

P E R U

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PERU FOR THE SATISFACTION OF CLAIMS OF AMERICAN CITIZENS, CONCLUDED AT LIMA MARCH 17, 1841; RATIFICATION ADVISED BY SENATE JANUARY 5, 1843; RATIFIED BY PRESIDENT JANUARY 12, 1843; RATIFICATIONS EXCHANGED AT LIMA JULY 22, 1843; PROCLAIMED FEBRUARY 21, 1844; MODIFICATION CONSENTED TO AND TIME FOR EFFECTIVE EXCHANGE OF RATIFICATIONS EXTENDED BY SENATE MAY 29, 1846; RATIFICATIONS EXCHANGED A SECOND TIME, AT LIMA, OCTOBER 31, 1846; PROCLAIMED FINALLY JANUARY 8, 1847.

March 17, 1841.

The United States of America and the Republic of Peru, desirous of consolidating permanently the good understanding and friendship now happily existing between the parties, have resolved to arrange and terminate their differences and pretensions, by means of a convention that shall determine exactly the responsibilities of Peru with respect to the claims of certain citizens of the United States against her:

Contracting parties.

And with this intention, the President of the United States has appointed James C. Pickett, Chargé d'Affaires of said States near Peru, and His Excellency the President of the Republic of Peru has appointed Don Manuel del Rio, principal officer of the Department of Finance, Acting Minister of the same Department and Supernumerary Councillor of State;

Negotiators.

And both Commissioners, after having exchanged their powers, have agreed upon and signed the following articles:

ARTICLE I.

The Peruvian Government, in order to make full satisfaction for various claims of citizens of the United States, on account of seizures, captures, detentions, sequestrations, and confiscations of their vessels, or for the damage and destruction of them, of their cargoes, or other property, at sea, and in the ports and territories of Peru, by order of said Government of Peru, or under its authority, has stipulated, to pay to the United States, the sum of three hundred thousand dollars, which shall be distributed among the claimants, in the manner and according to the rules that shall be prescribed by the Government of the United States.

Sum to be paid to the United States.

ARTICLE II.

The sum of three hundred thousand dollars, which the Government of Peru has agreed to pay, in the preceding article, shall be paid at Lima, in ten equal annual instalments of thirty thousand dollars each, to the person or persons that may be appointed by the United States to receive it. The first instalment shall be paid on the first day of January, in the year one thousand eight hundred and forty-four, and an instalment on the first day of each succeeding January, until the whole sum of three hundred thousand dollars shall be paid.

Instalments.

ARTICLE III.

The Peruvian Government agrees also to pay interest on the before-mentioned sum of three hundred thousand dollars, at the rate of four per centum per annum, to be computed from the first day of January, one thousand eight hundred and forty-two, and the interest accruing on

Interest.

each instalment shall be paid with the instalment. That is to say, interest shall be paid on each annual instalment, from the first day of January, one thousand eight hundred and forty-two.

ARTICLE IV.

Payments, how to be made.

All the annual payments made on account of the three hundred thousand dollars, shall be paid in hard dollars of the same standard and value as those now coined at the mint in Lima; and the annual payments, as well as the accruing interest, may be exported from Peru, free of all duty whatever.

ARTICLE V.

No further demand for certain claims.

There shall not be demanded of the Government of Peru any other payment or indemnification, on account of any claim of the citizens of the United States, that was presented to it by Samuel Larned, esquire, when Chargé d'Affaires of the United States near Peru. But the claims subsequent to those presented by Mr. Larned to the Government of Peru shall be examined and acted upon hereafter.

ARTICLE VI.

Option of Peru.

It is further agreed, that the Peruvian Government shall have the option of paying each annual instalment, when it is due, with orders on the custom-house at Callao, which shall be endorsable in sums of any amount, and receivable in the Treasury, as cash, in payment of duties on importations of all kinds; and the orders shall be given in such a manner as, that in case similar orders shall be at a discount in the market, the full value of each annual payment shall be secured and made good to the United States, as though it had been paid in cash at the time of its falling due; and any loss occasioned by discount, or delay in the collection, shall be borne and made good by the Peruvian Government.

ARTICLE VII.

Ratifications.

This convention shall be ratified by the contracting parties, and the ratifications shall be exchanged within two years from its date, or sooner if possible, after having been approved by the President and Senate of the United States, and by the Congress of Peru.

Signatures.

Date.

In witness whereof, the respective Commissioners have signed the same, and affixed thereto their seals. Done in triplicate at the city of Lima, this seventeenth day of March, in the year of our Lord one thousand eight hundred and forty-one.

J. C. PICKETT. [L. S.]
MANUEL DEL RIO. [L. S.]

PERU, 1851.

July 26, 1851.

TREATY OF FRIENDSHIP, COMMERCE, AND NAVIGATION, BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PERU, CONCLUDED AT LIMA JULY 26, 1851; RATIFICATION ADVISED BY SENATE JUNE 23, 1852; RATIFIED BY PRESIDENT JULY 16, 1852; RATIFICATIONS EXCHANGED AT WASHINGTON JULY 16, 1852; PROCLAIMED JULY 19, 1852.

[This treaty terminated December 9, 1863, under notice given by Peru, in accordance with Article XL.]

Contracting parties.

The United States of America and the Republic of Peru, being equally animated with the desire to render firm and permanent the peace and friendship which have always so happily subsisted between them, and to place their commercial relations upon the most liberal basis, have

resolved to fix clear and precise rules which shall in future be religiously observed between the two nations by means of a treaty of friendship, commerce, and navigation.

To attain this desirable object, the President of the United States of America has conferred full powers on John Randolph Clay, the accredited Chargé d'Affaires of the said States to the Government of Peru, and the President of the Republic of Peru has conferred like full powers on Brigadier General Don Juan Crisostomo Torrico, Minister of War and the Marine, Minister of Foreign Affairs ad interim, &c., &c.; who, after exchanging their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

Negotiators.

ARTICLE I.

There shall be perfect and perpetual peace and friendship between the United States of America and the Republic of Peru, and between their respective territories, people, and citizens, without distinction of persons or places.

Peace and friendship.

ARTICLE II.

The United States of America and the Republic of Peru mutually agree that there shall be reciprocal liberty of commerce and navigation between their respective territories and citizens; the citizens of either republic may frequent with their vessels all the coasts, ports, and places of the other, wherever foreign commerce is permitted, and reside in all parts of the territories of either, and occupy dwellings and warehouses, and everything belonging thereto shall be respected and shall not be subjected to any arbitrary visits or search.

Freedom of commerce.

The said citizens shall have full liberty to trade in all parts of the territories of either, according to the rules established by the respective regulations of commerce, in all kinds of goods, merchandise, manufactures, and produce not prohibited to all, and to open retail stores and shops, under the same municipal and police regulations as native citizens; and they shall not in this respect be liable to any other or higher taxes or imposts than those which are or may be paid by native citizens. No examination or inspection of their books, papers, or accounts shall be made without the legal order of a competent tribunal or judge.

Privileges of residents.

The citizens of either country shall also have the unrestrained right to travel in any part of the possessions of the other, and shall in all cases enjoy the same security and protection as the natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing; they shall not be called upon for any forced loan or occasional contribution, nor shall they be liable to any embargo, or to be detained with their vessels, cargoes, merchandise, goods, or effects, for any military expedition, or for any public purpose whatsoever, without being allowed therefor a full and sufficient indemnification, which shall in all cases be agreed upon and paid in advance.

ARTICLE III.

The two high contracting parties hereby bind and engage themselves not to grant any favor, privilege, or immunity whatever, in matters of commerce and navigation, to other nations, which shall not be also immediately extended to the citizens of the other contracting party, who shall enjoy the same, gratuitously, if the concession shall have been gratuitous, or on giving a compensation as nearly as possible of proportionate value and effect, to be adjusted by mutual agreement, if the concession shall have been conditional.

Favors granted to other nations to become common.

ARTICLE IV.

No higher or other duties or charges on account of tonnage, light-houses, or harbour dues, pilotage, quarantine, salvage in case of damage or shipwreck, or any other local charges, shall be imposed in any

Tonnage duties, &c.

ports of Peru on vessels of the United States, of the burden of two hundred tons and upward, than those payable in the same ports by Peruvian vessels of the same burden; nor in any of the ports of the United States by Peruvian vessels of the burden of two hundred tons and upwards, than shall be payable in the same ports by vessels of the United States of the same burden.

ARTICLE V.

Duties on imports in vessels of either party.

All kinds of merchandise and articles of commerce which may be lawfully imported into the ports and territories of either of the high contracting parties in national vessels may also be so imported in vessels of the other party, without paying other or higher duties and charges of any kind or denomination whatever than if the same merchandise and articles of commerce were imported in national vessels; nor shall any distinction be made in the manner of making payment of the said duties or charges.

It is expressly understood that the stipulations in this and the preceding article are to their full extent applicable to the vessels and their cargoes belonging to either of the high contracting parties arriving in the ports and territories of the other, whether the said vessels have cleared directly from the ports of the country to which they appertain, or from the ports of any other nation.

ARTICLE VI.

Equality of duties on products of either country.

No higher or other duties or charges shall be imposed or levied upon the importation into the ports and territories of either of the high contracting parties of any article the produce, growth, or manufacture of the other party, than are or shall be payable on the like article being the produce, growth, or manufacture of any other country; nor shall any prohibition be imposed upon the importation of any article the produce, growth, or manufacture of either party into the ports or territories of the other, which shall not equally extend to all other nations.

ARTICLE VII.

Exports, drawbacks, and bounties.

All kinds of merchandise and articles of commerce which may be lawfully exported from the ports and territories of either of the high contracting parties in national vessels may also be exported in vessels of the other party; and they shall be subject to the same duties only, and be entitled to the same drawbacks, bounties, and allowances, whether the same merchandise and articles of commerce be exported in vessels of the one party or in vessels of the other party.

ARTICLE VIII.

Changes of tariff.

No changes or alterations in the tariffs of either of the high contracting parties, augmenting the duties payable upon merchandise or articles of commerce of any sort or kind imported into or exported from their respective ports, shall be held to apply to the commerce or navigation of either party, until the expiration of eight calendar months after the said changes or alterations shall have been promulgated and become a law, unless the law or decree by which such changes or alterations shall be made contain a prospective provision to the same or similar effect.

ARTICLE IX.

Coasting trade.

It is hereby declared that the stipulations of the present treaty are not to be understood as applying to the navigation and coasting trade between one port and another situated in the territories of either contracting party; the regulation of such navigation and trade being reserved, respectively, by the parties, according to their own separate laws.

Vessels of either country shall, however, be permitted to discharge part of their cargoes at one port open to foreign commerce in the territories of either of the high contracting parties, and to proceed with the remainder of their cargo to any other port or ports of the same territories open to foreign commerce, without paying other or higher tonnage-dues or port-charges in such cases than would be paid by national vessels in like circumstances; and they shall be permitted to load in like manner at different ports in the same voyage outwards.

Vessels touching at ports.

ARTICLE X.

The Republic of Peru, desiring to increase the intercourse along its coasts, by means of steam navigation, hereby engages to accord to any citizen or citizens of the United States who may establish a line of steam-vessels, to navigate regularly between the different ports of entry within the Peruvian territories, the same privileges of taking in and landing freight, entering the by-ports for the purpose of receiving and landing passengers and their baggage, specie, and bullion, carrying the public mails, establishing depots for coal, erecting the necessary machine and workshops for repairing and refitting the steam-vessels, and all other favors enjoyed by any other association or company whatsoever. It is furthermore understood between the two high contracting parties, that the steam-vessels of either shall not be subject in the ports of the other party to any duties of tonnage, harbor, or other similar duties whatsoever, than those that are or may be paid by any other association or company.

Privileges to steam-vessels.

ARTICLE XI.

For the better understanding of the preceding articles, and taking into consideration the actual state of the commercial marine of Peru, it is stipulated and agreed that every vessel belonging exclusively to a citizen or citizens of the said republic, and of which the captain is also a citizen of the same, though the construction or the crew is or may be foreign, shall be considered, for all the objects of this treaty, as a Peruvian vessel.

What shall be considered a Peruvian vessel.

ARTICLE XII.

The whale-ships of the United States shall have access to the port of Tumbez, as well as to the ports of entry in Peru, and may sail from one port to another for the purposes of refreshment and refitting, and they shall be permitted to sell or barter their supplies or goods, including oil, to the amount of two hundred dollars ad valorem, for each vessel without paying any tonnage or harbour dues, or any duties or imposts upon the articles so sold or bartered. They shall be also permitted, with like exemption from tonnage and harbour dues, further to sell or barter their supplies or goods, including oil, to the additional amount of one thousand dollars, ad valorem, for each vessel, upon paying for the said additional articles the same duties as are payable upon like supplies, or goods and oil, when imported in the vessels and by the citizens or subjects of the most favored nation.

Privileges of whale-ships in Peruvian ports.

[See convention of 1857, pp. 625, 626.]

ARTICLE XIII.

The merchants, commanders, or masters of vessels, and other citizens of either contracting party, shall be wholly free to manage their own business and affairs, in all the ports and places within the jurisdiction of the other, or to commit their business and affairs to the management of any person whom they may choose to appoint, as agent, factor, consignee, or interpreter. They shall not be restrained in the choice of persons to act in such capacities, or be compelled to pay any salary or remuneration to any one whom they do not wish to employ. Absolute

Right to manage business, &c.

freedom shall be given, as well with respect to the consignment and sale of their merchandise and articles of commerce, as to the purchase of their returns, unloading, loading, and sending off their vessels. The buyer and seller shall have full liberty to bargain together and fix the price of any merchandise or articles of commerce, imported into or to be exported from the territories of either contracting party, the regulations of commerce established in the respective countries being in every case duly observed.

ARTICLE XIV.

Privileges of Peruvians in the mines of California.

Peruvian citizens shall enjoy the same privileges in frequenting the mines, and in digging or working for gold upon the public lands situated in the State of California, as are, or may be hereafter, accorded by the United States of America to the citizens or subjects of the most favored nation.

ARTICLE XV.

Disposal and inheritance of personal property.

The citizens of either of the high contracting parties shall have the full power and liberty to dispose of their personal property and effects, of every kind and description, within the jurisdiction of the other, by sale, donation, testament, or otherwise; and their heirs or representatives, being citizens of the other party, shall succeed to their said personal property and effects, whether by testament or ab intestato, and may take possession of the same themselves or by others acting for them, and dispose of the same at their pleasure, paying such dues only as the inhabitants of the country wherein said effects may be shall be subject to pay in like cases. Should the property consist of real estate, and the heirs, on account of their character as aliens, be prevented from entering into possession of the inheritance, they shall be allowed the term of three years to dispose of the same and withdraw and export the proceeds, which they may do without any hindrance, and without paying any other dues or charges than those which are established by the laws of the country.

Heirs to real estate.

ARTICLE XVI.

Wrecked or damaged vessels.

If any vessel belonging to the citizens of either of the high contracting parties should be wrecked, suffer damage, or be left derelict, on or near the coasts, within the territories of the other, all assistance and protection shall be given to such vessel and her crew; and the vessel, or any part thereof, and all furniture and appurtenances belonging thereto, together with all the merchandise which shall be saved therefrom, or the produce thereof, if sold, shall be faithfully restored to the owners, or their agents, they paying only the expenses incurred in the preservation of the property, together with the rate of salvage which would have been payable, in the like case, by national vessels; and it shall be permitted for them to unload the merchandise and effects on board, with the proper precautions to prevent their illicit introduction, without exacting in such case any duty, impost, or contribution whatever, provided the same be exported.

ARTICLE XVII.

Vessels seeking refuge.

When through stress of weather, want of water or provisions, pursuit of enemies or pirates, the vessels of one of the high contracting parties, whether of war (public or private) or of trade, or employed in fishing, shall be forced to seek shelter in the ports, rivers, bays, and dominions of the other, they shall be received and treated with humanity; sufficient time shall be allowed for the completion of repairs, and while any vessel may be undergoing them its cargo shall not unnecessarily be required to be landed either in whole or in part; all assistance and pro.

tection shall be given to enable the vessels to procure supplies, and to place them in a condition to pursue their voyage without obstacle or hindrance.

ARTICLE XVIII.

All vessels, merchandise, and effects, belonging to the citizens of either of the high contracting parties, which may be captured by pirates, either on the high seas or within the limits of its jurisdiction, and may be carried into or found in the rivers, roads, bays, ports, or dominions of the other, shall be delivered up to the owners or their agents, they proving, in due and proper form, their rights before the competent tribunals; it being understood that the claim thereto shall be made within two years, by the owners themselves, their agents, or the agents of the respective Governments.

Captures by pirates.

ARTICLE XIX.

The high contracting parties promise and engage to give full and perfect protection to the persons and property of the citizens of each other, of all classes and occupations, who may be dwelling or transient in the territories subject to their respective jurisdiction; they shall have free and open access to the tribunals of justice for their judicial recourse, on the same terms as are usual and customary with the natives or citizens of the country in which they may be, and they shall be at liberty to employ, in all causes, the advocates, attornies, notaries, or agents, of whatever description, whom they may think proper. The said citizens shall not be liable to imprisonment without formal commitment under a warrant signed by a legal authority, except in cases *flagrantis delicti*; and they shall in all cases be brought before a magistrate, or other legal authority, for examination, within twenty-four hours after arrest; and if not so examined, the accused shall forthwith be discharged from custody. Said citizens, when detained in prison, shall be treated during their imprisonment with humanity, and no unnecessary severity shall be exercised towards them.

Protection to persons and property.

ARTICLE XX.

It is likewise agreed that perfect and entire liberty of conscience shall be enjoyed by the citizens of both the contracting parties in the countries subject to the jurisdiction of the one or 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 and suitable places, and shall be protected from violation or disturbance.

Liberty of conscience.

Rights of burial.

ARTICLE XXI.

The citizens of the United States of America and of the Republic of Peru may sail with their vessels, with entire freedom and security, from any port to the ports or places of those who now are, or hereafter shall be, enemies of either of the contracting parties, whoever may be the owners of the merchandise laden in the said vessels. The same citizens shall also be allowed to sail with their vessels, and to carry and traffic with their merchandise from the ports and places of the enemies of both parties, or of one of them, without any hindrance, not only to neutral ports and places, but also from one port belonging to an enemy to another enemy's port, whether they be under the jurisdiction of one power or under several. And it is agreed that free ships shall give freedom to goods, and that everything shall be deemed free which shall be found on board the vessels belonging to the citizens of either of the

Neutral trade.

Free ships make free goods.

Limitation of
the principle.

contracting parties, although the whole lading or a part thereof, should belong to the enemies of either, articles contraband of war being always excepted. The same liberty shall be extended to persons who may be on board free ships, so that said persons cannot be taken out of them, even if they may be enemies of both parties, or of one of them, unless they are officers or soldiers in the actual service of the enemy. It is agreed that the stipulations in this article declaring that the flag shall cover the property shall be understood as applying to those nations only who recognize this principle; but if either of the contracting parties shall be at war with a third, and the other shall remain neutral, the flag of the neutral shall cover the property of enemies whose Governments acknowledge this principle, and not that of others.

ARTICLE XXII.

Neutral property
on enemy's vessel.
[See Article II,
convention of 1856,
p. 624.]

When the neutral flag of one of the contracting parties shall protect the property of the enemies of the other, in virtue of the preceding article, neutral property found on board enemies' vessels shall likewise be considered as enemies' property, and shall be subject to detention and confiscation, unless it shall have been put on board before the declaration of war, or even afterwards, if it were done without knowledge of such declaration; but the contracting parties agree that ignorance cannot be alleged after the lapse of six months from the declaration of war. On the contrary, in those cases where the flag of the neutral does not protect enemies' property which may be found on board, the goods or merchandise of the neutral embarked in enemies' vessels shall be free.

ARTICLE XXIII.

Contraband
articles.

The liberty of commerce and navigation stipulated for in the preceding articles shall extend to all kinds of merchandise except the articles called contraband of war, under which name shall be comprehended:

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

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

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

4th. And generally, all offensive or defensive arms made of iron, steel, brass, copper, or of any other material, prepared and formed to make war by land or at sea.

ARTICLE XXIV.

All other goods
free.

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 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 shall be considered as besieged or blockaded which are actually invested or attacked by a force capable of preventing the entry of the neutral.

ARTICLE XXV.

Confiscation of
contraband arti-
cles.

The articles of contraband, or those before enumerated and classified, which may be found in a vessel bound for an enemy's port, shall be subject to detention and confiscation; but the rest of the cargo and the ship shall be left free, that the owners may dispose of them as they see proper. No vessel of either of the contracting parties 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, indeed, the quantity of such articles be so great, or of so large bulk, that they cannot be received on board the capturing vessel 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 XXVI.

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

Blockaded ports.

ARTICLE XXVII.

To prevent disorder and irregularity in visiting and examining the vessels 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 party, the former shall remain at the greatest distance compatible with the possibility and safety of making the visit, under the circumstances of wind and sea, and the degree of suspicion attending the vessel to be visited, and shall send one of her small boats with no more men than may be necessary 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, in respect of which the commanders of said armed vessels shall be responsible with their persons and property; for which purpose the commanders of said private armed vessels shall, before receiving their commissions, give sufficient security to answer for all the injuries and damages they may commit. And it is expressly agreed that the neutral party shall in no case be required to go on board of the examining vessel for the purpose of exhibiting the ship's papers, nor for any other purpose whatever.

Regulation of visits at sea.

ARTICLE XXVIII.

Both contracting parties likewise agree that when one of them shall be engaged in war the vessels of the other must be furnished with sea-letters, patents, or passports, in which shall be expressed the name, burden of the vessel, and the name and place of residence of the owner, and master or captain thereof, in order that it may appear that the

Sea-letters or passports.

vessel really and truly belongs to citizens of the said other party. It is also agreed that such vessels being laden, besides the said sea-letters, patents, or passports, shall be provided with manifests or certificates, containing the particulars of the cargo and the place where it was taken on board, so that it may be known whether any part of the same consists of contraband or prohibited articles; which certificate shall be made out in the accustomed form by the authorities of the port whence the vessel sailed; without which requisites the vessel may be detained to be adjudged by the competent tribunales, and may be declared good and legal prize, unless it shall be proved that the said defect or omission was owing to accident, or unless it shall be satisfied or supplied by testimony equivalent in the opinion of the said tribunals, for which purpose there shall be allowed a reasonable length of time to procure and present it.

ARTICLE XXIX.

Vessels under
convoy.

The preceding stipulations relative to the visit and examination of vessels shall apply only to those which sail without convoy; for 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 they carry, and, when they are bound to an enemy's port, that they have no contraband goods on board, shall be sufficient.

ARTICLE XXX.

Prize courts and
decrees.

It is further agreed that, in all prize cases, the courts specially established for such causes in the country to which the prizes may be conducted shall alone take cognizance of them. And whenever such courts of either party shall pronounce judgment against any vessel, merchandise, or property claimed by the citizens of the other party, the sentence or decree shall set forth 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 connected with the case, shall, if demanded, be delivered to the commander or agent of the said vessel, merchandise, or property, without any excuse or delay, upon payment of the established legal fees for the same.

ARTICLE XXXI.

Letters of
marque.

Whenever one of the contracting parties shall be engaged in war with another nation, 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 pain of being treated as a pirate.

ARTICLE XXXII.

Rights of resi-
dents in case of
war.

If, which is not to be expected, a rupture should at any time take place between the two contracting nations, and they should engage in war with each other, they have agreed, now for then, that the merchants, traders, and other citizens of all occupations of either of the two parties, residing in the cities, ports, and dominions of the other, shall have the privilege of remaining and continuing their trade and business therein, and shall be respected and maintained in the full and undisturbed enjoyment of their personal liberty and property, so long as they conduct themselves peaceably and properly, and commit no offence against the laws. And in case their acts should render them justly suspected, and, having thus forfeited this privilege, the respective Governments should think proper to order them to leave the country, the term of twelve months from the publication or intimation of the

order therefor shall be allowed them in which to arrange and settle their affairs and remove with their families, effects and property ; to which end the necessary safe conduct shall be given to them, which shall serve as a sufficient protection, until they arrive at the designated port and there embark ; but this favor shall not be extended to those who shall act contrary to the established laws. It is, nevertheless, understood that the respective Governments may order the persons so suspected to remove, forthwith, to such places in the interior as may be designated.

ARTICLE XXXIII.

In the event of a war, or of any interruption of friendly intercourse between the high contracting parties, the money, private debts, shares in the public funds or in the public or private banks, or any other property whatever, belonging to the citizens of the one party in the territories of the other, shall in no case be sequestrated or confiscated.

Debts, &c., not to be confiscated.

ARTICLE XXXIV.

The high contracting parties, desiring to avoid all inequality in their public communications and official intercourse, agree to grant to their Envoys, Ministers, Chargés d'Affaires, and other diplomatic agents, the same favors, privileges, immunities, and exemptions, that those of the most favored nations do or shall enjoy ; it being understood that the favors, privileges, immunities, and exemptions granted by the one party to the Envoys, Ministers, Chargés d'Affaires, or other diplomatic agents of the other party, or to those of any other nation shall be reciprocally granted and extended to those of both the high contracting parties respectively.

Envoys, ministers, &c.

ARTICLE XXXV.

To protect more effectually the commerce and navigation of their respective citizens, the United States of America and the Republic of Peru agree to admit and receive, mutually, Consuls and Vice-Consuls in all their ports open to foreign commerce, who shall enjoy, within their respective consular districts, all the rights, prerogatives, and immunities of the Consuls and Vice-Consuls of the most favored nations. But to enjoy the rights, prerogatives, and immunities which belong to them, in virtue of their public character, the Consuls and Vice-Consuls shall before exercising their official functions, exhibit to the government to which they are accredited their commissions or patents in due form, in order to receive their exequatur ; after receiving which they shall be acknowledged, in their official characters, by the authorities, magistrates, and inhabitants of the district in which they reside. The high contracting parties, nevertheless, remain at liberty to except those ports and places where the admission and residence of Consuls or Vice-Consuls may not seem convenient, provided that the refusal to admit them shall likewise extend to those of all nations.

Consular officers.

Exequaturs.

ARTICLE XXXVI.

The Consuls, Vice-Consuls, their officers, and persons employed in their consulates, shall be exempt from all public service and from all kinds of taxes, imposts, and contributions, except those which they shall lawfully be held to pay on account of their property or commerce, and to which the citizens and other inhabitants of the country in which they reside are subject, they being, in other respects, subject to the laws of the respective countries. The archives and papers of the consulates shall be inviolably respected, and no person, magistrate, or other public authority shall, under any pretext, interfere with or seize them.

Immunities of consular officers.

Inviolability of archives.

ARTICLE XXXVII.

Deserters from
vessels.

The Consuls and Vice-Consuls shall have power to require the assistance of the public authorities of the country in which they reside, for the arrest, detention, and custody of deserters from the vessels of war or merchant-vessels of their nation; and where the deserters claimed shall belong to a merchant-vessel, the Consuls or Vice-Consuls must address themselves to the competent authority, and demand the deserters in writing, proving, by the ship's roll or other public document, that the individuals claimed are a part of the crew of the vessel from which it is alleged that they have deserted; but should the individuals claimed form a part of the crew of a vessel of war, the word of honor of a commissioned officer attached to the said vessel shall be sufficient to identify the deserters; and when the demand of the Consuls or Vice-Consuls shall, in either case, be so proved, the delivery of the deserters shall not be refused. The said deserters, when arrested, shall be delivered to the Consuls or Vice-Consuls, or, at the request of these, shall be put in the public prisons and maintained at the expense of those who reclaim them, to be delivered to the vessels to which they belong, or sent to others of the same nation; but if the said deserters should not be so delivered or sent within the term of two months, to be counted from the day of their arrest, they shall be set at liberty, and shall not be again apprehended for the same cause. The high contracting parties agree, that it shall not be lawful for any public authority, or other person within their respective dominions, to harbor or protect such deserters.

ARTICLE XXXVIII.

Consular Con-
vention.

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

ARTICLE XXXIX.

Property of resi-
dents dying intes-
tate.

Until the conclusion of a consular convention, the high contracting parties agree that, in the absence of the legal heirs or representatives, the Consuls or Vice-Consuls of either party shall be ex-officio the executors or administrators of the citizens of their nation who may die within their consular jurisdictions, and of their countrymen dying at sea, whose property may be brought within their district. The said Consuls or Vice-Consuls shall call in a justice of the peace, or other local authority, to assist in taking an inventory of the effects and property left by the deceased; after which, the said effects shall remain in the hands of the said Consuls or Vice-Consuls, who shall be authorized to sell immediately such of the effects or property as may be of a perishable nature, and to dispose of the remainder according to the instructions of their respective governments. And where the deceased has been engaged in commerce or other business, the Consuls or Vice-Consuls shall hold the effects and property so remaining until the expiration of twelve calendar months; during which time the creditors, if any, of the deceased, shall have the right to present their claims or demands against the said effects and property, and all questions arising out of such claims or demands shall be decided by the laws of the country wherein the said citizens may have died. It is understood, nevertheless, that if no claim or demand shall have been made against the effects and property of an individual so deceased, the Consuls or Vice-Consuls, at the expiration of the twelve calendar months, may close the estate and dispose of the effects and property, in accordance with the instructions from their own governments.

ARTICLE XL.

The United States of America and the Republic of Peru, desiring to make as durable as circumstances will permit the relations established between the two parties in virtue of this treaty of friendship, commerce, and navigation, declare solemnly and agree as follows:

1st. The present treaty shall remain in force for the term of ten years from the day of the exchange of the ratifications thereof; and, further, until the end of one year after either of the high contracting parties shall have given notice to the other of its intention to terminate the same, each of them reserving to itself the right of giving such notice to the other at the end of the said term of ten years. And it is hereby agreed between the parties that, on the expiration of one year after such notice shall have been received by either of them from the other party, as above mentioned, this treaty shall altogether cease and determine.

Duration of treaty.

2dly. If any citizen or citizens of either party shall infringe any of the articles of the treaty, such citizen or citizens shall be held personally responsible therefor; and the harmony and good understanding between the two nations shall not be interrupted thereby; each party engaging in no way to protect the offender or offenders, or to sanction such violation, under pain of rendering itself liable for the consequences thereof.

Infringement of treaty.

3dly. Should unfortunately any of the provisions contained in the present treaty be violated or infringed in any other manner whatever, it is expressly stipulated and agreed that neither of the contracting parties shall order or authorize any act of reprisals, nor declare or make war against the other, on complaint of injuries or damages resulting therefrom, until the party considering itself aggrieved shall first have presented to the other a statement or representation of such injuries or damages, verified by competent proofs, and demanded redress and satisfaction, and the same shall have been either refused or unreasonably delayed.

Reprisals and declarations of war.

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

Treaties with other nations not affected.

The present treaty of friendship, 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 Peru, with the authorization of the Congress thereof; and the ratifications shall be exchanged at Washington within eighteen months 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 Peru, have signed and sealed these presents.

Signatures.

Done at the city of Lima on the twenty-sixth day of July, in the year of our Lord one thousand eight hundred and fifty-one.

Date.

J. RANDOLPH CLAY. [L. s.]
 J. CMO. TORRICO. [L. s.]

PERU, 1856.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PERU RELATIVE TO THE RIGHTS OF NEUTRALS AT SEA. CONCLUDED AT LIMA JULY 22, 1856; RATIFICATION ADVISED BY SENATE MARCH 12, 1857; RATIFIED BY PRESIDENT OCTOBER 2, 1857; RATIFICATIONS EXCHANGED AT WASHINGTON OCTOBER 31, 1857; PROCLAIMED NOVEMBER 2, 1857.

July 22, 1856.

The United States of America and the Republic of Peru, in order to render still more intimate their relations of friendship and good under-

Contracting parties.

standing, and desiring, for the benefit of their respective commerce and that of other nations, to establish an uniform system of maritime legislation in time of war, in accordance with the present state of civilization, have resolved to declare, by means of a formal convention, the principles which the two Republics acknowledge as the basis of the rights of neutrals at sea, and which they recognize and profess as permanent and immutable, considering them as the true and indispensable conditions of all freedom of navigation and maritime commerce and trade.

Negotiators.

For this purpose the President of the United States of America has conferred full powers on John Randolph Clay, their Envoy Extraordinary and Minister Plenipotentiary to the Government of Peru; and the Liberator President of the Republic of Peru has conferred like full powers on Don José Maria Seguin, Chief Officer of the Ministry of Foreign Affairs, in charge of that Department;

Who, after having exchanged their said full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

Principles recognized.

The two high contracting parties recognize as permanent and immutable the following principles:

Rights of neutrals at sea.

1st. That free ships make free goods; that is to say, that the effects or merchandise belonging to a Power or nation at war, or to its citizens or subjects, are free from capture and confiscation when found on board of neutral vessels, with the exception of articles contraband of war.

Rights of neutral property on enemies' ships.

2d. That the property of neutrals on board of an enemy's vessel is not subject to detention or confiscation, unless the same be contraband of war; it being also understood that, as far as regards the two contracting parties, warlike articles destined for the use of either of them shall not be considered as contraband of war.

The two high contracting parties engage to apply all these principles to the commerce and navigation of all Powers and States as shall consent to adopt them as permanent and immutable.

ARTICLE II.

Article XXII, treaty of 1851, annulled.

[See p. 618.]

It is hereby agreed between the two high contracting parties that the provisions contained in article twenty-second of the treaty concluded between them at Lima on the twenty-sixth day of July, one thousand eight hundred and fifty-one, are hereby annulled and revoked, in so far as they militate against or are contrary to the stipulations contained in this convention; but nothing in the present convention shall in any manner affect or invalidate the stipulations contained in the other articles of the said treaty of the twenty-sixth of July, one thousand eight hundred and fifty-one, which shall remain in their full force and effect.

ARTICLE III.

Application and extension of Article I.

The two high contracting parties reserve to themselves to come to an ulterior understanding, as circumstances may require, with regard to the application and extension to be given, if there be any cause for it, to the principles laid down in the first article; but they declare from this time that they will take the stipulations contained in the said article as a rule, whenever it shall become a question, to judge of the rights of neutrality.

ARTICLE IV.

Accession to rules by other nations.

It is agreed between the two high contracting parties that all nations which shall consent to accede to the rules of the first article of this convention by a formal declaration, stipulating to observe them, shall enjoy the rights resulting from such accession as they shall be enjoyed and

observed by the two parties signing this convention. They shall communicate to each other the result of the steps which may be taken on the subject.

ARTICLE V.

The present convention shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate of said States, and by the President of the Republic of Peru, with the authorization of the legislative body of Peru, and the ratifications shall be exchanged at Washington within eighteen months from the date of the signature hereof, or sooner if possible.

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

Done at the city of Lima on the twenty-second day of July, in the year of our Lord one thousand eight hundred and fifty-six.

J. RANDOLPH CLAY. [L. S.]
J. M. SEGUIN. [L. S.]

Ratifications.

Signatures.

Date.

PERU, 1857.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PERU, INTERPRETING THE TWELFTH ARTICLE OF THE TREATY OF JULY 26, 1851, CONCLUDED AT LIMA JULY 4, 1857; RATIFICATION ADVISED BY SENATE APRIL 30, 1858; RATIFIED BY PRESIDENT MAY 7, 1858; RATIFICATIONS EXCHANGED AT WASHINGTON OCTOBER 13, 1858; PROCLAIMED OCTOBER 14, 1858.

July 4, 1857.

[Terminated with treaty of 1851, under notice by Peru.]

Certain doubts having arisen with regard to the interpretation to be given to article twelfth of the treaty of the 26th of July, 1851, as to the goods, other than oil and the produce of their fishery, that the whale-ships of the United States may land and sell, or barter, duty free, for the purpose of obtaining provisions and refitting; a concession which, in articles eighty-one and one hundred and ten of the General Commercial Regulations, is not so extensive; and it being convenient, for the advantage of the citizens of the United States employed in the whale-fishery, and of the citizens of Peru, who furnish provisions, to fix clearly and definitively, the proper meaning of the concessions stipulated in the above-mentioned article twelfth of the treaty of the 26th of July, 1851, so that while those reciprocal benefits are secured, all and every controversy in the matter may be avoided:

The Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Republic of Peru, John Randolph Clay, in virtue of his full powers, and His Excellency Doctor Don Manuel Ortiz de Zevallos, Minister of Foreign Affairs of the Republic of Peru, fully authorized to act in the premises by the Excellent Council of Ministers charged with the Government of the Republic, after having held repeated conferences, and come to a mutual understanding upon the true spirit and extent of the exemption from duties conceded to the said whale-ships in the sale and barter of their stores and merchandise, by article twelfth of the treaty of 1851, which provides:

"ARTICLE XII.

"The whale-ships of the United States shall have access to the port of Tumbes as well as to the ports of entry of Peru, and may sail from one port to another for the purposes of refreshment and refitting, and they shall be permitted to sell or barter their supplies or goods, including oil, to the amount of two hundred dollars, ad valorem, for each vessel, without paying any tonnage or harbor dues, or any duties or imposts upon the articles so sold or bartered. They shall be also permitted,

Preamble.
[See Article XII,
treaty of 1851, p.
615.]

Negotiators.

Article XII,
treaty of 1851.

with like exemption from tonnage and harbor dues, further to sell or barter their supplies or goods, including oil, to the additional amount of one thousand dollars, ad valorem, for each vessel, upon paying for the said additional articles the same duties as are payable upon like supplies or goods and oil when imported in the vessels and by the citizens or subjects of the most favored nations:”

Have agreed and declared :

ARTICLE I.

Extent of exemption of whale-ships from duty.

That the permission to the whale-ships of the United States to barter or sell their supplies and goods to the value of two hundred dollars ad valorem, without being obliged to pay port or tonnage dues, or other imposts, should not be understood to comprehend every kind of merchandise without limitation, but those only that whale-ships are usually provided with for their long voyages.

ARTICLE II.

Articles exempted.

That in the said exemption from duties of every kind are included the following articles, in addition to the produce of their fishery, viz :

White unbleached domestics.	Axes, hatchets.
White bleached domestics.	Biscuit of every kind.
Wide cotton cloths.	Flour.
Blue drills.	Lard.
Twilled cottons.	Butter.
Shirting stripes.	Rum.
Ticking.	Beef.
Cotton Shirtings.	Pork.
Prints.	Spermaceti and composition candles.
Sailors' clothing of all kinds.	Canvass.
Soap.	Rope.
Slush.	Tobacco.
Boots, shoes, and brogans.	

ARTICLE III.

Enumerated articles to value of \$500 free of duty.

It is also agreed upon and understood between the contracting parties, that the whale-ships of the United States may land and sell or barter, free of all duties or imposts whatsoever, the supplies and merchandise specified in the preceding article, to the amount of five hundred dollars, ad valorem, in conformity with article 81 of the General Commercial Regulations; but for every additional quantity from five hundred dollars to one thousand dollars, ad valorem, the exemption shall only extend to port and tonnage dues.

ARTICLE IV.

Force and effect of stipulations.

The stipulations in this convention shall have the same force and effect as if inserted, word for word, in the treaty concluded in Lima on the 26th of July, 1851, and of which they shall be deemed and considered as explanatory. For which purpose the present convention 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 Executive Power of the Republic of Peru, with the authorization of the national Peruvian legislature; and the ratifications shall be exchanged in Washington in as short a time as possible.

Signatures.

In faith whereof, the above-named plenipotentiaries have signed, in quadruplicate, this convention, explanatory of the treaty of the twenty-sixth of July, one thousand eight hundred and fifty-one, and have hereunto affixed their seals.

Date.

Done at Lima, the fourth day of July, in the year of our Lord one thousand eight hundred and fifty seven.

J. RANDOLPH CLAY.

MANUEL ORTIZ DE ZEVALLOS.

[L. s.]

[L. s.]

PERU, 1862.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PERU, RESPECTING THE VESSELS "LIZZIE THOMPSON" AND "GEORGIANNA," CONCLUDED AT LIMA DECEMBER 20, 1862; RATIFICATION ADVISED BY SENATE FEBRUARY 18, 1863; RATIFIED BY PRESIDENT FEBRUARY 24, 1863; RATIFICATIONS EXCHANGED AT LIMA APRIL 21, 1863; PROCLAIMED MAY 19, 1863.

Dec. 20, 1862.

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

Whereas differences having arisen between the United States of America and the Republic of Peru, originating in the capture and confiscation by the latter of two ships belonging to citizens of the United States, called the "Lizzie Thompson" and "Georgianna;" and the two Governments not being able to come to an agreement upon the questions involved in said capture and confiscation, and being equally animated with the desire to maintain the relations of harmony which have always existed, and which it is desirable to preserve and strengthen between the two Governments, have agreed to refer all the questions, both of law and fact, involved in the capture and confiscation of said ships by the Government of Peru, to the decision of some friendly Power; and it being now expedient to proceed to and regulate the reference as above described, the United States of America and the Republic of Peru have for that purpose named their respective Plenipotentiaries, that is to say:

Claims upon Peru to be referred to a friendly power.

The President of the United States has appointed Christopher Robinson, their Envoy Extraordinary and Minister Plenipotentiary to Peru, and the President of Peru Dr. José Gregorio Paz Soldan, Minister of State in the office of Foreign Relations and President of the Council of Ministers;

Contracting parties.

Negotiators.

Who, after having exchanged their full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE I.

The two contracting parties agree in naming as arbiter, umpire, and friendly arbitrator, His Majesty the King of Belgium, conferring upon him the most ample power to decide and determine all the questions, both of law and fact, involved in the proceedings of the Government of Peru in the capture and confiscation of the ships "Lizzie Thompson" and "Georgianna."

The King of Belgium selected as arbiter.

ARTICLE II.

The two contracting parties will adopt the proper measures to solicit and obtain the assent of His Majesty the King of Belgium to act in the office hereby conferred upon him.

The King of Belgium to be requested to act.

After His Majesty the King of Belgium shall have declared his assent to exercise the office of arbiter, the two contracting parties will submit, through their diplomatic agents residing at Brussels, to His Majesty copies of all the correspondence, proofs, papers, and documents which have passed between the two Governments or their respective representatives; and should either party think proper to present to said arbiter any other papers, proofs, or documents in addition to those above mentioned, the same shall be communicated to the other party within four months after the ratification of this convention.

Papers to be submitted to arbiter.

ARTICLE III.

Both parties being equally interested in having a decision upon the questions hereby submitted, they agree to deliver to the said arbiter all the documents referred to in the second article within six months after he shall have signified his consent to act as such.

Time for submission of documents.

ARTICLE IV.

Decision of arbi-
ter to be final.

The sentence or decision of said arbiter, when given, shall be final and conclusive upon all the questions hereby referred, and the contracting parties hereby agree to carry the same into immediate effect.

ARTICLE V.

Ratifications.

This convention shall be ratified and the ratifications exchanged in the term of six months from the date hereof.

Signatures.

In faith whereof the Plenipotentiaries of the two Governments have signed and sealed, with their respective seals, the present convention.

Date.

Done in the city of Lima, in duplicate, on the twentieth day of December, in the year of our Lord one thousand eight hundred and sixty-two.

CHRISTOPHER ROBINSON. [L. S.]
JOSÉ G. PAZ SOLDAN. [L. S.]

PERU, 1863.

Jan. 12, 1863.

CONVENTION WITH PERU FOR THE SETTLEMENT OF CLAIMS, CONCLUDED AT LIMA JANUARY 12, 1863; RATIFICATION ADVISED BY SENATE, WITH AMENDMENTS, FEBRUARY 18, 1863; RATIFIED BY PRESIDENT FEBRUARY 24, 1863; RATIFICATIONS EXCHANGED AT LIMA APRIL 18, 1863; PROCLAIMED MAY 19, 1863.

Convention between the United States of America and the Republic of Peru for the settlement of the pending claims of the citizens of either country against the other.

Contracting parties.

The United States of America and the Republic of Peru, desiring to settle and adjust amicably the claims which have been made by the citizens of each country against the Government of the other, have agreed to make arrangements for that purpose by means of a convention, and have named as their Plenipotentiaries to confer and agree thereupon as follows:

Negotiators.

The President of the United States, Christopher Robinson, Envoy Extraordinary and Minister Plenipotentiary of said States to Peru, and the President of Peru, Dr. José Gregorio Paz Soldan, the Minister of Foreign Relations and President of the Council of Ministers;

Who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed as follows:

ARTICLE I.

Claims to be referred to a mixed commission.

All claims of citizens of the United States against the Government of Peru, and of citizens of Peru against the Government of the United States, which have not been embraced in conventional or diplomatic agreement between the two Governments or their Plenipotentiaries, and statements of which, soliciting the interposition of either Government, may, previously to the exchange of the ratifications of this convention, have been filed in the Department of State at Washington, or the Department of Foreign Affairs at Lima, shall be referred to a mixed

Appointment of commissioners.

commission composed of four members, appointed as follows: Two by the Government of the United States, and two by the Government of Peru. In case of the death, absence, or incapacity of either Commissioner, or in the event of either Commissioner ceasing to act, the Government of the United States, or its Envoy Extraordinary and Minister Plenipotentiary in Peru, acting under its direction, or that of the Republic of Peru, shall forthwith proceed to fill the vacancy thus occasioned.

Vacancies.

ARTICLE II.

The Commissioners so named shall immediately after organization, and before proceeding to any other business, proceed to name a fifth person to act as an arbitrator or umpire in any case or cases in which they may themselves differ in opinion.

Selection of umpire.

ARTICLE III.

The Commissioners appointed as aforesaid shall meet in Lima within three months after the exchange of the ratifications of this convention; and each one of the Commissioners, before proceeding to any business, shall take an oath, made and subscribed before the most Excellent Supreme Court, that they will carefully examine and impartially decide, according to the principles of justice and equity, the principles of international law and treaty stipulations, upon all the claims laid before them under the provisions of this convention, and in accordance with the evidence submitted on the part of either Government. A similar oath shall be taken and subscribed by the person selected by the Commissioners as arbitrator or umpire, and said oaths shall be entered upon the record of the proceedings of said commission.

Meeting of commissioners.

Oath.

Oath of umpire.

ARTICLE IV.

The arbitrator or umpire being appointed, the Commissioners shall without delay, proceed to examine and determine the claims specified in the first article, and shall hear, if required, one person in behalf of each Government on each separate claim. Each Government shall furnish, at the request of either of the Commissioners, the papers in its possession which may be important to the just determination of any of the claims referred.

Examination of claims.

Papers to be furnished.

ARTICLE V.

From the decision of the Commissioners there shall be no appeal; and the agreement of three of them shall give full force and effect to their decisions, as well with respect to the justice of their claims as to the amount of indemnification that may be adjudged to the claimants; and in case the Commissioners cannot agree, the points of difference shall be referred to the arbitrator or umpire, before whom the Commissioners may be heard, and his decision shall be final.

What agreement sufficient.

ARTICLE VI.

The decision of the mixed commission shall be executed without appeal by each of the contracting parties, and it shall be the duty of the Commissioners to report to the respective Governments the result of their proceedings; and if the decision of said Commissioners require the payment of indemnities to any of the claimants, the sums determined by the said Commissioners shall be paid by the Government against which they are awarded within one month after said Government shall have received the report of said Commissioners; and for any delay in the payment of the sum awarded after the expiration of said month, the sum of six per cent. interest shall be paid during such time as said delay shall continue.

Execution of decrees.

Payments, how made.

Interest.

ARTICLE VII.

For the purpose of facilitating the labors of the mixed commission, each Government shall appoint a secretary to assist in the transaction of their business and to keep a record of their proceedings, and for the conduct of their business said Commissioners are authorized to make all necessary rules.

Secretaries.

Rules.

ARTICLE VIII.

Decisions to be final. Termination of commission. Decisions of umpire on pending cases.

The decisions of this Commission, or of the umpire in case of a difference between the Commissioners, shall be final and conclusive, and shall be carried into full effect by the two contracting parties. The Commission shall terminate its labors in six months from and including the day of its organization; provided, however, if at the time stipulated for the termination of said Commission any case or cases should be pending before the umpire and awaiting his decision, it is understood and agreed by the two contracting parties that said umpire is authorized to proceed and make his decision or award in such case or cases; and upon his report thereof to each of the two Governments, mentioning the amount of indemnity, if such shall have been allowed by him, such award shall be final and conclusive in the same manner as if it had been made by the Commissioners under their own agreement; provided that said decision shall be made by said umpire within thirty days after the final adjournment of said Commission, and at the expiration of the said thirty days the power and authority hereby granted to said umpire shall cease.

ARTICLE IX.

Expenses of commission.

Each Government shall pay its own Commissioners and secretary, but the umpire shall be paid, one-half by the Government of the United States and one-half by the Republic of Peru.

ARTICLE X.

Ratifications. Signatures. Date.

The present convention shall be ratified, and the ratifications thereof shall be exchanged in the term of four months from the date hereof. In faith whereof, the respective Plenipotentiaries have signed the same and affixed their respective seals. Done in the city of Lima this twelfth day of January, in the year of our Lord one thousand eight hundred and sixty-three.

CHRISTOPHER ROBINSON. [L. S.]
 JOSÉ G. PAZ SOLDAN. [L. S.]

PERU, 1868.

Dec. 4, 1868.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PERU, FOR THE ADJUSTMENT OF CLAIMS, CONCLUDED AT LIMA DECEMBER 4, 1868; RATIFICATION ADVISED BY SENATE APRIL 15, 1869; RATIFIED BY PRESIDENT MAY 3, 1869; RATIFICATIONS EXCHANGED AT LIMA JUNE 4, 1869; PROCLAIMED JULY 6, 1869.

Preamble. Contracting parties. Negotiators.

Whereas claims may have, at various times since the signature of the decisions of the mixed commission which met in Lima in July, 1863, been made upon the Government of the United States of America, by citizens of Peru, and have been made by citizens of the United States of America on the Government of Peru; and whereas some of such claims are still pending: The President of the United States of America and the President of Peru, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsist between the two countries, have resolved to make arrangements for that purpose by means of a convention, and have named as their Plenipotentiaries to confer and agree thereupon, that is to say:

The President of the United States names Alvin P. Hovey, Envoy Extraordinary and Minister Plenipotentiary of the United States of America near the Government of Peru; and the President of Peru

names His Excellency Doctor Don José Antonio Barrenechea, Minister of Foreign Affairs of Peru ;

Who, after having communicated to each other their respective full powers, found in good and true form, have agreed as follows :

ARTICLE I.

The high contracting parties agree that all claims on the part of corporations, companies, or private individuals, citizens of the United States, upon the Government of Peru, and all claims on the part of corporations, companies, or private individuals, citizens of Peru, upon the Government of the United States, which may have been presented to either government for its interposition since the sittings of the said mixed commission, and which remain yet unsettled, as well as any other claims which may be presented within the time specified in Article III hereinafter, shall be referred to the two Commissioners, who shall be appointed in the following manner, that is to say : One Commissioner shall be named by the President of the United States, and one by the President of Peru. In case of the death, absence, or incapacity of either Commissioner, or in the event of either Commissioner omitting or ceasing to act as such, the President of the United States or the President of Peru, respectively, shall forthwith name another person to act as Commissioner in the place or stead of the Commissioner already named. The Commissioners so named shall meet at Lima at their earliest convenience after they have been respectively named, not to exceed three months from the ratification of this convention, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide to the best of their judgment, and according to justice and equity, without fear, favor, or affection to their own country, upon all such claims as shall be laid before them on the part of the Governments of the United States and Peru, respectively, and such declaration shall be entered on the record of the Commission.

Claims to be referred to Commissioners.

Appointment of Commissioners.

Meeting of Commissioners.

Declaration.

The Commissioners shall then, and before proceeding to other business, name some third person of some third nation to act as an Arbitrator or Umpire in any case or cases on which they may themselves differ in opinion. If they should not be able to agree upon the name of such third person, they shall each name a person of a third nation, and in each and every case in which the Commissioners may differ in opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be the Arbitrator or Umpire in that particular case. The person or persons so to be chosen to be Arbitrator or Umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration in a form similar to that which shall have already been made and subscribed by the Commissioners, which shall be entered upon the records of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting or declining, or ceasing to act as such Arbitrator or Umpire, another and different person shall be named as aforesaid to act as such Arbitrator or Umpire in the place and stead of the person so originally named as aforesaid, and shall make and subscribe such declaration as aforesaid.

Selection of Umpire.

Declaration of umpire.

Vacancies.

ARTICLE II.

The Commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may conjointly think proper, but upon such evidence or information as shall be furnished by or on behalf of their respective Governments. They shall be bound to receive and peruse all written documents or statements which may be presented to them by or on behalf of

Investigation of claims.

their respective Governments, in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each Government as Counsel or Agent for such Government, on each and every separate claim. Should they fail to agree in opinion on any individual claim, they shall call to their assistance the Arbitrator or Umpire whom they have agreed to name, or who may be determined by lot, as the case may be, and such Arbitrator or Umpire, after having examined the evidence adduced for and against the claim, and after having heard, as required, one person on each side, as aforesaid, and consulted with the Commissioners, shall decide thereupon finally and without appeal. The decisions of the Commissioners and of the Arbitrator or Umpire shall be given upon each claim in writing, and shall be signed by them respectively. It shall be competent for each Government to name one person to attend the Commissioners as agent on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

Agent of each Government.

Decisions to be final.

The President of the United States, and the President of Peru, hereby solemnly and sincerely engage to consider the decision of the Commissioners conjointly, or of the Arbitrator or Umpire, as the case may be, as absolutely final and conclusive upon each claim decided upon by them or him, respectively, and to give full effect to such decisions, without any objections, evasion, or delay whatsoever. It is agreed that no claim arising out of any transaction of a date prior to the 30th of November, 1863, shall be admissible under this convention.

ARTICLE III.

When claims to be presented.

Every claim shall be presented to the Commissioners within two months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the Commissioners, or of the Arbitrator or Umpire, in the event of the Commissioners differing in opinion thereon, and then and in every such case the period for presenting the claim may be extended to any period not exceeding one month longer.

When decisions to be made.

The Commissioners shall be bound to examine and decide upon every claim within six months from the day of their first meeting.

ARTICLE IV.

When awards to be paid.

All sums of money which may be awarded by the Commissioners, or by the Arbitrator or Umpire, on account of any claim, shall be paid by the one Government to the other, as the case may be, within four months after the date of the decision, without interest, and without any deduction, save as specified in Article VI, hereinafter.

ARTICLE V.

Claims not presented to be barred.

The high contracting parties agree to consider the result of the proceedings of this Commission as a full, perfect, and final settlement of every claim upon either Government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said Commissioners, shall, from and after the conclusion of the proceedings of the said Commission, be considered and treated as finally settled, barred, and therefore inadmissible.

ARTICLE VI.

Expenses of Commission.

The salaries of the Commissioners shall not exceed forty-five hundred dollars in United States gold coin, each, yearly. Those of the secretaries and Arbitrator or Umpire shall be determined by the Commissioners; and in case the said Commission finish its labors in less than

six months, the Commissioners, together with their assistants, will be entitled to six months' pay, and the whole expenses of the Commission shall be defrayed by a ratable deduction on the amount of the sums awarded by the Commissioners, provided always that such deduction shall not exceed the rate of five per cent. on the sums so awarded. The deficiency, if any, shall be defrayed by the two Governments in moieties.

ARTICLE VII.

The present convention shall be ratified by the President of the United States, by and with the consent of the Senate thereof, and by the President of Peru, with the approbation of the Congress of that Republic, and the ratifications will be exchanged in Lima, as soon as may be, within six months of the date hereof.

Ratifications.

ARTICLE VIII.

The high contracting parties declare that this convention shall not be considered as a precedent obligatory on them, and that they remain in perfect liberty to proceed in the manner that may be deemed most convenient regarding the diplomatic claims that may arise in the future.

This convention not to be a precedent as to future claims.

In witness whereof the respective Plenipotentiaries have signed the same in the English and Spanish languages, and have affixed thereto the seals of their arms.

Signatures.

Done in Lima the fourth day of December, in the year of our Lord one thousand eight hundred and sixty-eight.

Date.

ALVIN P. HOVEY. [L. S.]
J. A. BARRENECHEA. [L. S.]