

TREATY OF FRIENDSHIP, LIMITS AND NAVIGATION,

Between the United States of America, and the King of Spain. (a)

Oct. 27, 1795.

His Catholic Majesty and the United States of America, desiring to consolidate, on a permanent basis, the friendship and good correspondence, which happily prevails between the two parties, have determined to establish, by a convention, several points, the settlement whereof will be productive of general advantage and reciprocal utility to both nations.

With this intention, his Catholic Majesty has appointed the most excellent Lord, don Manuel de Godoy, and Alvarez de Faria, Rios, Sanchez, Zarzosa, Prince de la Paz, duke de la Alcudia, lord of the Soto de Roma, and of the state of Albalá, Grandee of Spain of the first class, perpetual regidor of the city of Santiago, knight of the illustrious order of the Golden Fleece, and Great Cross of the Royal and distinguished Spanish order of Charles the III. commander of Valencia, del Ventoso, Rivera, and Acenchal in that of Santiago; Knight and Great Cross of the religious order of St. John; Counsellor of state; first Secretary of state and despacho; Secretary to the Queen; Superintendant General of the posts and highways; Protector of the royal Academy of the noble arts, and of the royal societies of natural history, botany, chemistry, and astronomy; Gentleman of the King's chamber in employment; Captain General of his armies; Inspector and Major of the royal corps of body guards, &c. &c. &c. and the President of the United States, with the advice and consent of their Senate, has appointed Thomas Pinckney, a citizen of the United States, and their Envoy Extraordinary to his Catholic Majesty. And the said Plenipotentiaries have agreed upon and concluded the following articles:

ARTICLE I.

Peace established.

There shall be a firm and inviolable peace and sincere friendship between his Catholic Majesty, his successors and subjects, and the United States, and their citizens, without exception of persons or places.

ARTICLE II.

To prevent all disputes on the subject of the boundaries which separate the territories of the two high contracting parties, it is hereby

(a) The treaties with Spain have been:

A Treaty of Friendship, Limits, and Navigation between the United States and the King of Spain. October 27, 1795.

A Convention of Indemnification between the United States and Spain. August 11, 1802; post, 198. Treaty of Amity, Settlement and Limits between the United States of America and his Catholic Majesty, negotiated February 22, 1819. Ratified by the President and Senate on the 19th February, 1821, and by the King of Spain on the 24th October, 1820, post, 252.

Treaty of Feb. 17, 1834, post, p. 460. Decisions in cases under the treaty with Spain of October 27, 1795, post, p. 252.

Under the Spanish treaty of 1795, stipulating that free ships shall make free goods, the want of such a sea-letter or passport, or such certificates as are described in the seventeenth article, is not a substantive ground of condemnation. It only authorizes capture and sending in for adjudication, and the proprietary interest in the ship may be proved by other equivalent testimony. But if, upon the original evidence, the cause appears extremely doubtful and suspicious, and farther proof is necessary, the grant or denial of it rests on the same general rules which govern the discretion of prize courts in other cases. *The Pizarro*, 2 Wheat. 227; 4 Cond. Rep. 103.

The term "subjects," in the fifteenth article of the treaty, when applied to persons owing allegiance

TRATADO DE AMISTAD, LIMITES, Y NAVEGACION

Entre los Estados Unidos de America y el Rey de España.

DESEANDO S. M. Catolica, y los Estados Unidos de America consolidar de un modo permanente la buena correspondencia y amistad que felizmente reyna entre ambas partes, han resuelto fixar por medio de un convenio varios puntos, de cuyo arreglo resultará un beneficio general, y una utilidad reciproca â los dos paises.

Con esta mira han nombrado S. M. Catolica al Excelentissimo S^{or} D^o Manuel de Godoy, y Alvarez de Faria, Rios, Sanchez, Zarzosa, Principe de la Paz, Duque de la Alcudia, Señor del Soto de Roma, y del Estado de Abalá, Grande de España de primera clase, Regidor perpetuo de la ciudad de Santiago, Caballero de la insigne orden del toyson de Oro, Gran Cruz de la Real y distinguida orden Española de Carlos III. Comendador de Valencia, del Ventoso, Rivera, y Acenchal en la de Santiago, Caballero Gran Cruz de la Religion de S^o Juan, Consejero de Estado, primera Secretario de Estado y del Despacho, Secretario de la Reyna N^{ra} S^{ta} Superintendente General de Correos y Caminos, Protector de la R^l Academia de las nobles artes, y de los R^{les}. Gabinere de Historia Natural, Jardin Botanico, Laboratorio Chímico, y Observatorio Astronomico; Gentilhombre de Camara con ejercicio; Capitan General de los Reales Exercitos; Inspector y Sargento Mayor del R^l Cuerpo de Guardias de Corps, y el Presidente de los Estados Unidos, con el consentimiento y aprobacion del Senado, à D^o Thomas Pinckney, ciudadano de los mismos Estados, y su Enviado Extraordinario cerca de S. M. Catholica, y ambos Plenipotenciarios han ajustado y firmado los articulos siguientes:

ART. I.

Habrá una Paz solida è inviolable, y una amistad sincera entre S. M. Catolica sus sucesores y subditos, y los Estados Unidos y sus Ciudadanos sin excepcion de personas, ô lugares.

ART. II.

Para evitar toda disputa en punto â los limites que separan los territorios de las dos altas partes contratantes, se han convenido, y declarado

to Spain, must be construed in the same sense as the term "citizens," or "inhabitants," when applied to persons owing allegiance to the United States; and extends to all persons domiciled in the Spanish dominions. *Ibid.*

The Spanish character of the ship being ascertained, the proprietary interest of the cargo cannot be inquired into; unless so far as to ascertain that it does not belong to citizens of the United States, whose property engaged in trade with the enemy is not protected by the treaty. *Ibid.*

The seventeenth article of the Spanish treaty of 1795, so far as it purports to give any effect to passports, is imperfect and inoperative, in consequence of the omission to annex the form of passport to the treaty. *The Amiable Isabella*, 6 Wheat. 1; 5 Cond. Rep. 1.

By the Spanish treaty of 1795, free ships make free goods; but the form of the passport, by which the freedom of the ship was to have been conclusively established, never having been duly annexed to the treaty, the proprietary interest of the ship is to be proved according to the ordinary rules of the prize court; and if thus shown to be Spanish, will protect the cargo on board, to whomsoever the latter may belong. *Ibid.*

The treaty with Spain of 1795, does not contain, express or implied, a stipulation that enemy's ships shall make enemy's goods. *The Nereide; Bennet, Master*, 9 Cranch, 388; 3 Cond. Rep. 439.

Southern
boundary line
established.

declared and agreed as follows, to wit. The southern boundary of the United States, which divides their territory from the Spanish colonies of East and West Florida, shall be designated by a line beginning on the river Mississippi, at the northernmost part of the thirty-first degree of latitude north of the equator, which from thence shall be drawn due east to the middle of the river Apalachicola, or Catahouche, thence along the middle thereof to its junction with the Flint: thence straight to the head of St. Mary's river, and thence down the middle thereof to the Atlantic ocean. And it is agreed, that if there should be any troops, garrisons, or settlements of either party, in the territory of the other, according to the above-mentioned boundaries, they shall be withdrawn from the said territory within the term of six months after the ratification of this treaty, or sooner if it be possible; and that they shall be permitted to take with them all the goods and effects which they possess.

ARTICLE III.

Commission-
ers to run the
boundary line.

In order to carry the preceding article into effect, one commissioner and one surveyor shall be appointed by each of the contracting parties, who shall meet at the Natchez, on the left side of the river Mississippi, before the expiration of six months from the ratification of this convention, and they shall proceed to run and mark this boundary according to the stipulations of the said article. They shall make plats and keep journals of their proceedings, which shall be considered as part of this convention, and shall have the same force as if they were inserted therein. And if on any account it should be found necessary that the said commissioners and surveyors should be accompanied by guards, they shall be furnished in equal proportions by the commanding officer of his Majesty's troops in the two Floridas, and the commanding officer of the troops of the United States in their southwestern territory, who shall act by common consent, and amicably, as well with respect to this point as to the furnishing of provisions and instruments, and making every other arrangement which may be necessary or useful for the execution of this article.

ARTICLE IV.

Mississippi to
be the western
boundary, and
the navigation
thereof secured.

It is likewise agreed that the western boundary of the United States which separates them from the Spanish colony of Louisiana, is in the middle of the channel or bed of the river Mississippi, from the northern boundary of the said states to the completion of the thirty-first degree of latitude north of the equator. And his Catholic Majesty has likewise agreed that the navigation of the said river, in its whole breadth from its source to the ocean, shall be free only to his subjects and the citizens of the United States, unless he should extend this privilege to the subjects of other powers by special convention.

ARTICLE V.

How each na-
tion shall con-
duct with In-
dians in their
respective ter-
ritories.

The two high contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers, which, by the preceding articles, form the boundaries of the two Floridas. And the better to obtain this effect, both parties oblige themselves expressly to restrain by force all hostilities on the part of the Indian nations living within their boundary: so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory; nor will the United States permit these last-mentioned Indians to commence hostilities against the subjects of his Catholic Majesty or his Indians, in any manner whatever.

And whereas several treaties of friendship exist between the two contracting parties and the said nations of Indians, it is hereby agreed that

en el presente artículo lo siguiente, á saber. Que el limite meridional de los Estados Unidos, que sepára su territorio de el de las colonias Españolas de la Florida Occidental y de la Florida Oriental, se demarcará por una linea que empiece en el Rio Misisipi, en la parte mas septentrional del grado treinta y uno al norte del Equador, y q^o desde allí siga en derechura al Este, hasta el medio del Rio Apalachicola ó Catahouche, desde allí por la mitad de este Rio hasta su union con el Flint: de allí en derechura hasta el nacimiento del Rio S^a Maria; y de allí baxando por el medio de este Rio hasta el oceano Atlantico. Yse han convenido las dos potencias en que si hubiese tropa, guarniciones, ó establecimientos de la una de las dos partes en el territorio de la otra, segun los limites que se acaban de mencionar, se retirarán de dicho territorio en el termino de seis meses despues de la ratificacion de este tratado, ó antes si fuese posible, y que se les permitirá llevar consigo todos los bienes y efectos q^o posean.

ART. III.

Para la execucion del artículo antecedente se nombrarán por cada una de las dos altas partes contratantes un comisario y un geometra q^o se juntarán en Natchez en la orilla izquierda del Misisipi, antes de expirar el termino de seis meses despues de la ratificacion de la convenion presente; y procederán á la demarcacion de estos limites conforme á lo estipulado en el artículo anterior. Levantarán planos, y formarán Diarios de sus operaciones, que se reputarán como parte de este Tratado, y tendran la misina fuerza que si estuvieran insertas en el. Y si por qualquier motivo se creyese necesario que los dichos Comisarios y Geometras fuesen acompañados con guardias, se les darán en numero igual por el general que mande las tropas de S. M. en las dos Floridas, y el Comandante de las tropas de los Estados Unidos en su territorio del Sudoeste, que obrarán de acuerdo y amistosamente, asi en este punto como en el de apronto de viveres é instrumentos, y en tomar qualesquiera otras disposiciones necesarias para la execucion de este artículo.

ART. IV.

Se han convenido igualmente que el limite Occidental del territorio de los Estados Unidos que los separa de la Colonia Española de la Luisiana está en medio del canal ó madre del Rio Misisipi desde el limite septentrional de dichos Estados hasta el complemento de los treinta y un grados de latitud al Norte del Equador; y S. M. Católica ha convenido igualmente en que la navegacion de dicho Rio en toda su extension desde su ovilla hasta el oceano, será libre solo á sus subditos y á los ciudadanos de los Estados Unidos, á menos que por algun tratado particular haga extensiva esta libertad á subditos de otras potencias.

ART. V.

Las dos altas partes contratantes procurarán por todos los medios posibles mantener la paz, y buena armonia entre las diversus naciones de Indios que habitan los terrenos adyacentes á las lineas y rios que en los artículos anteriores forman los limites de las dos Floridas; y para conseguir mejor este fin se obligan expresamente ambas potencias á reprimir con la fuerza todo genero de hostilidades de parte de las naciones Indias que habitan dentro de la linea de sus respectivos limites: de modo que ni la España permitirá que sus Indios ataquen á los que vivan en el territorio de los Estados Unidos ó á sus ciudadanos, ni los Estados que los suyos hostilizan á los subditos de S. M. Católica ó á sus Indios de manera alguna.

Existiendo varios tratados de amistad entre las expresadas naciones y las dos potencias, se ha convenido en no hacer en lo venidero alianza

in future no treaty of alliance or other whatever (except treaties of peace) shall be made by either party with the Indians living within the boundary of the other, but both parties will endeavour to make the advantages of the Indian trade common and mutually beneficial to their respective subjects and citizens, observing in all things the most complete reciprocity, so that both parties may obtain the advantages arising from a good understanding with the said nations, without being subject to the expence which they have hitherto occasioned.

ARTICLE VI.

Each nation to protect the vessels of the other in their jurisdiction.

Each party shall endeavour, by all means in their power, to protect and defend all vessels and other effects belonging to the citizens or subjects of the other, which shall be within the extent of their jurisdiction by sea or by land, and shall use all their efforts to recover and cause to be restored to the right owners, their vessels and effects which may have been taken from them within the extent of their said jurisdiction, whether they are at war or not with the power whose subjects have taken possession of the said effects.

ARTICLE VII.

No embargo allowed.

In cases of seizure for debts or crimes, how to proceed.

And it is agreed that the subjects or citizens of each of the contracting parties, their vessels or effects, shall not be liable to any embargo or detention on the part of the other, for any military expedition or other public or private purpose whatever: And in all cases of seizure, detention, or arrest for debts contracted, or offences committed by any citizen or subject of the one party within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases. The citizens and subjects of both parties shall be allowed to employ such advocates, solicitors, notaries, agents and factors, as they may judge proper, in all their affairs, and in all their trials at law, in which they may be concerned, before the tribunals of the other party; and such agents shall have free access to be present at the proceedings in such causes, and at the taking of all examinations and evidence which may be exhibited in the said trials.

ARTICLE VIII.

Vessels forced into port by stress of weather to be relieved.

In case the subjects and inhabitants of either party, with their shipping, whether public and of war, or private and of merchants, be forced, through stress of weather, pursuit of pirates or enemies, or any other urgent necessity, for seeking of shelter and harbour, to retreat and enter into any of the rivers, bays, roads or ports belonging to the other party, they shall be received and treated with all humanity, and enjoy all favor, protection and help, and they shall be permitted to refresh and provide themselves, at reasonable rates, with victuals and all things needful for the sustenance of their persons, or reparation of their ships and prosecution of their voyage; and they shall no ways be hindered from returning out of the said ports or roads, but may remove and depart when and whither they please, without any let or hindrance.

ARTICLE IX.

Property taken from pirates to be restored.

All ships and merchandize, of what nature soever, which shall be rescued out of the hands of any pirates or robbers on the high seas, shall be brought into some port of either state, and shall be delivered to the custody of the officers of that port, in order to be taken care of, and restored entire to the true proprietor, as soon as due and sufficient proof shall be made concerning the property thereof.

ARTICLE X.

When any vessel of either party shall be wrecked, foundered, or

alguna ô tratado (excepto los de paz) con las Naciones de Indios que habitan dentro de los limites de la otra parte, aunque procurarán hacer comun su comercio en beneficio amplio de los subditos y ciudadanos respectivos, guardandose en todo la reciprocidad mas completa, de suerte q^o sin los dispendios que han causado hasta ahora dichas naciones á las dos partes contratantes, consigan ambas todas las ventajas q^o debe producir la armonia con ellas.

ART. VI.

Cada una de las dos partes contratantes procurará por todos los medios posibles, protexer y defender todos los buques y qualesquiera otros efectos pertenecientes á los subditos y ciudadanos de la otra que se hallen en la extension de su jurisdiccion por mar ô por tierra, y empleará todos sus esfuerzos para recobrar y hacer restituir á los propietarios legitimos los buques y efectos que se les hayan quitado en la extension de dicha jurisdiccion estén ô no en guerra con la potencia cuyos subditos hayan interceptado dichos efectos.

ART. VII.

Se ha convenido que los ciudadanos y subditos de una de las partes contratantes, sus buques, ô efectos no podran sujetarse à ningun embargo ô detencion de parte de la otra à causa de alguna expedicion militar, uso publico ô particular de qualquiera que sea. Y en los casos de aprehension detencion ô arresto, bien sea por deudas contrahidas ô ofensas cometidas por algun ciudadano ô subdito de una de las partes contratantes en la jurisdiccion de la otra, se procederá unicamente por orden y autoridad de la justicia, y segun los tramites ordinarios seguidos en semejantes casos. Se permitira á los ciudadanos y subditos de ambas partes emplear los abogados, procuradores, notarios, agentes ô factores que juzguen mas à proposito en todos sus asuntos y en todos los pleytos q^o podrán tener en los tribunales de la otra parte, á los quales se permitirá igualmente el tener libre acceso en las causas, y estar presentes á todo exámen y testimonios que podran ocurrir en los pleytos.

ART. VIII.

Quando los subditos y habitantes de la una de las dos partes contratantes con sus buques, bien sean publicos y de guerra, bien particulares ô mercantiles se viesen obligados por una tempestad, por escapar de piratas ô de enemigos, ô por qualquiera otra necesidad urgente à buscar refugio y abrigo en alguno de los rios, habias, radas, ô puertos de una de las dos partes, seran recibidos y tratados con humanidad, y gozaran de todo fabor, proteccion, y socorro, y les será licito proveerse de refrescos, viveres, y demas cosas necesarias para su sustento, para componer los buques, y continuar su viage, todo mediante un precio equitativo; y no se les detendrá ô impedirá de modo alguno el salir de dichos puertos ô radas, antes bien podran retirarse y partir como y quando les pareciere sin ningun obstaculo ô impedimento.

ART. IX.

Todos los buques y mercaderias de qualquiera naturaleza que sean, que se hubiesen quitado à algunos piratas en alta mar y se traxesen á algun puerto de una de las dos potencias, se entregarán allí á los oficiales ô empleados en dicho puerto á fin de que los guarden y restituyan integramente á su verdadero propietario luego que hiciese constar debida y plenamente que era su legitima propiedad.

ART. X.

En el caso de que un buque perteneciente à una de las dos partes

Vessels wrecked or foundered to be relieved.

otherwise damaged, on the coasts or within the dominion of the other, their respective subjects or citizens shall receive, as well for themselves as for their vessels and effects, the same assistance which would be due to the inhabitants of the country where the damage happens, and shall pay the same charges and dues only as the said inhabitants would be subject to pay in a like case: And if the operations of repair would require that the whole or any part of the cargo be unladen, they shall pay no duties, charges or fees on the part which they shall relade and carry away.

ARTICLE XI.

Settlement of the estates of deceased persons.

The citizens and subjects of each party shall have power to dispose of their personal goods, within the jurisdiction of the other, by testament, donation or otherwise, and their representatives being subjects or citizens of the other party, shall succeed to their said personal goods, whether by testament or ab intestato, and they may take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein the said goods are, shall be subject to pay in like cases.

And in case of the absence of the representative, such care shall be taken of the said goods, as would be taken of the goods of a native in like case, until the lawful owner may take measures for receiving them. And if questions shall arise among several claimants to which of them the said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are. And where, on the death of any person holding real estate within the territories of the one party, such real estate would by the laws of the land descend on a citizen or subject of the other, were he not disqualified by being an alien, such subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all rights of detraction on the part of the government of the respective states.

ARTICLE XII.

Vessels suspected shall exhibit passports and certificates.

The merchant-ships of either of the parties which shall be making into a port belonging to the enemy of the other party, and concerning whose voyage, and the species of goods on board her, there shall be just grounds of suspicion, shall be obliged to exhibit as well upon the high seas as in the ports and havens, not only her passports but likewise certificates, expressly showing that her goods are not of the number of those which have been prohibited as contraband.

ARTICLE XIII.

In case of war one year allowed to merchants to remove.

For the better promoting of commerce on both sides, it is agreed, that if a war shall break out between the said two nations, one year after the proclamation of war shall be allowed to the merchants, in the cities and towns where they shall live, for collecting and transporting their goods and merchandizes: And if any thing be taken from them or any injury be done them within that term, by either party, or the people or subjects of either, full satisfaction shall be made for the same by the government.

ARTICLE XIV.

No citizen of either nation shall take a commission from a foreign power to arm privateers against the other.

No subject of his Catholic Majesty shall apply for, or take any commission or letters of marque, for arming any ship or ships to act as privateers against the said United States, or against the citizens, people or inhabitants of the said United States, or against the property of any of the inhabitants of any of them, from any prince or state with which the said United States shall be at war.

contratantes naufragase, varase, ô sufriese alguna avería en las costas ô en los dominios de la otra, se socorrera à los subditos ô ciudadanos respectivos, así à sus personas como à sus buques y efectos, del mismo modo que se haria con los habitantes del pais donde suceda la desgracia, y pagaran solo las mismas cargas y derechos q^o se hubieran exígrado de dichos habitantes en semejante caso. Y si fuese necesario para componer el buque q^o se descargue el cargamento en todo ô en parte, no pagarán impuesto alguno, carga, ô derecho de lo que se vuelva à embarcar para ser exportado.

ART. XI.

Los ciudadanos ô subditos de una de las dos partes contratantes tendran en los estados de la otra la libertad de disponer de sus bienes personales bien sea por testamento, donacion, ú otra manera, y si sus herederos fuesen subditos ô ciudadanos de la otra parte contratante, sucederán en sus bienes ya sea en virtud de testamento ô ab intestado, y podran tomar posesion, bien en persona, ô por medio de otros que hagan sus veces, y disponer como les pareciere sin pagar mas derechos que aquellos q^o. deben pagar en semejante caso los habitantes del pais donde se verificase la herencia. Y si estuviesen ausentes los herederos se cuidará de los bienes que les hubiesen tocado, del mismo modo que se hubiera hecho en semejante ocasion con los bienes de los naturales del pais, hasta que el legitimo propietario haya aprobado las disposiciones para recoger la herencia. Si se suscitasen disputas entre diferentes competidores que tengan derecho à la herencia, serán determinadas en ultima instancia segun las leyes, y por los jueces del pais en que vacase la herencia. Y si por la muerte de alguna persona que poseyese bienes raices sobre el territorio de una de las partes contratantes, estos bienes raices llegasen à pasar segun las leyes del pais à un subdito ô ciudadano de la otra parte, y este por su calidad de extrangero fuese inhabil para poseerlos, obtendra un termino conveniente para venderlos y recoger su producto sin obstaculo, exento de todo derecho de retencion de parte del gobierno de los Estados respectivos.

ART. XII.

A los buques mercantes de las dos partes q^o fuesen destinados à puertos pertenecientes à una potencia enemiga de una de las dos, cuyo viage y naturaleza del cargamento diese justas sospechas, se les obligará à presentar bien sea en alta mar, bien en los puertos y cabos, no solo sus pasaportes sino tambien los certificados que probarán expresamente que su cargamento no es de la especie de los que están prohibidos como de contrabando.

ART. XIII.

A fin de faborecer el comercio de ambas partes, se ha convenido que en el caso de romperse la guerra entre las dos naciones, se concedera el termino de un año despues de su declaracion, à los comerciantes en las villas y ciudades que habitan, para juntar y transportar sus mercaderias, y si se les quitase alguna parte de ellas, ô hiciese algun daño durante el tiempo prescrito arriba por una de las dos potencias sus pueblos ô subditos, se les dará en este punto entera satisfaccion por el gobierno.

ART. XIV.

Ningun subdito de S. M. Catolica tomará encargo ô patente para armar buque ô buques q^o obren como corsarios contra dichos Estados Unidos, ô contra los ciudadanos pueblos y habitantes de los mismos, ô contra su propiedad ô la de los habitantes de alguno de ellos de qualquier Principe que sea con quien estuvieren en guerra los Estados Unidos.

Nor shall any citizen, subject or inhabitant of the said United States apply for or take any commission or letters of marque for arming any ship or ships to act as privateers against the subjects of his Catholic Majesty, or the property of any of them, from any prince or state with which the said king shall be at war. And if any person of either nation shall take such commissions or letters of marque, he shall be punished as a pirate.

ARTICLE XV.

Liberty of trade to enemies' ports secured.

Free ships make free goods, excepting contraband.

It shall be lawful for all and singular the subjects of his Catholic Majesty, and the citizens, people and inhabitants of the said United States, to sail with their ships, with all manner of liberty and security, no distinction being made who are the proprietors of the merchandizes laden thereon, from any port to the places of those who now are, or hereafter shall be at enmity with his Catholic Majesty or the United States. It shall be likewise lawful for the subjects and inhabitants aforesaid, to sail with the ships and merchandizes aforementioned, 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 aforementioned, to neutral places, but also from one place belonging to an enemy, to another place belonging to an enemy, whether they be under the jurisdiction of the same prince or under several; and it is hereby stipulated, that free ships shall also give freedom to goods, and that every thing shall be deemed free and exempt which shall be found on board the ships belonging to the subjects of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either: Contraband goods being always excepted. It is also agreed, that the same liberty be extended to persons who are on board a free ship, so that although they be enemies to either party, they shall not be made prisoners or taken out of that free ship, unless they are soldiers and in actual service of the enemies.

ARTICLE XVI.

What articles shall be deemed contraband.

This liberty of navigation and commerce shall extend to all kinds of merchandizes, excepting those only, which are distinguished by the name of contraband: And under this name of contraband or prohibited goods, shall be comprehended arms, great guns, bombs, with the fuseses, and other things belonging to them, cannon-ball, gunpowder, match, pikes, swords, lances, speards, halberds, mortars, petards, grenades, saltpetre, muskets, musket-ball, bucklers, helmets, breast-plates, coats of mail, and the like kind of arms, proper for arming soldiers, musket-rests, belts, horses with their furniture, and all other warlike instruments whatever. These merchandizes which follows, shall not be reckoned among contraband or prohibited goods: That is to say, all sorts of cloths, and all other manufactures woven of any wool, flax, silk, cotton, or any other materials whatever; all kinds of wearing apparel, together with all species whereof they are used to be made; gold and silver, as well coined as uncoined, tin, iron, latton, copper, brass, coals; as also wheat, barley, oats, and any other kind of corn and pulse; tobacco, and likewise all manner of spices, salted and smoked flesh salted fish, cheese and butter, beer, oils, wines, sugars, and all sorts of salts: And in general, all provisions which serve for the sustenance of life: Furthermore, all kinds of cotton, hemp, flax, tar, pitch, ropes, cables, sails, sail-cloths, anchors, and any parts of anchors, also ships' masts, planks, wood of all kind, and all other things proper either for building or repairing ships, and all other goods whatever, which have

Ygualmente ningun ciudadano ô habitante de dichos Estados Unidos pedirá ô aceptará encargo ô patente para armar algun buque ô buques con el fin de perseguir los subditos de S. M. Catolica, ô apoderarse de su propiedad, de qualquier Principe ô Estado que sea con quien estuviere en guerra S. M. Catolica. Y si algun individuo de una ô de otra nacion tomase semejantes encargos ô patentes sera castigado como pirata.

ART. XV.

Se permitirá à todos y à cada uno de los subditos de S. M. Catolica, y à los ciudadanos pueblos y habitantes de dichos Estados, q^e puedan navegar con sus embarcaciones con toda libertad, y seguridad sin que haya la menor excepcion por este respecto, aunque los propietarios de las mercaderias cargadas en las referidas embarcaciones vengan del puerto que quieran, y las traygan destinadas à qualquiera plaza de una potencia actualmente enemiga ô q^e lo sea despues, asi de S. M. Catolica como de los Estados Unidos. Se permitirá igualmente à los subditos y habitantes mencionados navegar con sus buques y mercaderias, y frequentar con igual libertad y seguridad las plazas y puertos de las potencias enemigas de las partes contratantes, ô de una de ellas sin oposicion û obstaculo, y de comerciar nõ solo desde los puertos del dicho enemigo à un puerto neutro directamente, si nõ tambien desde uno enemigo à otro tal, bien se encuentre bajo su jurisdiccion, ô bajo la de muchos; y se estipula tambien por el presente tratado que los buques libres asegurarán igualmente la libertad de las mercaderias, y que se juzgaran libres todos los efectos que se hallasen à bordo de los buques que pertenciesen à los subditos de una de las partes contratantes, aun quando el cargam^{to} por entero ô parte de el fuese de los enemigos de una de las dos, bien entendido sin embargo q^e el contrabando se exceptua siempre. Se ha convenido asi mismo que la propia libertad gozarán los sugetos que pudiesen encontrarse à bordo del buque libre, aun quando fuesen enemigos de una de las dos partes contratantes; y por lo tanto nõ se podra hacer prisioneros ni separarlos de dichos buques à menos q^e nõ tengan la qualidad de militares, y esto hallandose en aquella sazõ empleados en el servicio del enemigo.

ART. XVI.

Esta libertad de navegacion y de comercio debe extenderse à toda especie de mercaderias exceptuando solo las que se comprehenden bajo el nombre de contrabando, ô de mercaderias prohibidas, quales son las armas, cañones, bombas con sus mechas, y demas cosas pertencientes à lo mismo, balas, polvora, mechas, picas, espadas, lanzas, dardos, alabardas, morteros, petardos, granadas, salitre, fusiles, balas, escudos, casquetes, corazas, cotas de malla, y otras armas de esta especie propias para armar à los soldados, portamosquetes, bandoleras, caballos con sus armas y otros instrumentos de guerra sean los que fueren. Pero los generos y mercaderias que se nombrarán ahora, nõ se comprehenderán entre los de contrabando ô cosas prohibidas, à saber: toda especie de paños y qualesquiera otras telas de lana, lino, seda, algodõ û otras qualesquiera materias, toda especie de vestidos con las telas de que se acostumbra hacer, el oro y la plata labrada en moneda ô nõ, el estaño, y erro, laton, cobre, bronce, carbon, del mismo modo que la cevada, el trigo, la avena, y qualesquiera otro genero de legumbres. El tabaco y toda la especeria, carne salada y ahumada, pescado salado, queso y manteca, cerveza, aceytes, vinos, azucar, y toda especie de sal, y en general todo genero de provisiones que sirven para el sustento de la vida. Ademas toda especie de algodõ, cañamo, lino, alquitran, pez, cuerdas, cables, velas, telas para velas, anclas, y partes de que se componen. Mastiles, tablas, maderas de todas especies, y qualesquiera otras cosas que sirvan para la construccion y reparacion de los buques,

not been worked into the form of any instrument prepared for war, by land or by sea, shall not be reputed contraband, much less, such as have been already wrought and made up for any other use; all which shall be wholly reckoned among free goods: As likewise all other merchandizes and things which are not comprehended and particularly mentioned in the foregoing enumeration of contraband goods: So that they may be transported and carried in the freest manner by the subjects of both parties, even to places belonging to an enemy, such towns or places being only excepted, as are at that time besieged, blocked up, or invested. And except the cases in which any ship of war, or squadron shall, in consequence of storms or other accidents at sea, be under the necessity of taking the cargo of any trading vessel or vessels, in which case they may stop the said vessel or vessels, and furnish themselves with necessaries, giving a receipt, in order that the power to whom the said ship of war belongs, may pay for the articles so taken, according to the price thereof, at the port to which they may appear to have been destined by the ship's papers: and the two contracting parties engage, that the vessels shall not be detained longer than may be absolutely necessary for their said ships to supply themselves with necessaries: That they will immediately pay the value of the receipts, and indemnify the proprietor for all losses which he may have sustained in consequence of such transaction.

ARTICLE XVII.

Regulations
respecting pass-
ports and sea-
letters.

To the end, that all manner of dissentions and quarrels may be avoided and prevented on one side and the other, it is agreed, that in case either of the parties hereto, should be engaged in a war, the ships and vessels belonging to the subjects or people of the other party must be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship, as also the name and place of habitation of the master or commander of the said ship, that it may appear thereby, that the ship really and truly belongs to the subjects of one of the parties, which passport shall be made out and granted according to the form annexed to this treaty. They shall likewise be recalled every year, that is, if the ship happens to return home within the space of a year.

It is likewise agreed, that such ships being laden, are to be provided not only with passports as above mentioned, but also with certificates, containing the several particulars of the cargo, the place whence the ship sailed, that so it may be known whether any forbidden or contraband goods be on board the same: which certificates shall be made out by the officers of the place whence the ship sailed in the accustomed form: And if any one shall think it fit or advisable to express in the said certificates, the person to whom the goods on board belong, he may freely do so: Without which requisites they may be sent to one of the ports of the other contracting party, and adjudged by the competent tribunal, according to what is above set forth, that all the circumstances of this omission having been well examined, they shall be adjudged to be legal prizes, unless they shall give legal satisfaction of their property by testimony entirely equivalent.

ARTICLE XVIII.

Vessels shall
exhibit pass-
ports to ships
of war.

If the ships of the said subjects, people, or inhabitants, of either of the parties, shall be met with, either sailing along the coasts or on the high seas, by any ship of war of the other, or by any privateer, the said ship of war or privateer for the avoiding of any disorder, shall remain out of cannon shot, and may send their boats a-board the merchant ship, which they shall so meet with, and may enter her to number of two or three men only, to whom the master or commander of such ship or vessel shall exhibit his passports, concerning the property of the ship,

y otras qualesquiera materias que no tienen la forma de un instrumento preparado para la guerra por tierra ô por mar, no seran reputadas de contrabando, y menos las que estan ya preparadas para otros usos. Todas las cosas que se acaban de nombrar deben ser comprehendidas entre las mercaderias libres, lo mismo que todas las demas mercaderias y efectos que no estan comprehendidos y nombrados expresamente en la enumeracion de los generos de contrabando, de manera que podran ser transportados y conducidos con la mayor libertad por los subditos de las dos partes contratantes â las plazas enemigas, exceptuando sin embargo las q^{as} se hallasen en la actualidad sitiadas, bloqueadas, ô embestidas, y los casos en que algun buque de guerra ô esquadra que por efecto de avería, û otras causas se halle en necesidad de tomar los efectos que conduzca el buque ô buques de comercio, pues en tal caso podra detenerlos para aprovisionarse, y dar un recibo para que la potencia cuyo sea el buque que tome los efectos, los pague segun el valor que tendrian en el puerto adonde se dirigiese el propietario, segun lo expresen sus cartas de navegacion: obligandose las dos partes contratantes â no detener los buques mas de lo que sea absolutamente necesario para aprovisionarse, pagar inmediatamente los recibos, y â indemnizar todos los daños q^{os} sufra el propietario â consecuencia de semejante suceso.

ART. XVII.

A fin de evitar entre ambas partes toda especie de disputas y quejas, se ha convenido q^{ue} en el caso de que una de las dos potencias se hallase empeñada en una guerra, los buques y bastimentos pertenecientes â los subditos ô pueblos de la otra, deberan llevar consigo patentes de mar ô pasaportes que expresen el nombre, la propiedad, y el porte del buque, como tambien el nombre y morada de su dueño y comandante de dicho buque, para que de este modo conste que pertenece real y verdaderam^{te} â los subditos de una de las dos partes contratantes; y que dichos pasaportes deberan expedirse segun el modelo adjunto al presente tratado. Todos los años deberán renovarse estos pasaportes en el caso de que el buque vuelva â su pais en el espacio de un año.

Ygualmente se ha convenido en que los buques mencionados arriba, si estuviesen cargados, deberán llevar no solo los pasaportes sino tambien certificados que contengan el pormenor del cargamento, el lugar de donde ha salido el buque, y la declaracion de las mercaderias de contrabando q^{ue} pudiesen hallarse â bordo, cuyos certificados deberán expedirse en la forma acostumbrada por los oficiales empleados en el lugar de donde el navio se hiciese â la vela, y si se juzgase util y prudente expresar en dichos pasaportes la persona propietaria de las mercaderias se podra hacer libremente, sin cuyos requisitos sera conducido â uno de los puertos de la potencia respectiva, y juzgado por el tribunal competente, con arreglo â lo arriba dicho, para que exâminadas bien las circunstancias de su falta, sea condenado por de buena presa si no satisfaciase legalmente con los testimonios equivalentes en un todo.

ART. XVIII.

Quando un buque perteneciente â los dichos subditos pueblos y habitantes de una de las dos partes fuese encontrado navegando â lo largo de la costa ô en plena mar por un buque de guerra de la otra ô por un corsario, dicho buque de guerra ô corsario, â fin de evitar todo desorden, se mantendrá fuera del tiro de cañon, y podra enviar su chalupa â bordo del buque mercante, hacer entrar en el dos ô tres hombres â los quales enseñará el patron ô comandante del buque sus pasaportes y demas documentos, que deberan ser conformes â lo pre-

made out according to the form inserted in this present treaty, and the ship when she shall have shewed such passports, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or give her chace in any manner, or force her to quit her intended course.

ARTICLE XIX.

Consuls.

Consuls shall be reciprocally established, with the privileges and powers which those of the most favoured nations enjoy, in the ports where their consuls reside or are permitted to be.

ARTICLE XX.

Courts of justice to be open to citizens of each nation.

It is also agreed that the inhabitants of the territories of each party shall respectively have free access to the courts of justice of the other, and they shall be permitted to prosecute suits for the recovery of their properties, the payment of their debts, and for obtaining satisfaction for the damages which they may have sustained, whether the persons whom they may sue be subjects or citizens of the country in which they may be found, or any other persons whatsoever, who may have taken refuge therein; and the proceedings and sentences of the said courts shall be the same as if the contending parties had been subjects or citizens of the said country.

ARTICLE XXI.

Compensation to be made to citizens of U. S. for illegal captures of vessels by Spanish subjects.

Commissioners to ascertain the same.

In order to terminate all differences on account of the losses sustained by the citizens of the United States in consequence of their vessels and cargoes having been taken by the subjects of his Catholic Majesty, during the late war between Spain and France, it is agreed that all such cases shall be referred to the final decision of commissioners to be appointed in the following manner. His Catholic Majesty shall name one commissioner, and the President of the United States, by and with the advice and consent of their Senate, shall appoint another, and the said two commissioners shall agree on the choice of a third, or if they cannot agree so, they shall each propose one person, and of the two names so proposed, one shall be drawn by lot in the presence of the two original commissioners, and the person whose name shall be so drawn, shall be the third commissioner: and the three commissioners so appointed, shall be sworn impartially to examine and decide the claims in question, according to the merits of the several cases, and to justice, equity, and the laws of nations. The said commissioners shall meet and sit at Philadelphia: and in the case of the death, sickness, or necessary absence of any such commissioner, his place shall be supplied in the same manner as he was first appointed, and the new commissioner shall take the same oaths, and do the same duties. They shall receive all complaints and applications authorized by this article, during eighteen months from the day on which they shall assemble. They shall have power to examine all such persons as come before them on oath or affirmation, touching the complaints in question, and also to receive in evidence all written testimony, authenticated in such manner as they shall think proper to require or admit. The award of the said commissioners, or any two of them, shall be final and conclusive, both as to the justice of the claim and the amount of the sum to be paid to the claimants; and his Catholic Majesty undertakes to cause the same to be paid in specie, without deduction, at such times and places, and under such conditions as shall be awarded by the said commissioners.

ARTICLE XXII.

The two high contracting parties, hopping that the good correspondence and friendship which happily reigns between them, will be further.

venido en el presente tratado, y probará la propiedad del buque, y despues de haber exhibido semejante pasaporte y documentos, se les dejará seguir libremente su viage, sin que les sea licito el molestarles ni procurar de modo alguno darle caza, û obligarle à dejar el rumbo que seguía.

ART. XIX.

Se establecerán Consules reciprocamente con los privilegios y facultades que gozaren los de las naciones mas favorecidas en los puertos donde los tuvieren estas, ô les sea licito el tenerlos.

ART. XX.

Se ha convenido igualmente que los habitantes de los territorios de una y otra parte respectivamente seran admitidos en los tribunales de justicia de la otra parte, y les sera permitido el entablar sus pleytos para el recobro de sus propiedades, pago de sus deudas, y satisfaccion de los daños que hubieren recibido bien sean las personas contra las quales se quejasen subditos ô ciudadanos del pais en el que se hallen, ô bien sean qualesquiera otros sugetos que se hayan refugiado allí; y los pleytos y sentencias de dichos tribunales seran las mismas que hubieran sido en el caso de que las partes litigantes fuesen súbditos ô ciudadanos del mismo pais.

ART. XXI.

A fin de concluir todas las discusiones sobre las perdidas que los ciudadanos de los Estados Unidos hayan sufrido en sus buques y cargamentos apresados por los vasallos de S. M. Catolica durante la guerra que se acaba de finalizar entre España y Francia, se ha convenido que todos estos casos se determinarán finalm^{te} por comisarios que se nombrarán de esta manera: S. M. Catolica nombrará uno, y el Presidente de los Estados Unidos otro con consentimiento y aprobacion del Senado; y estos dos comisarios nombrarán un tercero de comun acuerdo: pero si no pudiesen acordarse, cada uno nombrará una persona, y sus dos nombres puestos en suerte se sacarán en presencia de los dos comisarios, resultando por tercero aquel cuyo nombre hubiese salido el primero. Nombrados así estos tres comisarios, jurarán que exâminarán y decidirán con imparcialidad las quejas de que se trata, segun el merito de la diferencia de los casos, y segun dicten la justicia, equidad, y derecho de gentes. Dichos comisarios se juntarán y tendran sus sesiones en Philadelphia, y en caso de muerte enfermedad ô ausencia precisa se reemplazará su plaza de la misma manera que se eligió, y el nuevo comisario hará igual juramento y exercerá iguales funciones. En el termino de diez y ocho meses contados desde el dia en que se junten admitirán todas las quejas y reclamaciones autorizadas por este articulo. Asimismo tendran autoridad para exâminar baxo la sancion del juramento à todas las personas que ocurran ante ellos sobre puntos relativos à dichas quejas, y recibirán como evidente todo testimonio escrito que de tal manera sea autentico que ellos lo juzguen digno de pedirle ô admitirle. La decision de dichos comisarios, ô de dos de ellos sera final y concluyente, tanto por lo q^o toca à la justicia de la queja, como por lo que monte la suma que se deba satisfacer à los demandantes, y S. M. Catolica se obliga à hacer las pagar en especie, sin rebaxa y en las épocas, lugares, y baxo las condiciones que se decidan por los comisarios.

ART. XXII.

Esperando las dos altas partes contratantes que la buena correspondencia y amistad que reyna actualmente entre si se estrechará mas y

increased by this treaty, and that it will contribute to augment their prosperity and opulence, will in future give to their mutual commerce all the extension and favour which the advantages of both countries may require.

Spain permits
citizens of U. S.
to deposit goods
at New Or-
leans.

And in consequence of the stipulations contained in the IV. article, his Catholic Majesty will permit the citizens of the United States, for the space of three years from this time, to deposit their merchandizes and effects in the port of New-Orleans, and to export them from thence without paying any other duty than a fair price for the hire of the stores, and his Majesty promises either to continue this permission, if he finds during that time that it is not prejudicial to the interests of Spain, or if he should not agree to continue it there, he will assign to them, on another part of the banks of the Mississippi, an equivalent establishment.

ARTICLE XXIII.

The present treaty shall not be in force until ratified by the contracting parties, and the ratifications shall be exchanged in six months from this time, or sooner if possible.

In witness whereof, we, the underwritten plenipotentiaries of his Catholic Majesty and of the United States of America, have signed this present treaty of friendship, limits, and navigation, and have thereunto affixed our seals respectively.

Done at San Lorenzo el Real, this seven and twenty day of October, one thousand seven hundred and ninety-five.

THOMAS PINCKNEY, (L. S.)
EL PRINCIPE DE LA PAZ, (L. S.)

mas con el presente tratado, y que contribuirá à aumentar su prosperidad y opulencia, concederán recíprocamente en lo sucesivo al comercio todas las ampliaciones ô favores que exigiése la utilidad de los dos paises.

Y desde luego à consecuencia de lo estipulado en el artículo IV. permitira S. M. Católica por espacio de tres años à los ciudadanos de los Estados Unidos que depositen sus mercaderias y efectos en el puerto de Nueva-Orleans, y que las extraigan sin pagar mas derechos q^e un precio justo por el alquiler de los almacenes, ofreciendo S. M. continuar el termino de esta gracia, si se experimentase durante aquel tiempo que noes perjudicial à los intereses de la España, ô si no conviniese su continuacion en aquel puerto, proporcionará en otra parte de las orillas del Río Misisipi un igual establecimiento.

ART. XXIII.

El presente tratado no tendrá efecto hasta que las partes contratantes le hayan ratificado; y las ratificaciones se cambiarán en el término de seis meses, ô ántes si fuese posible contando desde este dia.

En fe de lo qual nosotros los infraescritos plenipotenciarios de S. M. Católica y de los Estados Unidos de America, hemos firmado en virtud de nuestros plenos poderes este tratado de amistad, limites, y navegacion, y le hemos puesto nuestros sellos respectivos.

Hecho en San Lorenzo el Real, à veinte y siete de Octubre de mil setecientos noventa y cinco.

THOMAS PINCKNEY, (L. S.)
EL PRINCIPE DE LA PAZ, (L. S.)