

TREATIES AND CONVENTIONS

CONCLUDED BETWEEN

THE UNITED STATES OF AMERICA AND OTHER POWERS

SINCE JULY 4, 1776.

CONTAINING NOTES, WITH REFERENCES TO NEGOTIATIONS PRECEDING THE
SEVERAL TREATIES, TO THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL
CONSTRUCTION OF THEM, AND TO THE CAUSES OF THE
ABROGATION OF SOME OF THEM; A CHRONOLOGICAL
LIST OF TREATIES; AND AN ANALYTICAL INDEX.



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1889.

award of the King of Belgium, under the Treaty referring this claim to his decision, was in favor of the United States. It was dated the 15th of May, 1863.

CHINA.

On the 3d of March, 1843, an act was approved placing forty thousand dollars "at the disposal of the President of the United States to enable him to establish the future commercial relations between the United States and the Chinese Empire on terms of national equal reciprocity,"¹ and on the 8th of the following May, Caleb Cushing was commissioned as Envoy Extraordinary, Minister Plenipotentiary, and Commissioner to China.

He says of his mission there: "I entered China with the formed *general* conviction that the United States ought not to concede to any foreign State under any circumstances jurisdiction over the life and liberty of a citizen of the United States, unless that foreign State be of our own family of nations—in a word, a Christian State. * * In China I found that Great Britain had stipulated for the absolute exemption of her subjects from the jurisdiction of the Empire. * * I deemed it, therefore, my duty to assert a similar exemption on behalf of citizens of the United States.² A Treaty on this basis was concluded on the 3d day of July, 1844, and was communicated to the Senate by the President on the 22d of January, 1845;³ and on the 28th of January the injunction of secrecy was removed from the correspondence submitted with the Treaty.⁴

On the exchange of the ratifications of this Treaty, it became necessary that laws should be enacted conferring judicial powers on Ministers and Consuls, in order that citizens of the United States in China might enjoy the protection and rights conferred by the Treaty. Congress proceeded in this matter with such good judgment, that all conflicting views were harmonized in Committee, and the act was passed without discussion, and was approved on the 11th of August, 1848.⁵

Under this act it was originally held that Vice-Consuls could not be empowered to exercise judicial functions;⁶ but this decision was reversed by Attorney-General Cushing.⁷

The act of 1848 empowered the Commissioner, with the advice of the several Consuls, to make regulations for carrying the provisions of the Treaty into effect.

In November, 1854, Robert McLane, as Commissioner, made several "regulations," which were duly transmitted to Congress by the President on the 15th of July, 1856.⁸

On the 12th of December, 1856, regulations made by Peter Parker, a successor of McLane, were also transmitted to Congress.⁹

William B. Reed was appointed Commissioner on the 18th of April, 1857. His instructions, which were communicated to the Senate by the President on the 20th of April, 1858,¹⁰ directed him, by peaceful co-operation, to aid in the accomplishment of the objects which the allies were seeking "to accomplish by treaty stipulations."

On the 10th of December, 1857, the President transmitted to Congress

¹ 15 St. at L., 624. ² Cushing to Calhoun, Sept. 29, 1844, cited in 7 Op. At.-Gen., 497-9. ³ S. E. Doc. 53, 2d Sess. 28th Cong. ⁴ S. E. Doc. 67, 2d Sess. 28th Cong. ⁵ 9 St. at L., 276. ⁶ Consular Instructions of 1855, § 275. ⁷ Op. At.-Gen., 511. ⁸ S. E. Docs. 32 and 92, 1st Sess. 34th Cong. ⁹ S. E. Doc. 6, and H. E. Doc. 11, 3d Sess. 34th Cong. ¹⁰ S. E. Doc. 47, 1st Sess. 35th Cong.