

(18) TREATY WITH ITALY, JULY 22, 1863.

His Majesty the King of Italy, on the one part, and His Majesty the King of the Hawaiian Islands, on the other part, desiring to facilitate the establishment of commercial relations between Italy and the Hawaiian Islands, and to favor their development by a treaty of Amity, Commerce and Navigation, suited for securing to the two countries equal and reciprocal advantages, have nominated for this purpose Plenipotentiaries, that is to say:

His Majesty the King of Italy, the Chevalier Constantino Nigra, His Envoy Extraordinary and Minister Plenipotentiary to His Majesty the Emperor of the French; and His Majesty the King of the Hawaiian Islands, Sir John Bowring, His Envoy Extraordinary and Minister Plenipotentiary; who having mutually communicated their powers, and found them in good and true form, have agreed upon the following articles:

ARTICLE I. There shall be perpetual peace and constant friendship between the Kingdom of Italy and that of the Hawaiian Islands, and between the citizens of the two countries, without exception of person or place.

ARTICLE II. There shall be, between Italy and the Hawaiian Islands, reciprocal freedom in commerce and navigation. Italians in the Hawaiian Islands, and Hawaiian subjects in Italy, may enter in the same liberty and security with their vessels and cargoes as are enjoyed by the natives themselves in all places, ports and rivers which are, or shall in future be open to foreign commerce, provided, always, that the police regulations employed for the protection of the citizens of the most favored nations be respected.

ARTICLE III. The citizens of the two contracting parties may, like the natives in the respective territories, travel or reside, trade wholesale or retail, rent or occupy the houses, stores and shops which they may require; they may carry on the transport of merchandise and money, and receive consignments; they may also, when they have resided more than a year in the country, and the real or personal property which they may possess shall offer a sufficient security, be admitted as sureties in Custom-house transactions. The citizens of both countries shall, on a footing of perfect equality, be free both to purchase and to sell, to establish and to fix the price of goods, merchandise and articles of every kind, whether imported or of home manufacture,

whether for home consumption or for exportation. They shall also enjoy liberty to carry on their business themselves, to present to the Custom-house their own declarations; or to have their places supplied by their own attorneys, factors, consignees, agents or interpreters, whether in the purchase or sale of their goods, property or merchandise; whether for the loading or unloading and expedition of their vessels.

They shall also have the right to fulfill all the functions that are confided to them by their own countrymen, by strangers, or by natives, in the position of attorneys, factors, agents, consignees, or interpreters.

For the performance of all these acts, they shall conform to all the laws and regulations of the country, and they shall not be subject, in any case, to any other charges, restrictions, taxes or impositions than those to which the natives are subject, provided, always, that the police regulations employed for the protection of the most favored nation be respected. It is also specially provided that all the advantages of any kind whatever, actually granted by the laws or decrees now in force, or which in future shall be accorded to foreign settlers, shall be guaranteed to Italians established, or who establish themselves in whatever locality they may deem fit in the Hawaiian territory, and the same shall hold good for Hawaiian subjects in Italy.

ARTICLE IV. The respective citizens of the two countries shall enjoy the most constant and complete protection for their persons and property. Consequently, they shall have free and easy access to the courts of justice in the pursuit and defence of their rights, in every instance and degree of jurisdiction established by the laws. They shall be at liberty, under any circumstances, to employ lawyers, advocates or agents from any class, whom they may see fit to authorize to act in their name. In fine, they shall in all respects enjoy the same rights and privileges which are granted to natives, and they shall be subject to the same conditions.

ARTICLE V. The Italians in the Hawaiian Islands, and the Hawaiians in Italy, shall be exempt from all service, whether in the army or navy, or in the national guard or militia, and they cannot be subject to any other charges, restrictions, taxes or impositions on their property, real or personal, than those to which the natives themselves are subject.

ARTICLE VI. The citizens of both countries respectively shall not be subject to any embargo, nor to be detained with

their vessels, crews, cargoes or commercial effects for any military expedition whatever, nor for any public or private service whatever, unless the government or local authority shall have previously agreed with the parties interested, that a just indemnity shall be granted for such service, and for such compensation as might fairly be required for the injury which (not being purely fortuitous) may have grown out of the service which they have voluntarily undertaken.

ARTICLE VII. The most entire liberty of conscience is guaranteed to the Italians in the Hawaiian Islands, and to Hawaiian subjects in Italy. Both parties must conform in the outward observance of their religion to the laws of the country.

ARTICLE VIII. Citizens of either of the contracting parties shall, on the respective territories, have the right of possessing property of any sort, and disposing of the same to the natives.

Italians shall enjoy in all the Hawaiian territories the right of collecting and transmitting successions *ab intestato* or testamentary as Hawaiians, according to the laws of the country without being subjected as strangers to any burthens or imposts which are not paid by the natives.

Reciprocally Hawaiian subjects shall enjoy in Italy the right of transmitting succession *ab intestato* or testamentary on the same conditions as Italians, according to the laws of the country, and without being subject as strangers to any charge or impost not paid by the natives.

The same reciprocity between the citizens of the two countries shall exist for donations *inter vivos*. On the exportation of property collected or acquired under any head by Italians in the Hawaiian Islands, or by Hawaiians in Italy, there shall be no duty on removal or immigration, nor any duty whatever to which natives are not subjected.

ARTICLE IX. All Italian or Hawaiian vessels sailing under their respective flags, and which shall be bearers of the ship's papers and documents required by the laws of the respective countries shall be considered as Italian or Hawaiian vessels respectively.

ARTICLE X. Italian vessels which shall arrive either in ballast or laden in Hawaiian ports, or which shall leave the same, and reciprocally, Hawaiian vessels which, either in ballast or laden, enter or leave the ports of Italy, whether by sea, river or canals, whatever be the port of their departure or their destination, shall not be subject either on entry or

departure, to duties on tonnage, port or transit, pilotages, anchorage, shifting, light-houses, sluices, canals, quarantines, salvage, bonding-warehouses, patents, brokerage, navigation, passage, or to any duties or charges whatever, levied on the hulks of vessels received or established for the benefit of the government, public functionaries, communes or establishments of any sort other than those which are now or may hereafter be levied on national vessels.

ARTICLE XI. In all that regards the stationing, the loading and unloading of vessels in the ports, roadsteads, harbors and docks, and generally for all the formalities and arrangements to which vessels employed in commerce with their freights and loading may be subject, it is agreed that no privilege shall be granted to national vessels, which shall not be equally granted to vessels of the other country, the intention of the high contracting parties being that in this respect also the respective vessels shall be treated on the footing of perfect equality.

ARTICLE XII. Vessels of the contracting parties, compelled to seek shelter in the ports of the other, shall pay neither on the vessels nor the cargo more duties than those levied on national vessels in the same situation; provided, that the above-named ships shall carry on no commercial speculations, and that they tarry no longer in the aforesaid ports than is required by the motives which impelled them to seek such shelter.

ARTICLE XIII. Italian ships of war, and whaling ships, shall have free access to all the Hawaiian ports; they may there anchor, be repaired and victual their crews; they may proceed from one harbor to another of the Hawaiian Islands for fresh provisions.

In all the ports which are or may be hereafter opened to foreign vessels, Italian ships of war and whalers shall be subject to the same rules which are or may be imposed, and shall enjoy in all respects the same rights, privileges and immunities which are or may be granted to Hawaiian ships and whalers, or to those of the most favored nation.

ARTICLE XIV. Articles of all sorts imported into the ports of either of the contracting States, under the flag of the other, whatever be their origin, and from whatever country imported, shall pay neither, other nor heavier duties of entry, and shall not be subjected to any other charges than if imported under the national flag.

ARTICLE XV. Articles of all sorts exported from either of the two countries, under the flag of the other, from whatever country they may be, shall not be subjected to other duties or other formalities, than if exported under the national flag.

ARTICLE XVI. Italian ships in Hawaiian Islands, and Hawaiian ships in Italy, may discharge a portion of their cargo in the port of their first arrival, and proceed with the rest of their cargo to other ports of the same country, which may be open to foreign trade, whether to complete their unloading or to provide their return cargo, and shall pay in neither port other or heavier duties than those levied on national vessels in similar circumstances.

As regards the coasting trade, the vessels of each country shall be mutually treated on the same footing as the most favored nation.

ARTICLE XVII. During the period allowed by laws of the two countries for the warehousing of goods, no other duties than those for custody and storage shall be levied upon articles imported from one of the two countries into the other, until they shall be removed for transit, re-exportation or internal consumption.

In no case shall such articles pay higher duties or be liable to other formalities than if they had been imported under the national flag, or from the most favored country.

ARTICLE XVIII. Merchandise shipped on board Italian or Hawaiian ships, or belonging to their respective citizens, may be transhipped in the ports of the two countries to a vessel bound for a national or foreign port, according to the custom house regulations of the two countries, and the goods so transhipped for other ports shall be exempt from all duties of customs or warehouses.

ARTICLE XIX. Articles of all sorts proceeding from Italy, or shipped for Italy, shall enjoy in their passage through the territory of the Hawaiian Islands, whether in direct transit or for re-exportation, all the advantages possessed under the same circumstances by the most favored nation.

Reciprocally objects of every sort, the produce of the Hawaiian Islands or sent from that country, shall enjoy in their passage through Italy, the same advantages as are possessed by the most favored nation.

ARTICLE XX. Neither one nor the other of the contracting parties will impose upon the goods proceeding from the soil, the manufactures or the warehouses of the other different or greater duties on importation or re-exportation, than

those which shall be imposed on the same merchandise coming from any other foreign country.

Nor shall there be imposed on the goods exported from one country to the other, different or higher duties than if they were exported to any other foreign country.

No restriction or prohibition of importation or exportation shall take place in the reciprocal commerce of the contracting parties which shall not be equally extended to all other nations.

ARTICLE XXI. Consuls-General, Consuls, Vice-Consuls and Consular Agents may be established by each country in the other for the protection of commerce, such agents shall not enter upon their functions or enjoyment of the rights, privileges and immunities which belong to them until they have obtained the authorization of the territorial government, which shall, besides, preserve the right of determining the place of residence where Consuls may be established; it being understood that neither Government will impose any restriction which is not common in the country to all nations.

ARTICLE XXII. The Consuls General, Consuls, Vice-Consuls and Consular Agents of Italy, in the Hawaiian Islands, shall enjoy all the rights, privileges, immunities and exemptions enjoyed by the agents of the most favored nation in the same circumstances.

And the same shall be the position in Italy, of the Hawaiian Consuls-General, Consuls, Vice-Consuls and Consular Agents.

ARTICLE XXIII. The desertion of seamen embarked in the vessels of either of the contracting parties shall be severely dealt with in their respective territories. In consequence the Italian consuls shall have the power to cause to be arrested and sent on board, or to Italy, seamen who have deserted Italian vessels in the Hawaiian ports. But for this purpose they must apply to the competent local authorities, and justify, by the exhibition of the original or the duly certified copy of the ship's register, the roll or other official documents to prove that the persons named formed part of the ship's crew. On their application, so supported, the delivery of the seamen shall not be refused.

All aid and assistance shall be given for the discovery and arrest of such deserters, who shall be detained in the prisons of the country, on the requirement and at the expense of the consuls, until they shall find an opportunity of sending them

away, If, however, no opportunity shall offer in the course of two months, counting from the day of arrest, the deserters may be set at liberty.

It is understood that seamen who are native Hawaiians shall be excepted from this arrangement and to be treated according to the laws of their own country.

If the deserter have committed any crime in the Hawaiian territory, his release shall not take place till the competent tribunal shall have given judgment, and this judgment been carried into execution.

Hawaiian consuls shall possess exactly the same rights in Italy, and it is formally agreed between the two contracting parties, that every other favor or facility granted or to be granted by either to any other power for the arrest of deserters shall be also granted to the present contracting parties as fully as if they had formed part of the present treaty.

ARTICLE XXIV. All operations connected with the salvage of stranded or wrecked Italian vessels on the Hawaiian coasts shall be superintended by the Consular Agent of Italy, and reciprocally the Consular Hawaiian Agents shall superintend the operations connected with the salvage of Hawaiian vessels stranded or wrecked on the Italian coasts.

But if the parties interested happen to be on the spot, or the captain possess adequate powers, the administration of the wreck shall be committed to them.

The intervention of the local authorities shall only be applied to the maintenance of order, to guarantee the rights of the salvors if they do not belong to the ship-wrecked crew, and to insure the execution of the measures to be taken for the entry and departure of the saved goods. In the absence and until the arrival of the Consular Agents, the local authorities will take the needful steps for the protection of persons and property wrecked.

The goods saved shall never be subjected to customs or duty, unless they are disposed of for home consumption.

ARTICLE XXV. The ships, merchandise and effects belonging to the respective citizens which may have been taken by pirates or conveyed to or found in the ports of either of the contracting parties, shall be delivered to their owners on payment of the expenses should there be such; the amount to be determined by the competent tribunals when the right of the proprietor shall be proved before these tribunals, and the claim being made within the space of eighteen months by

the interested parties, by their attorneys, or by the agents of their respective Governments.

ARTICLE XXVI. If, from a concurrence of unfortunate circumstances, differences between the contracting parties should cause an interruption of the relations of friendship between them, and that after having exhausted the means of an amicable and conciliatory discussion, the object of their mutual desire should not have been completely attained, the arbitration of a third power, equally the friend of both, shall by a common accord be appealed to, in order to avoid by this means a definitive rupture.

ARTICLE XXVII. The present treaty shall be in vigor for ten years, to commence six months after the exchange of ratification. If a year before the expiration of this term neither of the contracting parties shall have announced, by an official declaration, its intention of terminating it, the treaty shall still remain in force for a year, and so continue from year to year.

ARTICLE XXVIII. The present treaty shall be ratified and the ratification exchanged at Paris, within the space of a year and a half, or earlier if may be.

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

Done in duplicate at Paris, the 22d of July, 1863.

[L. s.]

CONSTANTINO NIGRA.

[L. s.]

JOHN BOWRING.

ADDITION ARTICLE to the *Treaty of Commerce and Navigation, concluded between the Kingdom of Italy and the Hawaiian Islands. at Paris, the 22d day of July, 1863.*

The two high contracting parties agree: That whatever privilege, immunity, favor or diminution of duties on commerce or navigation, which may be granted by either of the two States to any other power, shall immediately, and of full right, be conceded to the other contracting party, without any compensation.

The two high contracting parties further agree to conform to the principles adopted by the Congress of Paris, as announced in the Declaration of the 16th of April, 1856, with reference to privateering and to neutral rights of blockade, as follows:

1. Privateering is and remains abolished.
2. The neutral flag shall cover the goods of the enemy, with the exception of contraband of war.

3. Neutral merchandise, with the exception of contraband of war, shall not be sequestered under an enemy's flag.

4. Blockades, in order to be recognized, must be effective, i. e., they shall be maintained by a force really sufficient to prevent access to the littoral of the enemy.

The present additional article is considered as an integral part of the Treaty of Commerce and Navigation, concluded between the Kingdom of Italy and the Hawaiian Kingdom, at Paris, the 22d July, 1865.

It shall have the same force and duration, and it shall be included in the ratifications of the same Treaty.

Paris, the 27th of February, 1869.

[L. s.]

[L. s.]

NIGRA.

JOHN BOWRING,