

HAWAIIAN ISLANDS.

HAWAIIAN ISLANDS, 1849.

Dec. 20, 1849.

TREATY OF FRIENDSHIP, COMMERCE, AND NAVIGATION BETWEEN THE UNITED STATES OF AMERICA AND HIS MAJESTY THE KING OF THE HAWAIIAN ISLANDS, CONCLUDED DECEMBER 20, 1849; RATIFICATION ADVISED BY SENATE JANUARY 14, 1850; RATIFIED BY PRESIDENT FEBRUARY 4, 1850; RATIFICATIONS EXCHANGED AT HONOLULU AUGUST 24, 1850; PROCLAIMED NOVEMBER 9, 1850.

Preamble.

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:

Negotiators.

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.

Peace and amity.

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.

Reciprocal liberty of commerce and navigation.

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 manufacture 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.

Equality of duties on produce of either country.

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 re-exported 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.

Importation in
vessels of the
United States.

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.

Tonnage-duties.

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

Coasting-trade.

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, light-houses, quarantine, or other similar duties, of whatever nature or under whatever denomination.

Steam-vessels
carrying mails.

ARTICLE VII.

The whale-ships 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 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

Whale-ships.

named in this article the whale-ships 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 whale-ships 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.

Vessels of war.

Quarantine.

ARTICLE VIII.

Privileges of residents.

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 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 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.

Right to manage business, &c.

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 domains 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 spirituous liquors to the natives of the Sandwich Islands, farther than such sale may be allowed by the Hawaiian laws.

Liberty of trade.

Sale of spirituous liquors.

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 case shall be depending shall have pronounced its sentence, and such sentence shall have been carried into effect.

Consular officers.

Deserters from vessels.

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

Liberty of conscience.

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.

Wrecks.

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 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 by their duly-authorized factors; and if there are no such proprietors or factors on the spot, then the said goods and merchandise, 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 merchandise 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 merchandise, the same shall be referred for decision to the competent tribunals of the country.

ARTICLE XIII.

Vessels seeking refuge.

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.

Extradition of criminals.

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.

Mail
arrange-
ments.

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 prepaid. 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.

Duration of
treaty.

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.

Infringements.

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.

Ratifications.

In witness whereof the respective Plenipotentiaries have signed the same in triplicate, and have thereto affixed their seals.

Signatures.

Done at Washington, in the English language, the twentieth day of December, in the year one thousand eight hundred and forty-nine.

Date.

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