented by each.

Proof upon
which arbiter is to
decide.

Each party to furnish the arbiter with a copy of the correspondence and documents above referred to, or so much thereof as it desires to present, as well as with its said memorial, within one year at furthest from the date at which they may respectively be notified of the acceptance of the arbiter.

Each party to furnish the other with a list of the papers to be presented by it to the arbiter, three months in advance of such presentation.

And if either party fail to present a copy of such papers, or its memorial, to the arbiter, within the year aforesaid, the arbiter may make his decision upon what shall have been submitted to him within that time.

The contracting parties further agree that the exception of prescription, raised in the course of the controversy, and which has been a subject of discussion between their respective Governments, shall not be considered by the arbiter in his decision, since they agree to withdraw it and exclude it from the present question.

Each of the Governments represented by the contracting parties is authorized to ask and obtain the acceptance of the arbiter; and both promise and bind themselves in the most solemn manner to acquiesce in and comply with his decision, nor at any time thereafter to raise any question, directly or indirectly, connected with the subject-matter of this arbitration.

Decision to be
final.

This convention to be ratified by the Governments of the respective contracting parties, and the ratifications to be exchanged within twelve months from this date, or sooner, if possible, in the city of Santiago.

Ratifications.

In testimony whereof the contracting parties have signed and sealed this agreement in duplicate, in the English and Spanish languages, in Santiago, the tenth day of the month of November, in the year of our Lord one thousand eight hundred and fifty-eight.

Signatures.

Date.

[L. S.]

JOHN BIGLER,

*Envoy Extraordinary and Minister Plenipotentiary
of the United States of America.*

[L. S.]

GÉRONIMO URMENETA,
Plenipotenciario ad hoc.