

ECUADOR.

ECUADOR, 1839.

TREATY WITH ECUADOR, CONCLUDED AT QUITO JUNE 13, 1839; RATIFICATION ADVISED BY SENATE JULY 15, 1840; RATIFIED BY PRESIDENT JULY 31, 1840; RATIFICATIONS EXCHANGED AT QUITO APRIL 9, 1842; PROCLAIMED SEPTEMBER 23, 1842.

June 13, 1839.

*Treaty of peace, friendship, navigation, and commerce between the United States of America and the Republic of Ecuador.*

The United States of America and the Republic of Ecuador, desiring to make lasting and firm the friendship and good understanding which happily prevails 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 of friendship, commerce, and navigation. For this most desirable object the President of the United States of America has conferred full powers on James C. Pickett, a citizen of the said States, and the President of the Republic of Ecuador, on Doctor Luis de Saá, Minister of Finance, charged with the Department of the Interior and Foreign Relations; who, after having exchanged their said full powers in due and proper form, have agreed to the following articles :

Contracting parties.

Negotiators.

ARTICLE I.

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

Peace and friendship.

ARTICLE II.

The United States of America and the Republic of Ecuador, 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 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.

Favors granted to other nations to become common.

ARTICLE III.

The two high contracting parties, being likewise desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity, mutually agree that the citizens of each may frequent all the coasts and countries of the other, and reside and trade there in all kinds of produce, manufactures, and merchandise; and they shall enjoy all the rights, privileges, and exemptions in navigation and commerce which native citizens do or shall enjoy, submitting themselves to the laws, decrees, and usages there established, to which native citizens are subjected; 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

Reciprocal equality of commerce and navigation.

Privileges to ves- their own separate laws. And it is further agreed that this article shall  
sels built at Guay- be subject to the following modification: That whereas, by a law of  
aquil. Ecuador of March 21st, 1837, vessels built in the dock yard of Guayaquil  
shall be exempted from various charges, therefore vessels of the United  
States cannot claim this privilege, but shall enjoy it if it should be  
granted to vessels belonging to Spain, or to Mexico, and to the other  
Hispano-American Republics.

## ARTICLE IV.

Equality of du- They likewise agree that whatever kind of produce, manufactures, or  
ties on vessels and merchandise of any foreign country can be, from time to time, lawfully  
cargoes. imported into the United States in their own vessels, may be also im-  
ported in the vessels of the Republic of Ecuador; and that no higher or  
other duties upon the tonnage of the vessel and her cargo shall be levied  
and collected, whether the importation be made in the vessels of the one  
country or of the other; and, in like manner, that whatever kind of pro-  
duce, manufactures, or merchandise of any foreign country can be, from  
time to time, lawfully imported into the Republic of Ecuador in its own  
vessels, may be also imported in vessels of the United States; and that  
no higher or other duties upon the tonnage of the vessel and her cargo  
shall be levied or collected, whether the importation be made in the ves-  
sels of the one country or of the other. And they agree that whatever  
may be lawfully exported or re-exported from the one country in its own  
vessels, to any foreign country, may, in like manner, be exported or re-  
exported in the vessels of the other country. And the same bounties,  
duties, and drawbacks shall be allowed and collected, whether such ex-  
portation or re-exportation be made in vessels of the United States or  
of the Republic of Ecuador.

Bounties and drawbacks.

## ARTICLE V.

What shall be considered Enca- For the better understanding of the preceding article, and taking into  
dorians vessels. consideration the actual state of the commercial marine of Ecuador, it  
has been stipulated and agreed that all vessels belonging exclusively to  
a citizen or citizens of said Republic, and whose captain is also a citi-  
zen of the same, though the construction or the crew are or may be for-  
eign, shall be considered, for all the objects of this treaty, as an Ecu-  
adorian vessel.

## ARTICLE VI.

Equality of du- No higher or other duties shall be imposed on the importation into the  
ties on imports United States of any articles, the produce or manufactures of the Re-  
and exports. public of Ecuador; and no higher or other duties shall be imposed on  
the importation into the Republic of Ecuador of any articles, the pro-  
duce or manufactures of the United States, than are or shall be payable  
on the like articles, being the produce or manufactures of any other for-  
eign country; nor shall any higher or other duties or charges be imposed  
in either of the two countries, on the exportation of any articles to the  
United States or to the Republic of Ecuador, respectively, than such as  
are payable on the exportation of the like articles to any other foreign  
country; nor shall any prohibition be imposed on the exportation or im-  
portation of any articles the produce or manufactures of the United  
States or of the Republic of Ecuador, to or from the territories of the  
United States, or to or from the territories of the Republic of Ecuador,  
which shall not equally extend to all other nations

Equality of pro-  
hibitions.

## ARTICLE VII.

Right to manage business. 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 the 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 or 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 subjects or citizens of the most favored nation. They shall be subject, however, to such general taxes and contributions as are or may be established by law.

ARTICLE VIII.

The citizens of neither of the contracting parties shall be liable to any embargo, nor be detained with their vessels, cargoes, merchandises, 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 IX.

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 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 obstacles or hindrance of any kind.

Vessels in distress.

ARTICLE X.

All the ships, merchandise, and the 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 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.

Captures by pirates.

ARTICLE XI.

When any vessels belonging to the citizens of either of the contracting parties shall be wrecked, foundered, or shall 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, unless they be destined for consumption.

Wrecked or damaged vessels.

ARTICLE XII.

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 by others acting for them, and dispose of the same at their will, paying such duties 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, nor any other charges than those which are imposed by the laws of the country.

Disposal and inheritance of personal property.

Heirs to real estate.

## ARTICLE XIII.

Protection to persons and property.

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 on the said trials.

## ARTICLE XIV.

Liberty of conscience and right of burial.

It is likewise agreed that the most perfect and entire security of conscience may 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.

## ARTICLE XV.

Neutral trade.

It shall be lawful for the citizens of the United States of America and of the Republic of Ecuador to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises 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 their ships and merchandises 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 one power or under several.

Free ships make free goods.

And it is hereby stipulated, that free ships shall also give freedom to goods, and that everything shall be deemed 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 shall be extended to persons who are on board a free ship, with this effect, that, although they may be enemies to both or either party, 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,

Limitation of the principle.

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 this principle; but if either of the two contracting parties shall 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.

ARTICLE XVI.

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 stipulations, 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 six 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 merchandises of the neutral, embarked in such enemy's ship, shall be free.

Neutral property on enemy's vessel.

ARTICLE XVII.

This liberty of navigation and commerce shall extend to all kinds of merchandise, 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, fuses, 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.

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

3rd. Cavalry belts, and horses with their furniture.

4th. 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 XVIII.

All other merchandises and things not comprehended in the articles of contraband explicitly 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 the citizens of 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 a neutral.

Goods not contraband.

Definition of a blockade.

ARTICLE XIX.

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 may 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, or 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.

Contraband only liable to confiscation.

ARTICLE XX.

And whereas it frequently happens that vessels sail for a port or places belonging to an enemy, without knowing that the same is be-

Blockaded ports.

sieged, 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, they shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper.

Vessels entering before blockade.

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.

#### ARTICLE XXI.

Visiting and search of vessels on the high seas.

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 out of cannon-shot, and may send its boats with two or three men only, in order to execute the said examination of the papers, concerning the ownership and cargo of the vessel, without causing the least extortion, 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 the 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 his papers, or for any other purpose whatever.

#### ARTICLE XXII.

Ship's papers.

To avoid all kinds 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 should 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 ships; as also the name and place of habitation of the master and commander of said vessel, in order that it may thereby appear that said ship truly belongs to the citizens of one of the parties. They have likewise agreed, that such ships being laden, besides the said 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 such requisites said vessels 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 satisfied or supplied by testimony entirely equivalent.

#### ARTICLE XXIII.

Vessels under convoy.

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 XXIV.

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 tribunals, 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 commander or agent of said vessel, without any delay, he paying the legal fees for the same.

Prize courts and decrees.

ARTICLE XXV.

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 co-operating hostilely with the said enemy, against the said party so at war, under the pain of being considered as a pirate.

Letters of marque.

ARTICLE XXVI.

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 and the Republic of Ecuador, 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.

Mutual rights of residents in case of war.

ARTICLE XXVII.

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

No confiscations in case of war.

ARTICLE XXVIII.

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 the 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 Ecuador may find it proper to give to the ministers and other public agents of any other power, shall, by the same act, be extended to those of each of the contracting parties.

Privileges and immunities of public agents.

ARTICLE XXIX.

To make more effectual the protection which the United States and the Republic of Ecuador 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.

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 nation; each contracting party, however, remaining at liberty to except those ports and places in which the admission and residence of such Consuls and Vice-Consuls may not seem convenient.

## ARTICLE XXX.

**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 XXXI.

**Exemptions 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 exempted 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 the respective states. The archives and papers of the consulates shall be respected inviolably, and under no pretext whatever shall any magistrate seize or in any way interfere with them.

**Inviolability of archives.**

## ARTICLE XXXII.

**Deserters from vessels.** 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 register of the vessel's or ship's roll, or other public documents, that those men were part of the said crews, and on this demand, so proved, (saving, 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 prisons 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, to be counted from the day of their arrest, they shall be set at liberty, and shall be no more arrested for the same cause.

## ARTICLE XXXIII.

**Consular convention.** 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 especially the powers and immunities of the Consuls and Vice-Consuls of the respective parties.

## ARTICLE XXXIV.

**Construction of "most favored nation" clauses.** It is further agreed, that the words, "most favored nation," that occur in this treaty, shall not be so construed as to prevent either of the contracting parties from concluding any treaty or convention with any



other nation or State it may think proper, as freely and as fully as though said words were not used: Provided, however, That notwithstanding any such treaty or convention, the citizens of the United States shall be placed in Ecuador, with respect to navigation and commerce, upon an equal footing with the subjects of Spain and with the citizens of Mexico and of the other Hispano-American States, with which treaties have been or may be concluded; and that the citizens of Ecuador shall be entitled to enjoy, in the United States, the same rights and privileges, with respect to navigation and commerce, that the citizens of the United States enjoy, or shall enjoy, in Ecuador.

ARTICLE XXXV.

The United States of America and the Republic of Ecuador, 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 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 counted from the day of 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 its parts relative to commerce and navigation, shall altogether cease and determine, and in all those parts which relate to peace and friendship, it shall be perpetually and permanently binding on both powers.

Duration of treaty.

2nd. 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 harmony and good correspondence between the two nations shall not be interrupted thereby, each party engaging in no way to protect the offender, or sanction such violation.

Infringement of treaty.

3rd. If, (what indeed cannot be expected,) unfortunately, any of the articles contained in the present treaty shall be violated or infringed in any way whatever, it is expressly stipulated that neither of the contracting parties will order or authorize any act 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 proofs, and demanded justice, and the same shall have been either refused or unreasonably delayed.

Reprisals and declarations of war.

4th. Nothing in this treaty shall, however, be construed or operate contrary to former and existing public treaties with other sovereigns and states.

Treaties with other nations not affected.

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 Ecuador, with the consent and approbation of the Congress of the same; and the ratifications shall be exchanged in the city of Quito, within three years, to be counted from the date of the signature hereof, or sooner if possible.

Ratifications.

In faith whereof, we, the Plenipotentiaries of the United States of America and of the Republic of Ecuador, have signed and sealed these presents.

Signatures.

Done in the city of Quito on the thirteenth day of June, in the year of our Lord one thousand eight hundred and thirty-nine, and in the sixty-third year of the Independence of the United States of America and the twenty-ninth of that of the Republic of Ecuador.

Date.

J. C. PICKETT. [SEAL.]  
 LUIS DE SAA. [SEAL.]

## ECUADOR, 1862.

Nov. 25, 1862.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF ECUADOR FOR THE ADJUSTMENT OF CLAIMS, CONCLUDED AT GUAYAQUIL NOVEMBER 25, 1862; RATIFICATION ADVISED BY SENATE JANUARY 28, 1863; RATIFIED BY PRESIDENT FEBRUARY 13, 1863; RATIFICATIONS EXCHANGED AT QUITO JULY 27, 1864; PROCLAIMED SEPTEMBER 8, 1864.

Contracting parties.

The United States of America and the Republic of Ecuador, desiring to adjust the claims of citizens of said States against Ecuador, and of citizens of Ecuador against the United States, have, for that purpose, appointed and conferred full powers, respectively, to wit:

Negotiators.

The President of the United States on Frederick Hassaurek, Minister Resident of the United States in Ecuador, and the President of Ecuador on Juan José Flores, General-in-Chief of the Armies of the Republic;

Who, after exchanging their full powers, which were found in good and proper form, have agreed on the following articles:

## ARTICLE I.

Claims to be referred to Board of Commissioners.

All claims on the part of corporations, companies, or individuals, citizens of the United States, upon the Government of Ecuador, or of corporations, companies, or individuals, citizens of Ecuador, upon the Government of the United States, shall be referred to a Board of Commissioners, consisting of two members, one of whom shall be appointed by the Government of the United States, and one by the Government of Ecuador. In case of death, absence, resignation, or incapacity of either commissioner, or in the event of either commissioner omitting or ceasing to act, the Government of the United States or that of Ecuador, respectively, or the Minister of the United States in Ecuador, in the name of his Government, shall forthwith proceed to fill the vacancy thus occasioned. The commissioners so named shall meet in the city of Guayaquil within ninety days from the exchange of the ratifications of this convention, and before proceeding to business shall make solemn oath that they will carefully examine and impartially decide according to justice, and in compliance with the provisions of this convention, all claims that shall be submitted to them; and such oath shall be entered on the record of their proceedings.

Appointment of commissioners. Vacancies, how filled.

Meeting of commissioners.

Oath.

Selection of umpire.

The commissioners shall then proceed to name an arbitrator or umpire, to decide upon any case or cases concerning which they may disagree, or upon any point of difference which may arise in the course of their proceedings. And if they cannot agree in the selection, the umpire shall be appointed by her Britannic Majesty's Chargé d'Affaires, or (excepting the Minister Resident of the United States) by any other diplomatic agent in Quito whom the two high contracting parties shall invite to make such appointment.

## ARTICLE II.

Examination of claims.

The arbitrator or umpire being appointed, the commissioners shall, without delay, proceed to examine the claims which may be presented to them by either of the two Governments; and they shall hear, if required, one person in behalf of each Government on every separate claim. Each Government shall furnish, upon request of either commissioner, such papers in its possession as may be deemed important to the just determination of any claim or claims.

Papers to be furnished.

Awards.

In cases where they agree to award an indemnity, they shall determine the amount to be paid. In cases in which said commissioners cannot agree, the points of difference shall be referred to the umpire, before whom each of the commissioners may be heard, and whose decision shall be final.

ARTICLE III.

The commissioners shall issue certificates of the sums to be paid to the claimants, respectively, whether by virtue of the awards agreed to between themselves or of those made by the umpire; and the aggregate amount of all sums decreed by the commissioners, and of all sums accruing from awards made by the umpire under the authority conferred by the fifth article, shall be paid to the Government to which the respective claimants belong. Payment of said sums shall be made in equal annual instalments to be completed within nine years from the date of the termination of the labors of the commission, the first payment to be made six months after the same date. To meet these payments both Governments pledge the revenues of their respective nations.

Certificates of award.

Payment.

Revenues pledged.

ARTICLE IV.

The commission shall terminate its labors in twelve months from the date of its organization. They shall keep a record of their proceedings, and may appoint a secretary versed in the knowledge of the English and Spanish languages.

Termination of commission.

Secretary.

ARTICLE V.

The proceedings of this commission shall be final and conclusive with respect to all pending claims. Claims which shall not be presented to the commission within the twelve months it remains in existence will be disregarded by both Governments, and considered invalid. In the event that, upon the termination of the labors of said commission, any case or cases should be pending before the umpire, and awaiting his decision, said umpire is hereby authorized to make his decision or award in such case or cases, and his certificate thereof in each case, transmitted to each of the two Governments, shall be held to be binding and conclusive: Provided, however, That his decision shall be given within thirty days from the termination of the labors of the commission, at the expiration of which thirty days his power and authority shall cease.

Proceedings conclusive.

Presentation of claims.

Decision of umpire.

ARTICLE VI.

Each Government shall pay its own commissioner; but the umpire, as well as the incidental expenses of the commission, shall be paid one-half by the United States and the other half by Ecuador.

Expenses of commission.

ARTICLE VII.

The present convention shall be ratified and the ratifications exchanged in the city of Quito.

Ratifications.

In faith whereof, we, the respective Plenipotentiaries, have signed this convention and hereunto affixed our seals, in the city of Guayaquil, this twenty-fifth day of November, in the year of our Lord 1862.

Signatures.

Date.

F. HASSAUREK. [L. S.]

JUAN JOSÉ FLORES. [L. S.]

ECUADOR, 1872.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF ECUADOR RELATIVE TO NATURALIZATION, CONCLUDED AT WASHINGTON MAY 6, 1872; RATIFICATION ADVISED BY SENATE MAY 23, 1872; RATIFIED BY PRESIDENT MAY 25, 1872; RATIFIED BY PRESIDENT OF ECUADOR SEPTEMBER 30, 1873; RATIFICATIONS EXCHANGED AT WASHINGTON NOVEMBER 6, 1873; PROCLAIMED NOVEMBER 24, 1873.

May 6, 1872.

The United States of America and the Republic of Ecuador, being desirous of regulating the citizenship of persons who emigrate from Ecuador to the United States, and from the United States to the Republic of Ecuador, have decided to treat on this subject; and for this pur-

Contracting parties.

## Negotiators.

pose have named their respective Plenipotentiaries, to wit: the President of the United States, Hamilton Fish, Secretary of State, and the President of the Republic of Ecuador, Don Antonio Flores, accredited as Minister Resident of that Republic to the Government of the United States; who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

## ARTICLE I.

## Who to be recognized as naturalized citizens.

Each of the two Republics shall recognize as naturalized citizens of the other, those persons who shall have been therein duly naturalized, after having resided uninterruptedly in their adopted country as long as may be required by its constitution or laws.

This article shall apply as well to those already naturalized in the countries of either of the contracting parties as to those who may be hereafter naturalized.

## ARTICLE II.

## Renewal of original citizenship.

If a naturalized citizen of either country shall renew his residence in that where he was born, without an intention of returning to that where he was naturalized, he shall be held to have reassumed the obligations of his original citizenship, and to have renounced that which he had obtained by naturalization.

## ARTICLE III.

## Intention not to return.

A residence of more than two years in the native country of a naturalized citizen shall be construed as an intention on his part to stay there without returning to that where he was naturalized. This presumption, however, may be rebutted by evidence to the contrary.

## ARTICLE IV.

## Offenses committed before emigration.

Naturalized citizens of either country, on returning to that where they were born, shall be subject to trial and punishment according to the laws, for offences committed before their emigration, saving always the limitations established by law.

## ARTICLE V.

## Declaration of intention.

A declaration of intention to become a citizen shall not have the effect of naturalization.

## ARTICLE VI.

## Duration of convention.

The present convention shall go into effect immediately on the exchange of ratifications, and it shall remain in full force for ten years. If neither of the contracting parties shall give notice to the other six months previously of its intention to terminate the same, it shall further remain in force until twelve months after either of the contracting parties shall have given notice to the other of such intention.

## ARTICLE VII.

## Ratifications.

The present convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by the President of the Republic of Ecuador, with the approval of the Congress of that Republic, and the ratifications shall be exchanged at Washington within eighteen months from the date hereof.

Signatures.  
Date.

In faith whereof the Plenipotentiaries have signed and sealed this convention at the city of Washington this sixth day of May, in the year of our Lord one thousand eight hundred and seventy-two.

[SEAL.]  
[SEAL.]

HAMILTON FISH.  
ANTONIO FLORES,

ECUADOR, 1872.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF ECUADOR RELATIVE TO EXTRADITION; CONCLUDED AT QUITO JUNE 28, 1872; RATIFICATION ADVISED BY SENATE JANUARY 6, 1873; RATIFIED BY PRESIDENT JANUARY 10, 1873; RATIFIED BY PRESIDENT OF ECUADOR NOVEMBER 12, 1873; RATIFICATIONS EXCHANGED AT QUITO NOVEMBER 12, 1873; PROCLAIMED DECEMBER 24, 1873.

June 28, 1872.

*Extradition treaty between the United States of America and the Republic of Ecuador.*

The United States of America and the Republic of Ecuador, having deemed it conducive to the better administration of justice and the prevention of crime within their respective territories that all persons convicted of or accused of the crimes enumerated below, being fugitives from justice, shall be, under certain circumstances, reciprocally delivered up, have resolved to conclude a treaty upon the subject; and the President of the United States has for this purpose named Rumsey Wing, a citizen of the United States, and their Minister Resident in Ecuador, as Plenipotentiary on the part of the United States, and the President of Ecuador has named Francisco Javier Leon, Minister of the Interior and of Foreign Affairs, as Plenipotentiary on the part of Ecuador; who, having reciprocally communicated their full powers, and the same having been found in good and due form, have agreed upon the following articles, viz :

Contracting parties.

Negotiators.

ARTICLE 1ST.

The Government of the United States and the Government of Ecuador mutually agree to deliver up such persons as may have been convicted of or may be accused of the crimes set forth in the following article, committed within the jurisdiction of one of the contracting parties, and who may have sought refuge or be found within the territory of the other; it being understood that this is only to be done when the criminality shall be proved in such manner that, according to the laws of the country where the fugitive or accused may be found, such persons might be lawfully arrested and tried, had the crime been committed within its jurisdiction.

Extradition of fugitives from justice.

Proof of criminality.

ARTICLE 2ND.

Persons convicted of or accused of any of the following crimes shall be delivered up, in accordance with the provisions of this treaty:

Extradition crimes—

1st. Murder, including assassination, parricide, infanticide, and poisoning.

Murder.

2d. The crime of rape, arson, piracy, and mutiny on ship-board when the crew, or a part thereof, by fraud or violence against the commanding officer, have taken possession of the vessel.

Rape, arson, piracy, mutiny.

3d. The crime of burglary, this being understood as the act of breaking or forcing an entrance into another's house with intent to commit any crime; and the crime of robbery, this being defined as the act of taking from the person of another goods or money with criminal intent, using violence or intimidation.

Burglary, robbery.

4th. The crime of forgery, which is understood to be the wilful use or circulation of forged papers or public documents.

Forgery.

5th. The fabrication or circulation of counterfeit money, either coin or paper, of public bonds, bank bills and securities, and in general of any kind of titles to or instruments of credit, the counterfeiting of stamps, dies, seals, and marks of the state and of the administrative authorities, and the sale or circulation thereof.

Counterfeiting.

6th. Embezzlement of public property, committed within the jurisdiction of either party, by public officers or depositaries.

Embezzlement.

## ARTICLE 3RD.

Political offences and past crimes.

The stipulations of this treaty shall not be applicable to crimes or offences of a political character; and the person or persons delivered up, charged with the crimes specified in the foregoing article, shall not be prosecuted for any crime committed previously to that for which his or their extradition may be asked.

## ARTICLE 4TH.

Offenders against country from which extradition is demanded.

If the person whose extradition may have been applied for, in accordance with the stipulations of the present treaty, shall have been arrested for offences committed in the country where he has sought refuge, or if he shall have been sentenced therefor, his extradition may be deferred until his acquittal, or the expiration of the term for which he shall have been sentenced.

## ARTICLE 5TH.

Requisitions, how to be made.

Requisitions for the extradition of fugitives from justice shall be made by the respective diplomatic agents of the contracting parties, or, in case of the absence of these from the country or its capital, they may be made by superior consular officers. If the person whose extradition is asked for shall have been convicted of a crime, the requisition must be accompanied by a copy of the sentence of the court that has convicted him, authenticated under its seal, and an attestation of the official character of the judge who has signed it, made by the proper executive authority; also by an authentication of the latter by the Minister or Consul of the United States or Ecuador, respectively. On the contrary, however, when the fugitive is merely charged with crime, a duly authenticated copy of the warrant for his arrest in the country where the crime has been committed, and of any evidence in writing upon which such warrant may have been issued, must accompany the aforesaid requisition. The President of the United States, or the proper executive authority of Ecuador, may then order the arrest of the fugitive, in order that he may be brought before the judicial authority which is competent to examine the question of extradition. If, then, according to the evidence and the law, it be decided that the extradition is due in conformity with this treaty, the fugitive shall be delivered up, according to the forms prescribed in such cases.

When for fugitive convicted of crime.

When for fugitive charged with crime.

Arrest of fugitive.

Delivery up of fugitive.

## ARTICLE 6TH.

Expenses of arrest and extradition.

The expenses of the arrest, detention, and transportation of persons claimed shall be paid by the Government in whose name the requisition shall have been made.

## ARTICLE 7TH.

Duration of treaty.

This treaty shall continue in force for ten (10) years from the day of the exchange of ratifications; but in case neither party shall have given to the other one (1) year's previous notice of its intention to terminate the same, then this treaty shall continue in force for ten (10) years longer, and so on.

Ratifications.

The present treaty shall be ratified, and the ratifications exchanged in the capital of Ecuador, within two months from the day on which the session of the coming Congress of Ecuador shall terminate, which will be in October, 1873.

Signatures.

In testimony whereof the respective Plenipotentiaries have signed the present treaty in duplicate, and have hereunto affixed their seals.

Date.

Done in the city of Quito, capital of the Republic of Ecuador, this twenty-eighth day of June, one thousand eight hundred and seventy-two.

[SEAL.]  
[SEAL.]

RUMSEY WING.  
FRANCISCO JAVIER LEON.