

(10) TREATY WITH GREAT BRITAIN,

RATIFIED ON THE 6TH OF MAY, 1852.

KAMEHAMEHA III., King of the Hawaiian Islands, to all to whom these presents shall come. GREETING:

WHEREAS, a Treaty of Friendship, Commerce and Navigation between Us and Her most Gracious Majesty the Queen of Great Britain and Ireland, Defender of the Faith, &c., &c., &c., was concluded and signed at Honolulu, on the tenth day of July, in the year of our Lord one thousand eight hundred and fifty-one, by the Plenipotentiaries of Us and of the said Queen of Great Britain, duly and respectively authorized for that purpose, which treaty is word for word, as follows:

HER MAJESTY THE QUEEN of the United Kingdom of Great Britain and Ireland, and HIS MAJESTY THE KING of the Hawaiian Islands, being desirous to maintain and improve the relations of good understanding which happily subsist between them, and to promote the commercial intercourse between their respective subjects, have deemed it expedient to conclude a Treaty of Friendship, Commerce and Navigation, and have for that purpose named as their respective Plenipotentiaries, that is to say:

Her Majesty the Queen of Great Britain and Ireland, William Miller, Esquire, Her Consul General for the Islands in the Pacific Ocean:

And His Majesty the King of the Hawaiian Islands, Robert Crichton Wyllie, Esquire, His Minister of Foreign Relations, Member of his Privy Council of State and of His House of Nobles:

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

ARTICLE I. There shall be perpetual friendship between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Her Heirs and Successors, and the King of the Hawaiian Islands, His Heirs and Successors, and between their respective subjects.

ARTICLE II. There shall be between all the dominions of Her Britannic Majesty, and the Hawaiian Islands, a reciprocal freedom of commerce. The subjects of each of the two contracting parties respectively, shall have liberty freely and securely to come with their ships and cargoes, to all places, ports and rivers in the territories of the other, where trade

with other nations is permitted. They may remain and reside in any part of the said territories respectively, and hire and occupy houses and warehouses; and may trade, by wholesale or retail, in all kinds of produce, manufactures, and merchandise of lawful commerce; enjoying the same exemptions and privileges as native subjects, and subject always to the same laws and established customs as native subjects.

In like manner, the ships of war of each contracting party respectively, shall have liberty to enter into all harbors, rivers, and places, within the territories of the other, to which the ships of war of other nations are or may be permitted to come, to anchor there, and to remain, and refit; subject always to the laws and regulations of the two countries respectively.

The stipulations of this article do not apply to the coasting trade, which each contracting party reserves to itself, respectively, and shall regulate according to its own laws.

ARTICLE III. The two contracting parties hereby agree that any favor, privilege, or immunity whatever, in matters of commerce or navigation, which either contracting party has actually granted, or may hereafter grant, to the subjects or citizens of any other State shall be extended to the subjects or citizens of the other contracting party, gratuitously if the concession in favor of that other State shall have been gratuitous, or in return for a compensation as nearly as possible of proportionate value and effect, to be adjusted by mutual agreement, if the concession shall have been conditional.

ARTICLE IV. No other or higher duties shall be imposed on the importation into the dominions of Her Britannic Majesty, of any article the growth, produce or manufacture of the Hawaiian Islands, and no other or higher duties shall be imposed on the importation into the Hawaiian Islands, of any article the growth, produce or manufacture of Her Britannic Majesty's dominions, than are or shall be payable on the like article, being the growth, produce or manufacture of any other foreign country.

Nor shall any other or higher duties or charges be imposed, in the territories of either of the contracting parties on the exportation of any article to the territories of the other, than such as are or may be payable, on the exportation of the like article, to any other foreign country. No prohibition shall be imposed upon the importation of any article, the growth, produce or manufacture of the territories of either of the two

contracting parties, into the territories of the other, which shall not equally extend to the importation of the like articles, being the growth, produce or manufacture of any other country. Nor shall any prohibition be imposed upon the exportation of any article from the territories of either of the two contracting parties to the territories of the other, which shall not equally extend to the exportation of the like article to the territories of all other nations.

ARTICLE V. No other or higher duties or charges on account of tonnage, light, or harbor dues, pilotage, quarantine, salvage in case of damage or shipwreck, or any other local charges, shall be imposed, in any of the ports of the Hawaiian Islands on British vessels, than those payable in the same ports by Hawaiian vessels, nor in the ports of Her Britannic Majesty's territories, on Hawaiian vessels, than shall be payable in the same ports on British vessels.

ARTICLE VI. The same duties shall be paid on the importation of any article which is or may be legally importable into the Hawaiian Islands, whether such importation shall be in Hawaiian or in British vessels; and the same duties shall be paid on the importation of any article which is or may be legally importable into the dominions of Her Britannic Majesty, whether such importation shall be in British or Hawaiian vessels. The same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any article which is or may be legally exportable from the Hawaiian Islands, whether such exportation shall be in Hawaiian or in British vessels; and the same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any article which is or may be legally exportable from Her Britannic Majesty's dominions, whether such shall be in British or in Hawaiian vessels.

ARTICLE VII. British whaleships shall have access to the ports of Hilo, Kealakeakua and Hanalei, in the Sandwich Islands, for the purpose of refitment and refreshment, as well as to the ports of Honolulu and Lahaina, which two last-mentioned ports only are ports of entry for all merchant vessels, and in all the above-named ports, they shall be permitted to trade or to barter their supplies or goods, excepting spirituous liquors, to the amount of two hundred dollars, *ad valorem*, for each vessel, without paying any charge for tonnage or for harbor dues of any description, or any duties or imposts whatever upon the goods or articles so traded or bartered. They shall also be permitted, with the like

exemption from all charges for tonnage and harbor dues, further to trade or barter, with the same exception as to spirituous liquors, to the additional amount of one thousand dollars, *ad valorem*, for each vessel, paying on the additional goods and articles so traded and bartered, no other or higher duties, than are payable on like goods and articles, when imported in national vessels, and by native subjects. They shall also be permitted to pass from port to port of the Sandwich Islands for the purpose of procuring refreshments, but they shall not discharge their seamen or land their passengers in the said islands, except at Honolulu and Lahaina, and in all the ports named in this article, British whaleships shall enjoy, in all respects whatsoever, all the rights, privileges and immunities which are or may be enjoyed by national whaleships of the most favored nation. The like privilege of frequenting the three ports of the Sandwich Islands, named in this article, which are not ports of entry for merchant vessels, is also guaranteed to all the public armed vessels of Great Britain. But nothing in this article shall be construed as authorizing any British vessel, having on board any disease, usually regarded as requiring quarantine, to enter, during the continuance of any such disease on board, any port of the Sandwich Islands, other than Honolulu or Lahaina.

ARTICLE VIII. All merchants, commanders of ships, and others, the subjects of Her Britannic Majesty, shall have full liberty, in the Hawaiian Islands, to manage their own affairs themselves, or to commit them to the management of whomsoever they please, as broker, factor, agent or interpreter; nor shall they be obliged to employ any other persons than those employed by Hawaiian subjects, nor to pay to such persons as they shall think fit to employ, any higher salary or remuneration than such as is paid, in like cases, by Hawaiian subjects. British subjects in the Hawaiian Islands shall be at liberty to buy from and to sell to whom they like, without being restrained or prejudiced by any monopoly, contract, or exclusive privilege of sale or purchase whatever; and absolute freedom shall be allowed in all cases to the buyer and seller, to bargain and fix the price of any goods, wares or merchandise, imported into, or exported from the Hawaiian Islands, as they shall see good; observing the laws and established customs of those Islands. The same privileges shall be enjoyed in the dominions of Her Britannic Majesty, by Hawaiian subjects, under the same conditions.

The subjects of either of the contracting parties, in the territories of the other, shall receive and enjoy full and perfect protection for their persons and property, and shall have free and open access to the courts of justice in the said countries, respectively, for the prosecution and defense of their just rights; and they shall be at liberty to employ, in all causes, the advocates, attorneys or agents of whatever description, whom they may think proper; and they shall enjoy in this respect the same rights and privileges as native subjects.

ARTICLE IX. In whatever relates to the police of the ports, the lading and unloading of ships, the warehousing and safety of merchandise, goods and effects, the succession to personal estates by will or otherwise, and the disposal of personal property of every sort and denomination by sale, donation, exchange or testament, or in any other manner whatsoever, as also with regard to the administration of justice, the subjects of each contracting party shall enjoy, in the territories of the other, the same privileges, liberties and rights, as native subjects; and they shall not be charged, in any of these respects, with any other or higher imposts or duties, than those which are or may be paid by native subjects: subject always to the local laws and regulations of such territories.

In the event of any subject of either of the two contracting parties dying without will or testament, in the territories of the other contracting party, the consul-general, consul, or acting consul of the nation to which the deceased may belong, shall, so far as the laws of each country will permit, take charge of the property which the deceased may have left, for the benefit of his lawful heirs and creditors, until an executor or administrator be named according to the laws of the country in which the death shall have taken place.

ARTICLE X. The subjects of Her Britannic Majesty residing in the Hawaiian Islands, and Hawaiian subjects residing in the dominions of Her Britannic Majesty, shall be exempted from all compulsory military service whatsoever, whether by sea or land, and from all forced loans or military exactions or requisitions; and they shall not be compelled, under any pretext whatsoever, to pay any ordinary charges, requisitions or taxes, other or higher than those that are, or may be, paid by native subjects.

ARTICLE XI. It is agreed and covenanted that neither of the two contracting parties shall knowingly receive into, or

retain in, its service, any subject of the other party who have deserted from the naval or military service of that other party; but that, on the contrary, each of the contracting parties shall respectively discharge from its service any such deserters, upon being required by the other party so to do.

And it is further agreed, that if any of the crew shall desert from a vessel of war or merchant vessel of either contracting party, while such vessel is within any port in the territory of the other party, the authorities of such port and territory shall be bound to give every assistance in their power for the apprehension of such deserters, on application to that effect being made by the Consul of the party concerned, or by the deputy or representative of the Consul; and no public body shall protect or harbor such deserters.

It is further agreed and declared, that any other favor or facility with respect to the recovery of deserters, which either of the contracting parties has granted or may hereafter grant, to any other State, shall be considered as granted also to the other contracting party, in the same manner as if such favor or facility had been expressly stipulated by the present treaty.

ARTICLE XII. It shall be free for each of the two contracting parties to appoint consuls for the protection of trade, to reside in the territories of the other party; but before any consul shall act as such, he shall, in the usual form, be approved and admitted by the Government to which he is sent; and either of the contracting parties may except from the residence of consuls such particular places as either of them may judge fit to be excepted. The diplomatic agents and consuls of the Hawaiian Islands, in the dominions of Her Britannic Majesty, shall enjoy whatever privileges, exemptions and immunities are, or shall be granted there to agents of the same rank belonging to the most favored nation; and, in like manner, the diplomatic agents and consuls of Her Britannic Majesty in the Hawaiian Islands shall enjoy whatever privileges, exemptions, and immunities are or may be granted there to the diplomatic agents and consuls of the same rank belonging to the most favored nation.

ARTICLE XIII. For the better security of commerce between the subjects of Her Britannic Majesty and of the King of the Hawaiian Islands, it is agreed that if, at any time, any rupture, or any interruption of friendly intercourse should unfortunately take place between the two contracting parties, the subjects of either of the two contracting parties

shall be allowed a year to wind up their accounts, and dispose of their property; and a safe conduct shall be given them to embark at the port which they shall themselves select. All subjects of either of the two contracting parties who may be established in the territories of the other, in the exercise of any trade or special employment, shall in such case have the privilege of remaining and continuing such trade and employment therein, without any manner of interruption in full enjoyment of their liberty and property as long as they behave peaceably, and commit no offense against the laws; and their goods and effects, of whatever description they may be, whether in their own custody, or entrusted to individuals or to the State, shall not be liable to seizure or sequestration, or to any other charges or demands than those which may be made upon the like effects or property belonging to native subjects. In the same case, debts between individuals, public funds, and the shares of companies shall never be confiscated, sequestered or detained.

ARTICLE XIV. The subjects of Her Britannic Majesty, residing in the Hawaiian Islands, shall not be disturbed, persecuted or annoyed on account of their religion, but they shall have perfect liberty of conscience therein, and shall be allowed to celebrate divine service, either within their own private houses, or in their own particular churches or chapels, which they shall be at liberty to build and maintain in convenient places, approved of by the Government of the said Islands. Liberty shall also be granted to them to bury in burial places which, in the same manner, they may freely establish and maintain, such subjects of Her Britannic Majesty, who may die in the said Islands. In the like manner, Hawaiian subjects shall enjoy, within the dominions of Her Britannic Majesty, perfect and unrestrained liberty of conscience, and shall be allowed to exercise their religion publicly or privately, within their own dwelling houses, or in the chapels and places of worship appointed for that purpose agreeably to the system of toleration established in the dominions of Her said Majesty.

ARTICLE XV. In case there should at any time be established British mail packets, touching at a port of the Sandwich Islands, a British packet agent shall be permitted to reside at such port, and to collect, on account of the British Post-office, the British sea-rate of postage which may be hereafter fixed for the conveyance of letters by British packets from the Sandwich Islands to any other place to which those packets may proceed.

Such British mail packets shall have free access to the ports of the Sandwich Islands, and shall be allowed to remain to refit, to refresh, to land passengers and their baggage, and to transact any business connected with the public mail service of Great Britain. They shall not be subject in such ports to any duties of tonnage, harbor, light-houses, quarantine, or other similar duties, of whatever nature or under whatever denomination.

ARTICLE XVI. If any ship of war or merchant vessel, of either of the contracting parties, should be wrecked on the coasts of the other, such ship or vessel, or any parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandise which shall be saved therefrom, or the produce thereof if sold, shall be faithfully restored to the proprietors, upon being claimed by them, or by their duly authorized agents; and if there are no such proprietors or agents on the spot, then said goods and merchandise, or the proceeds thereof, as well as all the papers found on board such wrecked ship or vessel, shall be delivered to the British or Hawaiian consul, in whose district the wreck may have taken place; and such consul, proprietors or agents shall pay 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 of a wreck of a national vessel. The goods and merchandise saved from the wreck shall not be subject to duties unless cleared for consumption.

ARTICLE XVII. In order that the two contracting parties may have the opportunity of hereafter treating and agreeing upon such other arrangements as may tend still further to the improvement of their mutual intercourse, and to the advancement of the interest of their respective subjects, it is agreed that at any time after the expiration of seven years from the date of the exchange of the ratifications of the present treaty, either of the contracting parties shall have the right of giving to the other party notice of its intention to terminate articles 4, 5 and 6 of the present treaty; and that at the expiration of twelve months after such notice shall have been received by either party from the other, the said articles, and all the stipulations contained therein, shall cease to be binding on the two contracting parties.

ARTICLE XVIII. The present treaty shall be ratified, and the ratifications shall be exchanged at Honolulu in ten months or sooner, if possible.

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

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

(L. S.) ROBERT CRICHTON WYLLIE,
(L. S.) WILLIAM MILLER.

AND, WHEREAS, we have fully examined all the points and articles thereof, by and with the advice of Our Privy Council of State, We have confirmed and ratified the foregoing Treaty, and We do confirm and ratify the same, in the most effectual manner, promising on Our faith and word as King, for Us and Our successors, to fulfill and observe it faithfully and scrupulously in all its clauses.

In faith of which We have signed this ratification with Our own hand, and have affixed thereto the great seal of Our Kingdom.

Given at Our Palace at Honolulu, the 6th day of May, in the year of our Lord one thousand eight hundred and fifty-two, and in the twenty-seventh of Our reign.

(Seal.) KAMEHAMEHA.

KEONI ANA.

EXCHANGE OF RATIFICATIONS.—The undersigned, having met together for the purpose of exchanging the ratifications of a Treaty of Friendship, Commerce and Navigation between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of the Hawaiian Islands, concluded and signed at Honolulu on the tenth day of July, 1851; and the respective ratifications of the said instrument having been carefully compared, and found to be exactly conformable to each other, the said exchange took place this day in the usual form.

In witness whereof, they have signed the present certificate of exchange, and have affixed thereto their respective Seals.

Done at Honolulu the sixth day of May, 1852.

(L. S.) ROBERT CRICHTON WYLLIE,
(L. S.) WILLIAM MILLER.