

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:

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

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:

Negotiators.

## "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,

Article XII,  
treaty of 1851.