

NEW GRANADA.

[See Colombia.]

NEW GRANADA, 1846.

Dec. 12, 1846. TREATY WITH NEW GRANADA, CONCLUDED AT BOGOTA DECEMBER 12, 1846; RATIFICATION ADVISED BY SENATE JUNE 3, 1848; RATIFIED BY PRESIDENT JUNE 10, 1848; RATIFICATIONS EXCHANGED AT WASHINGTON JUNE 10, 1848; PROCLAIMED JUNE 12, 1848.

A general treaty of peace, amity, navigation, and commerce between the United States of America and the Republic of New Granada.

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

Negotiators. For this desirable object the President of the United States of America has conferred full powers on Benjamin A. Bidlack, a citizen of the said States, and their Chargé d'Affaires in Bogota; and the President of the Republic of New Granada has conferred similar and equal powers upon Manuel Maria Mallarino, Secretary of State and Foreign Relations; who, after having exchanged their said full powers in due form, have agreed to the following articles:

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 New Granada, in all the extent of their possessions and territories, and between their 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 New Granada, desiring to live in peace and harmony with all the 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.

ARTICLE III.

Freedom of intercourse. 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 that 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 their own separate laws.

ARTICLE IV.

They likewise agree that whatever kind of produce, manufacture, or merchandise of any foreign country can be, from time to time, lawfully imported into the United States in their own vessels, may be also imported in vessels of the Republic of New Granada; 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 vessels of the one country or of the other. And, in like manner, that whatever kind of produce, manufactures, or merchandise of any foreign country can be from time to time lawfully imported into the Republic of New Granada 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 vessels of the one country or the other.

Imports and exports.
[See Article XXXV, paragraph 1.]

And they further 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 exportation or re-exportation be made in vessels of the United States or of the Republic of New Granada.

Drawbacks.
[See additional article, p. 559.]

ARTICLE V.

No higher or other duties shall be imposed on the importation into the United States of any articles the produce or manufacture of the Republic of New Granada, and no higher or other duties shall be imposed on the importation into the Republic of New Granada of any articles the produce or manufactures of the United States, than are or shall be payable on the like articles, being the produce or manufactures of any other foreign 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 New Granada, 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 importation of any articles the produce or manufactures of the United or of the Republic of New Granada, to or from the territories of the United States or to or from the territories of the Republic of New Granada, which shall not equally extend to all other nations.

Customs duties.
[See Article XXXV, paragraph 1.]

ARTICLE VI.

In order to prevent the possibility of any misunderstanding, it is hereby declared that the stipulations contained in the three preceding articles are to their full extent applicable to the vessels of the United States and their cargoes arriving in the ports of New Granada, and reciprocally to the vessels of the said Republic of New Granada and their cargoes arriving in the ports of the United States, whether they proceed from the ports of the country to which they respectively belong, or from the ports of any other foreign country; and in either case, no discriminating duty shall be imposed or collected in the ports of either country on said vessels or their cargoes, whether the same shall be of native or foreign produce or manufacture.

Reciprocal application of Articles IV, V, VI.
[See Article XXXV, paragraph 1.]

ARTICLE VII.

It is likewise agreed that it shall be wholly free for all merchants, commanders of ships, and other citizens of both countries, to manage, by themselves or agents, their own business in all the ports and places subject to the jurisdiction of each other, as well with respect to the con-

Right to manage business, &c.

signments 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 an equality with the subjects or citizens of the most favored nation.

ARTICLE VIII.

Embargo or detention.

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 an equitable and sufficient indemnification.

ARTICLE IX.

Vessels in distress.

Whenever the citizens of either of the contracting parties shall be forced to seek refuge or assylum 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, or want of provisions, or water, 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, or the payment of port fees, or any charges other than pilotage, except such vessels continue in port longer than forty-eight hours, counting from the time they cast anchor in port.

ARTICLE X.

Captures by pirates.

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

ARTICLE XI.

Wrecked or damaged vessels.

When any vessels belonging to the citizens of either of the contracting parties shall be wrecked or 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 may be destined for consumption or sale in the country of the port where they may have been disembarked.

ARTICLE XII.

Disposal and inheritance of real and personal property.

The citizens of each of the contracting parties shall have power to dispose of their personal goods or real estate 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 or real estate, 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 said goods are shall be subject to pay in like cases.

ARTICLE XIII.

Both 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 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; for which purpose, they may either appear in proper person, or employ in the prosecution or defense 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 or 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.

Protection to residents.

ARTICLE XIV.

The citizens of the United States residing in the territories of the Republic of New Granada shall enjoy the most perfect and entire security of conscience, without being annoyed, prevented, or disturbed on account of their religious belief. Neither shall they be annoyed, molested, or disturbed on the proper exercise of their religion in private houses, or on the chapels or places of worship appointed for that purpose, provided that in so doing they observe the decorum due to divine worship and the respect due to the laws, usages, and customs of the country. Liberty shall also be granted to bury the citizens of the United States, who may die in the territories of the Republic of New Granada, in convenient and adequate places, to be appointed and established by themselves for that purpose, with the knowledge of the local authorities, or in such other places of sepulture as may be chosen by the friends of the deceased; nor shall the funerals or sepulchres of the dead be disturbed in anywise, nor upon any account.

Liberty of conscience.

Rights of burial.

In like manner, the citizens of New Granada shall enjoy within the Government and territories of the United States, a perfect and unrestrained liberty of conscience, and of exercising their religion, publicly or privately, within their own dwelling-houses, or on the chapels and places of worship appointed for that purpose, agreeably to the laws, usages, and customs of the United States.

ARTICLE XV.

It shall be lawful for the citizens of the United States of America and of the Republic of New Granada 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 one power or under several. And it is hereby stipulated that free ships shall also give freedom to goods, and that everything which shall be found on board the ships belonging to the citizens of either of the contracting parties shall be deemed to be free and exempt, 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,

Neutral trade.

Free ships make free goods.

that although they be enemies to both or either party, they are not to be taken out of that free ship unless they are officers and 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 this principle; but if either of the two contracting parties shall be at war with a third, and the other remains neutral, the flag of the neutral shall cover the property of enemies whose governments acknowledge this principle, and not of others.

Limitation of the principle.

ARTICLE XVI.

Neutral property on enemy's vessels.

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, two months having elapsed after the declaration of war, 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 on such enemy's ship shall be free.

ARTICLE XVII.

Contraband articles.

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—

1st. Cannons, mortars, howitzers, swivels, blunderbusses, muskets, 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.

2d. Bucklers, helmets, breast-plates, coats of mail, infantry belts, and clothes made up in the form and for the military use.

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

4th. And generally all kind 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.

5th. Provisions that are imported into a besieged or blockaded place.

ARTICLE XVIII.

Articles not contraband.

All other merchandise, 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 those places only 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 XIX.

Captured vessels laden with contraband.

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 vessels 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 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 XX.

And whereas it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is besieged, or 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 the commanding officer 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 that may have entered into such port before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting that 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.

Blockaded ports.

ARTICLE XXI.

In order to prevent all kind 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 national vessel of war, public or private, shall meet with a neutral of the other contracting party, the first shall remain out of cannon shot, unless in stress of weather, and may send its boat 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 said armed ships shall be responsible with their persons and property; for which purpose the commanders of 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 her papers, or for any other purpose whatever.

Visit of neutral vessels.

ARTICLE XXII.

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 hereby 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 ship, as also the name and place of habitation of the master and commander of the 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 when such ships have a cargo, they shall also be provided, besides the said sea-letters or passports, 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 are 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 lawful prize, unless the said defect shall be proved to be owing to accident and shall be satisfied or supplied by testimony entirely equivalent.

Sea-letters in time of war.

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 may be bound to an enemy's port that they have no contraband goods on board, shall be sufficient.

ARTICLE XXIV.

Prize courts and
decrees.

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 upon 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.

ARTICLE XXV.

Who may carry
on hostilities.

For the purpose of lessening the evils of war, the two high contracting parties further agree that, in case a war should unfortunately take place between them, hostilities shall only be carried on by persons duly commissioned by the Government, and by those under their orders, except in repelling an attack or invasion, and in the defense of property.

ARTICLE XXVI.

Letters of
marque.

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 parties so at war, under the pain of being treated as a pirate.

ARTICLE XXVII.

Agreement in
case of war.

If by any fatality, which cannot be expected, and 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 or of New Granada, shall be respected and maintained in the full enjoyment of their personal liberty and property, unless their particular conduct shall cause them to *forfeit* [forfeit] this protection, which, in consideration of humanity, the contracting parties engage to give them.

ARTICLE XXVIII.

Debts exempt
from confiscation.

Neither the debts due from 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 XXIX.

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 nations do or shall enjoy; it being understood that whatever favors, immunities, or privileges the United States of America or the Republic of New Granada 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.

Envoys, ministers, &c. min-

ARTICLE XXX.

To make more effectual the protection which the United States and the Republic of New Granada 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 nation; 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.

Consuls and vice-consuls.

ARTICLE XXXI.

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.

Exequaturs.

ARTICLE XXXII.

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 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.

Exemptions of consular officers.

ARTICLE XXXIII.

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 in writing the said deserters, proving, by an exhibition of the registers of the vessels 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 by other testimonies,) the delivery shall not be refused. Such deserters, when arrested, shall be put at the disposal of the said Consuls, and may be put in the public prisons at the request and expense

Deserters from vessels.

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 XXXIV.

Consular convention.

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

ARTICLE XXXV.

The United States of America and the Republic of New Granada, desiring to make as durable as possible the relations which are to be established between the two parties by virtue of this treaty, have declared solemnly, and do agree to the following points:

Isthmus of Panama.

1st. For the better understanding of the preceding articles, it is and has been stipulated between the high contracting parties, that the citizens, vessels, and merchandise of the United States shall enjoy in the ports of New Granada, including those of the part of the Granadian territory generally denominated Isthmus of Panama, from its southernmost extremity until the boundary of Costa Rica, all the exemptions, privileges, and immunities concerning commerce and navigation, which are now or may hereafter be enjoyed by Granadian citizens, their vessels, and merchandise; and that this equality of favors shall be made to extend to the passengers, correspondence, and merchandise of the United States, in their transit across the said territory, from one sea to the other. The Government of New Granada guarantees to the Government of the United States that the right of way or transit across the Isthmus of Panama upon any modes of communication that now exist, or that may be hereafter constructed, shall be open and free to the Government and citizens of the United States, and for the transportation of any articles of produce, manufactures, or merchandise, of lawful commerce, belonging to the citizens of the United States; that no other tolls or charges shall be levied or collected upon the citizens of the United States, or their said merchandise thus passing over any road or canal that may be made by the Government of New Granada, or by the authority of the same, than is, under like circumstances, levied upon and collected from the Granadian citizens; that any lawful produce, manufactures, or merchandise, belonging to citizens of the United States, thus passing from one sea to the other, in either direction, for the purpose of exportation to any other foreign country, shall not be liable to any import duties whatever; or, having paid such duties, they shall be entitled to drawback upon their exportation; nor shall the citizens of the United States be liable to any duties, tolls, or charges of any kind, to which native citizens are not subjected for thus passing the said Isthmus. And, in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages, and for the favors they have acquired by the 4th, 5th, and 6th articles of this treaty, the United States guarantee, positively and efficaciously, to New Granada, by the present stipulation, the perfect neutrality of the before-mentioned isthmus, with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists; and, in consequence, the United States also guarantee, in the same manner, the rights of sovereignty and property which New Granada has and possesses over the said territory.

[See Articles IV, V, and VI.]

2d. The present treaty shall remain in full force and vigor for the term of twenty years from the day of the exchange of the ratifications; and from the same day the treaty that was concluded between the United States and Colombia, on the 13th of October, 1824, shall cease to have effect, notwithstanding what was disposed in the 1st point of its 31st article.

Duration of treaty.
[See Article XXXI, treaty of 1824 with Colombia, p. 157.]

3d. Notwithstanding the foregoing, if neither party notifies to the other its intention of reforming any of, or all, the articles of this treaty twelve months before the expiration of the twenty years stipulated above, the said treaty shall continue binding on both parties beyond the said twenty years, until twelve months from the time that one of the parties notifies its intention of proceeding to a reform.

Alteration of treaty.

4th. If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizens 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 treaty.

5th. If unfortunately any of the articles contained in this treaty should be violated or infringed in any way whatever, it is expressly stipulated that neither of the two contracting parties shall ordain or authorize any acts of reprisal, nor shall declare war against the other on complaints of injuries or damages, until the said party considering itself offended shall have laid before the other a statement of such injuries or damages, verified by competent proofs, demanding justice and satisfaction, and the same shall have been denied, in violation of the laws and of international right.

Reprisals and declarations of war.

6th. Any special or remarkable advantage that one or the other power may enjoy from the foregoing stipulation, are and ought to be always understood in virtue and as in compensation of the obligations they have just contracted, and which have been specified in the first number of this article.

Special advantages.

ARTICLE XXXVI.

The present treaty of peace, amity, commerce, and navigation shall be approved and 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 New Granada, with the consent and approbation of the Congress of the same; and the ratifications shall be exchanged in the city of Washington within eighteen months from the date of the signature thereof, or sooner if possible.

Ratifications.

In faith whereof, we, the Plenipotentiaries of the United States of America and of the Republic of New Granada, have signed and sealed these presents in the city of Bogota, on the twelfth day of December, in the year of our Lord one thousand eight hundred and forty-six.

Signatures.

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

B. A. BIDLACK.
M. M. MALLARINO.

Date.

ADDITIONAL ARTICLE.

The Republics of the United States and of New Granada will hold and admit as national ships of one or the other, all those that shall be provided by the respective Governments with a patent, issued according to its laws.

Dec. 12, 1846.

National ships.

The present additional article shall have the same force and validity as if it were inserted, word for word, in the treaty signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time.

Effect of additional article.

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

Done in the city of Bogota, the twelfth day of December, in the year of our Lord one thousand eight hundred and forty-six.

Signatures.

Date.

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

B. A. BIDLACK.
M. M. MALLARINO.

NEW GRANADA, 1850.

May 4, 1850.

CONSULAR CONVENTION WITH NEW GRANADA, CONCLUDED AT WASHINGTON MAY 4, 1850; RATIFICATION ADVISED BY SENATE SEPTEMBER 24, 1850; RATIFIED BY PRESIDENT NOVEMBER 14, 1850; RATIFICATIONS EXCHANGED AT BOGOTÁ OCTOBER 30, 1851; PROCLAIMED DECEMBER 5, 1851.

Consular Convention between the Republic of New Granada and the United States of America.

In the name of the Most Holy Trinity.

Contracting parties.

[See Article XXXIV, treaty of 1846, p. 558.]

The Governments of the Republics of New Granada and the United States of America, having engaged by the thirty-fourth article of the treaty of peace, amity, navigation, and commerce, concluded on the 12th of December, 1846, to form a consular convention, which shall declare specially the powers and immunities of the Consuls and Vice-Consuls of the respective parties, in order to comply with this article, and more effectively to protect their commerce and navigation, they have given adequate authority to their respective Plenipotentiaries, to wit:

Negotiators.

The Government of New Granada to Raphael Rivas, its Chargé d'Affaires in the United States, and the Government of the United States to John M. Clayton, Secretary of State;

Who, after the exchange and examination of their full powers, found to be sufficient and in due form, have agreed upon the following articles:

ARTICLE I.

Consular officers.

Each of the two contracting Republics may maintain in the principal cities or commercial places of the other, and in the ports open to foreign commerce, Consuls of its own, charged with the protection of the commercial rights and interests of their nation, and to sustain their countrymen in the difficulties to which they may be exposed. They may likewise appoint Consuls-General, as chiefs over the other Consuls, or to attend to the affairs of several commercial places at the same time, and Vice-Consuls for ports of minor importance, or to act under the direction of the Consuls. Each Republic may, however, except those cities, places, or ports in which it may consider the residence of such functionaries inconvenient, such exception being common to all nations. All that is said in this convention of Consuls in general shall be considered as relating not only to Consuls, properly so called, but to Consuls-General and Vice-Consuls, in all the cases to which this convention refers.

ARTICLE II.

Exequaturs.

The Consuls, appointed by one of the contracting parties to reside in the ports or places of the other, shall present to the Government of the Republic in which they are to reside their letters-patent or commission, in order that they may receive the proper exequatur, if it be deemed expedient to give it, which shall be granted without any charge; and this exequatur, when obtained, is to be exhibited to the chief authorities of the place in which the Consul is to exercise his functions, in order that they may cause him to be recognized in his character, and that he may be sustained in his proper prerogative, in his respective consular district. The Government receiving the Consul may withdraw the exequatur or his consular commission whenever it may judge proper to do so, but in such case shall state a reasonable ground for the proceeding.

ARTICLE III.

Consular functions.

The Consuls admitted in either Republic may exercise in their respective districts the following functions:

1. They may apply directly to the authorities of the district in which they reside, and they may, in case of necessity, have recourse to the National Government through the diplomatic agent of their nation, if there be any, or directly, if there be no such agent, in complaint against any infraction of the treaties of commerce committed by the authorities or persons employed by them in the country, to the injury of the commerce of the nation in whose service the Consul is engaged.

Complaints of
treaty infractions.

2. They may apply to the authorities of the consular district, and, in case of necessity, they may have recourse to the National Government through the diplomatic agent of their nation, if there be any, or directly, if there be no such agent, against any abuse on the part of the authorities of the country, or the persons employed by them, against individuals of their nation in whose service the Consul is engaged; and they may, when necessary, take such measures as may be proper to prevent justice from being denied to them, or delayed, and to prevent them from being judged or punished by any other than competent judges, and agreeably to the laws in force.

Protection of citi-
zens.

3. They may, as the natural defenders of their fellow-countrymen, appear in their name and behalf, whenever so requested by them, before the respective authorities of the place, in all cases in which their support may be necessary.

Defense of citi-
zens.

4. They may accompany the captains, mates, or masters of vessels of their nation in all that they may have to do with regard to the manifests of their merchandise and other documents, and be present in all cases in which the authorities, courts, or judges of the country may have to take any declarations from the persons above mentioned, or any other belonging to their respective crews.

Manifests, &c.

5. They may receive depositions, protests, and statements from captains, mates, and masters of vessels of their nation respecting losses and injuries sustained at sea, and protests of any individuals of their nation respecting mercantile affairs. These documents, drawn up in authentic copies, certified by the Consul, shall be admitted in the courts and offices of justice, and shall have the same validity as if they had been authenticated before the same judges or courts.

Protests, &c.

6. They may determine on all matters relating to injuries sustained at sea by effects and merchandise shipped in vessels of the nation in whose service the Consul is employed arriving at the place of his residence, provided that there be no stipulations to the contrary between the shippers, owners, and insurers. But if, among the persons interested in such losses and injuries, there should be inhabitants of the country where the Consul resides, and not belonging to the nation in whose service he is, the cognizance of such losses and injuries appertains to the local authorities.

Injuries to mer-
chandise at sea.

7. They may compromise amicably, and out of court, the differences arising between their fellow-countrymen, provided that those persons agree voluntarily to submit to such arbitration; in which case the document containing the decision of the Consul, authenticated by himself and by his chancellor or secretary, shall have all the force of a notarial copy authenticated, so as to render it obligatory on the interested parties.

Compromise of
differences out of
court.

8. They may cause proper order to be maintained on board of vessels of their nation, and may decide on the disputes arising between the captains, the officers, and the members of the crew, unless the disorders taking place on board should disturb the public tranquillity, or persons not belonging to the crew or to the nation in whose service the Consul is employed; in which case the local authorities may interfere.

Disputes between
officers and crew.

9. They may direct all the operations for saving vessels of their nation which may be wrecked on the coasts of the district where the Consul resides. In such cases the local authorities shall interfere only in order to maintain tranquillity, to give security to the interests of the parties concerned, and to cause the dispositions which should be observed for the entry and export of the property to be fulfilled. In the absence of the Consul, and until his arrival, the said authorities shall take all the

Wrecked ves-
sels.

measures necessary for the preservation of the effects of the wrecked vessel.

Estates of deceased persons.

10. They may take possession, make inventories, appoint appraisers to estimate the value of articles, and proceed to the sale of the movable property of individuals of their nation who may die in the country where the Consul resides without leaving executors appointed by their will or heirs-at-law. In all such proceedings, the Consul shall act in conjunction with two merchants, chosen by himself, for drawing up the said papers or delivering the property or the produce of its sales, observing the laws of his country and the orders which he may receive from his own Government; but Consuls shall not discharge these functions in those States whose peculiar legislation may not allow it. Whensoever there is no Consul in the place where the death occurs, the local authority shall take all the precautions in their power to secure the property of the deceased.

Deserters from vessels.

11. They may demand from the local authorities the arrest of seamen deserting from the vessels of the nation in whose service the Consul is employed, exhibiting, if necessary, the register of the vessel, her muster roll, and any other official document in support of this demand. The said authorities shall take such measures as may be in their power for the discovery and arrest of such deserters, and shall place them at the disposition of the Consul; but if the vessel to which they belong shall have sailed, and no opportunity for sending them away should occur, they shall be kept in arrest, at the expense of the Consul, for two months; and if, at the expiration of that time, they should not have been sent away, they shall be set at liberty by the respective authorities, and cannot again be arrested for the same cause.

Documents and papers.

12. They may give such documents as may be necessary for the intercourse between the two countries, and countersign those which may have been given by the authorities. They may also give bills of health, if necessary, to vessels sailing from the port where the Consul resides to the ports of the nation to which he belongs; they may also certify invoices, muster-rolls, and other papers necessary for the commerce and navigation of vessels.

Consular secretaries.

13. They may appoint a chancellor or secretary whensoever the consulate has none and one is required for authenticating documents.

Commercial agents.

14. They may appoint commercial agents to employ all the means in their power, in behalf of individuals of the nation in whose service the Consul is, and for executing the commissions which the Consul may think proper to intrust to them, out of the place of his residence; provided, however, that such agents are not to enjoy the prerogatives conceded to Consuls, but only those which are peculiar to commercial agents.

ARTICLE IV.

Employment of good offices.

The Consuls of one of the contracting Republics residing in another country may employ their good offices in favor of individuals of the other Republic which has no Consul in that country.

ARTICLE V.

Consular prerogatives.

The contracting Republics recognize no diplomatic character in Consuls, for which reason they will not enjoy in either country the immunities granted to public agents accredited in that character; but, in order that the said Consuls may exercise their proper functions without difficulty or delay, they shall enjoy the following prerogatives:

Inviolability of archives.

1. The archives and papers of the consulate shall be inviolable, and cannot be seized by any functionary of the country in which they may be.

Jurisdiction.

2. Consuls, in all that exclusively concerns the exercise of their functions, shall be independent of the State in whose territory they reside.

3. The Consuls and their chancellors or secretaries shall be exempt from all public service, and from contributions, personal and extraordinary, imposed in the country where they reside. This exemption does not comprehend the Consuls or their chancellors or secretaries who may be natives of the country in which they reside.

Exemptions.

4. Whenever the presence of Consuls may be required in courts or offices of justice, they shall be summoned in writing.

Testimony in judicial proceedings.

5. In order that the dwellings of Consuls may be easily and generally known, for the convenience of those who may have to resort to them, they shall be allowed to hoist on them the flag, and to place over their doors the coat-of-arms of the nation in whose service the Consul may be, with an inscription expressing the functions discharged by him; but those insignia shall not be considered as importing a right of asylum, nor as placing the house or its inhabitants beyond the authority of the magistrates who may think proper to search them, and who shall have that right in regard to them in the same manner as with regard to the houses of the other inhabitants, in the cases prescribed by the laws.

Flags and inscriptions.

ARTICLE VI.

The persons and dwellings of Consuls shall be subject to the laws and authorities of the country in all cases in which they have not received a special exemption by this convention, and in the same manner as the other inhabitants.

Consuls subject to law.

ARTICLE VII.

Consuls shall not give passports to any individual of their nation or going to their nation who may be held to answer before any authority, court, or judge of the country for delinquencies committed by them, or for a demand which may have been legally acknowledged; provided that in each case proper notice thereof shall have been given to the Consul; and they shall see that the vessels of their nation do not infringe the rules of neutrality when the nation in which the Consul resides is at war with another nation.

Restriction on passports.

ARTICLE VIII.

The present convention shall be ratified by the Governments of the two contracting Republics, and the ratifications shall be exchanged at Bogota within the term of eighteen months, counted from this date, or sooner if possible.

Ratifications.

ARTICLE IX.

The present convention shall be binding upon the contracting parties so long as the treaty of peace, friendship, navigation, and commerce between the United States and New Granada, the ratifications of which were exchanged at Washington, on the tenth of June, one thousand eight hundred and forty-eight, shall remain in force.

Duration of convention.

In faith whereof we, the Plenipotentiaries of the United States and of New Granada, have signed the present, and have affixed to it our respective seals at Washington, the fourth day of May, in the year of our Lord one thousand eight hundred and fifty.

Signatures.

Date.

[SEAL.]
[SEAL.]

JOHN M. CLAYTON.
RAFAEL RIVAS.

NEW GRANADA, 1857.

Sept. 10, 1857.

CLAIMS CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF NEW GRANADA, CONCLUDED AT WASHINGTON SEPTEMBER 10, 1857; RATIFICATION ADVISED BY SENATE, WITH AMENDMENTS, MARCH 8, 1859; RATIFIED BY PRESIDENT MARCH 12, 1859; TIME FOR EXCHANGE OF RATIFICATIONS EXTENDED BY SENATE MAY 8, 1860; RATIFICATIONS EXCHANGED AT WASHINGTON NOVEMBER 5, 1860; PROCLAIMED NOVEMBER 8, 1860.

Contracting parties.

The United States of America and the Republic of New Granada, desiring to adjust the claims of citizens of said States against New Granada, and to cement the good understanding which happily subsists between the two Republics, have, for that purpose, appointed and conferred full powers, respectively, to wit:

Negotiators.

The President of the United States upon Lewis Cass, Secretary of State of the United States, and the President of New Granada upon General Pedro A. Herran, Envoy Extraordinary and Minister Plenipotentiary of that Republic in the United States;

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

ARTICLE I.

Claims to be referred to commissioners.

All claims on the part of corporations, companies, or individuals, citizens of the United States, upon the Government of New Granada, which shall have been presented prior to the 1st day of September, 1859, either to the Department of State at Washington, or to the Minister of the United States at Bogota, and especially those for damages which were caused by the riot at Panama on the 15th April, 1856, for which the said Government of New Granada acknowledges its liability, arising out of its privilege and obligation to preserve peace and good order along the transit route, 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 New Granada. In case of the death, absence, 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 New Granada, respectively, or the Minister of the latter in the United States, acting by its direction, shall forthwith proceed to fill the vacancy thus occasioned.

Meeting of commissioners.

The commissioners so named shall meet in the city of Washington within ninety days from the exchange of the ratifications of this convention, and, before proceeding to business, shall make and subscribe a solemn oath that they will carefully examine and impartially decide, according to justice and equity, upon all the claims laid before them, under the provisions of this convention, by the Government of the United States. And such oath shall be entered on the record of their proceedings.

Arbitrator.

The commissioners shall then proceed to name an arbitrator or umpire, to decide upon any case or cases on which they may differ in opinion. And if they cannot agree in the selection, the umpire shall be appointed by the Minister of Prussia to the United States, whom the two high contracting parties shall invite to make such appointment, and whose selection shall be conclusive on both parties.

ARTICLE II.

Duty of commissioners.

The arbitrator being appointed, the commissioners shall proceed to examine and determine the claims which may be presented to them, under the provisions of this convention, by the Government of the United States, together with the evidence submitted in support of them, and shall hear, if required, one person in behalf of each Government on

every separate claim. Each Government shall furnish, upon request of either of the commissioners, such papers in its possession as the commissioners may deem important to the just determination of any claims presented to them. In cases where they agree to award an indemnity, they shall determine the amount to be paid, having due regard, in claims which have grown out of the riot at Panama of April 15, 1856, to damages suffered through death, wounds, robberies, or destruction of property. In cases where they cannot agree, the subjects 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 by virtue of their awards to the claimants, and the aggregate amount of said sums shall be paid to the Government of the United States, at Washington, in equal semi-annual payments, the first payment to be made six months from the termination of the commission, and the whole payment to be completed within eight years from the same date; and each of said sums shall bear interest (also payable semi-annually) at the rate of six per cent. per annum from the day on which the awards, respectively, shall have been decreed. To meet these payments, the Government of New Granada hereby specially appropriates one-half of the compensation which may accrue to it from the Panama Railroad Company, in lieu of postages, by virtue of the thirtieth article of the contract between the Republic of New Granada and said company, made April 15, 1850, and approved June 4, 1850, and also one-half of the dividends which it may receive from the net profits of said road, as provided in the fifty-fifth article of the same contract; but if these funds should prove insufficient to make the payments as above stipulated, New Granada will provide other means for that purpose.

Certificates of award.

ARTICLE IV.

The commission herein provided shall terminate its labors in nine months from and including the day of its organization; shall keep an accurate record of its proceedings, and may appoint a secretary to assist in the transaction of its business.

Duration of commission.
[See Article I, convention of 1864, p. 158.]

ARTICLE V.

The proceedings of this commission shall be final and conclusive with respect to all the claims before it, and its awards shall be a full discharge to New Granada of all claims of citizens of the United States against that Republic which may have accrued prior to the signature of this convention.

Proceedings final.

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 New Granada.

Expenses.

ARTICLE VII.

The present convention shall be ratified, and the ratifications exchanged in Washington.

Ratifications.

In faith whereof, we, the respective Plenipotentiaries, have signed this convention, and have hereunto affixed our seals.

Signatures.

Done at Washington, this tenth day of September, in the year of our Lord one thousand eight hundred and fifty-seven.

Date.

[SEAL.]
[SEAL.]

LEW. CASS.
P. A. HERRAN.