

SECTION 1 — THE 1786 INSTRUMENT, ENTIRE (MILLER VOL. 2, DOCUMENT 14)

Treaty of Peace and Friendship between the Empire of Morocco and the United States of America. June 28 / July 15, 1786 (1 Ramadan 1200). 8 Stat. 100.

Carrier: Hunter Miller, ed., *Treaties and Other International Acts of the United States of America*, vol. 2: Documents 1-40, 1776-1818 (Washington: U.S. Government Printing Office, 1931), Doc. 14 — reproduced ENTIRE: print 185-227 (43 pp.; page map of record PDF = print + 31).

Staged carriers (MD5 of record): full scan 2e418d023ee3be4821372eb593c6ad32; 8 Stat. 100 scan e347a564e3e413ecbca2deabcc5f8f6f.

Contents, in the edition's own order: the document heading (print 185: Treaty Series No. 244-1; 8 Stat. 100-5); the seal page (print 186); the sealed Arabic original, facsimile print 187-211 (Art. 21 at print 207; Art. 24 at 210; Art. 25 at 211); the certified translation of the Treaty and of the Additional Article, with approval by Jefferson and Adams (print 212 ff.); the Ship-Signals Agreement of July 6, 1786 (print 219); C. Snouck Hurgronje's commentary on the English translation (print 220-224) with the Leiden literal retranslation (print 222-223 — a translation witness, never the text); and the editor's Notes (print 224-227).

Followed by: the translation of record as printed in the Statutes at Large (8 Stat. 100, 6 pp.).

Cross-references: HIBAH volume Ch. 1-3, 13-21; CORPUS volume Ch. 1, 3.

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MOROCCO : JUNE 28 AND JULY 15, 1786

Treaty of Peace and Friendship, with additional article; also Ship-Signals Agreement. The treaty was sealed at Morocco with the seal of the Emperor of Morocco June 23, 1786 (25 Shaban, A. H. 1200), and delivered to Thomas Barclay, American Agent, June 28, 1786 (1 Ramadan, A. H. 1200). Original in Arabic. The additional article was signed and sealed at Morocco on behalf of Morocco July 15, 1786 (18 Ramadan, A. H. 1200). Original in Arabic. The Ship-Signals Agreement was signed at Morocco July 6, 1786 (9 Ramadan, A. H. 1200). Original in English.

Certified English translations of the treaty and of the additional article were incorporated in a document signed and sealed by the Ministers Plenipotentiary of the United States, Thomas Jefferson at Paris January 1, 1787, and John Adams at London January 25, 1787.

Treaty and additional article ratified by the United States July 18, 1787. As to the ratification generally, see the notes. Treaty and additional article proclaimed July 18, 1787.

Ship-Signals Agreement not specifically included in the ratification and not proclaimed; but copies ordered by Congress July 23, 1787, to be sent to the Executives of the States (Secret Journals of Congress, IV, 369; but see the notes as to this reference).

The following twenty-six pages of Arabic text are a reproduction of the pages of the original treaty; but they are arranged in left-to-right order of pagination. Then is printed the text of the document embodying the certified translations of the treaty and additional article, and thereafter the text of the Ship-Signals Agreement. Following those texts is a comment, written in 1930, on the English translation of 1786.



الْحَمْدُ لِلَّهِ هَذَا أَقْفِيدُ شَيْءٍ وَكَهـ
 الصَّلَاحِ إِلَى جَعْلِنَا هَلَامَعَ الْمَارِكَاتُ
 وَلِثَبَاتِهَا هَذَا إِلَى الْبَقِيَّةِ وَوَصَّغْنَا
 عَلَيْهَا كَمَا بَعْنَا لَتَبْقَى سَتِيْمَةٌ إِنْ شَاءَ
 اللَّهُ وَكُتِبَتْ بِحَرْفٍ كَثْرٍ فِي الْخَامِيسِ
 وَالْعِشْرِينَ يَوْمَ شَعْبَانَ الْفِيلِ الْبَارِئِ عَاوَمَ يَتِيْرَ الْبِ

اللَّهُمَّ كُنْ لَنَا قَوْلًا قَدِيرًا اللَّهُمَّ كُنْ
 لَنَا قَوْلًا قَدِيرًا اللَّهُمَّ كُنْ لَنَا قَوْلًا قَدِيرًا
 حَمْدُكَ وَحَمْدُكَ وَحَمْدُكَ وَحَمْدُكَ وَحَمْدُكَ
 مِنْ الْجَنَّةِ وَالْجَنَّةِ وَالْجَنَّةِ وَالْجَنَّةِ وَالْجَنَّةِ
 اللَّهُمَّ اِنَّا نَسْتَغْفِرُكَ كُلَّ يَوْمٍ وَنَسْتَغْفِرُكَ
 عَنْكَ اَصْحَابُ الدُّنْيَا وَالْآخِرَةِ اَنْتَ اَعْلَمُ
 وَجْهَهُ لِيَقْبَلَ عَمَلُ رُوحِهِ وَصَلَّى
 مَعَنَا

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أَلَمْ تَرَ أَنَّهُ مَفْصِي
 كَأَنَّ الْقَوْلَ مَعَ أَيْ جَنْسٍ كَانَ
 فَلَا تَخْرُجُ سَعِيدَةً مِنْ أُخْرَى الْجَانِبَيْنِ
 وَتَعْمَلُ سَجْوَةَ الْعَرَقِ وَتَذْهَبُ
 تَجِيءُ الْعَرَقُ أَتَمَّ مِنْ جَهَنَّمَ وَأَقَامِنْ
 جَهَنَّمَ الْمَارِكِ كَانُونِ

3 الشَّيْخُ الْثَلَاثُ أَنَّهُ مَتَى
 جَعَلَتِ الْفِرَّةَ مَعَ أَيِّ جَنْبِرٍ كَانَ
 وَفِيضَتْ سَعِيدَةً مِنْ أَهْلِ ذَلِكَ
 وَجَنْبِرٍ بِهَا مُسْلِمًا أَوْ ضَرْفًا
 وَلَمْ يَكُنْ سَلْعَةً فَلَمْ يَكُنْ يُشْرَى حَقٌّ بِسَلْعَةٍ
 وَحَقٌّ لِذَلِكَ أَنَّهُ لَا يَلْبَسُ سَلْعَةً جَنْبِرٍ
 وَبَيْنَمَا وَقَعَتِ الْفِرَّةُ فَلَمْ تَوْجَدْ مِنْ أَيْنَ يَنْزِلُ
 يَكْلَعُوهُ مِنْزُورًا مَا يَشَاءُ وَمِنْهُمْ مَنِ الصَّلَاحُ

4
 الشَّيْءُ الْإِذَا بَعْدَ دُكُونِ قِيَّتِنَا
 عِلَلَةٌ يُعْرِفُ بِهَا بَعْضُنَا بَعْضًا
 فِي النَّجْوَى وَمَنْ مَعَهُ لَيْفَى أَعْرَافَ سَعِيدَةٍ
 إِلَيْكَ لَا يَنْتَحِ عَنْهَا وَأَنْتَ أَيْضًا كَيْدُ
 كَلَامِ الْإِذَا يَسِيرُ فِي قَسَائِفِهَا
 مَعَ سُبْرَاخٍ

٥
 أَلَمْ تَرَ كَيْفَ أَنْفَخْنَا مِنْ لَدُنْهُ مَوْفَى
 فَلَاقَتْ السَّحَابَ فِي الْبَحْرِ وَكَانَتْ الْقُرْهُ
 فَإِنْ كُنَّا وَاحِدًا مِمَّا لَمْ يَخْتَفِ
 لَخِيتَارُ السَّعِيمَةِ إِلَيْهِ أَرَادَ اخْتِبَارَهَا
 لِأَعْلُو كَعْدِ وَاحِدَةٍ فِيهَا لَثَارُ أَوْ ثَلَاثَةٍ
 بَقَعَتْ وَمَطْمَعٌ خَرَجَتْ عِمَارَةٌ وَأَفْسَرَتْ
 شَيْئًا مِمَّا إِنْ خَرَجَتْ لَخِيتَارُ مِمَّا عَنِ كَمْ يَسِي
 فَإِنْ صَاحِبَ الْعِمَارَةِ إِلَيْهِ لَخِيتَارُ يَصْلُحُ لِلنَّجَى
 مَا أَفْسَرَتْ لَهُ

6
 اللَّهُمَّ كُفِّهِ
 فَبَصُرَ الْأَكْثَرُ الْأَعْيُنَ
 وَأَتَقَاتُوا مِنْهُمْ لِقَيْرٍ
 وَأَنْتَ اللَّهُ فَابْتَغِ
 وَكَذَلِكَ إِذَا أَبْصُرُوا مِنْ
 مِنْ غَيْرِ إِلَّا التَّبَاوُخَ
 وَرَأْسَيْنَا فَلَمْ يَكُنْ
 لِقَاتِنَا وَمُصَاحِبِينَ مَعَنَا

٧
 أَلَمْ نَخْلُقْكَ السَّابِغَ أَنَّ مَتَى
 وَنَعَفَ سَعِيَةً لَّاخَرَىٰ وَرَأَيْتُ الْفُجَائِيزِ
 تَقْبِضُكَ مَا يَبْدُو أَوْ عَيْنِهَا قَابِلُهَا
 تَقْبِضُكَ إِلَيْكَ مِنْ عَيْنِ مَشْفُوعَةٍ
 قَا حَرَجَ

٨
 اللَّهُمَّ خُذْ الْقَائِمَ أَنَّهُ مَن
 وَقَعَ بِأَخِي الشَّيْخِ سَيِّدٍ وَمَاتَ
 إِلَى النَّبِيِّ وَوَضَعَتْ وَسْعَةً حَتَّى أَصْلَحَتْ
 مَا أَلْفَسَ مِنْهَا بِإِنِّهَا مَطْفَأٌ رَأَتْ حِجْلُ
 ذَاكَ الْوَسْوَسَ الَّذِي وَضَعَتْ بِإِنِّهَا
 حِجْلُهُ مِنْ عَيْنِهِ صَاكِةٌ وَمَا عَيْنُهَا

وَ
 الَّذِي كُفِيَ
 حَمَّاتٍ سَبْعِينَ فِي نَاحِيَةٍ مِنْ تَوَاحِيْدِهَا
 فَلَمَّا تَبَقَّى عَلَى مَا لَهَا حَتَّى تَنْكُرَ مَا يَخْلُجُ
 بِهَا أَمَّا الْخُرُوجُ مِنْ مَوْضِعٍ وَآخَرٍ
 أَوْ قِيلَ لَسَلْعٍ أَوْ عَيْنٍ دَالِكَةٍ أَوْ جَوَالٍ
 إِلَيْ قَلِيْقٍ بِهَا وَلَا يَفُجُّ بِهَا الْخُرُ
 لَانْهَا فِي أَمَانَتَا كَرَالِكِ أَوْ أَدْخَلَتْ سَبْعِينَ
 لِلْمَرْثَةِ أَوْ لَهَا مَا أَرِجُ حَتَّى دَخَلَتْ لِلْمَرْثَةِ
 فَلَا تَكْلِبُ بَنُو سَلْعَةٍ مَا بَلَّ تَنْتَفِي عَلَى أَمَانَةٍ
 حَتَّى تَخْرُجَ بِرِطَاقِهَا

10
 اللَّهُمَّ الْغَايِبُ الْعَلِيمُ إِنَّهُ مَتَى وَفَع
 فِتْنَالْ تَوَاحِشِي الْفُجَائِيزِ مَعَ بَعْضِ أَهْلَانَا
 الْبَطَارِي وَكَانَ الْفِتْنَالْ فِي بَابِي بَعْضُ
 مَنِي الْفُجَائِيزِ بِإِسْمَائِيلِ بْنِ بَعْضِ أَهْلَانَا
 ذَلِكَ الْفُجَائِيزِ حَتَّى يُغْلِبَ أَوْ يَهْزِبَ
 أَوْ حَرِّثَ سَبْعِينَ فِي وَادِ قَوْقُ أَوْ عَيْنِي
 فَإِنَّ الْبَطَارِي الَّذِينَ يَهْزِبُ الْإِيمَانُ حَتَّى يَصِلُوا
 بِمَلَأَةِ هُنَّ أَشْدَّ اللَّهُ

11

أَلَمْ تَرَ كَيْفَ أَلْفَضَلُ عَشْرَ
 لَقَدْ مَتَّى كَلَامَ الْقَوْلِ يَنْشَأُ وَيَنْشَأُ
 مِنْ أَهْلِ الْمَدِينَةِ وَالْمَدِينَةِ
 وَأَرَادَتْ سَمِعَتْهَا الْخُرُوجَ مِنْ الْمَدِينَةِ
 وَأَرَادَتْ سَمِعَتْهَا الْعَدُوَّ تَشَبَّهَهَا فَلَمْ تَخْرُجْ
 تَشَبَّهَهَا حَتَّى تَقْصِي مَوْلَاكِ وَأَرْبَعَةَ
 وَعَشْرَ مِنْ سَاعَةِ وَكَذَلِكَ سَمِعْتُ إِنْ كَانَتْ
 إِذَا كَانَتْ بِلَا مَدِينَةٍ وَقَدْ رَمَى الْقَوْلِ وَأَرَادَتْ
 الْخُرُوجَ فَلَمْ تَشَبَّهَهَا سَمِعَتْهَا حَتَّى تَقْصِي
 أَرْبَعَةَ وَعَشْرَ مِنْ سَاعَةِ مَوْلَاكِ كَلَامَ مَتَّى
 سَمِعْتُ أَمِنْ سَمِعْتُ النَّصْرَ

12 الشَّيْخُ — الثَّانِي عَشَرَ أَنَّهُ مَشَى
 وَبَدَأَ سَعِيْنَةً لِّلْكَرِّ إِعْمَىٰ إِحْرَىٰ وَإِسِيْنَا
 بِأَمْنَهَا لَا تَقْشُرُ بَلْ تَبْقَىٰ عَالِمًا وَمَعْنَى
 كَأَنَّ بِهَا أَسِيرَ أَهَارِبًا فَإِنَّهُ لَا يَنْزِلُ
 مِنْهُ كَنْزُهَا وَلَا يَخْلُبُ عَامِلُ تِلْكَ
 الْبِلَادِ الَّذِي بِهِ السَّعِيْنَةُ فَرَبِّ السَّعِيْنَةِ
 فِيْمَنْ شَاءَ الْكَرَّ وَالْإِسِيْنَا

13 الشَّهْرُ الحَامِسُ — الثَّالِثُ عَشَرَ أَهْ مَتَى
 وَوَقْتُ سَبْعِينَ الْيَوْمِ عَلَى ابْنِي وَإِبْرَاهِيمَ
 وَأَخْرَجْتَ الْمَدَامَ ابْعَ فَإِنَّهَا لَا يَخْرُجُ عَلَيْهَا
 مِنْ ذَلِكَ الْفَرْسِ إِلَّا مِثْلًا أَخْرَجْتَ مِنْ غَيْرِ
 رِيَّادَةٍ وَطَرَفَ كَانِ

14
 الشَّيْخُ —————
 الشَّجَّارِ يَكُونُونَ عَلَى عِلَّةٍ قُجَّارِاضِيُول
 وَيَكُونُونَ مَعِي هُنَّ وَيَذْهَبُونَ فِي الْبُحْرِ
 وَالْمَرَايَةِ حَيْثُ شَاءُوا وَلَا يَحْزَنُ ضَرْهَهُمْ أَحَدٌ
 وَيَكُونُونَ مِثْلَ الْجَمْرِ الْعَيْنِيِّ عِنْدَنَا
 فِي الْوَقْتِ

15
 الَّذِي يَخْتَصِبُ الْخَامِسَ عَشَرَ
 أَنْ الْخَمَارَ يَكُونُ مَشْتَعِلِينَ بِالسَّبَابِ
 وَإِذَا أَرَادُوا يَجْعَلُونَ تَرْفِيفَ مَعْشَرِ
 أَوْ جَمَاعَةٍ بِأَمْرٍ بَعْدَ الْكَلَامِ وَالْقَلْبِ وَنَبِي
 سَعِيدَةٍ إِلَى آخِرَتِي وَلَا تَقْصِفُ سَعِيدَةٍ فِي
 الْقُرْآنِ وَإِذَا أَرَادُوا يَجْعَلُونَ مَنَ يَعَاوَنُهُمْ
 عَلَى أُمُورِ النَّاسِ أَوْ غَيْرِهَا فَإِنَّهُمْ لَا يَخْشَوْنَ
 سِوَى الْقُدْرَةِ الَّتِي يَخْشَوْنَ الْإِجْتِمَاعَ مِنْ قَبْلِهِمْ

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الشَّيْخُ كُفَّ السَّادَ مِنْ عَشْرِ أَتَه
 مَتَّى كَاتِبَ الرِّقَّةِ وَاجْتَابِيهِ قَلْبَ الْمَسْأَلِ
 يَكُونُ رَأْسَ بَرٍّ أَيْسَ بِلَا أَيْسَ
 وَسُوكَ رَأْسِي بِسُوكَ رَأْسِي وَاجْتَابِيهِ
 بِالْبَحْرِ وَهَكَذَا وَانْزِلْ بِكُلِّ
 رَعْدَةٍ يَسْتَأْذِنُكَ فِي قَلْبِ رَأْسِي وَاجْتَابِيهِ
 مِلَّةً رِيَالٍ بِشَرْكِهِ أَوْ يَنْتَقِي لَأَيْسَ مِ
 رَجَابِيهِ أَوْ مِ سِتِّهِ وَهَتَّى إِذَا رَأَى حَوَادِثَ
 وَكَانَ فِيهِ أَوْ قَارِجٍ أَوْ رَجَابِيهِ وَاجْتَابِيهِ
 بِدَلِيلِهِ رِيَالٍ لَمْ يَكُنْ كَوْنُهُ

17
 اللَّهُمَّ كُنْ لِي سَابِعَ عَشَرَ أَقْ
 لِي بِمَا لَا تَكْلَفُ عَلَيَّ لِي سَبْعَ وَاشْتَرِ لِي
 لَأَمَّا أَرَادَ أَنْ يَرْجِعَ أَنْفُسِهِمْ وَكَذَلِكَ
 لِي سَبْعَ إِلَّا إِيَّاهُ كَأَنَّهُ مَتَاكَ مَسَائِلَ
 جَارِيَةٍ فِيهَا أَلْعَادُ لَمْ يَمُتْ مِنْ قَبْلِ ذَلِكَ مِنْ أَجْنَابِ
 لِي سَبْعَ لِي يَجْعَلُوا مَا قَلْبًا بَاتَ مِنْ ذَلِكَ

18
 أَلَيْسَ كُنْهُ — الثَّامِنُ عَشْرُ أَقْ
 السِّلْعَ إِلَى تَوَسُّعِ ثَوْبٍ وَتَغْلِبِ قَبْلَ رُخْعِهَا
 فِي السَّيِّئَةِ أَجَلٍ أَوْ تَقْبِ السَّيِّئَةِ
 مِنْ أَجْلِ لَذَائِقَتِهِمْ أَلَيْسَ كُنْهُ بِنَكْحٍ
 وَإِنَّا كَأَنَّكَ أَلَيْسَ لَكَ أَجَلٌ جَعَلَ
 لَكَ كُنْهُ بِنَكْحٍ مَوْلَا لَكَ يُؤَاهِرُ بِنَكَ
 وَخَرَّ عَلَى الْعَادَةِ لِفَجَائِئِهِ مِنْ قَبْلَةٍ وَأَمَّا
 السَّيِّئَةُ وَلِلسِّلْعِ وَمَا مَعَهَا فِيهَا بَرِيَّةٌ
 مِنْ ذَلِكَ

١
 أَلَمْ يَكُنْ مِنَ التَّالِيَةِ عَمَّا أَنَّهُ
 لَا تَقْبَلُ سَعِيَّةً فِي رَهْمَةٍ وَلَا تَقْبَلُ سَعِيَّةً
 كَرَاهًا إِلَّا إِذَا كَانَ عَنْ كَيْفٍ
 فَيَسِيرُ مِنْ رِيسِهَا فَإِنَّهُ يَتَهَاوَى مَعَهُ
 عَلَى حِمْلٍ مَا لَزَّاءَ حَمْلَهُ

20 الشَّيْءُ الْفَعِشْرُوقُ أَنَّهُ تَهَيَّ
 جَنَّا آخَرِينَ أَهْلِي جَنَسِنَا جَنَابَةً أَوْ تَنَ هُوَ
 مَ إِخْلُ قَحْتِ سَجَفِينَا فَإِنَّهُ قَحْلُكَ مِيدِ مَوْنُضُوا
 جَنَسِيهِ وَإِنَّا اِخْتِاجَ الْفَوْضُوا إِلَى الْأَهْأِ
 بِأَشَةِ الْبِلَاءِ بِيَعِينَهُ عَرَفَ إِلَيْكَ

21 الشَّيْخُ — الْفَقِيرُ وَالْعِشْرُوقُ
 أَنَّهُ إِذَا قِيلَ مِنْهُ نَصِيحَةٌ أَوْ الْعَكْسُ أَوْ جَرَحَةٌ
 فَلَا تَقْلُجْ عَلَيْهِ بِالْفَائِدِ الشَّيْخُ يَعْنِي
 زِيَادَةً وَتَأْنِيفًا وَتَكُونُ الْفَتْرَةُ بَيْنَهُ
 الْفَوْنُصُ وَإِذَا هَبَ فَبَلَّغْ فَوْجَ الْفَتْرِ
 فَلَا تَوَاضَعْ بِهِ الْفَوْنُصُ وَإِلَيْهَا جَنَى

22 ————— الثَّلاثُ وَالْعِشْرِينَ

أَنَّهُ مَقْهُمَاتٍ أَحَرُّ مِنْ حَيْثُ الْمَارِ كَانُوا
 بِبَلَدِنَا وَلَمْ يَوْصُوا بِإِنْ فَوْضُطُ
 هُوَ الْإِثْمُ يَفُتُّ عَلَى قَتْلِهِ وَسُلْطَانِهِ
 وَإِنْ لَمْ يَكُنْ فَوْضُطُ قَتْلُ صُغَيْرَةٍ
 أَمِيرٍ حَتَّى يَكْفُرَ مَنْ يُشْتَقُّهَا
 وَأَوَّاكَارَ عَمَلٍ مَزِيدٍ مَتَّعَ لَوْ رَشِدَ
 مِنْ عَمَلٍ تَعَزُّبًا وَأَوْصَى بِكَ يَدُ الْبَرِّ نَدْوَجُ
 مَا لَمْ يَدُلَّكُمْ بِوَدَائِكَ لِفَوْضُطُ

23 الشَّيْءُ الْخَبْرُ الْثَالِثُ وَالْعِشْرُونَ
 أَنَّ الْفَوْنِصَاتِ يَكُونُ فِي أَيْمَنِ
 أَرَادُوا وَيَكُونُ فِي شِمَالِ الْخَبْرِ
 تَنْبَلُغُ مِنَ النَّصَارَى وَأَدَاةُ الْعَامِلِ
 أَحَدٌ مِنْ جَنْسِهِ مَعَ مُسْلِمٍ بَدَلًا وَأَقْلَبَهُ
 لَهُ فَلَا يُؤَاخِذُهُ الْفَوْنِصُ وَلَا يَصْنَعُهُ
 إِلَّا إِيَّاهُ كَانَ الْفَوْنِصُ أَلْعَمَى بِذَلِكَ
 خَفَّ يَدُ الْقَبِيغِيِّ وَأَمَّا إِذَا أَلْعَمَى خَفَّ
 يَدُ الْقَلْبِ كُلِّهِ مَعَهُ مِثْلُ جَمِيعِ الْفَوْنِصَاتِ

24 الشَّيْخُ الرَّابِعُ وَالْعِشْرُونَ
 أَنَّهُ مَقَرٌّ تَنَازَعَ أَحَدٌ فِي شَيْءٍ مِنْ شَيْءٍ وَجَدَ
 الصَّلَاحَ بِإِلَاحِصِّ أَحَدٍ مَسْئَلَةً وَأَمَّا عَنِ الْإِحْصَاءِ
 مَسْئَلَةً وَمَالَ إِنَّهَا لَيْسَتْ فِي الشَّيْخِ بِهَا
 وَكَمَالَ الَّذِي رَأَى بَيْنَهُمَا فَإِنَّ الصَّلَاحَ يَنْفَعُ
 عَمَّ حَالِهِ وَيَنْفَعُ كُلَّ وَاحِدٍ مِنْهُمَا عَلَى مَا
 يَنْبَغِي حَتَّى إِذَا تَمَّ قَوْلُهُمْ أَحَدُهُمَا بِمَا
 الصَّلَاحُ وَمِنْهُ كُلُّ الْإِحْصَاءِ فَإِنَّ الْإِحْصَاءَ
 تَعْمَلُ حِينَئِذٍ وَتَجْمَعُ الْجَمْعُ تَحْتَ بِلَاحِ قَسْمَةٍ
 لَمْ يَكُنْ رَجُلًا إِلَى أَنْ يَمُوتَ وَغَوَّاسُ لَعْنَةٍ وَأَنْ تَقْطَلَ
 تَسِيرُ نَاعِي حِينَئِذٍ مِنْ أَجْلِ بِلَاحِ النَّصَارَى فَتَكُونُ حُمْلَتُهُ

25
 اللَّهُمَّ كُنْ لِي خَافِئًا وَاعِيًا
 أَوْ هَذَا الَّذِي صَلَّحَ يَنْفَعُ مَسْتَهْمًا أَوْ سَلَامًا اللَّهُ
 يَجُولُ اللَّهُ وَقُوَّةً مِنْ لَوْ مِنْ خَمْسَةِ سَنَةٍ
 وَقَدْ نَمَّ بَعْدَ هَذِهِ الْأَرْقَمِ يَبْدُ كَحَمَّاسٍ
 بِرَكْعَتِهِ الْفَرْكَوْزِ أَقُولُ يَوْعُ مِنْ صَافٍ
 الْبَارِكُ عَمَّا مَا تَبَيَّرُ وَالْفِي

[Certified Translation of the Treaty and of the Additional Article, with Approval by Jefferson and Adams]

To all Persons to whom these Presents shall come or be made known—

Whereas the United States of America in Congress assembled by their Commission bearing date the twelvth day of May One thousand Seven hundred and Eighty four thought proper to constitute John Adams, Benjamin Franklin and Thomas Jefferson their Ministers Plenipotentiary, giving to them or a Majority of them full Powers to confer, treat & negotiate with the Ambassador, Minister or Commissioner of His Majesty the Emperor of Morocco concerning a Treaty of Amity and Commerce, to make & receive propositions for such Treaty and to conclude and sign the same, transmitting it to the United States in Congress assembled for their final Ratification, And by one other Commission bearing date the Eleventh day of March One thousand Seven hundred & Eighty five did further empower the said Ministers Plenipotentiary or a majority of them, by writing under their hands and Seals to appoint such Agent in the said Business as they might think proper with Authority under the directions and Instructions of the said Ministers to commence & prosecute the said Negotiations & Conferences for the said Treaty provided that the said Treaty should be signed by the said Ministers: And Whereas, We the said John Adams & Thomas Jefferson two of the said Ministers Plenipotentiary (the said Benjamin Franklin being absent) by writing under the Hand and Seal of the said John Adams at London October the fifth, One thousand Seven hundred and Eighty five, & of the said Thomas Jefferson at Paris October the Eleventh of the same Year, did appoint Thomas Barclay, Agent in the Business aforesaid, giving him the Powers therein, which by the said second Commission we were authorized to give, and the said Thomas Barclay in pursuance thereof, hath arranged Articles for a Treaty of Amity and Commerce between the United States of America and His Majesty the Emperor of Morocco, which Articles written in the Arabic Language, confirmed by His said Majesty the Emperor of Morocco & seal'd with His Royal Seal, being translated into the Language of the said United States of America, together with the Attestations thereto annexed are in the following Words, To Wit.

In the name of Almighty God,

This is a Treaty of Peace and Friendship established between us and the United States of America, which is confirmed, and which we have ordered to be written in this Book and sealed with our Royal Seal at our Court of Morocco on the twenty fifth day of the blessed Month of Shaban, in the Year One thousand two hundred, trusting in God it will remain permanent.

.1.

We declare that both Parties have agreed that this Treaty consisting of twenty five Articles shall be inserted in this Book and delivered to the Honorable Thomas Barclay, the Agent of the United States now at our Court, with whose Approbation it has been made and who is duly authorized on their Part, to treat with us concerning all the Matters contained therein.

.2.

If either of the Parties shall be at War with any Nation whatever, the other Party shall not take a Commission from the Enemy nor fight under their Colors.

.3.

If either of the Parties shall be at War with any Nation whatever and take a Prize belonging to that Nation, and there shall be found on board Subjects or Effects belonging to either of the Parties, the Subjects shall be set at Liberty and the Effects returned to the Owners. And if any Goods belonging to any Nation, with whom either of the Parties shall be at War, shall be loaded on Vessels belonging to the other Party, they shall pass free and unmolested without any attempt being made to take or detain them.

.4.

A Signal or Pass shall be given to all Vessels belonging to both Parties, by which they are to be known when they meet at Sea, and if the Commander of a Ship of War of either Party shall have other Ships under his Convoy, the Declaration of the Commander shall alone be sufficient to exempt any of them from examination.

.5.

If either of the Parties shall be at War, and shall meet a Vessel at Sea, belonging to the other, it is agreed that if an examination is to be made, it shall be done by sending a Boat with two or three Men only, and if any Gun shall be fired and injury done without Reason, the offending Party shall make good all damages.

.6.

If any Moor shall bring Citizens of the United States or their Effects to His Majesty, the Citizens shall immediately be set at Liberty and the Effects restored, and in like Manner, if any Moor not a Subject of these Dominions shall make Prize of any of the Citizens of America or their Effects and bring them into any of the Ports of His Majesty,

they shall be immediately released, as they will then be considered as under His Majesty's Protection.

.7.

If any Vessel of either Party shall put into a Port of the other and have occasion for Provisions or other Supplies, they shall be furnished without any interruption or molestation.

.8.

If any Vessel of the United States shall meet with a Disaster at Sea and put into one of our Ports to repair, she shall be at Liberty to land and reload her cargo, without paying any Duty whatever.

.9.

If any Vessel of the United States shall be cast on Shore on any Part of our Coasts, she shall remain at the disposition of the Owners and no one shall attempt going near her without their Approbation, as she is then considered particularly under our Protection; and if any Vessel of the United States shall be forced to put into our Ports, by Stress of weather or otherwise, she shall not be compelled to land her Cargo, but shall remain in tranquillity untill the Commander shall think proper to proceed on his Voyage.

.10.

If any Vessel of either of the Parties shall have an engagement with a Vessel belonging to any of the Christian Powers within gunshot of the Forts of the other, the Vessel so engaged shall be defended and protected as much as possible untill she is in safety; And if any American Vessel shall be cast on shore on the Coast of Wadnoon¹ or any Coast thereabout, the People belonging to her shall be protected, and assisted untill by the help of God, they shall be sent to their Country.

.11.

If we shall be at War with any Christian Power and any of our Vessels sail from the Ports of the United States, no Vessel belonging to the enemy shall follow untill twenty four hours after the Departure of our Vessels; and the same Regulation shall be observed towards the American Vessels sailing from our Ports.—be their enemies Moors or Christians.

¹ Or Ouadnoun, on the Atlantic coast, about latitude 29° N.

.12.

If any Ship of War belonging to the United States shall put into any of our Ports, she shall not be examined on any Pretence whatever, even though she should have fugitive Slaves on Board, nor shall the Governor or Commander of the Place compel them to be brought on Shore on any pretext, nor require any payment for them.

.13.

If a Ship of War of either Party shall put into a Port of the other and salute, it shall be returned from the Fort, with an equal Number of Guns, not with more or less.

.14.

The Commerce with the United States shall be on the same footing as is the Commerce with Spain or as that with the most favored Nation for the time being and their Citizens shall be respected and esteemed and have full Liberty to pass and repass our Country and Sea Ports whenever they please without interruption.

.15.

Merchants of both Countries shall employ only such interpreters, & such other Persons to assist them in their Business, as they shall think proper. No Commander of a Vessel shall transport his Cargo on board another Vessel, he shall not be detained in Port, longer than he may think proper, and all persons employed in loading or unloading Goods or in any other Labor whatever, shall be paid at the Customary rates, not more and not less.

.16.

In case of a War between the Parties, the Prisoners are not to be made Slaves, but to be exchanged one for another, Captain for Captain, Officer for Officer and one private Man for another; and if there shall prove a deficiency on either side, it shall be made up by the payment of one hundred Mexican Dollars for each Person wanting; And it is agreed that all Prisoners shall be exchanged in twelve Months from the Time of their being taken, and that this exchange may be effected by a Merchant or any other Person authorized by either of the Parties.

.17.

Merchants shall not be compelled to buy or Sell any kind of Goods but such as they shall think proper; and may buy and sell all sorts of Merchandise but such as are prohibited to the other Christian Nations.

.18.

All goods shall be weighed and examined before they are sent on board, and to avoid all detention of Vessels, no examination shall afterwards be made, unless it shall first be proved, that contraband Goods have been sent on board, in which Case the Persons who took the contraband Goods on board shall be punished according to the Usage and Custom of the Country and no other Person whatever shall be injured, nor shall the Ship or Cargo incur any Penalty or damage whatever.

.19.

No vessel shall be detained in Port on any pretence whatever, nor be obliged to take on board any Article without the consent of the Commander, who shall be at full Liberty to agree for the Freight of any Goods he takes on board.

.20.

If any of the Citizens of the United States, or any Persons under their Protection, shall have any disputes with each other, the Consul shall decide between the Parties and whenever the Consul shall require any Aid or Assistance from our Government to enforce his decisions it shall be immediately granted to him.

.21.

If a Citizen of the United States should kill or wound a Moor, or on the contrary if a Moor shall kill or wound a Citizen of the United States, the Law of the Country shall take place and equal Justice shall be rendered, the Consul assisting at the Tryal, and if any Delinquent shall make his escape, the Consul shall not be answerable for him in any manner whatever.

22^a

If an American Citizen shall die in our Country and no Will shall appear, the Consul shall take possession of his Effects, and if there shall be no Consul, the Effects shall be deposited in the hands of some Person worthy of Trust, untill the Party shall appear who has a Right to demand them, but if the Heir to the Person deceased be present, the Property shall be delivered to him without interruption; and if a Will shall appear, the Property shall descend agreeable to that Will, as soon as the Consul shall declare the Validity thereof.

.23.

The Consuls of the United States of America shall reside in any Sea Port of our Dominions that they shall think proper; And they shall be

respected and enjoy all the Privileges which the Consuls of any other Nation enjoy, and if any of the Citizens of the United States shall contract any Debts or engagements, the Consul shall not be in any Manner accountable for them, unless he shall have given a Promise in writing for the payment or fulfilling thereof, without which promise in Writing no Application to him for any redress shall be made.

.24.

If any differences shall arise by either Party infringing on any of the Articles of this Treaty, Peace and Harmony shall remain notwithstanding in the fullest force, untill a friendly Application shall be made for an Arrangement, and untill that Application shall be rejected, no appeal shall be made to Arms. And if a War shall break out between the Parties, Nine Months shall be granted to all the Subjects of both Parties, to dispose of their Effects and retire with their Property. And it is further declared that whatever indulgences in Trade or otherwise shall be granted to any of the Christian Powers, the Citizens of the United States shall be equally entitled to them.

.25.

This Treaty shall continue in full Force, with the help of God for Fifty Years.

We have delivered this Book into the Hands of the before-mentioned Thomas Barclay on the first day of the blessed Month of Ramadan, in the Year One thousand two hundred.

I certify that the annex'd is a true Copy of the Translation made by Issac Cardoza Nuñez, Interpreter at Morocco, of the treaty between the Emperor of Morocco and the United States of America.

THO^s BARCLAY

Translation of the additional Article

Grace to the only God

I the underwritten the Servant of God, Taher Ben Abdelhack Fennish do certify that His Imperial Majesty my Master /whom God preserve/ having concluded a Treaty of Peace and Commerce with the United States of America has ordered me the better to compleat it and in addition of the tenth Article of the Treaty to declare "That, "if any Vessel belonging to the United States shall be in any of the "Ports of His Majesty's Dominions, or within Gunshot of his Forts, "she shall be protected as much as possible and no Vessel whatever

"belonging either to Moorish or Christian Powers with whom the United States may be at War, shall be permitted to follow or engage her, as we now deem the Citizens of America our good Friends.

And in obedience to His Majesty's Commands I certify this Declaration by putting my hand and Seal to it, on the Eighteenth day of Ramadan in the Year One thousand two hundred.

(Signed)

The Servant of the King my Master whom God preserve

TAHER BEN ABDELHACK¹ FENNISH

I Do Certify that the above is a True Copy of the Translation Made at Morocco by Isaac Cardoza Nunes, Interpreter, of a Declaration Made and Signed by Sidi Hage Tahar Fennish in addition to the Treaty between the Emperor of Morocco and the United States of America which Declaration the said Tahar Fennish Made by the Express Directions of His Majesty.

THO^s BARCLAY

Note, The Ramadan of the Year of the Hegira 1200 Commenced on the 28th June in the Year of our Lord 1786.

Now know Ye that We the said John Adams & Thomas Jefferson Ministers Plenipotentiary aforesaid do approve & conclude the said Treaty and every Article and Clause therein contained, reserving the same nevertheless to the United States in Congress assembled for their final Ratification.

In testimony whereof we have signed the same with our Names and Seals, at the places of our respective residence and at the dates expressed under our signatures respectively.

JOHN ADAMS. [Seal]

LONDON *January 25. 1787.*

TH: JEFFERSON [Seal]

PARIS *January 1. 1787.*

¹The spelling in the original document is uncertain, but *Abdelhack* is correct, *el-Hack* or *el-Haqq* being one of the names of God.

[Ship-Signals Agreement]

The following Signals are agreed upon between Commodore Rais Farache, on the Part of His Majesty the Emperor of Morocco, and the Honorable Thomas Barclay Esquire Agent for the United States of America on their Part, to the End that the Vessels of both Parties may be known to each other at Sea.

For Vessels of two or of three Masts,

In the Day, a blue Pendant is to be hoisted on the End of the Main Yard, and in the Night a Lantern is to be hoisted on the same Place.

For Vessels of one Mast only,

In the Day, a blue Pendant is to be hoisted at the Mast-Head, and in the Night a Lantern is to be hoisted on the Ensign Staff.

Done at Morocco the Ninth day of the Month of Ramadan in the Year One thousand two hundred.

THO^s BARCLAY

من عظيم المعالي العالي بالله
عبد اذن الرايس قنن

COMMENT OF DR. C. SNOUCK HURGRONJE

In the above two lines of Arabic script (very badly written) there are two gross errors: In the first line instead of *‘azīm*, “great,” which is evidently meant, there is written *‘adīm*, which means “destitute of.” In the second line the word *idhn*, “authorization,” “permission,” has a letter too many, by which it becomes *adhān*, meaning “call to prayer.” The two necessary corrections being made, the words run as follows: “From the Great in Position, the High in God [i. e., the Emperor]. By authorization: Rais [i. e., captain] Faraj.”

THE ENGLISH TRANSLATION OF 1786

The Arabic original of this treaty and the English translation thereof of 1786 have been examined by Dr. C. Snouck Hurgronje, of Leiden, whose comments and notes, and translation of various articles, are as follows:

[The Seal]

The inner circle of the seal contains the name "Muhammed, son of Abdallah, son of Isma'il, God is his protector and his Lord." The border of the seal contains the verse taken from the well-known poem in praise of the Prophet, called the *Burdah*, which verse occurs in several other seals of these North African documents: "He who takes the Apostle of God for his helper, if the lions encounter him in their jungles, they will withdraw."

[The Text]

Praise be to God! This is the written document of the articles of peace which we have established with the Americans [Marikanos] and which we have confirmed in this book and sealed with our seal, in order that they may remain permanent, if God please. Written in Murakush [Marrakesh] the twenty-fifth of the blessed month of Shaban of the year two hundred and thousand.

I have given this literal translation of the introduction merely as a specimen, although it presents no essential difference from the translation of 1786. I have not thought it necessary to note all the merely formal differences occurring in the translation of the articles where they do not in the least affect the meaning.

The first article is that these articles mentioned in this book, being twenty-five articles, have been agreed upon by both parties. That took place in the presence of their agent, the Honorable Thomas Barclay, who came here from the side of the American States [Estados al-Marikanos] and whom they had sent to supervise their affairs and their treaty of peace with us.

The second article is that if there shall be war with any nation whatever, no ship of either of the parties shall sail out and take the colors of the enemy, going to help the enemy, neither from our side nor from that of the Americans.

The third article is that if war has been made with any nation whatever, and a ship has been captured from people belonging to that nation, and there shall be found on board a Moslem or a Christian with goods belonging to them, they shall be at liberty with their goods. Even if they were carrying goods belonging to a nation with whom we are at war [such goods] shall not be taken from their hands nor shall they be compelled to unload them, for the sake of the peace prevailing between us and them.

The fourth article. There shall be a signal [instead of "signal or pass" the original has only one word, '*alâmah*, meaning "signal," "sign," "token"] between us by which we may know each other at sea. Whenever one of us meets a warship, he shall not examine it, but the declaration of the commander shall suffice him concerning her [the warship] with other ships.

The fifth article. "If either of the parties shall be at war"—the original has only "if there shall be war."

The sixth article is that if Moslems shall capture people of our [meaning here the American] nation or their goods and bring them to our [here meaning of the Moroccans] Lord (may God give him victory!), he will set them at liberty. Likewise, if Moslems from other than our dominions shall capture them and bring them into any of our ports, they shall be set at liberty, because they are under our protection and on terms of peace with us.

The seventh article. Instead of "interruption" the original has a word meaning "difficulty".

The eighth article is that if any vessel meets with a disaster and runs ashore and unloads her cargo in order to repair, she shall be at liberty to reload her cargo whenever she likes without paying duty or anything.

The ninth article is that if any vessel shall be cast on shore on any part of our coasts, she will be left to herself that she may consider what suits her best, be it to sail out from [by] another place or to transfer her cargo, or whatever else may be convenient to her. Nobody shall approach her, as she is under our protection. Likewise, if a vessel enters a port or wind forces her to put into a port, she shall not be compelled to unload her cargo; on the contrary, she shall remain under our protection until she sails out by her own free will.

The tenth article is that if any of the parties shall have an engagement with any Christian nation, and the engagement takes place near a town of one of the parties, we shall help each other against that nation until she be defeated or have gone away; or if a vessel shall be cast ashore in Ouadnoun or in another place, the Christians being aboard shall be under [our] protection until they reach their country, if God please.

The eleventh article is that if we are at war with any Christian nation, and we shall be in a port and our ship intends to sail out of the port, and a ship of the enemy intends to pursue her, the latter shall not sail out in pursuit of her until twenty-four hours have elapsed; and likewise, ships of the Americans, if they are in a port during a war and they intend to sail out, no ship shall pursue her until twenty-four hours have elapsed, be they ships of the Mohammedans or of the Christians.

The twelfth article is that if a warship shall put into any of our ports, she shall not be examined but shall remain left to herself; and if there should be a fugitive prisoner on board her, he shall not be brought ashore by compulsion, nor shall the governor of the dominion where the ship stops demand from the commander of the ship the price of that prisoner.

The thirteenth article is without any important difference from the translation of 1786.

The fourteenth article is that the commerce of the merchants shall be on the same footing as that of the Spaniards, and they shall be honored and go in the towns and seaports where they like, without anybody bothering them, and they shall be like the most favored nation with us for the time being.

The fifteenth article is that the merchants shall pursue their business, and if they wish to employ assistants or interpreters, they shall be free to do so. No cargo shall be transported from one ship into another, and no ship shall be detained in the port; and if they wish to employ people to assist them in matters concerning the cargo or otherwise, they shall not have to pay more than other nations used to pay before them.

The sixteenth article has been well rendered in all essentials in the translation of 1786, but the words "are not to be made slaves" are not in the original, and the "Mexican dollar" is represented in Arabic by "reyal" only.

The seventeenth article is that the merchants shall not be compelled to buy merchandise, but such as they like to buy by their free consent. The same rule is to be applied to sale, except in cases concerning which there have prevailed customs with other Christian nations before them, who carried them [the goods?], in which cases there will be no difficulty. [The meaning of the latter stipulation is not clearly expressed in the Arabic text.]

The eighteenth article is that goods to be loaded shall be weighed and examined before they are brought on board, in order that the ship may not be detained because they have ascertained that there is contraband on board. Now if this be the case, then only he who brought the contraband shall be punished, according to the usage applied to others before him, but the ship and its cargo and what belongs to it shall be free from guilt. [Possibly the Arabic text intended to say what is said in the translation of 1786, but in that case the attempt has entirely failed. Thus there is no expression corresponding to "unless" of that translation.]

The nineteenth article requires no correction.

The twentieth article is that if a person of our [can only mean here the American] nation or under our flag is guilty of misdemeanor, the

Consul of his nation shall pass sentence upon him. If the Consul wants the assistance of the officials of the Pasha of the place, it shall be granted to him.

The twenty-first article is that if there has been killed a Christian out of them or the reverse [*sic*] or has wounded him [*sic*], then he will be sentenced according to the rules of the Sacred [Mohammedan] Law, neither more nor less, and the trial is to take place in the presence of the Consul. If the delinquent escapes before having been sentenced, the Consul shall not be held responsible for him nor for the crime he committed. [The redaction of Article 21 is extremely inept.]

The twenty-second article is that if an American citizen shall die in our country and no will shall appear, their Consul shall supervise his estate and his goods [merchandise], and if there shall be no Consul, the effects shall be deposited in the hands of some person worthy of trust until the party shall appear who has a right to demand them, but if heirs of his are present, [the property] shall be given to the heirs without interference, or if he has designated in a will signed with his hand, the person to whom the property is to be delivered, then the question shall be submitted to the consideration of the Consul.

The twenty-third article is that the Consuls shall reside in any seaport they like, and they shall be respected like [consuls of] other Christian nations before them. If a person of their nation has had dealings with a Moslem concerning money, and he has caused it to be lost, the Consul shall not be held responsible for it, unless the Consul has given a written declaration to that effect, in which case he shall have to pay it. If he has not given such a declaration, then nobody has a claim upon him—like [this is the case with] all the consuls.

The twenty-fourth article is that if either party should protest concerning any articles of the peace treaty, so that one asserted a question and the other asserted a question and contended that this was not according to the article, and the controversy should last a long time, then peace is to be maintained and both parties have to argue the best they can. If in the end one of them does not agree to the treaty of peace and strenuously declines [or “if neither of them agrees to the treaty of peace and both strenuously decline”], so that war is declared [literally “put into action”], then nine months shall be granted to all the merchants to remove their goods. Whenever our Lord [*i. e.*, the Emperor of Morocco] shows a favor to any Christian nation, we [*i. e.*, the Americans] shall partake in it.

The twenty-fifth article is that this treaty of peace shall remain permanent, if God please, by God's might and power, a period from [“of” is evidently meant] fifty years. We have delivered this book to the above-mentioned Thomas Barclay on the first day of the blessed Ramadan of the year two hundred and thousand.

NOTES

The city of Morocco, where the treaty was signed, is now known as Marrakesh.

The dates given are those recited; some doubt is cast upon their accuracy, however, by a letter from Thomas Barclay, who negotiated the treaty with the Emperor of Morocco, addressed to Adams and Jefferson and dated at Morocco July 16, 1786, from which the following is extracted (Diplomatic Correspondence, 1783-1789, I, 814):

The 13th instant the treaty was sent to me by the Effendi, since which some important alterations have been made, which the villany and carelessness of the Talbe Houdrani (to whom the drawing was committed) made necessary; and yesterday it was again delivered from Tahar Fennish, to whose hands the King committed the arrangement of the matter. It still wants an additional article, or rather a declaration, which his Majesty has permitted to be made in his name, but which he desired might not make a part of the treaty.

In a letter of June 26, 1786, Barclay had written, "the last draft of the treaty is made, and will probably be signed in a few days" (*ibid.*, 805).

The document signed by Jefferson and Adams, including the English translations of the treaty and of the additional article, is printed in full after the Arabic text of the treaty; following it is printed the Ship-Signals Agreement, with a comment on its two lines of Arabic script; then come the observations of Doctor Snouck Hurgronje regarding the English translation of 1786, with his own rendering of various articles.

THE ORIGINAL DOCUMENTS

The original document signed by Jefferson and Adams is in 91 C. C. Papers, I, folios 213-31. The Department of State file contains a facsimile of that document, the original of the treaty, and the original of the Ship-Signals Agreement; but the original of the additional article has not been found and accordingly cannot be reproduced. As to this article, Barclay reported (letter to Adams and Jefferson, October 2, 1786, Diplomatic Correspondence, 1783-1789, II, 695):

The original of the declaration made by Mr. Fennish could not be placed in the same book with the treaty sealed by the Emperor, the Moorish forms not permitting it; therefore, Mr. Fennish wrote it in another book, which I had placed in his hands, with a copy of the treaty for examination, in order that he might certify the verity of it, lest any accident should happen to the original; which book, with authenticated copies of the other papers, remains in my hands.

The original of the additional article appears to have been enclosed in a letter from Thomas Barclay to Jefferson, dated at Madrid December 4, 1786 (signed "copy" in 91 C. C. Papers, I, folios 211-12), from which the following is an extract:

I now inclose you a Copy of the Declaration made by Tahar Fennish in addition to the 10th article of the Treaty with the Emperor of Morocco. It is in Arabic and sign'd by himself. the necessity of a Duplicate of that Declaration, did not appear obvious to me untill I got to Tangier, and within this hour it has reach'd me. you have also the Translation annex'd to it.

In the calendar of letters to Jefferson (Bulletin of the Bureau of Rolls and Library, No. 8, pt. 2, 36) this letter is listed "Press copy. 4°. 2 pages." The letter, which is in the Library of Congress (26 Thomas Jefferson Papers, folio 4477), is not a press copy, however; it is an original. There is no enclosure with it. In Diplomatic Correspondence, 1783-1789, II, 34, is printed a translation of the additional article, certified by Thomas Barclay under the date of the above-mentioned letter and referring to "the annexed declaration, in Arabic"; but that certified translation has not been found.

NOTE REGARDING THE RATIFICATION

The United States instrument of ratification is copied in 135 C. C. Papers, I; also in Journals, 1823 ed., IV, 756-59. The two forms are not identical; the latter contains a paragraph mentioning the approval of the treaty by Jefferson and Adams which the former omits. Neither form mentions the Ship-Signals Agreement.

In the making of treaties, the procedure and customs of the various Barbary States differed somewhat *inter se* and were not in all respects those of usual diplomatic practice. Thus, in the present instance, the sealing on behalf of the Emperor of Morocco of the original treaty written in the "book," with the delivery thereof, was deemed a finality on the part of Morocco. The theory seems to have been somewhat similar to our notion of a unilaterally executed grant and its delivery, for the text in the "book" was not signed or sealed on behalf of the other party. It may be added that the "book" is literally a book, in leather covers, with the text running from the back leaf on alternate pages and the front pages blank.

The customs of Morocco were doubtless not known to Adams and Jefferson, for their commission to Barclay, following the language of their own commission from Congress (Diplomatic Correspondence, 1783-1789, I, 656-57), gave him authority only

. . . under our directions and instructions, to commence and prosecute negotiations and conferences for the said treaty, with such person or persons on the part of the Emperor of Morocco as his Majesty shall appoint and empower for that purpose—

Provided always, that the treaty in question shall be signed by us, but that preliminary articles thereto may, if previously approved by us, be signed by the said agent.

Indeed, such "missions by deputation" were criticized by Adams as "unknown to Courts and Ministers, and to the law of nations" (*ibid.*, II, 802); but the practice had been suggested by him (Wharton, Diplomatic Correspondence, VI, 692).

The signing by Jefferson and Adams of the certified translations was therefore properly a part of their report to Congress of the result of the negotiation entrusted to them and delegated by them to Thomas Barclay; but the agreement was already complete on the part of Morocco and awaited only the ratification of Congress, and doubtless notice thereof, to become complete on both sides.

As was reported from Morocco some fifty years later:

The Treaty, it will be observed, being sealed by the Emperor according to the diplomatic custom observed in this Empire, bears the form of a grant. Hence, it would be out of rule to deface the original with my signature or seal. I have therefore attached these to the copy and translation which will accompany the original, according to the usage observed by Diplomatic Agents in other parts of Barbary. (D. S., 5 Consular Despatches, Tangier, No. 39, October 11, 1836.)

The necessity of acceptance on the part of the United States was recognized, however, for Barclay wrote in one of his reports (letter to Adams and Jefferson, September 18, 1786, Diplomatic Correspondence, 1783-1789, II, 723):

I was asked to sign an acceptance of the articles on the part of the United States; but as the treaty was not drawn up in the form expected, I excused myself, (without, however, giving any offence,) referring Mr. Fennish to Congress and the Ministers.

A letter from Congress to the Emperor of Morocco notified the ratification of the treaty; the same letter indicates that it had been published and proclaimed (Secret Journals of Congress, IV, 365, July 23, 1787). With this letter the United States instrument of ratification was transmitted (Diplomatic Correspondence, 1783-1789, II, 44, 86). The letter and ratification were duly delivered to the Emperor of Morocco some time prior to August 17, 1788. The original of the letter of acknowledgment on the part of the Emperor of Morocco, dated that day and written in Arabic, is in the archives of the Department of State; and there is an Italian translation of it in 88 C. C. Papers, II, folio 524, as one of the enclosures to a letter ("triplicate") of November 5, 1788, from William Carmichael, Chargé d'Affaires at Madrid, to Jay. In that letter (printed in Diplomatic Correspondence, 1783-1789, III, 370) Carmichael calls the acknowledgment of the Emperor of Morocco "the ratification of the treaty," and similarly in his letter to Jefferson of November 3, 1788 (43 Thomas Jefferson Papers, folio 7423), and in his letter to Jay of December 2, 1788 ("duplicate" in 88 C. C. Papers, II, folios 588-89, with no enclosures; that letter is printed in Diplomatic Correspondence, 1783-1789, III, 381-82; see also the two letters of Francisco Chiappe, *ibid.*, 371-72). But, while doubtless a confirmation of the treaty, the letter of the Emperor of Morocco can hardly be deemed a ratification in any formal or technical sense.

The seal of the letter, which follows its opening phrases, is the same as that of the treaty; and as translated by Doctor Snouck Hurgronje, the letter reads thus:

In the name of God, the Compassionate, the Merciful, and there is no might nor power but in God, the Great, the High.

From the servant of God, Muhammed, son of Abdallah, may God bestow His favor upon him. Amen!

[Seal]

To the Great One of the American States [Estados Amarikanos], the President. Peace be on those who follow the right guidance [i. e., the Mohammedan religion]! To come to the point: Your letter has reached us and also have reached us the

articles of the Treaty of Peace which you have sent us, and we are with you on terms of complete truce and peace. We have now written what you wanted us to write to Tunis and Tripoli, and all that you have asked from us shall be fulfilled, if God please. Greetings! Written in the middle in [the month Dhu] al-Qa'dah [Zu'lkadah] of the year two and two hundred and thousand 1202.

Doctor Snouck Hurgronje makes also the following comment on the letter:

Placing the seal at the head of the letter denotes great superiority in rank of the writer in comparison with that of the person to whom the letter is addressed.

"The Great One of . . ." is the title by which infidel rulers are addressed in letters from the Prophet. The greeting formula, "Peace be on those who follow the right guidance," is the classical one to be addressed to unbelievers, implying that they are not worth greeting.

NOTE REGARDING PROMULGATION

There appears no official record of any separate proclamation of this treaty. The United States instrument of ratification, however, embodying the treaty and additional article in English, was published at the time (*e. g.*, the Daily Advertiser, New York, July 21, 1787). The Department of State file now contains a facsimile of the newspaper print.

Accordingly, the instrument of ratification seems to have served as a proclamation and to have been regarded as such upon publication. As published it follows the form in the Journals, referred to above, and recites that the treaty was "written in the Arabic language" and "translated into the language of the said United States of America"; it contains no mention of the Ship-Signals Agreement.

As stated above, copies of the Ship-Signals Agreement were, on July 23, 1787, ordered by Congress to be sent to the Executives of the States (Secret Journals of Congress, IV, 369, where the paper is called No. 6 instead of No. 7; see Diplomatic Correspondence, 1783-1789, II, 695). From that period to the present, however, the Ship-Signals Agreement seems never to have been printed, either in the diplomatic correspondence or elsewhere.

THE LATER CONFIRMATION

A treaty with Morocco was there regarded as to some degree personal on the part of the ruling Emperor, at least to the extent of requiring confirmation or recognition by a successor. Accordingly, soon after the death of the then Emperor, in April, 1790, negotiations to that end were initiated (see American State Papers, Foreign Relations, I, 104, 128, 288-90); but conflicts regarding the succession to the throne of Morocco continued for some years; after these were ended, a letter was written by the succeeding Emperor, dated at Rabat August 19, 1795 (2 Safar, A. H. 1210), recognizing the treaty with his father. For the papers in the matter, including a translation of the confirming letter, see *ibid.*, 525-27.

TREATY OF PEACE AND FRIENDSHIP

Between the United States of America, and His Imperial Majesty the Emperor of Morocco. (a)

January, 1787.

To all Persons to whom these Presents shall come or be made known.

WHEREAS the United States of America, in Congress assembled, by their commission bearing date the twelfth day of May, one thousand seven hundred and eighty-four, thought proper to constitute John Adams, Benjamin Franklin, and Thomas Jefferson, their Ministers Plenipotentiary, giving to them, or a majority of them, full powers to confer, treat and negotiate with the Ambassador, Minister, or Commissioner of his Majesty the Emperor of Morocco, concerning a treaty of amity and commerce; to make and receive propositions for such treaty, and to conclude and sign the same, transmitting it to the United States in Congress assembled, for their final ratification; and by one other commission, bearing date the eleventh day of March, one thousand seven hundred and eighty-five, did further empower the said Ministers Plenipotentiary, or a majority of them, by writing under their hands and seals, to appoint such agent in the said business as they might think proper, with authority under the directions and instructions of the said Ministers, to commence and prosecute the said negotiations and conferences for the said treaty, provided that the said treaty should be signed by the said Ministers: And whereas we, the said John Adams and Thomas Jefferson, two of the said Ministers Plenipotentiary (the said Benjamin Franklin being absent) by writing under the hand and seal of the said John Adams at London, October the fifth, one thousand seven hundred and eighty-five, and of the said Thomas Jefferson at Paris, October the eleventh of the same year, did appoint Thomas Barclay, agent in the business aforesaid, giving him the powers therein, which, by the said second commission, we were authorized to give, and the said Thomas Barclay, in pursuance thereof, hath arranged articles for a treaty of amity and commerce between the United States of America, and his Majesty the Emperor of Morocco, which articles, written in the Arabic language, confirmed by his said Majesty the Emperor of Morocco, and sealed with his royal seal, being translated into the language of the said United States of America, together with the attestations thereto annexed, are in the following words, to wit:

ROYAL
SEAL.

In the Name of ALMIGHTY GOD.

This is a Treaty of Peace and Friendship established between us and the United States of America, which is confirmed, and which we have ordered to be written in this book, and sealed with our royal seal, at our court of Morocco, on the twenty-fifth day of the blessed month of Shaban, in the year one thousand two hundred, trusting in God it will remain permanent.

ARTICLE I.

We declare that both parties have agreed that this treaty, consisting

(a) By "an act making an appropriation for the purpose therein mentioned," passed March 3, 1791, Laws U. S. vol. 1, 214, twenty thousand dollars are appropriated for effecting a negotiation of the treaty with Morocco, September 16, 1836, post, 484.

of twenty-five articles, shall be inserted in this book, and delivered to the Honorable Thomas Barclay, the agent of the United States, now at our court, with whose approbation it has been made, and who is duly authorized on their part to treat with us concerning all the matters contained therein.

Emperor's consent to the treaty.

ARTICLE II.

If either of the parties shall be at war with any nation whatever, the other party shall not take a commission from the enemy, nor fight under their colours.

Neither party shall take commission from the enemy of the other.

ARTICLE III.

If either of the parties shall be at war with any nation whatever, and take a prize belonging to that nation, and there shall be found on board subjects or effects belonging to either of the parties, the subjects shall be set at liberty, and the effects returned to the owners. And if any goods belonging to any nation, with whom either of the parties shall be at war, shall be loaded on vessels belonging to the other party, they shall pass free and unmolested, without any attempt being made to take or detain them.

Regulation in case of captures.

ARTICLE IV.

A signal or pass shall be given to all vessels belonging to both parties, by which they are to be known when they meet at sea; and if the commander of a ship of war of either party shall have other ships under his convoy, the declaration of the commander shall alone be sufficient to exempt any of them from examination.

Signal or pass to be given to vessels.

ARTICLE V.

If either of the parties shall be at war, and shall meet a vessel at sea belonging to the other, it is agreed, that if an examination is to be made, it shall be done by sending a boat with two or three men only; and if any gun shall be fired, and injury done without reason, the offending party shall make good all damages.

How vessels shall be examined in time of war.

ARTICLE VI.

If any Moor shall bring citizens of the United States, or their effects, to his Majesty, the citizens shall immediately be set at liberty, and the effects restored; and in like manner, if any Moor, not a subject of these dominions, shall make prize of any of the citizens of America, or their effects, and bring them into any of the ports of his Majesty, they shall be immediately released, as they will then be considered as under his Majesty's protection.

Citizens of the U. S. captured, to be released.

ARTICLE VII.

If any vessel of either party shall put into a port of the other, and have occasion for provisions or other supplies, they shall be furnished without any interruption or molestation.

Vessels wanting supplies, to be furnished.

ARTICLE VIII.

If any vessel of the United States shall meet with a disaster at sea, and put into one of our ports to repair, she shall be at liberty to land and re-load her cargo, without paying any duty whatever.

Provision in case of misfortune.

ARTICLE IX.

If any vessel of the United States shall be cast on shore on any part of our coasts, she shall remain at the disposition of the owners, and no one shall attempt going near her without their approbation, as she is

Regulation in case of shipwreck, and being forced into port.

then considered particularly under our protection; and if any vessel of the United States shall be forced to put into our ports by stress of weather, or otherwise, she shall not be compelled to land her cargo, but shall remain in tranquility until the commander shall think proper to proceed on his voyage.

ARTICLE X.

Vessels protected in certain cases.

If any vessel of either of the parties shall have an engagement with a vessel belonging to any of the Christian powers within gun shot of the forts of the other, the vessel so engaged shall be defended and protected as much as possible until she is in safety; and if any American vessel shall be cast on shore on the coast of Wadnoon, or any coast thereabout, the people belonging to her shall be protected and assisted, until, by the help of God, they shall be sent to their country.

ARTICLE XI.

Privileges of vessels in case of war.

If we shall be at war with any Christian power, and any of our vessels sail from the ports of the United States, no vessel belonging to the enemy, shall follow until twenty-four hours after the departure of our vessels; and the same regulation shall be observed towards the American vessels sailing from our ports, be their enemies Moors or Christians.

ARTICLE XII.

Ships of war belonging to U. S. not to be examined.

If any ship of war belonging to the United States shall put into any of our ports, she shall not be examined on any pretence whatever, even though she should have fugitive slaves on board, nor shall the governor or commander of the place compel them to be brought on shore on any pretext, nor require any payment for them.

ARTICLE XIII.

Ships of war to be saluted.

If a ship of war of either party shall put into a port of the other and salute, it shall be returned from the fort with an equal number of guns, not with more or less.

ARTICLE XIV.

Commerce on the footing of the most favoured nation.

The commerce with the United States shall be on the same footing as is the commerce with Spain, or as that with the most favoured nation for the time being; and their citizens shall be respected and esteemed, and have full liberty to pass and repass our country and seaports whenever they please, without interruption.

ARTICLE XV.

Privileges of merchants.

Merchants of both countries shall employ only such interpreters, and such other persons to assist them in their business, as they shall think proper. No commander of a vessel shall transport his cargo on board another vessel; he shall not be detained in port longer than he may think proper; and all persons employed in loading or unloading goods, or in any other labour whatever, shall be paid at the customary rates, not more and not less.

ARTICLE XVI.

In case of war, prisoners not to be enslaved, but exchanged.

In case of a war between the parties, the prisoners are not to be made slaves, but to be exchanged one for another, captain for captain, officer for officer, and one private man for another; and if there shall prove a deficiency on either side, it shall be made up by the payment of one hundred Mexican dollars for each person wanting. And it is agreed that all prisoners shall be exchanged in twelve months from the time of their being taken, and that this exchange may be effected by a merchant or any other person authorized by either of the parties.

ARTICLE XVII.

Merchants shall not be compelled to buy or sell any kind of goods but such as they shall think proper; and may buy and sell all sorts of merchandize but such as are prohibited to the other Christian nations.

Merchants may buy and sell all goods except those prohibited to other Christian nations.

ARTICLE XVIII.

All goods shall be weighed and examined before they are sent on board, and to avoid all detention of vessels, no examination shall afterwards be made, unless it shall first be proved that contraband goods have been sent on board, in which case, the persons who took the contraband goods on board, shall be punished according to the usage and custom of the country, and no other person whatever shall be injured, nor shall the ship or cargo incur any penalty or damage whatever.

Goods to be examined before sent on board, and not after, unless in case of fraud.

ARTICLE XIX.

No vessel shall be detained in port on any pretence whatever, nor be obliged to take on board any articles without the consent of the commander, who shall be at full liberty to agree for the freight of any goods he takes on board.

Vessels not to be detained.

ARTICLE XX.

If any of the citizens of the United States, or any persons under their protection, shall have any disputes with each other, the consul shall decide between the parties, and whenever the consul shall require any aid or assistance from our government, to enforce his decisions, it shall be immediately granted to him.

How disputes shall be settled.

ARTICLE XXI.

If a citizen of the United States should kill or wound a Moor, or, on the contrary, if a Moor shall kill or wound a citizen of the United States, the law of the country shall take place, and equal justice shall be rendered, the consul assisting at the trial; and if any delinquent shall make his escape, the consul shall not be answerable for him in any manner whatever.

How crimes shall be punished.

ARTICLE XXII.

If an American citizen shall die in our country, and no will shall appear, the consul shall take possession of his effects; and if there shall be no consul, the effects shall be deposited in the hands of some person worthy of trust, until the party shall appear who has a right to demand them; but if the heir to the person deceased be present, the property shall be delivered to him without interruption; and if a will shall appear, the property shall descend agreeable to that will as soon as the consul shall declare the validity thereof.

How estates of deceased citizens shall be disposed of.

ARTICLE XXIII.

The consuls of the United States of America, shall reside in any seaport of our dominions that they shall think proper; and they shall be respected, and enjoy all the privileges which the consuls of any other nation enjoy; and if any of the citizens of the United States shall contract any debts or engagements, the consul shall not be in any manner accountable for them, unless he shall have given a promise in writing for the payment or fulfilling thereof, without which promise in writing, no application to him for any redress shall be made.

Consuls and their privileges.

ARTICLE XXIV.

Regulations in
case of war.

If any differences shall arise by either party infringing on any of the articles of this treaty, peace and harmony shall remain notwithstanding, in the fullest force, until a friendly application shall be made for an arrangement, and until that application shall be rejected, no appeal shall be made to arms. And if a war shall break out between the parties, nine months shall be granted to all the subjects of both parties, to dispose of their effects and retire with their property. And it is further declared, that whatever indulgences, in trade or otherwise, shall be granted to any of the Christian Powers, the citizens of the United States shall be equally entitled to them.

ARTICLE XXV

Duration of
treaty.

This treaty shall continue in full force, with the help of God, for fifty years.

We have delivered this book into the hands of the beforementioned Thomas Barclay, on the first day of the blessed month of Ramadan, in the year one thousand two hundred.

I certify that the annexed is a true copy of the translation made by Isaac Cardoza Nunez, interpreter at Morocco, of the treaty between the Emperor of Morocco and the United States of America.

THOMAS BARCLAY.

ADDITIONAL ARTICLE.

Vessels of
U. S. to be pro-
tected.

Grace to the only God.

I, the under-written, the servant of God, Taher Ben Abdelkack Fennish, do certify, that His Imperial Majesty, my master, (whom God preserve,) having concluded a treaty of peace and commerce with the United States of America, has ordered me, the better to compleat it, and in addition of the tenth article of the treaty, to declare, "That if any vessel belonging to the United States, shall be in any of the ports of his Majesty's dominions, or within gun-shot of his forts, she shall be protected as much as possible; and no vessel whatever, belonging either to Moorish or Christian Powers, with whom the United States may be at war, shall be permitted to follow or engage her, as we now deem the citizens of America our good friends."

And, in obedience to his Majesty's commands, I certify this declaration, by putting my hand and seal to it, on the eighteenth day of Ramadan, (a) in the year one thousand two hundred.

The servant of the King, my master, whom God preserve,

TAHER BEN ABDELKACK FENNISH.

I do certify that the above is a true copy of the translation made at Morocco, by Isaac Cordoza Nunez, interpreter, of a declaration made and signed by Sidi Hage Taher Fennish, in addition to the treaty between the Emperor of Morocco and the United States of America, which declaration the said Taher Fennish made by the express directions of his Majesty.

THOMAS BARCLAY.

(a) The Ramadan of the year of the Hegira 1200, commenced on the 28th June, in the year of our Lord 1786.

Now, KNOW YE, That we, the said John Adams and Thomas Jefferson, Ministers Plenipotentiary aforesaid, do approve and conclude the said treaty, and every article and clause therein contained, reserving the same nevertheless to the United States in Congress assembled, for their final ratification.

In testimony whereof, we have signed the same with our names and seals, at the places of our respective residence, and at the dates expressed under our signatures respectively.

JOHN ADAMS, (L. s.)
London, January 25th, 1787.

THOMAS JEFFERSON, (L. s.)
Paris, January 1st, 1787.

SECTION 2 — THE 1836 RENEWAL, ENTIRE (MILLER VOL. 4, DOCUMENT 81)

Treaty of Peace and Friendship (Renewal), September 16, 1836 (3 Jumada al-Akhira 1252). 8 Stat. 484.

Carrier: Hunter Miller, ed., *Treaties*, vol. 4: Documents 80–121, 1836–1846 (Washington: U.S. Government Printing Office, 1934), Doc. 81 — reproduced ENTIRE: print 33–70 (38 pp.; page map of record PDF = print + 27).

Staged carriers (MD5 of record): full scan a63c4bc7dc9f4b7b9e198d6c649980dd; 8 Stat. 484 scan 5c35f0652f09efb65faeceffc0565a8c.

Contents, in the edition's own order: the editor's headnote (print 33: the Arabic pages “are a reproduction of the pages of the original treaty”); the sealed facsimile, print 34–59 (al-shart + ordinal + numeral on every article page; Art. 25 + the twelve-month notice at print 59); Leib's opposite-page English (print 60–66; renewal note print 65; file-papers note print 66); the editor's closing notes (print 67–70: Leib's despatch No. 39 quoted; the Department's return of the ratified transcript; the editor's translation notes on Article 1 and Article 25; the seal note).

The renewal note (print 65) prints the instructions to Leib in extenso: “you will obtain a renewal of the old treaty exactly as it stands, for the further period of fifty years.” **Followed by:** the translation of record at 8 Stat. 484 (4 pp.).

The two deltas of record: the twelve-month notice clause added at Art. 25; the Additional Article of 1787 not embodied.

Cross-references: CORPUS volume Ch. 2–3; HIBAH volume Ch. 20–21.

81

MOROCCO : SEPTEMBER 16, 1836

Treaty of Peace, signed at Meccanez (Meknès or Mequinez) September 16, 1836 (3 Jumada II, A.H. 1252). Original in Arabic.

A document including a copy of the treaty in Arabic and an English translation, followed by a clause of conclusion under the seal of the United States consulate at Tangier, was signed by James R. Leib, consul and agent of the United States, on October 1, 1836.

Submitted to the Senate December 26, 1836. (Message of December 20, 1836.) Resolution of advice and consent January 17, 1837. Ratified by the United States January 28, 1837. As to the ratification generally, see the notes. Proclaimed January 30, 1837.

The following twenty-six pages of Arabic text are a reproduction of the pages of the original treaty; but they are arranged in left-to-right order of pagination. Then, from the above-mentioned document signed by James R. Leib on October 1, 1836, is printed the English translation, with the clause of conclusion reserving the treaty for the ratification of the President by and with the advice and consent of the Senate.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



الحمد لله ما ذا أتفيسد شروك الصالح
 التي جعلنا ما وقع الماير كائون
 وأبشناها في هذا الدفتر وقضنا
 عليها ما بعنا الشريعة لتبقى مستمرة
 أنشأه الله وليت بحضرة ملكنا سنة
 التتويج في ثالي جمادى الأخيرة
 عام اثنين وخمسين مائتين

الشَّرْطُ الْأَوَّلُ

إِنَّهَا فِي الشَّرْطِ الْمَذْمُومَةِ
 فِي هَذَا الدِّفْتَرِ مِثْلُ خَمْسَةٍ
 وَعِشْرُونَ شَرْطًا قَدْ قِيلَ مِنْ
 الْجَائِزِينَ وَنَ الْكَ عَلَى يَدِ الْوَافِعِ
 عَلَى أَمْرٍ مِنْهُمْ وَكِلَاهُمَا وَفَوْنُصُهُمْ
 جَيْشٌ لَا عَيْبَ الْمَغِيمِ وَفَتْهُ
 بِمَحْرُومَةٍ كُنْجَتَا

2 الشَّرْطُ الثَّانِي أَنَّهُ مِمَّا
 كَانَتْ الْفِتْرَةُ مَعَ أَيِّ جَنَسٍ
 كَانَ قَبْلَ تَخْرِجِ سَعِينَةَ مِنْ هَذِهِ
 الْجَمَانِيَّةِ وَقَدْ عَمِلَ سَنَجُورُ الْعَدُوِّ
 وَتَذَهَّبَ تَعْيِينَ الْعَدُوِّ وَإِقَامَتِي
 جِهَتَنَا وَإِقَامَ مَرْجِهَةِ الْمَارِ كَانُوا

ا

3 الشَّرْطُ الثَّالِثُ أَنَّهُ مَتَى

جُعِلَتِ الْقِرَّةُ مَعَ أَبِي جَنْشِرٍ كَانَ
 وَفِيضَتِ سَعِينَةُ مِنْ أَهْلِهَا إِلَى
 الْجَنْشِيرِ وَوَجَدَ فِيهَا مُسْلِمًا أَوْ
 نَصْرَانِيًّا وَلَهُمْ سَاعَةٌ فَإِنْ هُمْ
 يُسْتَرْحَوْنَ بِسَاعَتِهِمْ وَحَتَّى إِذَا اكْتَأَلُوا
 حَامِلِينَ سَاعَةَ الْجَنْشِيرِ وَبَيْنَهُمَا وَبَيْنَهُ
 الْقِرَّةَ بَلَا تَوْحُّدٍ مِنْ أَيْدِيهِمْ وَأَيْدِيهِمْ
 يَنْزُولُهُمَا مِمَّا بَيْنَهُمَا وَيَسْمَعُهُمُ مِنَ الْقُرَّةِ

الشَّرْطُ الرَّابِعُ تَكُونُ
 بَعْضُهَا عِلَاقَةً يَعْرِفُ بِهَا بَعْضُهَا
 بَعْضُهَا فِي الْبَحْرِ وَمِنْهَا الْغَنَى أَصْدُقُ
 لِمَعِينَةِ الْفِتْرَةِ لَا يَنْجُثُ عَنْهَا
 وَإِنْ تَابَكَيْهِ كَلَامُ الْبَرِّ آتِي بِهِ
 بَيِّنًا فَيُفْلَقَ سَعِيرٌ أَخْضَرُ

4

5
 الْقِسْرُكَ الْخَامِسُ أَنَّهُ مَهْمَا
 تَلَقَّيْتُ الشُّعْبُ فِي الْبَحْرِ وَكَانَتْ الْقِرَّةُ
 فَإِنَّ كُلَّ وَاحِدٍ مِنَ الْجَمْعَيْنِ لَا يَبْعَثُ
 لِاخْتِبَارِ السَّعِيَّةِ الَّتِي أَرَادَ اخْتِبَارَهَا
 إِلَّا فِلُوكَةً وَاحِدَةً بَيْنَهُمَا أَشْيَاءُ
 أَوْ ثَلَاثَةً بَعْدَ وَمَهْمَا خَرَجَتْ عِمَارَةٌ
 وَأُفْسِرَتْ شَيْئًا مِنْ أَحَدِ الْجَمْعَيْنِ
 مِنْ غَيْرِ كَيْفٍ فَإِنَّ صَاحِبَ الْعِمَارَةِ
 الَّتِي خَرَجَتْ يُصِلُّ لِلْآخِرِ مَا أُفْسِرَتْ

الشَّارِكُ الشَّارِكُ شَرَفٌ مِّنْهُمَا قَبْضُ
 الْمُسْلِمُونَ أَهْلُ جَنِينَا أَوْ مَلْعَتُهُمْ
 وَأَقْوَابِهِمْ يَسِيرٌ فَلَا نَصْرَ لَهُ إِلَّا اللَّهُ
 فَإِنَّهُ يُفْضَحُ وَكَذَلِكَ إِذَا لَقِبْتُمُ
 مُسْلِمِينَ مِنْ غَيْرِ إِذَا لَقِبْتُمُ وَدَّ خَلُورَ
 بِهِمْ لَا خَدَىٰ مَرَايِينَا قِيَانُ مَعِ
 يُسْتَرْ حُورٌ إِنَّهُمْ حَقٌّ أَمَانًا وَمَطَا
 تَعْمَلُ

6

الشَّرْطُ السَّابِعُ أَفْهَمْشِي ٦
 وَرَدَتْ سَعِينَةُ لِأَحَدِي مَرَّاسِي
 الْجَلَانِيَّةِ تَغْيِيرُ كَمَالِيَّةٍ أَوْ
 غَيْرَهَا بِإِنْفَاءِ تَغْيِيرُ وَإِلَى
 مِنْ غَيْرِ مَشْفَعَةٍ وَلَا حَرَجٍ

الشَّوْكَ الثَّامِنُ لَفْظُهُ وَقَعَ
 بِأُخْرَى الشُّعْبِ شَيْئًا وَمَا لَكَ إِلَى الْبَيْتِ
 وَصَعْتَ وَنَفَقًا حَتَّى أَصْلَحْتَ فِيهَا
 فَسَرَّ مِنْهَا فَإِنَّهَا مِنْهَا أَرَادَتْ لِحْمِلَ
 نَدَ الْبَيْتِ الثَّوْمِي الَّذِي وَصَعْتَ بِهَا
 تَحْمِلُهُ مِنْ غَنِي صَاكِنَةٍ وَغَنِيهَا

الشرط التاسع أنه متى حررت سعيته
 في ما حبيته من ثوابينا بما لنا تبغ على حالها
 حتى تنهني ما يصلح بها إقلا الخ وبعين
 موضع، آخر أو نفل السليح أو غير ذلك
 من الوجوه التي قليل بها ولا يغني عنها
 أكثر لا نسله أماننا وكذلك إن له خلكت
 سعيته للمروسة أو أجماعها إلى ما حتى
 له خلكت للمروسة فلا تكلف بشرول
 ملعتنا بل تبغ على ما لنا حتى نجمع
 برضاها

10 الشَّرْطُ الْعَامَّةُ أَنَّ مَنْ وَقَعَ فِتْنًا أَوْ
 إِحْدَى الْجَانِبَيْنِ مَعَ بَعْضِ أَهْلَائِ النَّصْرَى
 وَكَانَ الْقِتَالُ فَرِيضًا مِنْ بَعْضِ مُدِّ الْجَانِبَيْنِ
 فَإِنَّمَا تُعَيَّنُ بَعْضُنَا عَلَى ذِي الْإِثْمِ الْإِنْسِي
 حَتَّى يُغْلَبَ أَوْ يَذْهَبَ أَوْ حَرِّثَتْ
 سَعِيَّةٌ فِيهِ وَادُّنُونِ أَوْ غَيْرِ، فَإِنَّ
 النَّصْرَى الَّذِينَ يَتَوَلَّوْنَ هَؤُلَاءِ حَتَّى
 يَطْلُوعَ بِلَادُهُمْ مِنْ أَمْرِ اللَّهِ

11

الشَّطْرُ الْحَادِثُ عَشْرَ أَذْ مَقَرَّ كَلَّتِ الْفِرَّةُ
 بَيْنَنَا وَفَتَرَ جَنَسٍ مِنْ أَجْنَلِ الْبَصَارِ وَكُنَّا
 بِالْمَرْسَةِ وَأَرَادَتْ سَعِينَةُ الْخُرُوجَ مِنَ الْمَرْسَةِ
 وَأَرَادَتْ سَعِينَةُ الْعُدُوَّ تَتَّبَعْنَاهُ قَلْبًا فَخَرَجَ
 تَتَّبَعْنَاهُ حَتَّى تَمُضِيَ مِنَ الزَّوَارِ أَرْبَعَةٌ
 وَعِشْرُونَ سَاعَةً وَكَذَلِكَ سَفَرْنَا الْمَارِ كَانُوا
 إِذَا كَانَتْ بِالْمَرْسَةِ وَقَدْ زَمَلُوا الْفِرَّةَ وَأَرَادَتْ
 الْخُرُوجَ قَلْبًا تَتَّبَعْنَاهُ سَعِينَةُ حَتَّى تَمُضِيَ
 أَرْبَعَةٌ وَعِشْرُونَ سَاعَةً سَوَاءً كَانَتْ مِنْ
 سَفَرِ الْمُسْلِمِينَ أَوْ مِنْ سَفَرِ الْفَصَالِ وَكَذَلِكَ

12 الشُّرُطُ الثَّانِيَةُ عَشْرًا فَدُشْرُورَةٌ
 سَعِيَّةُ الْكُرَّةِ عَلَى إِحْدَى مَوَاسِينَا
 بِإِنَّمَا تُقَشَّرُ بِأَتْبَعِي عَلَى هَالِكَا
 وَمَعْمَا كَارِهِيَا أَسِيَّاهَا رِبَاقِيَّةُ
 كَلَابِيزُ مِنْهُ كُرْهَا وَلَا يَهْلِي عَامِلُ
 قَلْبَا الْبِلَادِ الْخِدْمَةِ السَّعِيَّةُ مِ
 رَبِّ السَّعِيَّةِ فِيمَةُ إِلَهَا الْأُسَيِّ

الشرط الثالث عشر أنه متى
 وردت سعيته الغرة على أبو مراب
 وردت وأخرجت المدافع بائنا
 لا يخرج عليهما من طلق الرأس
 إلا مثلما أخرجت من غير
 زيادة ولا نقصان

الشَّرْطُ الرَّابِعُ عَشْرَانُ قَسْبُهُ
 14 الثَّجَارُ يَكُونُونَ عَلَى عَاهَةٍ
 ثَجَارًا صَبِيُولًا وَيَكُونُونَ
 مُعَيَّرِينَ وَيَكُونُونَ مِثْلَ
 الْبُغْسِ الْغَرِيْبِ عِنْدَنَا فِي
 الْوَقْتِ وَيَذْهَبُونَ فِي الْمَدَنِ
 وَالْمَوَاسِي حَيْثُ شَاءُوا وَقَلَّ
 يَتَعَرَّضُ لِقَوْمٍ أَحَدٌ

الشَّرْكَ دَاخِلًا مِثْرَ عَشْرٍ أَرْبَعِينَ وَيَكُونُ
 15 مُشْتَغِلِينَ بِالشُّبُهَاتِ وَإِذَا أَرَادَ وَ—
 يَجْعَلُونَ مَرْتِفَافًا مَعَهُمْ أَوْ تُرْحِمَانِ بَلَا
 بِأَمْرِ بَدَا إِلَيْكَ وَلَا تُفْلَكُ وَسَوْ سَعِينَتِ
 إِلَى الْخُرَى وَلَا تُشَقِّقُ سَعِينَتُهُمَا لَمْ سَ—
 وَإِذَا أَرَادَ وَاجْعَلُوا مَن يُعَاوِزُهُمْ
 عَلَى أَسْرَارِ التَّوَسُّلِ أَوْ غَيْرِ مَا بَيْنَهُمْ
 مَا يُعْطُونَ سَوَى الْفَقْدِ زَالِيهِ يُعْطُونَ
 الْإِنْسَانُ مَن قَبْلَهُمْ — 2

الشَّزْلَةُ السَّادُسُ عَشَرَ أَفْعَ مَشْرُكَاتِ
 16
 الْفَرْزَةِ مِنَ الْجَائِنِينَ بِأَنْ أَسَارَى
 يَكُونُونَ رَأْسًا بِرَأْسٍ وَالرَّائِسُ بِالرَّائِسِ
 وَمِنْهُمْ رَائِسٌ بِشَوْكٍ رَائِسٌ وَالْجَحْرِ
 بِالْجَحْرِ وَهَذَا كَرَأَوَانِ لَمْ يَكْمُلْ
 الْعِدَّةُ يَتَبَيَّنُ فَتُعْطَى كُلُّ رَأْسٍ مِنْ
 الْجَائِنِينَ مِائَةُ رِبْلٍ بِشَرْحٍ أَنْ كَاتِبِي
 الْأَسْمَى مِنَ الْجَائِنِينَ أَكْثَرُ مِنْ سِتَّةٍ وَهَتَّى
 إِذْ أَرَادَ جَدَّاهُ مَرْكَائِكِهِ أَوْ تَأْمُرَ مِنْ
 الْجَائِنِينَ فَيَقْرِبُهُ بِالْمِائَةِ رِبْلٍ أَلَمْ تَكُنْ

الشَّرْطُ السَّابِعُ عَشَرَ فِي الشُّجَارِ
 17
 أَتُكَلِّمُ عَلَيْهِمُ الرِّبَاعَ وَآيَشْتَرِي
 إِلَّا مَا أَرَادُوا عَنِ كَيْفِ أَنْفُسِهِمْ
 وَكَرَّ إِلَيْكَ الرِّبَاعُ إِلَّا إِذْ كَانَتْ
 هُنَاكَ مَسَائِلُ جَارِيَةٍ مِمَّا
 أَلْعَادَهُ مَعَ مَنْ قَبْلَهُمْ مِنْ أَجْنَابِ
 انْقِطَاعِ فَيُحْمَلُونَهَا بِطَائِفِ رَاكِبِ

الشَّيْخُ الثَّامِي عَمْرَأَتِي السَّلَامُ إِلَيْهِ
 18 تَوَسَّلْ تَوَسَّلْ وَتَقَلَّبْ قَبْلَ وَضْعِكَ
 السَّيِّئَةِ لِأَجْلِ أَنْ لَا تَتَقَبَّ السَّيِّئَةُ
 مِنْ أَجْلِ إِنْ لَا تَحْفَظُوا أَنْ يَكُنْ كُفْرَتُكُمْ
 وَإِنْ كَانَتْ كَرَّ إِلَيْكَ فَرَاكَ أَلْفَ جَعَلْ
 أَلْفَ كُفْرَتِكَ مَوْلَانِي يُوَاضِدُ إِلَيْكَ
 وَخِدَّةً عَلَى الْقَعَادَةِ الْجَارِيَةِ مِنْ
 قَبْلِهِ وَأَمَّا السَّيِّئَةُ وَالسَّلَامُ وَمَا
 مَعَهَا بِإِسْنِهَا بِسِرِّيَّةٍ مِنْ ذَاكَ

والشرك — التاسع عشر
 أَنَّهُ لَا تُتَّفَقُ عَلَيْهِ بِمَرَّةٍ
 وَلَا قِيلَ شَيْئًا كَرَاهًا إِلَّا إِذَا
 كَانَ عَزِيزٌ بِغَيْرِ رَدٍّ
 فَإِنَّهُ يَتَمَادَى مَعَهُ عَلَى
 حَمِيلٍ مَّا أَرَادَ حَمْلَهُ

الشَّهِيدُ الْعَشْرُونَ أَفْئِدَةً
 20 مِمَّا جَنَّا أَعَزُّ مِنْ أَهْلِ جَنَّتِنَا
 جِنَايَةٍ أَوْ مَرْمُوهٍ إِهْلَاقَتَيْنَا
 سَنَجِفُّنَا فَإِنَّ دَجْلَكُمْ بِمِيسَةٍ
 قُورُنُصُوا جَنَّتِنَا وَإِذَا الْاِخْتِجَاجُ
 أَتَقُونُصُوا إِلَى أَصْحَابِ بَلَّاسَةٍ
 إِبْلَاسٍ وَيُعِينُهُ عَلَى ذِكْرِكُمْ

الشرف — العلاء والعشرون
 21
 أَنَدَّ إِذْ أَفْتَلَسَتْهُمُ نَضْرَاةُ أَوَّلِ الْفَلَسِ
 أَوْحَرَهُمْ فَلَمَّا نَدَّ لِحَيْتِهِ عَلَيْهِ بِالْفَأْوِ
 الشَّرْعِي مِنْ غَيْرِ زِيَاةٍ وَأَنْقَطَا
 وَيَكُونُ الْحَيْتُ مَحْضِي الْقَوْنُصُوا
 وَلَوَاهِي قَبْلَ فَوْجِ الْخَنَسِ
 فَلَا يُؤَاغِزُهُ الْقَوْنُصُوا وَلَا يَط
 جَنَى 2

22 مَا أَهَرُّ مِنْ جَنَسِ الْمَارِكَانِ فِي
 بَلَدِنَا وَلَمْ يُوصِرْ بِلَاقِ فَوْنُصُوعِ
 مَهْرَ الْبَيْتِ يَغْفُ عَلَى مَشْرُوكِهِ وَسَلَامَتِهِ
 وَإِنْ لَمْ يَكُنْ فَوْنُصُوعًا قَتْلُوعِ مَعْنَةٍ
 لَمْ يَمِمْ حَتَّى يَكْفُفْ مَنْ قَسَتْ يَمِينُهَا
 وَلَوْ أَلْكَاهُ مِنْ دُونِ تَيْمٍ ثَدٌّ قَتْعُكَ
 لَوْرَثَتِهِ مِنْ تَحْمِيلِ قَعْرِ أَوْ أَوْصَى
 جَحْكُ يَدِهِ لَمْ يَنْزُقْ مَالَهُ قَالَهُ
 بِذَلِكَ أَيْكَ — لِفَوْنُصُوعِ

الشُّرْكُ الثَّلَاثُ وَالْعِشْرُونَ 23
 الْقَوْنُصَوَاتُ يَكُونُونَ فِي أَيْ مَرَسَةٍ
 أَرَادُوا وَيَكُونُونَ مُوقِفِينَ مِثْلَ
 أَجْنَابٍ مِنْ قِبَلِهِمْ مِنَ الشَّطَرِ وَإِذَا
 تَعَامَلُوا مِنْ جَنْبِهِمْ مَعَ مُبْلِغٍ بِإِل
 وَأَثْلَعَهُ لَمْ يَلَا يُؤْخَذُ بِهِ الْقَوْنُصَوَاتُ
 وَآيُضْمَنُهُ إِلَّا لَمْ يَكُنْ الْقَوْنُصَوَاتُ
 لَعَمْرِي سَرَّكَ حَكْمٌ يَدْرِيهِ بَيْتُهُ
 وَأَمَّا إِذَا لَمْ يَغِيكَ حَكْمٌ يَدْرِيهِ فَلَا كَلَامَ
 مَعَهُ مِثْلَ جَمِيعِ الْقَوْنُصَوَاتِ

24

الْمَرْطُ الرَّابِعُ وَالْعِشْرُونَ أَفَدَ مِنْهَا ثَمَانِ مِائَةٍ
 أَمْرًا شَرِيحًا مِنْ شُرُوحِ الصَّلَاحِ بِأَرْبَعَةِ عَشَرَ
 أَمْرًا مَسْئَلَةً وَأَدْعَى الْأَمْرَ مَسْئَلَةً وَقَالَ
 إِنَّهَا أَلَيْسَتْ بِالْإِشْرَافِ وَكَهَالِ الْإِشْرَافِ
 بَيْنَهُمَا فَإِنَّ الصَّلَاحَ يَنْفَعُ عَلَى حَالِهِ
 وَيَنْجِي كُلَّ وَاحِدٍ مِنْهُمَا عَلَى مَا يَنْبَغِي
 هُوَ إِنْ أَلَمْ يُولِمْ أَحَدُهُمْ عَلَى الصَّلَاحِ
 وَمَنْعَ مِنْهُ كُلَّ الْإِمْتِنَاعِ فَإِنَّ الْفِتْرَةَ
 تُفْعَلُ حِينَئِذٍ وَتَجْمَعُ الشُّجَارُ تُضْرَبُ لَهَا
 قِصْعَةٌ تُشَبَّهِ الْجَلَدُ إِلَى أَنْ يَفْعُولُوا بِأَعْيُنِهِمْ وَأَوَّلُ
 تَبْطُلُ سَيَرَانَا عَلَى حُسْنٍ مِنْ أَجْلِ الْفِتْرِ وَتَحْتِ
 مِنْ جَمَلَتِهِمْ ٢

الشرط الخامس والعشرون
 25 أَوْ هَذَا الصَّحْفُ يَتَغَيَّرُ مُسَمَّرًا إِلَى
 نِشَاءِ اللَّهِ بِحَوْلِ اللَّهِ وَفُتُوهُ
 مُلَّةٌ فَنَحْمِصِي لِسَنَةً وَيَقُولُ خَيْرٌ
 يَنْزِلُ الدَّخْلُ لِيَتَبَيَّنَ عَلَى الْقَائِمِ فِي الْجَارِ حَتَّى
 يَخْبِرَ أَحَدًا الْجَانِبِ الْأُخْرَى مُدَّةً مِنْ
 سَنَةٍ بِأَوْ مُرَاجَةٍ قَطْعَةٍ فَحَيْثُ يَفِي
 يَنْقَطِعُ بَعْدَ ثَمَامَةٍ لِمَا لَكَ السَّنَةِ

[Translation]

In the name of God, the merciful and Clement!

(Abd Errahman Ibenu Kesham whom God exalt!)

Praise be to God!

This is the copy of the Treaty of peace which we have made with the Americans; and written in this book; affixing thereto our blessed Seal, that, with the help of God, it may remain firm for ever.

Written at Meccanez, the City of Olives, on the 3^d day of the month Jumad el lahhar, in the year of the Hegira 1252. (corresponding to Sept. 16. A.D. 1836.)

ART. I. We declare that both Parties have agreed that this Treaty, consisting of Twenty five Articles, shall be inserted in this Book, and delivered to James R. Leib, Agent of the United States, and now their Resident Consul at Tangier, with whose approbation it has been made, and who is duly authorized on their part, to treat with us, concerning all the matters contained therein.

ART. 2. If either of the parties shall be at war with any nation whatever, the other shall not take a commission from the enemy, nor fight under their colors.

ART. 3. If either of the parties shall be at war with any nation whatever, and take a prize belonging to that nation, and there shall be found on board subjects or effects belonging to either of the parties, the subjects shall be set at liberty, and the effects returned to the owners. And if any goods, belonging to any nation, with whom either of the parties shall be at war, shall be loaded on vessels belonging to the other party, they shall pass free and unmolested, without any attempt being made to take or detain them.

ART. 4. A signal, or pass, shall be given to all vessels belonging to both parties, by which they are to be known when they meet at sea: and if the Commander of a ship of war of either party shall have other ships under his convoy, the declaration of the Commander shall alone be sufficient to exempt any of them from examination.

ART. 5. If either of the parties shall be at war, and shall meet a vessel at sea belonging to the other, it is agreed, that if an examination is to be made, it shall be done by sending a boat with two or three men only: and if any gun shall be fired, and injury done, without reason, the offending party shall make good all damages.

ART. 6. If any Moor shall bring citizens of the United States, or their effects, to his Majesty, the citizens shall immediately be set at liberty, and the effects restored: and, in like manner, if any Moor, not a subject of these dominions, shall make prize of any of the citizens of America or their effects, and bring them into any of the ports of his Majesty, they shall be immediately released, as they will then be considered as under his Majesty's protection.

ART. 7 If any vessel of either party, shall put into a port of the other, and have occasion for provisions or other supplies, they shall be furnished without any interruption or molestation.

ART. 8. If any vessel of the United States, shall meet with a disaster at sea, and put into one of our ports to repair, she shall be at liberty to land and reload her cargo, without paying any duty whatever.

ART. 9. If any vessel of the United States, shall be cast on shore on any part of our coasts, she shall remain at the disposition of the owners, and no one shall attempt going near her without their approbation, as she is then considered particularly under our protection; and if any vessel of the United States shall be forced to put into our ports by stress of weather, or otherwise, she shall not be compelled to land her cargo, but shall remain in tranquility until the commander shall think proper to proceed on his voyage.

ART. 10. If any vessel of either of the parties shall have an engagement with a vessel belonging to any of the Christian powers, within gun-shot of the forts of the other, the vessel so engaged, shall be defended and protected as much as possible, until she is in safety: and if any American vessel shall be cast on shore, on the coast of Wadnoon,¹ or any coast thereabout, the people belonging to her, shall be protected and assisted, until by the help of God, they shall be sent to their country.

ART. 11. If we shall be at war with any Christian power, and any of our vessels sails from the ports of the United States, no vessel belonging to the enemy shall follow, until twenty-four hours after the departure of our vessels: and the same regulation shall be observed towards the American vessels sailing from our ports, be their enemies Moors or Christians.

ART. 12. If any ship of war belonging to the United States, shall put into any of our ports, she shall not be examined on any pretence

¹ Or Ouadnoun, on the Atlantic coast, about latitude 29° N.

whatever, even though she should have fugitive slaves on board, nor shall the governor or commander of the place compel them to be brought on shore on any pretext, nor require any payment for them.

ART. 13. If a ship of war of either party shall put into a port of the other, and salute, it shall be returned from the fort with an equal number of guns, not more or less.

ART. 14. The commerce with the United States, shall be on the same footing as is the commerce with Spain, or as that with the most favored nation for the time being; and their citizens shall be respected and esteemed, and have full liberty to pass and repass our country and sea-ports whenever they please, without interruption.

ART. 15. Merchants of both countries shall employ only such interpreters, and such other persons to assist them in their business, as they shall think proper. No commander of a vessel shall transport his cargo on board another vessel: he shall not be detained in port longer than he may think proper; and all persons employed in loading or unloading goods, or in any other labor whatever, shall be paid at the customary rates, not more and not less.

ART. 16. In case of a war between the parties, the prisoners are not to be made slaves, but to be exchanged one for another. Captain for Captain, Officer for Officer, and one private man for another; and if there shall prove a deficiency on either side, it shall be made up by the payment of one hundred Mexican dollars for each person wanting. And it is agreed, that all prisoners shall be exchanged in twelve months from the time of their being taken, and that this exchange may be effected by a merchant, or any other person, authorized by either of the parties.

ART. 17. Merchants shall not be compelled to buy or sell any kind of goods but such as they shall think proper: and may buy and sell all sorts of merchandise but such as are prohibited to the other Christian nations.

ART. 18. All goods shall be weighed and examined before they are sent on board; and to avoid all detention of vessels, no examination shall afterwards be made, unless it shall first be proved that contraband goods have been sent on board; in which case, the persons who took the contraband goods on board, shall be punished according to the usage and custom of the country, and no other person whatever

shall be injured, nor shall the ship or cargo incur any penalty or damage whatever.

ART. 19. No vessel shall be detained in port on any pretence whatever, nor be obliged to take on board any article without the consent of the Commander, who shall be at full liberty to agree for the freight of any goods he takes on board.

ART. 20. If any of the citizens of the United States, or any persons under their protection, shall have any dispute with each other, the Consul shall decide between the parties; and whenever the Consul shall require any aid, or assistance from our government, to enforce his decisions, it shall be immediately granted to him.

ART. 21. If a citizen of the United States should kill or wound a Moor, or, on the contrary, if a Moor shall kill or wound a citizen of the United States, the law of the Country shall take place, and equal justice shall be rendered, the Consul assisting at the trial; and if any delinquent shall make his escape, the Consul shall not be answerable for him in any manner whatever.

ART. 22. If an American citizen shall die in our country, and no will shall appear, the Consul shall take possession of his effects; and if there shall be no Consul, the effects shall be deposited in the hands of some person worthy of trust, until the party shall appear who has a right to demand them; but if the heir to the person deceased be present, the property shall be delivered to him without interruption; and if a will shall appear the property shall descend agreeably to that will, as soon as the Consul shall declare the validity thereof.

ART. 23. The Consul of the United States of America, shall reside in any seaport of our dominions that they shall think proper: and they shall be respected, and enjoy all the privileges which the Consuls of any other Nation enjoy: and if any of the citizens of the United States shall contract any debts or engagements, the Consul shall not be in any manner accountable for them, unless he shall have given a promise in writing for the payment or fulfilling thereof; without which promise in writing, no application to him for any redress shall be made.

ART. 24. If any differences shall arise by either party infringing on any of the Articles of this treaty, peace and harmony shall remain notwithstanding, in the fullest force, until a friendly application shall be made for an arrangement; and until that application shall be rejected,

no appeal shall be made to arms. And if a war shall break out between the parties, nine months shall be granted to all the subjects of both parties, to dispose of their effects and retire with their property. And it is further declared, that whatever indulgence, in trade or otherwise, shall be granted to any of the Christian powers, the citizens of the United States shall be equally entitled to them.

ART. 25. This Treaty shall continue in force, with the help of God, for fifty years; after the expiration of which term, the Treaty shall continue to be binding on both parties, until the one shall give twelve months notice to the other of an intention to abandon it; in which case, its operations shall cease at the end of the twelve months.

CONSULATE OF THE UNITED STATES OF AMERICA.

For The Empire of Morocco.

TO ALL WHOM IT MAY CONCERN.

BE IT KNOWN.

Whereas the undersigned, James R. Leib, a Citizen of the United States of North America, and now their Resident Consul at Tangier, having been duly appointed Commissioner, by *letters patent*, under the signature of the President and Seal of the United States of North America, bearing date, at the City of Washington, the Fourth day of July A.D. 1835, for negotiating and concluding a Treaty of *peace and friendship* between the United States of North America and the Empire of Morocco; I, therefore, James R. Leib, Commissioner as aforesaid, do conclude the foregoing Treaty and every Article and clause therein contained; reserving the same, nevertheless, for the final ratification of the President of the United States of North America, by and with the advice and consent of the Senate.

In testimony whereof, I have hereunto affixed my signature, and the Seal of this Consulate, on the First day of October, in the year of our Lord One Thousand eight hundred and *Thirty six*, and of the Independence of the United States the *Sixty First*.

[Seal] JAMES R. LEIB

NOTES

The stated date of the signature of this treaty is September 16, 1836; but according to the chronological tables, 3 Jumada II, A.H. 1252, was September 15; and in the despatch of James R. Leib, consul at Tangier, of the following October 11 (D. S., 5 Consular Despatches, Tangier, No. 39), which transmitted the treaty, he gives the equiva-

lent date as September 17. (See vol. 2, pp. xxi-xxii, for a statement regarding the Mohammedan calendar.)

This treaty was in substance, and, indeed, almost literally, a renewal of the treaty with Morocco of 1786 (Document 14). The additional article of the earlier treaty is not embodied in the renewal; and while Article 25 of each treaty provides that it shall continue in force for fifty years, this treaty adds that thereafter the treaty shall continue unless and until twelve months' notice of denunciation is given by one party or the other. In this connection the interesting question arises as to whether the terms of fifty years and of twelve months are to be calculated according to the Mohammedan calendar or according to our calendar.

THE NEGOTIATIONS

The instructions to Leib were dated August 10, 1835 (D. S., 14 Instructions, Barbary Powers, 5-7). The bearer of the communication was William B. Hodgson, who took with him on the U.S. frigate *Constitution* the presents "to the Emperor of Morocco and his officers upon the renewal of the Treaty with the United States".

The instructions regarding the terms of the treaty were as follows:

If there should appear to be a disposition on the part of the Emperor, so far to extend the privileges of the former arrangement, as to place the vessels of the two countries upon the same footing, you will not fail to take advantage of it. If, on the other hand, there should be an indisposition to grant more favourable terms than before, you will obtain a renewal of the old treaty exactly as it stands, for the further period of fifty years; with the addition of a stipulation, that after the expiration of that term the treaty shall continue to be binding on both parties, until the one shall give twelve months' notice to the other of an intention to abandon it; in which case, its operation shall cease at the end of the twelve months. This stipulation is not to be considered indispensable; but you are to make every effort to procure its insertion, and not to relinquish the point until you find it absolutely necessary to do so.

The full power to Leib varied slightly from the usual form, its clauses of substance being the following (D. S., 2 Credences, 235):

Know Ye; That reposing special trust and confidence in the integrity, prudence and ability of *J. R. Leib*, a citizen of the United States, and now their Resident Consul at Tangier, I have appointed him agent of the United States to meet, confer, treat and negotiate with His Majesty the Emperor of Morocco and his Government, or with any person or persons duly authorized in his or its behalf, of and concerning all matters of Navigation and Commerce between the United States and the said Government of Morocco, with full power to conclude and sign a treaty therewith transmitting the same to the Government of the United States for his final ratification by and with the advice and consent of the Senate.

Leib acknowledged receipt of the instructions in his despatch from Gibraltar of September 19, 1835 (D. S., 5 Consular Despatches, Tangier, No. 26). While Leib had some discussions with Moroccan officials, most of the negotiations were by correspondence, and during them he did not see the Emperor of Morocco at all. Finally, on August 22, 1836, Leib sent from Tangier the acting vice consul, John F. Mallowny, and the interpreter of the consulate, Peter Boyn, on a

mission to the Court of Morocco at Meknès. The instructions of Leib to Mullowny of August 21 (D. S., 5 Consular Despatches, Tangier, No. 36, enclosure) included the following:

You are provided with a copy of the old Treaty [the treaty of 1786, Document 14], procured from the Department of State; and a copy of the New Form, which has been proposed. The number of Articles in each is the same; & the principal modifications are to be found in Article 10, & 25, which can be easily pointed out to the Minister. The modification in Art. 10 is merely an incorporation of the *Additional Article*, attached to the old Treaty, into the body of the New:—and that in Article 25, the insertion of a clause providing that, at the expiration of the term of the new Treaty, either party shall give the other twelve months notice of an intention to abandon it. These modifications, it is presumed, will not be deemed of sufficient consequence to give rise to difficulty; but, as some importance is attached to them by Government, my instructions are, not to abandon them, until every effort has been made to procure their insertion.

You are also furnished with two blank books, to serve as models, for engrossing the New Treaty; or into which, if immediately concluded, it may be copied.

It was doubtless in the two blankbooks furnished by Leib that the two originals of the treaty were written; and the result of the negotiations is thus stated by Leib in his despatch from Tangier of September 26, 1836 (D. S., 5 Consular Despatches, Tangier, No. 38):

I have the honor to inform you that my Vice-Consul & Interpreter have this moment returned from Mequinas, bringing with them the new Treaty sealed by the Emperor. Every effort was made to introduce the additional points, but without success; with the exception of the clause in the last article by which *twelve months notice* is to be given by either party when disposed to abandon its provisions. The Treaty will be conveyed to the United States by a Special Messenger.

The most remarkable feature in the negotiation of the present Treaty is the fact that it was sealed by the Emperor *before* giving him his present, & without stipulating to give him any thing;—a circumstance unknown hitherto in the history of Morocco. Further information will be transmitted as soon as the necessary papers can be prepared. In the mean time, this note is sent by express to Gibraltar, in order that the Department may be possessed of the earliest intelligence.

THE FILE PAPERS

The original treaty with the seal of the Emperor of Morocco is in the file. It is written in a book in the usual Arabic order, with the preamble on a right page, the first of the twenty-five articles on the opposite left page, and the remaining articles on left pages, one on a page.

Also in the file is a copy of the treaty in Arabic, with an English translation. This document is a book very similar to the book which contains the original. The Arabic is on the right pages and the English translation on the corresponding left pages. Most of the English is written on very thin sheets of paper which are generally the alternate sheets of the book. The Arabic articles are not numbered. Following Article 25, or, as we would say, preceding it, is the certificate or clause of conclusion (which is printed), under the seal of the United States consulate at Tangier and signed by James R. Leib, consul and agent of the United States, on October 1, 1836.

The original and the copy were transmitted with the despatch of Leib of October 11, 1836, above mentioned, in which he wrote:

The Treaty, it will be observed, being sealed by the Emperor according to the diplomatic custom observed in this Empire, bears the form of a grant. Hence, it would be out of rule to deface the original with my signature or seal. I have therefore attached these to the copy and translation which will accompany the original, according to the usage observed by Diplomatic Agents in other parts of Barbary.

There are two original copies, sealed by the hands of the Emperor, the one being the counterpart of that which is now transmitted, destined to remain in this Consulate, the other to be deposited in the archives of the Department of State.

It thus appears that there were two originals under the seal of the Emperor of Morocco, one of which remained in the consulate at Tangier. No further record of that other original has been found.

In the copy of the treaty above described, on the page next to the back cover, is written the duplicate United States instrument of ratification, signed by President Jackson, sealed with the Great Seal, and attested by Secretary of State Forsyth. The first part of the original proclamation is on the page next preceding, and its final clauses are on the page opposite the certificate or clause of conclusion signed by Leib.

Also in the treaty file is the attested resolution of the Senate of January 17, 1837 (Executive Journal, IV, 598).

Another paper in the treaty file is a manuscript in pamphlet form which is clearly the draft submitted by Leib, which was called the "New Form" in his above-quoted instructions of August 21 to Mullowny. This has the twenty-five articles in Arabic and English, but not the preamble. The English of the draft is almost identical with Leib's translation of the treaty, except that Article 7 of the draft adds a clause of reciprocity in respect of vessels in commercial transactions and that Article 10 has incorporated in it the substance of the additional article of the treaty of 1786 (Document 14).

The original Arabic text is first reproduced above; but the twenty-six pages of Arabic are arranged in left-to-right order of pagination; then follows the text of the English translation with the clause of conclusion signed by Leib, collated with the copy in the file. It is this translation which is printed in the Statutes at Large and in treaty collections generally.

RATIFICATION AND PROCLAMATION

In the notes to Document 14 are some observations regarding the general practice in Morocco in respect of ratification of treaties.

It was on January 30, 1837, that the United States instrument of ratification was transmitted to Leib for delivery to the Emperor of Morocco. The following is an extract from the instructions of that date (D. S., 14 Instructions, Barbary Powers, 9):

The new Treaty between the United States and the Empire of Morocco, sealed by the Emperor, together with a copy and translation, signed by you, which were

transmitted by the hands of Mr. John F. Mulowny, accompanied by a despatch from you of the 11th. of October, has been received, and a transcript of the copy in English ratified by the President with the advice and consent of the Senate is herewith returned by the same bearer for the purpose of being delivered to the Emperor.

It thus seems that the United States instrument of ratification included the English translation only. The receipt of the ratification was acknowledged by Leib in his despatch of March 20, 1837 (D. S., 5 Consular Despatches, Tangier), in which he wrote that it would "be conveyed to the Emperor together with his presents, without any unnecessary delay". Accordingly, it is to be presumed that the United States ratification was duly delivered some time shortly after the date of that despatch.

The proclamation of January 30, 1837, did not await the delivery of the United States instrument of ratification to the Emperor of Morocco; it recites that "the said Treaty has been duly ratified by the respective Governments"; and printed copies of the proclamation were transmitted to Congress by President Jackson with his message of February 9, 1837 (Richardson, III, 279; House Document No. 145, 24th Congress, 2d session, serial 304).

THE ARABIC TEXT

The writings in Arabic have been examined by Professor C. Snouck Hurgronje, of Leiden. From his report it appears that the differences in the Arabic between the original and the copy are of the most trifling character. The introduction, except for the seal, and fifteen articles, are exactly the same, and in the other articles there are a few verbal or orthographical differences of no moment.

Having compared the original of this treaty with that of the treaty of 1786 (Document 14), Professor Snouck Hurgronje finds that aside from the preamble and the opening and closing articles, the Arabic of the treaty of 1836 is almost exactly the same as that of the earlier treaty. Of the twenty-three articles numbered 2 to 24, eighteen are identical. Article 14 differs only in the order of the sentences; in Articles 5, 8, and 9, the trifling differences are merely orthographical; and in Article 11 one Arabic word for "twenty" is used in the early treaty and another word in the later.

Accordingly, the comments of Dr. Snouck Hurgronje on the English translation of the treaty of 1786, with his notes and translation of various articles, which follow the text of Document 14 in volume 2 at page 220, should be consulted.

In respect of the few real differences between the Arabic text of this treaty and that of the treaty of 1786, Dr. Snouck Hurgronje writes as follows:

The preamble differs from that of the treaty of 1786 in having a superscription, "In the name of God, the Compassionate, the Merciful"; and after the word "seal" is the word "al-sharîf", meaning "the blessed, the noble".

The second sentence of the preamble of this treaty, which gives the date, may be thus translated: "Written at Miknâsah of the Olives on the third of Jumâda al-Akhîrah [Jumada II], one thousand two hundred and fifty-two."

The seal of this treaty (which is not legible) naturally differs from that of the former treaty.

In Article 1 the second sentence of the later treaty may be translated thus: "That took place in the presence of their Agent and Plenipotentiary and consul general, James Leib, residing at this time in the well-preserved Tangier."

Article 25 of this treaty is thus translated: "This treaty shall continue in full force, if God please, by God's might and power, a period from [*sic*] fifty years, and it shall continue to be in force between the two Governments in accordance with the prevailing rule until either of the parties gives notice to the other in a period from [*sic*] a year, of his intention to abandon [break] it, in which case it will cease at the end of that year."

Sept. 16, 1836.

Proclamation
of the President
of the U. S.,
Jan. 30, 1837.

TREATY WITH MOROCCO. (a)

In the name of God, the merciful and clement!

Emperor's	Abd	seal.
	Errahman	
	Ibenu Kesham,	
	whom God	
	exalt!	

PRAISE BE TO GOD!

This is the copy of the Treaty of Peace which we have made with the Americans and written in this book; affixing thereto our blessed seal, that, with the help of God, it may remain firm forever.

Written at Meccanez, the city of Olives, on the 3d day of the month Jumad el lahhar, in the year of the Hegira 1252. (Corresponding to Sept. 16. A. D. 1836.)

Mutual agree-
ment of the
parties to the
treaty.

ART. 1. We declare that both parties have agreed that this treaty, consisting of twenty-five articles, shall be inserted in this book, and delivered to James R. Leib, agent of the United States, and now their resident consul at Tangier, with whose approbation it has been made, and who is duly authorized on their part, to treat with us, concerning all the matters contained therein.

Neither party
to take commis-
sions from an
enemy.

ART. 2. If either of the parties shall be at war with any nation whatever, the other shall not take a commission from the enemy, nor fight under their colors.

Persons, &c.
of one party,
captured in an
enemy's vessel,
to be released.

ART. 3. If either of the parties shall be at war with any nation whatever, and take a prize belonging to that nation, and there shall be found on board subjects or effects belonging to either of the parties, the subjects shall be set at liberty, and the effects returned to the owners. And if any goods, belonging to any nation, with whom either of the parties shall be at war, shall be loaded on vessels belonging to the other party, they shall pass free and unmolested, without any attempt being made to take or detain them.

Vessels to have
passports.

ART. 4. A signal, or pass, shall be given to all vessels belonging to both parties, by which they are to be known when they meet at sea; and if the commander of a ship of war of either party shall have other ships under his convoy, the declaration of the commander shall alone be sufficient to exempt any of them from examination.

Visit of vessels
at sea.

ART. 5. If either of the parties shall be at war, and shall meet a vessel at sea belonging to the other, it is agreed, that if an examination is to be made, it shall be done by sending a boat with two or three men only: and if any gun shall be fired, and injury done, without reason, the offending party shall make good all damages.

American citi-
zens and effects
to be restored.

ART. 6. If any Moor shall bring citizens of the United States, or their effects, to his Majesty, the citizens shall immediately be set at liberty, and the effects restored; and, in like manner, if any Moor, not a subject of these dominions, shall make prize of any of the citizens

(a) For the treaty with Morocco of January 1787, see ante, page 100.

of America or their effects, and bring them into any of the ports of his Majesty, they shall be immediately released, as they will then be considered as under his Majesty's protection.

ART. 7. If any vessel of either party, shall put into a port of the other, and have occasion for provisions or other supplies, they shall be furnished without any interruption or molestation.

Vessels in port to be supplied.

ART. 8. If any vessel of the United States, shall meet with a disaster at sea, and put into one of our ports to repair, she shall be at liberty to land and reload her cargo, without paying any duty whatever.

No duty in case of vessels putting in to repair.

ART. 9. If any vessel of the United States, shall be cast on shore on any part of our coasts, she shall remain at the disposition of the owners, and no one shall attempt going near her without their approbation, as she is then considered particularly under our protection; and if any vessel of the United States shall be forced to put into our ports by stress of weather, or otherwise, she shall not be compelled to land her cargo, but shall remain in tranquillity until the commander shall think proper to proceed on his voyage.

Stranded vessels to be protected.

ART. 10. If any vessel of either of the parties shall have an engagement with a vessel belonging to any of the Christian Powers, within gun-shot of the forts of the other, the vessel so engaged, shall be defended and protected as much as possible, until she is in safety: and if any American vessel shall be cast on shore, on the coast of Wadnoon, or any coast thereabout, the people belonging to her, shall be protected and assisted, until by the help of God, they shall be sent to their country.

Vessels engaged within gunshot of forts to be protected.

ART. 11. If we shall be at war with any Christian Power, and any of our vessels sails from the ports of the United States, no vessel belonging to the enemy shall follow, until twenty-four hours after the departure of our vessels: and the same regulations shall be observed towards the American vessels sailing from our ports, be their enemies Moors or Christians.

Enemy's vessels not allowed to follow for 24 hours.

ART. 12. If any ship of war belonging to the United States, shall put into any of our ports, she shall not be examined on any pretence whatever, even though she should have fugitive slaves on board, nor shall the governor or commander of the place compel them to be brought on shore on any pretext, nor require any payment for them.

Ships of war not to be examined in port.

ART. 13. If a ship of war of either party shall put into a port of the other, and salute, it shall be returned from the fort with an equal number of guns, not more or less.

Salutes to be returned.

ART. 14. The commerce with the United States, shall be on the same footing as is the commerce with Spain, or as that with the most favored nation for the time being; and their citizens shall be respected and esteemed, and have full liberty to pass and repass our country and sea-ports whenever they please, without interruption.

American commerce on the most favored footing.

ART. 15. Merchants of both countries shall employ only such interpreters, and such other persons to assist them in their business, as they shall think proper. No commander of a vessel shall transport his cargo on board another vessel; he shall not be detained in port longer than he may think proper; and all persons employed in loading or unloading goods, or in any other labor whatever, shall be paid at the customary rates, not more and not less.

Employment of interpreters, &c.

ART. 16. In case of a war between the parties, the prisoners are not to be made slaves, but to be exchanged one for another, captain for captain, officer for officer, and one private man for another; and if there

Exchange of prisoners.

shall prove a deficiency on either side, it shall be made up by the payment of one hundred Mexican dollars for each person wanting. And it is agreed, that all prisoners shall be exchanged in twelve months from the time of their being taken, and that this exchange may be effected by a merchant, or any other person, authorized by either of the parties.

No compulsion
in buying or
selling.

ART. 17. Merchants shall not be compelled to buy or sell any kind of goods but such as they shall think proper: and may buy and sell all sorts of merchandise but such as are prohibited to the other Christian nations.

No examina-
tion of goods on
board, except,
&c.

ART. 18. All goods shall be weighed and examined before they are sent on board; and to avoid all detention of vessels, no examination shall afterwards be made, unless it shall first be proved that contraband goods have been sent on board; in which case, the persons who took the contraband goods on board, shall be punished according to the usage and custom of the country, and no other person whatever shall be injured, nor shall the ship or cargo incur any penalty or damage whatever.

No detention
of vessels.

ART. 19. No vessel shall be detained in port on any pretence whatever, nor be obliged to take on board any article without the consent of the commander, who shall be at full liberty to agree for the freight of any goods he takes on board.

Disputes be-
tween Ameri-
cans, &c. to be
decided by the
consul, &c.

ART. 20. If any of the citizens of the United States, or any persons under their protection, shall have any dispute with each other, the consul shall decide between the parties; and whenever the consul shall require any aid, or assistance from our Government, to enforce his decisions, it shall be immediately granted to him.

Killing, &c.
punishable by
the law of the
country.

ART. 21. If a citizen of the United States should kill or wound a Moor, or, on the contrary, if a Moor shall kill or wound a citizen of the United States, the law of the country shall take place, and equal justice shall be rendered, the consul assisting at the trial; and if any delinquent shall make his escape, the consul shall not be answerable for him in any manner whatever.

Persons dying
intestate; care
of their effects.

ART. 22. If an American citizen shall die in our country, and no will shall appear, the consul shall take possession of his effects; and if there shall be no consul, the effects shall be deposited in the hands of some person worthy of trust, until the party shall appear who has a right to demand them; but if the heir to the person deceased be present, the property shall be delivered to him without interruption; and if a will shall appear the property shall descend agreeably to that will, as soon as the consul shall declare the validity thereof.

Residence of
consul. [It is
generally at
Tangier.]

ART. 23. The consul of the United States of America, shall reside in any seaport of our dominions that they shall think proper: and they shall be respected, and enjoy all the privileges which the consuls of any other nation enjoy: and if any of the citizens of the United States shall contract any debts or engagements, the consul shall not be in any manner accountable for them, unless he shall have given a promise in writing for the payment or fulfilling thereof; without which promise in writing, no application to him for any redress shall be made.

No appeal to
arms until refu-
sal of friendly
arrangement.

ART. 24. If any differences shall arise by either party infringing on any of the articles of this treaty, peace and harmony shall remain notwithstanding, in the fullest force, until a friendly application shall be made for an arrangement; and until that application shall be rejected, no appeal shall be made to arms. And if a war shall break out between the parties, nine months shall be granted to all the subjects of both parties, to dispose of their effects and retire with their property. And

it is further declared, that whatever indulgence, in trade or otherwise, shall be granted to any of the Christian Powers, the citizens of the United States shall be equally entitled to them.

In case of war, nine months allowed to settle affairs, &c.

ART. 25. This treaty shall continue in force, with the help of God, for fifty years; after the expiration of which term, the treaty shall continue to be binding on both parties, until the one shall give twelve months' notice to the other, of an intention to abandon it; in which case, its operations shall cease at the end of the twelve months.

Treaty to last fifty years, &c.

*Consulate of the United States of America. }
For the Empire of Morocco. }*

TO ALL WHOM IT MAY CONCERN.

Be it known. Whereas the undersigned, James R. Leib, a citizen of the United States of North America, and now their resident consul at Tangier, having been duly appointed commissioner, by *letters patent*, under the signature of the President and seal of the United States of North America, bearing date, at the city of Washington, the 4th day of July A. D. 1835, for negotiating and concluding a treaty of *peace and friendship* between the United States of North America and the Empire of Morocco; I, therefore, James R. Leib, Commissioner as aforesaid, do conclude the foregoing treaty and every article and clause therein contained; reserving the same, nevertheless, for the final ratification of the President of the United States of North America, by and with the advice and consent of the Senate.

Final ratification reserved for President U. S.

In testimony whereof, I have hereunto affixed my signature, and the seal of this consulate, on the 1st day of October, in the year of our Lord one thousand eight hundred and thirty-six, and of the Independence of the United States the sixty-first.

JAMES R. LEIB, (L. S.)

GENERAL CONVENTION OF PEACE, FRIENDSHIP, COMMERCE, AND NAVIGATION,

Between the United States of America and the Peru-Bolivian Confederation.

THE United States of America and the Peru-Bolivian Confederation, desiring to make firm and permanent the peace and friendship which happily subsist between them, have resolved to fix, in a clear, distinct, and positive manner, the rules which shall, in future, be religiously observed between the one and the other, by means of a treaty, or general convention of peace, friendship, commerce, and navigation.

For this desirable purpose, the President of the United States of America has conferred full powers on Samuel Larned, Chargé d'Affaires of the said States, near the Government of Peru; and the Supreme Protector of the north and south Peruvian States, President of the Republic of Bolivia, entrusted with the direction of the foreign relations of the Peru-Bolivian Confederation, has conferred like powers on John Garcia del Rio, Minister of State in the Department of Finance

Nov. 13, 1836.

Ratifications exchanged.
May 28, 1838.
Proclamation of the President of the U. S.,
Oct. 3, 1838.
Peace and friendship.

Negotiators.

SECTION 3 — THE 1952 JUDGMENT (OBJECT OF STUDY)

Rights of Nationals of the United States of America in Morocco (France v. United States of America). Judgment of August 27, 1952. I.C.J. Reports 1952, p. 176.

Carrier: official pull, staged 2026-08-27; MD5 of record 66341eaf63930f49f3cdc56a05376bdb. Page map: PDF = print - 172 (PDF 14 = print 186; PDF 41 = print 213).

Warrant class (a): the post-1836 event is itself the object of study; never cited for regime content.

Contents: print 176 (first page of the judgment); print 189 (the United States non-renunciation submission, E-1); print 201 (the confinement sentence — "apart from the special rights under Articles 20 and 21 of the Treaty of 1836 and those which arise from the provisions of the Act of Algeciras"); print 212-213 (the operative part, E-2, including the "replaced" dictum answered of record).

Cross-references: CORPUS volume Ch. 14-16; HIBAH volume Ch. 33.

INTERNATIONAL COURT OF JUSTICE

1952
August 27th
General List :
No. 11

YEAR 1952

August 27th, 1952

CASE CONCERNING
RIGHTS OF NATIONALS OF
THE UNITED STATES OF AMERICA
IN MOROCCO
(FRANCE *v.* UNITED STATES OF AMERICA)

Economic liberty without any inequality in Morocco in the General Act of Algeciras.—Effect of establishment of Protectorate thereon.—Effect of discrimination on validity of Residential Decree of December 30th, 1948, regulating imports.

Consular jurisdiction in French Zone of Morocco as based on bilateral treaties, most-favoured-nation clauses and multilateral treaties.—Meaning of “dispute” in Treaty of 1836 between Morocco and the United States ; whether applicable to criminal and civil matters.—Effect of renunciation by other States of consular jurisdiction.—Effect of Convention of Madrid and Act of Algeciras on consular jurisdiction.—Custom and usage.

“Right of assent” to Moroccan legislation as corollary of consular jurisdiction.—Assent necessary for application of Moroccan laws in consular courts.—Local laws contrary to treaty rights.

Fiscal immunity as based on Convention of Madrid and Act of Algeciras and most-favoured-nation clauses.

Interpretation of Article 95 of Act of Algeciras.

JUDGMENT

Present : President Sir Arnold McNAIR ; Judges BASDEVANT, HACKWORTH, ZORIČIĆ, KLAESTAD, BADAWI, READ, HSU MO, LEVI CARNEIRO, Sir Benegal RAU, ARMAND-UGON ; Registrar HAMBRO.

other, the Consul shall decide between the parties ; and whenever the Consul shall require any aid, or assistance from our government, to enforce his decisions, it shall be immediately granted to him.

Article 21.—If a citizen of the United States should kill or wound a Moor, or, on the contrary, if a Moor shall kill or wound a citizen of the United States, the law of the country shall take place, and equal justice shall be rendered, the Consul assisting at the trial ; and if any delinquent shall make his escape, the Consul shall not be answerable for him in any manner whatever."

It is argued that Article 20 should be construed as giving consular jurisdiction over all disputes, civil and criminal, between United States citizens and protégés. France, on the other hand, contends that the word "dispute" is limited to civil cases. It has been argued that this word in its ordinary and natural sense would be confined to civil disputes, and that crimes are offences against the State and not disputes between private individuals.

The Treaty of 1836 replaced an earlier treaty between the United States and Morocco which was concluded in 1787. The two treaties were substantially identical in terms and Articles 20 and 21 are the same in both. Accordingly, in construing the provisions of Article 20—and, in particular, the expression "shall have any dispute with each other"—it is necessary to take into account the meaning of the word "dispute" at the times when the two treaties were concluded. For this purpose it is possible to look at the way in which the word "dispute" or its French counterpart was used in the different treaties concluded by Morocco : e.g., with France in 1631 and 1682, with Great Britain in 1721, 1750, 1751, 1760 and 1801. It is clear that in these instances the word was used to cover both civil and criminal disputes.

It is also necessary to take into account that, at the times of these two treaties, the clear-cut distinction between civil and criminal matters had not yet been developed in Morocco.

Accordingly, it is necessary to construe the word "dispute", as used in Article 20, as referring both to civil disputes and to criminal disputes, in so far as they relate to breaches of the criminal law committed by a United States citizen or protégé upon another United States citizen or protégé.

* * *

The second point arises out of the United States Submission that consular jurisdiction was acquired "in all cases in which an American citizen or protégé was defendant through the effect of the most-favoured-nation clause and through custom and usage" and that such jurisdiction was not affected by the surrender by Great Britain in 1937 of its rights of jurisdiction in the French Zone and has never been renounced expressly or impliedly by the United States.

nature of a provisional situation acquiesced in by the Moroccan authorities.

*

Accordingly, it is necessary to conclude that, apart from the special rights under Articles 20 and 21 of the Treaty of 1836 and those which arise from the provisions of the Act of Algeciras, to which reference has been made above, the United States claim to exercise and enjoy, as of right, consular jurisdiction and other capitulatory rights in the French Zone came to an end with the termination of "all rights and privileges of a capitulatory character in the French Zone of the Shereefian Empire" by Great Britain, in pursuance of the provisions of the Convention of 1937.

* * *

The Court will now consider the claim that United States nationals are not subject, in principle, to the application of Moroccan laws, unless they have first received the assent of the United States Government.

The French Submission in this regard reads as follows :

"That the Government of the United States of America is not entitled to claim that the application of all laws and regulations to its nationals in Morocco requires its express consent ;

That the nationals of the United States of America in Morocco are subject to the laws and regulations in force in the Shereefian Empire and in particular the regulation of December 30th, 1948, on imports not involving an allocation of currency, without the prior consent of the United States Government."

The United States Submission in this regard reads as follows :

"4. Under the regime of extraterritorial jurisdiction now exercised by the United States in Morocco, United States citizens are not subject, in principle, to the application of Moroccan laws.

Such laws become applicable to the United States citizens only if they are submitted to the prior assent of the United States Government and if this Government agrees to make them applicable to its citizens. The Dahir of December 30, 1948, not having been submitted to the prior assent of the United States Government, cannot be made applicable to United States citizens."

The claim that Moroccan laws are not binding on United States nationals, unless assented to by the Government of the United

(e) the schedule of values, if any, which may have been prepared by the Committee on Customs Valuations referred to in Article 96 or by any committee which may have been substituted therefor by arrangements to which France and the United States have assented expressly or by implication ;

(f) any other factor which is required by the special circumstances of a particular consignment or kind of merchandise.

The factors referred to above are not arranged in order of priority but should operate freely, within any limits that have been, or may be, prescribed under Article 96 of the Act ; and, in view of the governing principle of economic equality, the same methods must be applied without discrimination to all importations, regardless of the origin of the goods or the nationality of the importers. The power of making the valuation rests with the Customs authorities, but it is a power which must be exercised reasonably and in good faith.

* * *

For these reasons,

THE COURT,

on the Submissions of the Government of the French Republic,
unanimously,

Rejects its Submissions relating to the Decree of December 30th, 1948, issued by the Resident General of the French Republic in Morocco ;

unanimously,

Finds that the United States of America is entitled, by virtue of the provisions of its Treaty with Morocco of September 16th, 1836, to exercise in the French Zone of Morocco consular jurisdiction in all disputes, civil or criminal, between citizens or protégés of the United States ;

by ten votes to one,

Finds that the United States of America is also entitled, by virtue of the General Act of Algeciras of April 7th, 1906, to exercise in the French Zone of Morocco consular jurisdiction in all cases, civil or criminal, brought against citizens or protégés of the United States, to the extent required by the provisions of the Act relating to consular jurisdiction ;

by six votes to five,

Rejects, except as aforesaid, the Submissions of the United States of America concerning consular jurisdiction ;

unanimously,

Finds that the United States of America is not entitled to claim that the application to citizens of the United States of all laws and regulations in the French Zone of Morocco requires the assent of the Government of the United States, but that the consular courts of the United States may refuse to apply to United States citizens laws or regulations which have not been assented to by the Government of the United States ;

on the Counter-Claim of the Government of the United States of America,

by six votes to five,

Rejects the Submissions of the United States of America relating to exemption from taxes ;

by seven votes to four,

Rejects the Submissions of the United States of America relating to the consumption taxes imposed by the Shereefian Dahir of February 28th, 1948 ;

by six votes to five,

Finds that, in applying Article 95 of the General Act of Algieras, the value of merchandise in the country of origin and its value in the local Moroccan market are both elements in the appraisal of its cash wholesale value delivered at the custom-house.

Done in English and French, the English text being authoritative, at the Peace Palace, The Hague, this twenty-seventh day of August, one thousand nine hundred and fifty-two, in three copies, one of which will be placed in the archives of the Court and the others will be transmitted to the Government of the French Republic and to the Government of the United States of America, respectively.

(Signed) Arnold D. McNAIR,
President.

(Signed) E. HAMBRO,
Registrar.

SECTION 4 — THE PLEADED RECORD (U.S. COUNTER-MEMORIAL, 1951)

United States of America. Counter-Memorial. Rights of Nationals of the United States of America in Morocco (France v. United States of America). International Court of Justice, December 20, 1951.

Carrier: case-11 pleadings scan (559 pp.), staged 2026-09-05 via the Wayback capture of the superseded icj-cij.org URL; container MD5 468d716d70ebe1794d7824a494252412; page map PDF = print + 256. Extract of record MD5 ac4971dcebdb023aab48b31fc26370cc; pin register ICJ8949_pinmap.md.

Pleaded positions, not holdings — warrant class (a); never cited for regime content.

Contents (print order): 271 (the Art. 20/21 summary); 363 (the French two-stage theory; GB 1856 Art. VIII verbatim); 364 (GB 1856 Art. IX verbatim — the defendant's-nationality forum); 365 (the United States refutation — "unsound"); 366 (Spain 1861 Arts. XI-XII); 367 (Spain 1767 Art. XII; Spain 1799 Art. IV; Netherlands 1777 Art. XVI — verbatim); 369 (the core: "the text of 1836 was only a literal copy of the 1787 Treaty," with Arts. 20/21 verbatim); 370 (the "dispute" period-usage argument; the consul's active-assistance privilege); 371 (actor sequitur forum rei); 406-407 (the United States Submissions 3-4 — never renounced, expressly or impliedly).

Cross-references: CORPUS volume Ch. 7-10, 16; HIBAH volume Ch. 33.

"The commerce with the United States shall be on the same footing as is the commerce with Spain, or as that with the most favored nation for the time being and their citizens shall be respected and esteemed and have full liberty to pass and repass our country and seaports whenever they please, without interruption." (Annex 18.)

Article 17 provided in addition :

"Merchants shall not be compelled to buy or sell any kind of goods but such as they shall think proper ; and may buy and sell all sorts of merchandise but such as are prohibited to the other Christian nations." (Annex 18.)

So far as concerned extraterritorial jurisdiction, Article 20 dealt with civil and criminal disputes arising between American nationals or proteges :

"If any of the citizens of the United States, or any persons under their protection, shall have any disputes with each other, the Consul shall decide between the parties and whenever the Consul shall require any aid or assistance from our Government to enforce his decisions it shall be immediately granted to him." (Annex 18.)

Article 21 dealt with criminal mixed cases by providing :

"If a citizen of the United States should kill or wound a Moor, or, on the contrary, if a Moor shall kill or wound a citizen of the United States, *the law of the country shall take place*, and equal justice shall be rendered, the Consul assisting at the trial ; and if any delinquent shall make his escape, the Consul shall not be answerable for him in any manner whatever." (Italics supplied ; Annex 18.)

So far as concerned most-favored-nation treatment, one of the most significant features of the treaty concluded by the United States in 1787 was the most-favored-nation clause included in Article 24, which had never been included in such sweeping terms in previous treaties concluded by Morocco :

".... and it is further declared, that whatever indulgences in trade or otherwise, shall be granted to any of the Christian Powers, the citizens of the United States shall be equally entitled to them". (Annex 18.)

By virtue of the most-favored-nation clause, the United States had acquired by the end of the 18th Century rights much larger in scope than those specifically mentioned in its treaty, including :

- (a) the economic rights granted to Spain and to Great Britain ; principle of freedom of commerce as such ; right of United States traders not to pay customs duties on imports over 10 % of the value of the product ; immunity of United States traders from taxes of all kind, and other privileges ;
- (b) the jurisdictional rights granted to Spain in 1799, resulting in jurisdiction of the American consuls over all disputes, civil and criminal, in which their nationals were defendants.

ional or anomalous character. But this is solely the result of evolution and the conclusion cannot be drawn from it that the system of extraterritoriality had an anomalous and exceptional character when it developed in Morocco and other Mohammedan States from the 16th to the 19th Centuries. Thus the historical result—the fact that today the principle of territorial jurisdiction is the rule and the principle of the personality of law the exception—should not be adopted as a general principle of interpretation of capitulations, and the extraterritorial institutions of Morocco should not be analyzed in terms of derogations to the principle of territorial sovereignty.

When applied to the case of Morocco, the theory that extraterritorial jurisdiction should be analyzed in terms of derogation from territorial sovereignty leads to conclusions inconsistent with the terms of the treaties. Starting from the concept that the exercise of criminal jurisdiction by the foreign consul was a more extensive derogation from territorial sovereignty than the exercise of civil jurisdiction, the French Government reaches the conclusion that there existed two states of extraterritorial jurisdiction in Morocco: the stage of *Consular Jurisdiction*, in which the foreign consul exercised only civil jurisdiction in litigation between his nationals, and the stage of *Capitulatory System*, in which the foreign consul exercised, in addition, criminal jurisdiction over the nationals of his country, as well as jurisdiction in mixed civil cases involving his nationals as defendants and natives as plaintiffs. It may be that, in reaching this distinction, the exercise of jurisdiction in mixed civil cases was also considered an unwarranted derogation from territorial sovereignty by the French Government. In any case, the point of this argument is that the presence or the absence of criminal jurisdiction is a controlling, if not the controlling, criterion of the distinction between *Consular Jurisdiction* and *Capitulatory System*.

The validity of this distinction can be most readily tested by applying it to the General Treaty concluded by Great Britain with Morocco in 1856 which the French Government cites as an example of the stage of extraterritorial jurisdiction defined as *Capitulatory System*. Article VIII of this treaty grants to the consuls of Great Britain jurisdiction to decide both civil and criminal cases arising between British subjects and proteges, and Article IX grants them jurisdiction to decide both civil and criminal cases arising between Moroccan plaintiffs and British defendants.

“In all criminal cases and complaints, and in all civil differences, disputes, or causes of litigation which may occur between British subjects, the British Consul-General, Consul, Vice-Consul, or Consular Agent, shall be sole judge and arbiter. No Governor, Kadi, or other Moorish authority, shall intermeddle therein; but the subjects of Her Britannic Majesty shall, in all matters of criminal or civil cognizance arising or existing between British

subjects exclusively, be amenable to the tribunal of the Consul-General, Consul, or other British authority only.

All criminal cases and complaints, and all civil differences, disputes, or causes of litigation arising between British subjects and subjects of the Moorish Government, shall be adjusted in the following manner :

If the plaintiff be a British subject and the defendant a Moorish subject, the Governor of the town or district, or the Kadi, according as the case may appertain to their respective Courts, shall alone judge the case ; the British subject making his appeal to the Governor or Kadi through the British Consul-General, Consul, or his deputy, who will have a right to be present in the court during the whole trial of the case.

In like manner, if the plaintiff be a Moorish subject, and the defendant a British subject, the case shall be referred to the sole judgment and decision of the British Consul-General, Consul, Vice-Consul, or Consular Agent ; the plaintiff shall make his appeal through the Moorish authorities ; and the Moorish Governor, Kadi, or other officer who may be appointed by them shall be present, if he or they so desire, during the trial and judgment of the case. Should the British or Moorish litigant be dissatisfied with the decision of the Consul-General, Consul, Vice-Consul, Governor, or Kadi (according as the case may appertain to their respective Courts), he shall have a right of appeal to Her Britannic Majesty's *Chargé d'Affaires* and Consul-General, or to the Moorish Commissioner for Foreign Affairs, as the case may be." (Annex 20.)

To put it in the phraseology of the French Government, this *Capitulatory System* grants to British consuls, in addition to jurisdiction in civil litigation between British nationals, criminal jurisdiction to prosecute British nationals, as well as jurisdiction in mixed civil cases involving British nationals as defendants and Moroccans as plaintiffs.

But if the French Government is correct in asserting that the *Capitulatory System* granted to Great Britain for the first time in 1856 is distinguishable from *Consular Jurisdiction* because it grants to British consuls criminal jurisdiction to prosecute British nationals, it must follow that prior to the *Capitulatory System* established by the Treaty of 1856, British consuls did not have criminal jurisdiction to prosecute British nationals and possessed only jurisdiction in civil cases arising between British nationals.

Treaties concluded by Great Britain with Morocco during the 18th Century, however, already conferred upon British consuls jurisdiction to decide *criminal* cases arising between British nationals. Thus Article IX of the Treaty of 1721 provided :

"If any quarrel or dispute shall happen between any Englishman and a Musselman, by which hurt to either may ensue, the same to be heard before and determined by the Emperor only ; and if an Englishman who may be the Aggressor shall make his escape, no other Englishman shall suffer upon his account ; and if 2 English-

men shall quarrel, to be determined by the English Consul, who shall do with them as he pleases...." (Annex 6.)

Similarly Article IX of the Treaty of 1760 stated :

"If there shall happen any quarrel or dispute between any Englishman and any Musselman, by which any of them may receive detriment, the same shall be heard and determined by the Emperor alone ; and if any Englishman, who shall be the Aggressor, shall make his escape, in such case, no other Englishman shall suffer on his account, or in his place ; it is also agreed, that if any law-suit, dispute, or difference arises between the Subjects of His Britannic Majesty, they shall be accommodated by the Consul of the Nation...." (Annex 9.)

Article VIII of the Treaty of 1856 merely restated in more precise and detailed language the civil and criminal jurisdiction in cases arising between British nationals which had already been granted to British consuls in previous treaties. Thus it is the grant of *civil and criminal* jurisdiction in cases arising between Moroccan plaintiffs and British defendants, contained in Article IX, which distinguishes the Treaty of 1856 from previous treaties. The distinction between *Consular Jurisdiction* and *Capitulatory System*, therefore, is unsound.

The application of the distinction between *Consular Jurisdiction* and *Capitulatory System* to the Spanish Treaty of 1861 leads to the same conclusion. The previous treaties granted to Spanish consuls jurisdiction both civil and *criminal* in cases arising between Spanish nationals.

Article XII of the Treaty of 1767 provided :

"For the contestations among Spanish nationals, civil as well as criminal, their Consul alone shall be competent...." (Translation from a French text ; see Annex 15.)

Later treaties merely maintained in force the civil and criminal jurisdiction in cases between Spanish nationals already granted in the Treaty of 1767. Thus, Article X of the Treaty of 1861 provided :

"The Consul-General, Consuls, Vice-Consuls, or Consular Agents of Spain shall be the only judges or arbiters in criminal cases, law-suits, actions at law or disputes of any kind, civil or criminal, which may arise between Spanish subjects resident in Morocco, and no Governor, Cadi, or any other Morocco authority shall interfere in such cases." (Annex 22.)

The later treaties, however, also enlarged this jurisdiction by granting in addition to Spanish consuls jurisdiction, *civil* and *criminal*, in cases arising between Moroccan natives and Spanish defendants. Thus Article XI of the Treaty of 1861 provided :

"All actions, criminal cases, lawsuits, litigations, or disputes of any kind, either civil or commercial, which may arise between Spanish and Moroccan subjects, shall be decided in the following manner :

If the suitor or plaintiff be a Spanish subject and the defendant or accused a Morocco subject, the judge of the case shall be the

governor of the city or district, or the Cadi, according as the case belongs to the jurisdiction of one or the other. The Spanish subject shall lay his demand before the Governor or Cadi by means of the Consul-General, Consul, Vice-Consul or Consular Agent of Spain, and they shall have the right to attend the court during their trial.

If the plaintiff be a Morocco subject and the accused a Spanish subject, the case shall only be submitted to the cognizance and decision of the Consul-General, Consul, Vice-Consul or Consular Agent of Spain. The plaintiff shall present his demand through the Morocco authorities ; and the Morocco Governor, Cadi, or any other official appointed by them, may be present, if they desire it, during the trial and decision of the case.

If the Spanish or Morocco plaintiff or litigant shall not comply with the decision of the Consul-General, Consul, Vice-Consul or Consular Agent, or with that of the Morocco Governor or Cadi, according as the case may belong to the tribunal of one or the other, they shall have the right to appeal respectively to the *Chargé d'affaires* of Spain or the Morocco Commissioner of foreign affairs." (Annex 22.)

As in the case of the British treaty, it is the grant of *civil and criminal* jurisdiction in cases arising between Moroccan plaintiffs and Spanish defendants, contained in Article XI, which distinguishes the late treaty from previous treaties.

Thus the analysis of the British Treaty of 1856 and of the Spanish Treaty of 1861 leads to conclusions which go beyond the refutation of the distinction between *Consular Jurisdiction* and *Capitulatory System*. Their history strongly suggests that the normal rule of extraterritorial jurisdiction in Morocco before the conclusion of these treaties was jurisdiction of the foreign consul in civil and criminal cases arising between their nationals. A review of the treaties concluded by Morocco during the 17th and 18th Centuries confirms this view.

Some of these treaties expressly conferred criminal jurisdiction upon the foreign consul in cases arising between his nationals. Thus Article XV of the Treaty concluded in 1683 by Morocco with the Netherlands provided :

".... but if there should arise some difference, whether civil or criminal, between those of the country of the Netherlands, in that case they shall not be obliged to appear in front of any Judge, except their Consul, who shall have entire authority to terminate all the differences, in the civil as well as in the criminal....". (Translation from a French text ; see Annex 5.)

Article IX of the Treaty concluded by Great Britain with Morocco in 1721 read :

"If any quarrel or dispute shall happen between any Englishman and a Musselman, by which hurt to either may ensue, the same to be heard before and determined by the Emperor only, and if an Englishman who may be the Aggressor shall make his escape, no other Englishman shall suffer upon his account ; and if 2 English-

men shall quarrel, to be determined by the English Consul, who shall do with them as he pleases...." (Annex 6.)

Article XII of the Treaty of 1767 between Spain and Morocco stated:

"For the contestations among Spanish nationals, civil as well as criminal, their Consul alone shall be competent...." (Translation from a French text ; see Annex 15.)

Article XVI of the Treaty concluded between the Netherlands and Morocco in 1777 provided:

"The subjects of the Estates General shall thus, in the event of disputes which may have arisen, either civil or criminal (solely between those of the above-mentioned Netherlands nation), not be required to appear before any other magistrate than their consul...." (Annex 14.)

Some treaties did not refer expressly to criminal jurisdiction, but indicated by their context that the inclusion of both civil and criminal cases was intended. This was the case of the Spanish Treaty of 1799. Article I of this treaty (Annex 17) expressly renewed and confirmed all the privileges granted to Spain in the Treaty of 1767 and thus renewed the specific privileges of civil and criminal jurisdiction granted in Article XII of that treaty:

"For the contestations among Spanish nationals, civil as well as criminal, their Consul alone shall be competent...." (Translation from a French text ; see Annex 15.)

Yet Article IV of the Treaty of 1799 did not expressly mention criminal jurisdiction, but stated:

"The Consul-General of Spain, Vice-Consul or Agents, shall decide with absolute jurisdiction the affairs of Spanish nationals in Morocco" (Translation from a French text ; see Annex 17.)

In like manner, the Treaty concluded by France in 1767 has been construed by the French Government itself, despite the absence of an express provision, as equivalent to a grant of both civil and criminal jurisdiction. In the Treaty concluded in 1767 by Morocco with France, Article XI did not specify whether criminal jurisdiction was granted, and merely referred to the right of the French Consuls to hear and decide the "differences" arising between French nationals. The French Government has listed this article in its Memorial in support of the proposition that foreign consuls had exclusive jurisdiction before 1836 to decide "all differences" arising between their nationals (Memorial, p. 33). In support of the same proposition, the French Government listed as well Article 12 of the Spanish Treaty of 1767 which provided:

"For the contestations among Spanish nationals, civil as well as criminal, their consul alone shall be competent...." (Italics added ; translation from a French text ; see Annex 15.)

in *any* "differences", "disputes", "contestations", or "affairs", between his nationals, as the treaties variously provided, was to grant jurisdiction, in all cases, irrespective of their character, civil or criminal, as long as they involved only persons of the same nationality¹. Thus the treaties concluded by Morocco during the 17th Century with France and the Netherlands, and during the 18th Century with Great Britain, Spain, the Netherlands, Denmark and France, granted jurisdiction to the foreign consul explicitly or by reasonable implication, in both civil and criminal cases arising between his nationals.

The United States treaty was drafted in 1787 (the text of 1836 was only a literal copy of the 1787 Treaty ; See Part II, Chapter I). Articles 20 and 21 provided :

"If any of the citizens of the United States, or any persons under their protection, shall have any disputes with each other, the Consul shall decide between the parties ; and whenever the Consul shall require any aid or assistance from our Government, to enforce his decisions, it shall be immediately granted to him."

"If a citizen of the United States should kill or wound a Moor, or, on the contrary, if a Moor should kill or wound a citizen of the United States, the law of the country shall take place, and equal justice shall be rendered, the Consul assisting at the trial ; and if any delinquent shall make his escape, the Consul shall not be answerable for him in any manner whatever." (Annex 19²).

The American consul has jurisdiction in "any disputes" arising between American citizens, but the word "dispute" is not further defined. The French Government admits that this jurisdiction extends to civil cases, but argues that it does not include criminal cases. This argument predicated solely on the distinction between *Consular Jurisdiction* and *Capitulatory System*, asserts that criminal jurisdiction is found only in treaties establishing a *Capitulatory System*, such as the British Treaty of 1856 and the Spanish Treaty of 1861. This distinction has been shown to be without any validity. In any event, it is clear that the word "dispute" at the time of the drafting of the treaty did not describe exclusively civil cases.

¹ The same principle applied to the treaties concluded in 1825 with Sardinia and in 1830 with Austria.

² The privilege of the American Consul, it should be noted, was not merely the passive right to be present at the trial, as the French Government contends. The same formula was used in a number of other treaties where its meaning was more clearly defined. In the Treaty of 1682 with France, Article XVI provided: "Any Frenchman who shall hit a Moroccan shall not be punished until said Consul has been called to *defend the cause of the Frenchman*...." Similarly, the Treaty of 1767 with France provided in Article XIII: "If a Frenchman hits a Moor, he shall be judged only *in the presence of his Consul who shall defend his cause*....", Article XIV of the Treaty of 1767 with Denmark provided, "If there shall arise a difference between a Moor and a Danish national, the Emperor or the Governor of the place where this happens shall decide it in the *presence of the Consul who shall defend his cause as he may*." (Italics supplied ; translations from French texts ; see Annexes 4, 12 and 13.)

"Dispute" today may tend to connote argument and debate (civil cases) rather than physical exchange of blows (criminal cases). At the time the treaty was drafted, however, "dispute" connoted in English, physical contest and combat as well as argument and debate. Indeed it was used for the purpose of referring to criminal cases in Article IX of the Treaty concluded in 1721 by Morocco with Great Britain :

"If any quarrel or dispute shall happen between any Englishman and a Musselman, by which hurt to either may ensue, the same to be heard before and determined by the Emperor only ; and if an Englishman who may be the Aggressor shall make his escape, no other Englishman shall suffer upon his account ;" (Annex 6.)

It was used for the same purpose in Article IX of the British Treaty of 1760 :

"If there shall happen any quarrel or dispute between any Englishman and any Musselman, by which any of them may receive detriment, the same shall be heard and determined by the Emperor alone ; and if any Englishman, who shall be the Aggressor, shall make his escape, in such case, no other Englishman shall suffer on his account, or in his place ; it is also agreed, that if any lawsuit, dispute, or difference arises between the subjects of His Britannic Majesty, they shall be accommodated by the Consul of the Nation...." (Annex 9.)

Since at the time the treaty was drafted "dispute" described criminal as well as civil cases, the granting of jurisdiction to the American consul in "any disputes" arising between American citizens granted him criminal as well as civil jurisdiction in such cases. The United States treaty, therefore, like the other treaties concluded during this period, merely reflected the general rule of extraterritoriality in force in Morocco since the 17th Century, which left the administration of justice in all cases arising between foreigners of the same nationality to their consul.

The existence of this general rule in the 17th and 18th Centuries as well as the extension of jurisdiction in mixed cases which obtained in the British Treaty of 1856 and in the Spanish Treaty of 1861 were nothing but the logical and necessary consequences of the principle of personality of law. The Moroccan society of the time was essentially a closed society bound by religious ties and administered under a system of religious law from which the foreigner was necessarily excluded. Proceedings in criminal cases, as in civil cases, were contests between private parties. In the circumstances, the application to foreigners of their national law and the administration of such law in "any" case arising among themselves by their consul was the normal and necessary solution. Mixed cases, i.e. cases between natives and foreigners, presented

a problem, however, since the two laws, instead of functioning side by side and independently from each other, necessarily conflicted. The Moroccan law prevailed in mixed cases until the 19th Century, when under the pressure of more extensive intercourse between natives and foreigners the foreign law and the local law were brought to a position of equality by attributing jurisdiction in mixed cases to the tribunal of the nationality of the defendant, in application of the principle *actor sequitur forum rei*. The Moroccan courts retained jurisdiction in all cases in which Moroccans were defendants and the foreigners were plaintiffs, while the foreign consul exercised jurisdiction in all cases in which his nationals were defendants and Moroccans were plaintiffs; Morocco, moreover, relinquished jurisdiction in all cases between foreigners of different nationalities (British Treaty of 1856, Article XIV, Spanish Treaty of 1861, Article XVI), and jurisdiction in practice was attributed to the consul of the nationality of the defendant. Thus, under the controlling influence of the concept of personality of law did extraterritorial jurisdiction develop in Morocco, from the 16th to the 19th Century.

In conclusion, the Government of the United States submits that :

- (a) The jurisdiction conferred upon the United States by the Treaty of 1787 and 1836 was jurisdiction, civil and criminal, in all cases arising between American citizens.
- (b) The jurisdiction conferred upon Great Britain by the Treaty of 1856 was jurisdiction, civil and criminal, in all cases in which a British citizen was defendant.

B. THE MOST-FAVORED-NATION CLAUSE ARGUMENT

The French Government concedes that the rights of jurisdiction of the United States went far beyond the strict wording of the jurisdictional provisions included in the Treaty of 1836 since the United States could claim through the effect of the most-favored-nation clause in its Treaty of 1836 all the rights of extraterritorial jurisdiction granted to Great Britain in the Treaty of 1856. The French Government argues, however, that when Great Britain surrendered its rights of extraterritorial jurisdiction in 1937, so far as concerned the French zone of Morocco, the United States lost as a result, in the French zone of Morocco, all the rights which it held through Great Britain by virtue of the most-favored-nation clause, and has now only the rights expressly granted in the Treaty of 1836.

The theory of the argument is that the most-favored-nation clause promises to the beneficiary, in the future, a position no less favorable than that of any third party. The rights so acquired, the French Government states, cannot become permanent unless the granting State may be deemed to have recognized the exercise of

- b. Such laws become applicable to the United States citizens only if they are submitted to the assent of the United States Government and this Government agrees to make them applicable to its citizens.

SUBMISSIONS

On the basis of the observations presented herein, and without prejudice to observations and conclusions further to be presented, the Government of the United States submits that :

1. The submissions and conclusions presented by the French Government in this case should be rejected on the ground that the French Government has failed to maintain the burden of proof which it assumed as party plaintiff and by reason of the nature of the legal issues involved.

2. The treaty rights of the United States in Morocco forbid Morocco to impose prohibitions on American imports, save those specified by the treaties, and these rights are still in full force and effect.

The Dahir of December 30, 1948, imposing a prohibition on imports is in direct contravention of the treaty rights of the United States forbidding prohibitions on American imports and the French Government by applying the Dahir of December 30, 1948, to American nationals, without the consent of the United States, from December 31, 1948, to May 11, 1949, violated the treaty rights of the United States and was guilty of a breach of international law.

American nationals cannot legally be submitted to the Dahir of December 30, 1948, without the prior consent of the United States which operates to waive temporarily its treaty rights.

3. The jurisdiction conferred upon the United States by the Treaties of 1787 and 1836 was jurisdiction, civil and criminal, in all cases arising between American citizens.

In addition, the United States acquired in Morocco jurisdiction in all cases in which an American citizen or protege was defendant through the effect of the most-favored-nation clause and through custom and usage.

Such jurisdiction was not affected by the surrender by Great Britain in 1937 of its rights of jurisdiction in the French zone of Morocco.

Such jurisdiction has never been renounced, expressly or impliedly, by the United States.

4. Under the regime of extraterritorial jurisdiction now exercised by the United States in Morocco, United States citizens are not subject, in principle, to the application of Moroccan laws.

Such laws become applicable to the United States citizens only if they are submitted to the prior assent of the United States Government and if this Government agrees to make them applicable to its citizens. The Dahir of December 30, 1948, not having been submitted to the prior assent of the United States Government, cannot be made applicable to United States citizens.

On the basis of the arguments which it has presented in support of its counter-claims, the United States Government requests the Court to judge and to declare that :

1. Under Article 95 of the Act of Algeciras, the value of imports from the United States must be determined for the purpose of customs assessments by adding to the purchase value of the imported merchandise in the United States the expenses incidental to its transportation to the custom-house in Morocco, exclusive of all expenses following its delivery to the custom-house, such as customs duties and storage fees.

It is a violation of the Act of Algeciras and a breach of international law for the customs authorities to depart from the method of valuation so defined and to determine the value of imported merchandise for customs purposes by relying on the value of the imported merchandise on the local Moroccan market.

2. The treaties exempt American nationals from taxes, except as specifically provided by the same treaties ; to collect taxes from American nationals in violation of the terms of the treaties is a breach of international law.

Such taxes can legally be collected from American nationals only with the previous consent of the United States which operates to waive temporarily its treaty right, and from the date upon which such consent is given, unless otherwise specified by the terms of the consent.

Consumption taxes provided by the Dahir of February 28, 1948, which were collected from American nationals up to

SECTION 5 — THE TERMINATION ARC AND THE PRACTICE DOCUMENTS (TEXT PAGES)

These pages typeset the captured-verbatim texts of record (no facsimile staged for these items; captures cited with their channels). Class: (a) objects of study / apparatus; never regime content.

Contents: (1) Leib, Despatch No. 39, October 11, 1836 (the grant-form practice document); (2) FRUS 1955-1957, vol. XVIII, doc. 199 — the 1956 relinquishment note, with the editorial footnote; (3) FRUS 1937, vol. II, doc. 656 — the last-consular-court anchor; (4) the U.S. Code repeal note (22 U.S.C. ch. 2), verbatim.

Queued (disclosed, not reproduced): the P.L. 856 Statutes-at-Large facsimile (70 Stat. 774); the Washington-to-the-Emperor letter of December 1, 1789 (Founders Online 05-04-02-0251 — full-text page queued); the comparative-corpus full texts.

1. Leib, Despatch No. 39 — October 11, 1836 (D.S., 5 Consular Despatches, Tangier)

Captured verbatim in the doctrine-transfer floor and quoted of record in both volumes (CORPUS Ch. 1; HIBAH Ch. 1). Consul James R. Leib, transmitting the renewal original:

"The Treaty, it will be observed, being sealed by the Emperor according the diplomatic custom observed in this Empire, bears the form of a grant. Hence, it would be out of rule to deface the original with my signature or seal. I have therefore attached these to the copy and translation which will accompany the original, according to the usage observed by Diplomatic Agents in other parts of Barbary."

Note of record: the despatch is also printed in the editor's notes to Document 81 (Section 2, print 67), as transmitted with the renewal original.

2. FRUS 1955-1957, vol. XVIII (Africa), doc. 199 — the relinquishment note (October 1956)

Note from Ambassador Cannon to Foreign Minister Balafrej (source text: Dept. of State Central Files 271.116/10-856), captured verbatim from history.state.gov:

"It is the decision of my government to relinquish this day these consular jurisdictions which were accorded to the United States of America in a Treaty of Peace and Friendship first concluded with Morocco in 1787 and renewed in 1836 and in the Act of Algeciras signed in 1906; as well as to cease to exercise jurisdiction over subjects of Morocco or others who may be designated as proteges under the Convention of Madrid signed in 1880. It is my understanding, however, that American proteges will have access to the same local courts as American citizens..."

Editorial footnote: "P.L. 856, approved August 1, 1956, authorized the President to relinquish extraterritorial jurisdiction in Morocco. On September 12, Secretary Dulles recommended this be done coincident with the arrival in Rabat of Ambassador Cavendish Cannon... The President agreed on September 15."

The "1787" dating anomaly of record: the note dates the treaty by the donee's ratification year; the grant year is 1786 (CORPUS Ch. 18).

3. FRUS 1937, vol. II, doc. 656 — the last consular court

Franco-British Convention (London, July 29, 1937), captured verbatim from history.state.gov: "the British consular courts in Morocco will be abolished on the entry into force of the Convention, that is to say, January 1, 1938." France invited the United States to do likewise; the United States declined. The United States court was the last consular court in Morocco (until 1956).

4. The repeal note — 22 U.S.C. ch. 2 (R.S. secs. 4083-4130)

22 U.S.C. Chapter 2 ("Consular Courts") was repealed by Act of Aug. 1, 1956, ch. 807, 70 Stat. 774 (P.L. 856, 84th Cong.), effective on the date the President determined for relinquishment. The repeal note of the U.S. Code edition of record (govinfo, 2011 ed.), verbatim:

"Jurisdiction of the United States in Morocco was relinquished by memorandum of President Eisenhower dated Sept. 15, 1956. Notice was given to Morocco on Oct. 6, 1956, and all pending cases were disposed of by 1960."

Doctrine cross-reference: the machinery's statutory life and death is the donee's own internal affair; its repeal touches the granted forum no more than the repeal of a steward's household rules touches the deed (CORPUS Ch. 17-18).

SECTION 6 — A PERIOD DOCUMENT IN THE McLAUGHLIN REPORT

William Short to John Jay. Paris, July 7, 1790. Despatches, France, vol. i, Despatch No. 36 — printed in extenso in: McLaughlin. Report on the Diplomatic Archives of the Department of State, 1789-1840.

Carrier class (d): the McLaughlin report is a finding aid and is never cited for regime content; the period document it prints is period content (class (c) carrier). Staged scan MD5 55d3410c656d440f7aeb2f8fd7caf2b6. Locus of record: print 32-37 (scan PDF pp. 38-43); the Carmichael passage at print 36.

The passage of record: on the new Emperor's accession (1790), Short reports that the Emperor "had begun his reign by shewing dispositions to observe the treaties made by his predecessor," that "He thought it probable that ours would be continued," but that "we should be obliged to renew it. this is the opinion also of Carmichael" — the period succession-renewal practice bearing on the 1836 renewal's framing (CORPUS Ch. 2; HIBAH Ch. 26).

IV. WILLIAM SHORT TO JOHN JAY.

(Despatches, France, Volume I, Despatch No. 36.)

PARIS July the 7th. 1790.

Dear Sir—

I have just received your letter of the 27th of May, which has been sent here from L'Orient by M. de Crevecoeur. My last letters will have informed you of the present situation of the business relative to the American captives at Algiers. You will have seen there that nothing has been done, or possible to be done, for their redemption. This I know will not surprize you when you recollect the circumstances attending it. Still I shall leave nothing untried and will write you regularly as you desire respecting it.—Some days ago a person who has resided many years at Algiers, called on me in company with M. Volney whom you know, to speak of a means of procuring peace with that Regency on advantageous terms. It was for Congress to equip some frigates themselves, or to authorize a company to do it, and to cruise in the Mediterranean, particularly on the coast of Egypt against the Turkish merchant vessels—He said it was unquestionable that the Porte could force Algiers to conclude a treaty with any power whatever—that finding their commerce harassed, the Turks would gladly exchange their interposition at Algiers for its security—and that thus the United States who would be sure of failing so long as they should address the Algerines by embassies or entreaties, would be as sure of succeeding whenever they should speak to the fears and interest of the Turks.—this is the leading idea of his plan, which he seems to have considered under all its circumstances. He went into several details respecting it, which he is to communicate to me in writing. He has reasons for not chusing to be named; but wishes his ideas to be communicated to Congress. His calculation is that three frigates manned by two hundred men each would suffice. He does not propose their cruising off Algiers because a greater number would then be necessary—because a much longer time would be requisite for making an impression on the Algerines by this means; and consequently the success much less certain. He proposes cruising against the Turkish merchantmen because the prizes would much more than indemnify for the expences of equipment and because it is much the most expeditious and certain mode of effecting the business at Algiers. His favorite idea is that the affair should be mercantile—viz. that all the expences should be furnished by individuals on the condition of their having all the profits, and he desires to be interested in the enterprize by placing a part of his fortune in it. He wishes that Congress should give the letters of marque for reasons that are obvious. There are several objections which occur at first view, to this plan: still as it may lead to

something towards the business with Algiers I thought it my duty to communicate it. This person's long residence at Constantinople and at Algiers gives him an opportunity of being fully acquainted with the relations which subsist between those two countries. He says there are several instances where the Regency has not complied with the requisitions of the Porte; but that they are cases where the Porte makes requisitions for form sake, and where a private agreement takes place for exempting the Regency from obedience—He affirms that the Regency never disobeys the decided will of the Porte—It is from thence he concludes that the United States should make use of the Porte in order to effect their peace. The Turkish interest being more exposed to the attacks of the United States than that of Algiers, is an additional motive, as it is interest alone which will weigh with them.

It has been said in the national assembly lately that the last peace with Algiers cost France 1400,000 l. instead of 800,000 l. as I mentioned in a former letter. I have been since assured that the additional 600,000 l. were occasioned by the after charges and unexpected exactions of the Regency. You will remember they did the same with respect to Spain. It is apprehended that some unauthorized violence lately offered by the inhabitants of the French coast of the Mediterranean to a number of Algerines, will force France to renew the humiliation and expences of another treaty.

You express a wish that I should be able to obtain the free introduction of our salted provisions into France.—My letters will have shewn that I have not lost sight of this important subject.—and in my No. 33. I inclosed you a letter which Mr. Lambert the Comptroller general had written me relative to it. Mr. Necker has since told me he would give orders for a contract for a small supply merely as an experiment. He wished me to recommend some American merchant for this purpose. I knew of none except Parker who is in London, and I have written to him on the subject, but do not know whether he will give himself the trouble for a small contract. Mr. Necker doubts much whether the people of Paris will be brought to make use of salted provisions at any price however moderate, for some time to come. The only duties to which salted provisions from America are subjected as you will have seen by Mr. Lambert's letter, are those which are paid on French provisions passing from one part of France to another. I have no doubt that even those duties will be taken off as soon as the new regulations of commerce take place—At present however the ministry cannot take it on themselves, and in fact do nothing of the kind. It shall however be fully attended to; and the exception as to tonnage not forgotten, as soon as I shall know that it has passed.

I communicated to Mr. Necker the Resolve which you inclosed me in a former letter. He received with pleasure that proof of the attention of Congress to their foreign engagements. He is very anxious to know their decision relative to the loan lately made at Amsterdam. I still think as formerly that a person properly authorized by Congress might make that loan the basis of others so as to effect on advantageous and sure terms such as they will judge proper probably to have made for the discharge of their debts due this country, and which it is so essential to attend to without delay, from a variety of considerations.

The subject of the Duke of Orleans's return was brought before the assembly yesterday by a letter which he wrote to his Chancellor to be communicated to them. He said that he was preparing to leave London when the Ambassador of France called on him with an aide de camp of M. de la Fayette, who told him that the general conjured him not to return to Paris. He wished the national assembly to be consulted and added that if they declared *qu'il n'y avoit point lieu à délibérer*, he should consider it as a permission to return. M. de la Fayette in answer to this letter observed to the assembly that he had informed the Duke of Orleans that the reasons for his absenting himself still continued. He took that oppo. however of assuring the assembly that the more the 14th. approached the less grounds he saw for the alarms which were circulated as to the event of that day.

The assembly proceeded to the order of the day without taking the letter into consideration, but at the same time avoiding the expression *qu'il n'y avoit pas lieu à délibérer*.—It is therefore still uncertain whether the Duke will return. The King has written to him also to engage him to defer it for the present.—In the mean time he has published what he calls an '*exposé de sa conduite dans la révolution de France*.'—this was probably intended as his precursor. it is a narrative of facts known to every body—and neither proves or disproves any thing.

The deputies are arriving from all parts of France for the 14th. besides those who are deputed a great number of others come as spectators—it began to be feared that the works of the Champ de Mars would not be finished in time—some volunteers went to assist the workmen employed—this spread like a flame through Paris and people of both sexes and all ranks and descriptions flock there to work—this carries others as spectators so that the Champ de Mars is every day so crowded as scarcely to leave room for the carting of the earth and other operations of the sort which are going on there. Many legs and arms have already been broken in the confusion—these crowds going

and returning give the streets of Paris the appearance they had last year as to numbers—but very different as to humour—as yet they are all gaiety. Still it is impossible to say what impulsions they may take, if they are to be acted on as is suspected by foreign gold.—The enthusiasm has extended beyond the limits of Paris. at this instant large numbers of peasantry from the neighbouring villages are formed in a line of march which extends from the new grille to a considerable distance beyond M. de Richelieu's, and are going to work at the Champ de Mars.

The committee of constitution are preparing a decree by the direction of the assembly, in order to explain that of the 19th. They propose to allow every person to retain the name he is accustomed to—the titles however to be abolished, i. e.—all public acts where they are used to be void.—some other alterations also will be made as to the article concerning liveries and coats of arms. One of the members of the assembly, the Baron de Menou, proposed some time ago that all orders should be abolished, such as *cordons bleus*—rouge etc.—the order of the day however was brought on without the motion being then taken up. Still one of the leading members of the committee of constitution is for rendering it a constitutional decree—should it be proposed by that committee, which however is not certain, it will unquestionably pass.

Some time ago one of the members of the assembly was arrested by the orders of a municipality on suspicion of trying to debauch a regiment.—the question of inviolability being taken up on account of this affair, it was decreed that it extended even to criminal cases—that is, that no member should be arrested unless the accusation were previously laid before the assembly, who should decide whether there were grounds for arrest.—to-day a creditor of one of their members has written to them that he has obtained judgment, and desired to know if he was authorized to proceed to arrest him—it was decided that he could—thus the inviolability of the members is for criminal and not for civil cases.—these contradictions must necessarily arise so long as the assembly proceed as at present in passing laws on a single reading.

A letter has just arrived here from Bilbao written by a well known merchant, which says the Spanish Ministry had sent to inform them there that an arrangement had taken place with England—in consequence of which all vessels might follow their destination with safety. M. Bourgoin[g] tells me that he knows the writer of the letter and is persuaded of its veracity. He has no doubt that arrangements are made for continuing the peace between Spain and England. He remains however, and so does M. Montmorin, astonished that the first intelligence should come by a private and circuitous channel. there is no

doubt that the terms of accomodation must be disadvantageous to Spain. More certain intelligence is hourly expected. The last accounts of the British fleet are that it was still at Torbay—their destination therefore still as uncertain as when they left port.—You will no doubt have learned that several American sailors were impressed in London, and that they were rescued by the zealous exertions and activity of Mr. Cutting. Since then one other has been impressed whom Mr. Cutting has been unable to get released. He is on board of the fleet and will probably be forced to serve so long as they have any occasion for him. You will certainly have received from Mr. Cutting the particulars of this affair which seems to deserve the earliest attention of Congress, and points out the necessity of some arrangement being made for preventing such cases in future.

I omitted mentioning above that the number of our prisoners at Algiers is now reduced to fourteen—a Scotch boy who was among them having been redeemed by the intervention of the English Consul—the price was somewhat more than 7000 l. but additional and unavoidable expences raised it on the whole to about 8000 l. The person of whom I spoke in the beginning of this letter, told me that he thought the remaining captives might be redeemed at the same price for the common sailors and about 12,000 l. for each of the Captains. He added that the Spanish Consul was at present in the greatest favor with the Regency, and would be the most proper person for being charged with such a commission. The same person told me that he had understood the present Emperor of Morocco had begun his reign by shewing dispositions to observe the treaties made by his predecessor. He thought it probable that ours would be continued. In general however I have understood that we should be obliged to renew it. this is the opinion also of Carmichael, from whom you will certainly first learn the result.—I mention to you in the case of his letters being longer on their way, that he has received your dispatches of the 11th. of April, and been presented in consequence of the new letter of credence.

I beg you to be assured of the sentiments of respect and attachment with which I am,

Dear Sir

Your most obedient humble servant

W[ILLIAM] SHORT.

P. S. The Leyden gazettes will be inclosed in this letter—The journals of the assembly and other papers shall be forwarded to Havre by the diligence to be sent by the first vessel sailing for New-York.

V. JOHN JAY TO EDMUND RANDOLPH.

(Despatches, England, Volume 1.)

private

LONDON 13 Sept. 1794

Sir

I have had the pleasure of receiving your Letter by Mr Fisher. He called when I was from Home. Then and directly afterwards, I was so engaged in public Business, as that I could not return his visit immediately. The moment I could find Liesure for the purpose, I called with Col. Trumbull at his Lodgings; and was mortified to learn that he had just gone to Liverpool. I hope on his Return to see him, and then to have an opportunity of shewing him those Civilities and attentions which I shall always think due to your Recommendations.

In my *public* Letter to you by this opportunity, I thought it most delicate to omit mentioning that your Letter by Mr. Munro, and his Speech to the Convention are regarded here as not being consistant with the neutral situation of the U. S. an uneasy sensation has thereby been made here in the public mind, and probably in that of the Cabinet. It is not pleasant for me to say these things, but so is the fact, and it is proper that you should know it.

I enclose two pamphlets. How far the Ideas they convey may be useful in our Country I cannot say.

With the best Wishes for your Health and Happiness

I am Sir your most obt. Hble servt.

JOHN JAY.

The Honl. Edm. Randolph Esqr.

VI. JOHN Q. ADAMS TO THE SECRETARY OF STATE [JOHN MARSHALL].

(Despatches, Germany, Special Volume, Despatch No. 182.)

BERLIN 21 February 1801.

Sir

In addition to the papers, which I had the honour of sending you with my last letter, I now enclose a translation of the ordinance annexed to the Convention for an armed neutrality, and referred to in its third Article.

It is yet possible that England may discover some means of avoiding the issue of a War with almost all Europe, on this occasion; but I know not by what other expedient than that of conforming herself to the principles prescribed by the Northern powers.

SECTION 7 — THE REPEAL RESOLUTION: PUBLIC LAW 856 (70 STAT. 773-774)

Public Law 856, 84th Congress, Chapter 807 — Joint Resolution "Approving the relinquishment of the consular jurisdiction of the United States in Morocco" (S.J.Res. 165), approved August 1, 1956. 70 Stat. 773-774.

Carrier: govinfo (U.S. Government Publishing Office), official Statutes-at-Large facsimile — class (c)/(d) carrier. Unit of record MD5 2f45a88fb78727431a0626f2ed9a79bb (2 pp., print 773-774 entire, assembled by direct page copy from STATUTE-70-Pg773.pdf pp. 1-2, MD5 8b4bdb43c0d1483a35751850f78ae673; content-verified against STATUTE-70-Pg774.pdf, MD5 abf4f3d44eac8d78033e28c911659596).

Warrant class (a): post-1836 apparatus — the termination arc's statutory terminus; never cited for regime content.

Page map: PDF = print - 772 (PDF 1 = print 773; PDF 2 = print 774). Contents: print 773 (the headnote and the first whereas clause; margin notes of record "8 Stat. 484." — the 1836 treaty; "34 Stat. 2905." — the Act of Algeciras; "Relinquishment of consular jurisdiction in Morocco."; "22 USC 141-183."); print 774 (the remaining whereas clauses and the resolving clause repealing R.S. §§ 1693, 4083-4091, 4097-4122, 4125-4130, as amended, effective on the President's determination; "Approved August 1, 1956.").

Disposition: the §5 divider of record queues this item ("the P.L. 856 Statutes-at-Large facsimile (70 Stat. 774)"); it enters the facsimile tier here by the directed re-issue of record, the §5 divider text carried forward unaltered.

Cross-references: this register's §A.5 (the captured text of record and the 22 U.S.C. ch. 2 repeal note) and §B item 1 (the staging and disposition of record).

CHAPTER X

DISTRICT OF COLUMBIA

SETTLEMENT OF CLAIMS AND SUITS

For the payment of claims in excess of \$250, approved by the Commissioners in accordance with the provisions of the Act of February 11, 1929, as amended (45 Stat. 1160; 46 Stat. 500; 65 Stat. 131), \$10,000. D. C. Code 1-902 to 1-905.

DIVISION OF EXPENSES

The sum appropriated in this Act for the District of Columbia shall be paid out of the general fund of the District of Columbia, as defined in the District of Columbia Appropriation Act for fiscal year 1957.

Ante, p. 439.

CHAPTER XI

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

CONTINGENT EXPENSES OF THE HOUSE

Joint Committee on Internal Revenue Taxation: For an additional amount for the Joint Committee on Internal Revenue Taxation, \$50,000.

CHAPTER XII

CLAIMS FOR DAMAGES, AUDITED CLAIMS, AND JUDGMENTS

For payment of claims for damages as settled and determined by departments and agencies in accord with law, audited claims certified to be due by the General Accounting Office, and judgments rendered against the United States by United States district courts and the United States Court of Claims, as set forth in Senate Document Numbered 143, Eighty-fourth Congress, \$1,312,538, together with such amounts as may be necessary to pay interest (as and when specified in such judgments or in certain of the settlements of the General Accounting Office or provided by law) and such additional sums due to increases in rates of exchange as may be necessary to pay claims in foreign currency: *Provided*, That no judgment herein appropriated for shall be paid until it shall have become final and conclusive against the United States by failure of the parties to appeal or otherwise: *Provided further*, That, unless otherwise specifically required by law or by the judgment, payment of interest wherever appropriated for herein shall not continue for more than thirty days after the date of approval of this Act.

Approved July 31, 1956.

Public Law 856

CHAPTER 807

JOINT RESOLUTION

Approving the relinquishments of the consular jurisdiction of the United States in Morocco.

August 1, 1956
[S. J. Res. 165]

Whereas the laws of the United States invest the ministers and consuls of the United States in certain countries, including Morocco, with judicial authority so far as the exercise of the same is allowed by

treaty with such countries and in accordance with usage in such countries; and

8 Stat. 484.
34 Stat. 2905.

Whereas the consuls of the United States in Morocco are permitted to exercise jurisdiction over American nationals under the treaty between the United States and Morocco signed September 16, 1836, and the Act of Algeciras signed April 7, 1906; and the exercise by custom and usage the same jurisdiction over subjects of Morocco or others who may be designated as "proteges" under the Convention of Madrid signed July 3, 1880; and

Whereas Morocco is now the only foreign country where the consuls of the United States exercise such jurisdiction; and

Whereas it is the policy of the United States to discontinue the exercise of extraterritorial jurisdiction in Morocco at such time as it becomes appropriate: Therefore be it

Relinquishment
of consular juris-
diction in Moroc-
co.

22 USC 141-183.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the relinquishment by the President, at such time as he considers this appropriate, of the consular jurisdiction of the United States in Morocco is hereby approved and sections 1693, 4083 to 4091, inclusive, 4097 to 4122, inclusive, and 4125 to 4130, inclusive, of the Revised Statutes, as amended, are repealed effective upon the date which the President determines to be appropriate for the relinquishment of such jurisdiction, except so far as may be necessary to dispose of cases then pending in the consular courts in Morocco.

Approved August 1, 1956.

Public Law 857

CHAPTER 808

AN ACT

August 1, 1956
[S. 3658]

To amend the Act of May 11, 1938 (52 Stat. 347), so as to authorize, by agreement, the subsurface storage of oil or gas in restricted Indian lands, tribal or allotted.

Indian lands.
Subsurface stor-
age of oil or gas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of May 11, 1938 (52 Stat. 347), is amended by adding at the end thereof (25 U. S. C. 396d) a new section 8 as follows:

"The Secretary of the Interior, to avoid waste or to promote the conservation of natural resources or the welfare of the Indians, is hereby authorized in his discretion to approve leases of lands that are subject to lease under section 1 of this Act or the Act of March 3, 1909 (35 Stat. 783, 25 U. S. C. 396), for the subsurface storage of oil and gas, irrespective of the lands from which initially produced, and the Secretary is hereby authorized, in order to provide for the subsurface storage of oil or gas, to approve modifications, amendments, or extensions of the oil and gas or other mining lease(s), if any, in effect as to restricted Indian lands, tribal or allotted, and may promulgate rules and regulations consistent with such leases, modifications, amendments, and extensions, relating to the storage of oil or gas thereunder. Any such leases may provide for the payment of a storage fee or rental on such stored oil or gas or, in lieu of such fee or rental, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. It may be provided that any oil and gas lease under which storage of oil or gas is so authorized shall be continued in effect at least for the period of such storage use and so long thereafter as oil or gas not previously produced is produced in paying quantities."

Approved August 1, 1956.