

TUNIS.

TUNIS, 1797-1799.

TREATY OF PEACE AND FRIENDSHIP BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF TUNIS, CONCLUDED AT TUNIS AUGUST, 1797-MARCH 26, 1799; RATIFICATION ADVISED BY SENATE MARCH 6, 1798, ON CONDITION THAT 14TH ARTICLE BE SUSPENDED, AND FRIENDLY NEGOTIATION ON THE SUBJECT WITH BEY OF TUNIS RECOMMENDED; CERTAIN ALTERATIONS IN 11TH, 12TH, AND 14TH ARTICLES AGREED TO MARCH 26, 1799.

August, 1797-
March 26, 1799.

God is infinite.

Under the auspices of the greatest, the most powerful of all the Princes of the Ottoman nation who reign upon the earth, our most glorious and most august Emperor, who commands the two lands and the two seas, Selim Kan, the victorious son of the Sultan Moustafa, whose realm may God prosper until the end of ages, the support of Kings, the Seal of Justice, the Emperor of Emperors.

Preamble.

The Most Illustrious and Most Magnificent Prince, Hamouda Pacha, Bey, who commands the Odgiak of Tunis, the abode of happiness, and the Most Honored Ibrahim Dey, and Soliman, Aga of the Janissaries, and Chief of the Divan, and all the Elders of the Odgiak; and the Most Distinguished and Honored President of the Congress of the United States of America, the most distinguished among those who profess the religion of the Messiah, of whom may the end be happy.

We have concluded between us the present treaty of peace and friendship, all the articles of which have been framed by the intervention of Joseph Stephen Famin, French merchant residing at Tunis, Chargé d'Affaires of the United States of America, which stipulations and conditions are comprised in twenty-three articles, written and expressed in such manner as to leave no doubt of their contents, and in such way as not to be contravened.

ARTICLE I.

There shall be a perpetual and constant peace between the United States of America and the Magnificent Pacha, Bey of Tunis; and also a permanent friendship, which shall more and more increase.

Peace and friendship.

ARTICLE II.

If a vessel of war of the two nations shall make prize of an enemy's vessel, in which may be found effects, property, and subjects of the two contracting parties, the whole shall be restored: the Bey shall restore the property and subjects of the United States, and the latter shall make a reciprocal restoration, it being understood on both sides that the just right to what is claimed shall be proved.

Restoration of subjects and goods.

ARTICLE III.

Merchandise belonging to any nation which may be at war with one of the contracting parties, and loaded on board of the vessels of the other, shall pass without molestation, and without any attempt being made to capture or detain it.

Enemies' goods on a vessel of the parties to be free.

ARTICLE IV.

Passports.

On both sides sufficient passports shall be given to vessels, that they may be known and treated as friendly; and, considering the distance between the two countries, a term of eighteen months is given, within which term respect shall be paid to the said passports, without requiring the congé or document, (which, at Tunis, is called testa,) but after the said term the congé shall be presented.

ARTICLE V.

Vessels under
convoy.

If the corsairs of Tunis shall meet at sea with ships of war of the United States, having under their escort merchant-vessels of their nation, they shall not be searched or molested; and in such case the commanders shall be believed upon their word, to exempt their ships from being visited, and to avoid quarantine. The American ships of war shall act in like manner towards merchant-vessels escorted by the corsairs of Tunis.

ARTICLE VI.

Visits at sea.

If a Tunisian corsair shall meet with an American merchant-vessel, and shall visit it with her boat, she shall not exact anything, under pain of being severely punished. And in like manner if a vessel of war of the United States shall meet with a Tunisian merchant-vessel, she shall observe the same rule. In case a slave shall take refuge on board of an American vessel of war, the Consul shall be required to cause him to be restored; and if any of their prisoners shall escape on board of the Tunisian vessels they shall be restored. But if any slave shall take refuge in any American merchant-vessel, and it shall be proved that the vessel has departed with the said slave, then he shall be returned, or his ransom shall be paid.

Fugitive slaves
and prisoners.

[See convention
of 1824, p. 768.]

ARTICLE VII.

Prize-vessels.

An American citizen having purchased a prize vessel from our Odgiak, may sail with our passport, which we will deliver for the term of one year, by force of which our corsairs which may meet with her shall respect her; the Consul, on his part, shall furnish her with a bill of sale, and, considering the distance of the two countries, this term shall suffice to obtain a passport in form. But, after the expiration of this term, if our corsairs shall meet with her without the passport of the United States, she shall be stopped and declared good prize, as well the vessel as the cargo and crew.

ARTICLE VIII.

Vessels needing
provisions or re-
pairs.

If a vessel of one of the contracting parties shall be obliged to enter into a port of the other, and may have need of provisions and other articles, they shall be granted to her without any difficulty, at the price current at the place; and if such a vessel shall have suffered at sea, and shall have need of repairs, she shall be at liberty to unload and reload her cargo, without being obliged to pay any duty; and the captain shall only be obliged to pay the wages of those whom he shall have employed in loading and unloading the merchandise.

ARTICLE IX.

Wrecked vessels.

If, by accident and by the permission of God, a vessel of one of the contracting parties shall be cast by tempest upon the coasts of the other, and shall be wrecked or otherwise damaged, the commandant of the place shall render all possible assistance for its preservation, without allowing any person to make any opposition; and the proprietor of the effects shall pay the costs of salvage to those who may have been employed.

ARTICLE X.

In case a vessel of one of the contracting parties shall be attacked by an enemy under the cannon of the forts of the other party, she shall be defended and protected as much as possible; and when she shall set sail, no enemy shall be permitted to pursue her from the same port, or any other neighboring port, for forty-eight hours after her departure.

Neutrality of ports.

ARTICLE XI.

When a vessel of war of the United States of America shall enter the port of Tunis, and the Consul shall request that the castle may salute her, the number of guns shall be fired which he may request; and if the said Consul does not want a salute, there shall be no question about it.

Salutes to vessels of war.

[See convention of 1824, p. 769.]

But in case he shall desire the salute, and the number of guns shall be fired which he may have requested, they shall be counted and returned by the vessel in as many barrels of cannon powder.

The same shall be done with respect to the Tunisian corsairs when they shall enter any port of the United States.

ARTICLE XII.

When citizens of the United States shall come within the dependencies of Tunis, to carry on commerce there, the same respect shall be paid to them which the merchants of other nations enjoy; and if they wish to establish themselves within our ports, no opposition shall be made thereto; and they shall be free to avail themselves of such interpreters as they may judge necessary, without any obstruction, in conformity with the usages of other nations; and if a Tunisian subject shall go to establish himself within the dependencies of the United States, he shall be treated in like manner.

Freedom of commerce.

If any Tunisian subject shall freight an American vessel and load her with merchandise, and shall afterwards want to unlade or ship them on board of another vessel, we will not permit him, until the matter is determined by a reference of merchants, who shall decide upon the case; and after the decision the determination shall be conformed to.

Freights.

No captain shall be detained in port against his consent, except when our ports are shut for the vessels of all other nations, which may take place with respect to merchant-vessels, but not to those of war.

Detention.

The subjects of the two contracting powers shall be under the protection of the Prince, and under the jurisdiction of the Chief of the place where they may be, and no other person shall have authority over them. If the commandant of the place does not conduct himself agreeably to justice, a representation of it shall be made to us.

Protection of subjects and citizens.

In case the Government shall have need of an American merchant-vessel, it shall cause it to be freighted, and then a suitable freight shall be paid to the captain agreeably to the intention of the Government, and the captain shall not refuse it.

Government of Tunis may freight American vessels.

[See convention of 1824, p. 769.]

ARTICLE XIII.

If among the crews of merchant-vessels of the United States there shall be found subjects of our enemies, they shall not be made slaves, on condition that they do not exceed a third of the crew; and when they do exceed a third, they shall be made slaves: The present article only concerns the sailors, and not the passengers, who shall not be in any manner molested.

Enemy's subjects found among crews of American vessels.

ARTICLE XIV.

A Tunisian merchant who may go to America with a vessel of any nation soever, loaded with merchandise which is the production of the Kingdom of Tunis, shall pay duty (small as it is) like the merchants of other

Duties.

[See convention of 1824, p. 770.]

nations; and the American merchants shall equally pay for the merchandise of their country, which they may bring to Tunis under their flag, the same duty as the Tunisians pay in America.

But if an American merchant, or a merchant of any other nation, shall bring American merchandise under any other flag, he shall pay six per cent. duty: In like manner, if a foreign merchant shall bring the merchandise of his country under the American flag, he shall also pay six per cent.

ARTICLE XV.

Liberty of commerce.

It shall be free for the citizens of the United States to carry on what commerce they please in the Kingdom of Tunis, without any opposition, and they shall be treated like the merchants of other nations; but they shall not carry on commerce in wine, nor in prohibited articles; and if any one shall be detected in a contraband trade, he shall be punished according to the laws of the country. The commandants of ports and castles shall take care, that the captains and sailors shall not load prohibited articles; but if this should happen, those who shall not have contributed to the smuggling shall not be molested nor searched, no more than shall the vessel and cargo; but only the offender, who shall be demanded to be punished. No captain shall be obliged to receive merchandise on board his vessel, nor to unlade the same against his will, until the freight shall be paid.

ARTICLE XVI.

Anchorage duties in Tunisian ports.

The merchant-vessels of the United States which shall cast anchor in the road of the Gouletta, or any other port of the Kingdom of Tunis, shall be obliged to pay the same anchorage for entry and departure which French vessels pay, to wit: Seventeen piasters and a half, money of Tunis, for entry, if they import merchandise; and the same for departure, if they take away a cargo; but they shall not be obliged to pay anchorage if they arrive in ballast, and depart in the same manner.

ARTICLE XVII.

Consuls.

Each of the contracting parties shall be at liberty to establish a Consul in the dependencies of the other; and if such Consul does not act in conformity with the usages of the country, like others, the Government of the place shall inform his Government of it, to the end that he may be changed and replaced; but he shall enjoy, as well for himself as his family and suite, the protection of the Government; and he may import for his own use all his provisions and furniture without paying any duty; and if he shall import merchandise, (which it shall be lawful for him to do,) he shall pay duty for it.

ARTICLE XVIII.

Subjects contracting debts, &c.

If the subjects or citizens of either of the contracting parties, being within the possessions of the other, contract debts, or enter into obligations, neither the Consul nor the nation, nor any subjects or citizens thereof shall be in any manner responsible, except they or the Consul shall have previously become bound in writing; and without this obligation in writing, they cannot be called upon for indemnity or satisfaction.

ARTICLE XIX.

Estates of deceased residents.

In case of a citizen or subject of either of the contracting parties dying within the possessions of the other, the Consul or the Vekil shall take possession of his effects, (if he does not leave a will,) of which he shall make an inventory; and the Government of the place shall have nothing to do therewith. And if there shall be no Consul, the effects

shall be deposited in the hands of a confidential person of the place, taking an inventory of the whole, that they may eventually be delivered to those to whom they of right belong.

ARTICLE XX.

The Consul shall be the judge in all disputes between his fellow-citizens or subjects, as also between all other persons who may be immediately under his protection; and in all cases wherein he shall require the assistance of the Government where he resides to sanction his decisions, it shall be granted to him. Consul's jurisdiction.

ARTICLE XXI.

If a citizen or subject of one of the parties shall kill, wound, or strike a citizen or subject of the other, justice shall be done according to the laws of the country where the offence shall be committed: The Consul shall be present at the trial; but if any offender shall escape, the Consul shall be in no manner responsible for it. Punishment for personal assaults.

ARTICLE XXII.

If a dispute or law-suit on commercial or other civil matters shall happen, the trial shall be had in the presence of the Consul, or of a confidential person of his choice, who shall represent him, and endeavor to accommodate the difference which may have happened between the citizens or subjects of the two nations. Trial of civil disputes.

ARTICLE XXIII.

If any difference or dispute shall take place concerning the infraction of any article of the present treaty on either side, peace and good harmony shall not be interrupted, until a friendly application shall have been made for satisfaction; and resort shall not be had to arms therefor, except where such application shall have been rejected; and if war be then declared, the term of one year shall be allowed to the citizens or subjects of the contracting parties to arrange their affairs, and to withdraw themselves with their property. Infraction of treaty.
Privileges of residents in case of war.

The agreements and terms above concluded by the two contracting parties shall be punctually observed with the will of the Most High. And for the maintenance and exact observance of the said agreements, we have caused their contents to be here transcribed, in the present month of Rebia Elul, of the Hegira one thousand two hundred and twelve, corresponding with the month of August of the Christian year one thousand seven hundred and ninety-seven.

The Aga
SOLIMAN'S
Signature and
[SEAL.]

IBRAHIM DEY'S
Signature
and
[SEAL.]

The Bey's
Signature
and
[SEAL.]

Whereas the President of the United States of America, by his letters patent, under his signature and the seal of state, dated the Certificate of negotiation.
[SEAL.] eighteenth day of December, one thousand seven hundred and ninety-eight, vested Richard O'Brien, William Eaton, and James Leander Cathcart, or any two of them in the absence of the third, with full powers to confer, negotiate, and conclude with the Bey and Regency of Tunis, on certain alterations in the treaty between the United States and the Government of Tunis, concluded by the intervention of Joseph Etienne Famin, on behalf of the United States, in the month of August, one thou-

Final ratification reserved for President of United States.

sand seven hundred and ninety-seven, we, the underwritten William Eaton and James Leander Cathcart, (Richard O'Brien being absent,) have concluded on and entered, in the foregoing treaty, certain alterations in the eleventh, twelfth, and fourteenth articles, and do agree to said treaty with said alterations, reserving the same nevertheless for the final ratification of the President of the United States, by and with the advice and consent of the Sénate.

In testimony whereof we annex our names and the consular seal of the United States. Done in Tunis, the twenty-sixth day of March, in the year of the Christian era one thousand seven hundred and ninety-nine, and of American Independence the twenty-third.

WILLIAM EATON.

JAMES LEANDER CATHCART.

TUNIS, 1824.

Feb. 24, 1824.

CONVENTION TO ALTER ARTICLES OF TREATY OF PEACE AND FRIENDSHIP BETWEEN THE UNITED STATES AND THE BEY OF TUNIS, CONCLUDED AT TUNIS FEBRUARY 24, 1824; RATIFICATION ADVISED BY SENATE JANUARY 13, 1825; RATIFIED BY PRESIDENT; PROCLAIMED JANUARY 21, 1825.

Preamble.

[See treaty of 1797, pp. 763-768.]

Whereas sundry articles of the treaty of peace and friendship, concluded between the United States of America and Hamuda Bashaw, of happy memory, in the month of Rebia Elul, in the year of the Hegira 1212, corresponding with the month of August, of the Christian year 1797, have, by experience, been found to require alteration and amendment: In order, therefore, that the United States should be placed on the same footing with the most favored nations having treaties with Tunis, as well as to manifest a respect for the American Government, and a desire to continue unimpaired the friendly relations which have always existed between the two nations, it is hereby agreed and concluded between His Highness Sidi Mahmoud Bashaw, Bey of Tunis, and S. D. Heap, Esquire, Chargé d'Affaires of the United States of America, that alteration be made in the sixth, eleventh, twelfth, and fourteenth articles of said treaty, and that the said articles shall be altered and amended in the treaty to read as follows:

ARTICLE the 6th—*As it now is.*

ARTICLE 6th—*As it was.*

Visits at sea.

If a Tunisian corsair shall meet with an American vessel, and shall visit it with her boat, two men only shall be allowed to go on board, peaceably, to satisfy themselves of its being American, who, as well as any passengers of other nations they may have on board, shall go free, both them and their goods; and the said two men shall not exact anything, on pain of being severely punished. In case a slave escapes, and takes refuge on board an American vessel of war, he shall be free, and no demand shall be made either for his restoration or for payment.

Slaves escaping to be free.

If a Tunisian corsair shall meet with an American merchant vessel, and shall visit it with her boat, she shall not exact anything, under pain of being severely punished. And, in like manner, if a vessel of war of the United States shall meet with a Tunisian merchant vessel, she shall observe the same rule. In case a slave shall take refuge on board of an American vessel of war, the Consul shall be required to cause him to be restored; and if any of their prisoners shall escape on board of the Tunisian vessels, they shall be restored; but if any slave shall take refuge in any American merchant vessel, and it shall be proved that the vessel has departed with the said slave, then he shall be returned, or his ransom shall be paid.

ARTICLE the 11th—*As it now is.*

When a vessel of war of the United States shall enter the port of the Gouletta, she shall be saluted with twenty-one guns, which salute the vessel of war shall return gun for gun only, and no powder will be given, as mentioned in the ancient eleventh article of this treaty, which is hereby annulled.

ARTICLE 11th—*As it was.*

When a vessel of war of the United States of America shall enter the port of Tunis, and the Consul shall request that the Castle may salute her, the number of guns shall be fired which he may request; and if the said Consul does not want a salute, there shall be no question about it.

But, in case he shall desire the salute, and the number of guns shall be fired which he may have requested, they shall be counted, and returned by the vessel in as many barrels of cannon-powder.

The same shall be done with respect to the Tunisian corsairs, when they shall enter any port of the United States.

Salutes.

ARTICLE the 12th—*As it now is.*

When citizens of the United States shall come within the dependencies of Tunis to carry on commerce there, the same respect shall be paid to them which the merchants of other nations enjoy; and if they wish to establish themselves within our ports, no opposition shall be made thereto, and they shall be free to avail themselves of such interpreters as they may judge necessary, without any obstruction, in conformity with the usages of other nations; and if a Tunisian subject shall go to establish himself within the dependencies of the United States, he shall be treated in like manner. If any Tunisian subject shall freight an American vessel, and load her with merchandise, and shall afterwards want to unload, or ship them on board of another vessel, we shall not permit him until the matter is determined by a reference of merchants, who shall decide upon the case; and after the decision the determination shall be conformed to.

No captain shall be detained in port against his consent, except when our ports are shut for the vessels of all other nations, which may take place with respect to merchant vessels, but not to those of war.

The subjects and citizens of the two nations, respectively, Tunisians and Americans, shall be protected

ARTICLE 12th—*As it was.*

When citizens of the United States shall come within the dependencies of Tunis to carry on commerce there, the same respect shall be paid to them which the merchants of other nations enjoy; and if they wish to establish themselves within our ports, no opposition shall be made thereto; and they shall be free to avail themselves of such interpreters as they may judge necessary, without any obstruction, in conformity with the usages of other nations; and if a Tunisian subject shall go to establish himself within the dependencies of the United States, he shall be treated in like manner.

If any Tunisian subject shall freight an American vessel, and load her with merchandise, and shall afterwards want to unload or ship them on board of another vessel, we will not permit him, until the matter is determined by a reference of merchants, who shall decide upon the case; and after the decision the determination shall be conformed to.

No captain shall be detained in port against his consent, except when our ports are shut for the vessels of all other nations; which may take place with respect to merchant vessels, but not to those of war.

The subjects of the two contracting Powers shall be under the

Freedom of commerce.

Freights.

Detention.

Protection of citizens of the respective nations.

in the places where they may be by the officers of the Government there existing; but, on failure of such protection, and for redress of every injury, the party may resort to the chief authority in each country, by whom adequate protection and complete justice shall be rendered. In case the Government of Tunis shall have need of an American vessel for its service, such vessel being within the regency, and not previously engaged, the Government shall have the preference, on its paying the same freight as other merchants usually pay for the same service, or at the like rate, if the service be without a customary precedent.

Preference to Tunisian vessels for freight

ARTICLE the 14th—*As it now is.*

Duties.

All vessels belonging to the citizens and inhabitants of the United States shall be permitted to enter the ports of the Kingdom of Tunis, and freely trade with the subjects and inhabitants thereof, on paying the usual duties which are paid by other most favoured nations at peace with the Regency. In like manner, all vessels belonging to the subjects and inhabitants of the Kingdom of Tunis shall be permitted to enter the different ports of the United States, and freely trade with the citizens and inhabitants thereof, on paying the usual duties which are paid by other most favoured nations at peace with the United States.

protection of the Prince, and under the jurisdiction of the chief of the place where they may be, and no other person shall have authority over them. If the commandant of the place does not conduct himself agreeably to justice, a representation of it shall be made to us.

In case the Government shall have need of an American merchant vessel, it shall cause it to be freighted, and then a suitable freight shall be paid to the captain, agreeably to the intention of the Government, and the captain shall not refuse it.

ARTICLE 14th—*As it was.*

A Tunisian merchant, who may go to America with a vessel of any nation soever, loaded with merchandize, which is the production of the Kingdom of Tunis, shall pay duty (small as it is) like the merchants of other nations; and the American merchants shall equally pay for the merchandize of their country, which they may bring to Tunis, under their flag, the same duty as the Tunisians pay in America. But if an American merchant, or a merchant of any other nation, shall bring American merchandize under any other flag, he shall pay six per cent. duty; in like manner, if a foreign merchant shall bring the merchandize of his country under the American flag, he shall also pay six per cent.

Signatures.

Date.

Final ratification reserved for President of United States.

Concluded, signed, and sealed, at the Palace of Bardo, near Tunis, the 24th day of the moon jumed-teni, in the year of the Hegira 1239, corresponding [to] the 24th of February, 1824, of the Christian year, and the 48th year of the Independence of the United States, reserving the same, nevertheless, for the final ratification of the President of the United States, by and with the advice and consent of the Senate.

S. D. HEAP, Chargé d'Affaires. [L. S.]
SIDI MAHMOUD'S signature and [L. S.]