

The Myth of “Article 11” – (‘the government of the United States of America is not in any sense founded on the Christian Religion’) - in the Tripoli Treaty of Peace and Friendship between the United States of America and the Bey and Subjects of Tripoli of Barbary. (Researched from the original by Dr. Catherine Millard).

Tripoli

PEACE AND FRIENDSHIP

Treaty signed at Tripoli November 4, 1796, and at Algiers January 3, 1797.

Senate advice and consent to ratification June 7, 1797

Ratified by the President of the United States June 10, 1797

Entered into force June 10, 1797

Proclaimed by the President of the United States June 10, 1797

Superseded April 17, 1806, by treaty of June 4, 1805

8 Stat. 154; Treaty Series 358

(Translation of 1796)

Treaty of Peace and Friendship between the United States of America and the Bey and Subjects of Tripoli of Barbary

Article 1

There is a firm and perpetual Peace and friendship between the United States of America and the Bey and subjects of Tripoli of Barbary, made by the free consent of both parties, and guaranteed by the most potent Dey & regency of Algiers.

Article 2

If any goods belonging to any nation with which either of the parties is at war shall be loaded on board of vessels belonging to the other party they shall pass free, and no attempt shall be made to take or detain them.

Article 3

If any citizens, subjects or effects belonging to either party shall be found on board a prize vessel taken from an enemy by the other party, such citizens or subjects shall be set at liberty, and the effects restored to the owners.

Article 4

Proper passports are to be given to all vessels of both parties, by which they are to be known. And, considering the distance between the two countries, eighteen months from the date of this treaty shall be allowed for procuring such passports. During this interval the other papers belonging to such vessels shall be sufficient for their protection.

Article 5

A citizen or subject of either party having bought a prize vessel condemned by the other party or by any other nation, the certificate of condemnation and bill of sale shall be a sufficient passport for such vessel for one year; this being a reasonable time for her to procure a proper passport.

Article 6

Vessels of either party putting into the ports of the other and having need of provisions or other supplies, they shall be furnished at the market price. And if any such vessel shall so put in from a disaster at sea and have occasion to repair, she shall be at liberty to land and re-embark her cargo without paying any duties. But in no case shall she be compelled to land her cargo.

Article 7

Should a vessel of either party be cast on the shore of the other, all proper assistance shall be given to her and her people; no pillage shall be allowed; the property shall remain at the disposition of the owners, and the crew protected and succoured till they can be sent to their country.

Article 8

If a vessel of either party should be attacked by an enemy within gun-shot of the forts of the other she shall be defended as much as possible. If she be in port she shall not be seized or attacked when it is in the power of the other party to protect her. And when she proceeds to sea no enemy shall be allowed to pursue her from the same port within twenty-four hours after her departure.

Article 9

The commerce between the United States and Tripoli, - the protection to be given to merchants, masters of vessels and seamen, - the reciprocal right of establishing consuls in each country, and the privileges, immunities and jurisdictions to be enjoyed by such consuls, are declared to be on the same footing with those of the most favoured nations respectively.

Article 10

The money and presents demanded by the Bey of Tripoli as a full and satisfactory consideration on his part and on the part of his subjects for this treaty of perpetual peace and friendship are acknowledged to have been received by him precious to his signing the same according to a receipt which is hereto annexed, except such part as is promised on the part of the United States to be delivered and paid by them on the arrival of their Consul in Tripoli, of which part a note is likewise hereto annexed. And no pretence of any periodical tribute or farther payment is ever to be made by either party.

Article 11*

*This translation from the Arabic by Joel Barlow, Consul General at Algiers, has been printed in all official and unofficial treaty collections since it first appeared in 1797 in the Session Laws of the Fifth Congress, first session. In a "Note Regarding the Barlow Translation" Hunter Miller stated: "...Most extraordinary (and wholly unexplained) is the fact that Article 11 of the Barlow translation, with its famous phrase, 'the government of the United States of America is not in any sense founded on the Christian Religion' does not exist at all. There is no Article 11. The Arabic text which is between Articles 10 and 12 is in form a letter, crude and flamboyant and withal quite unimportant, from the Dey of Algiers to the Pasha of Tripoli. How that script came to be written and to be regarded, as in the Barlow translation, as Article 11 of the treaty as there written, is a mystery and seemingly must remain so. Nothing in the diplomatic correspondence of the time throws any light whatever on the point."

Article 12

In case of any dispute arising from a violation of any of the articles of this treaty no appeal shall be made to arms, nor shall war be declared on any pretext whatever. But if the Consul residing at the place where the dispute shall happen shall not be able to settle the same, an amicable reference shall be made to the mutual friend of the parties, the Day of Algiers, the parties hereby engaging to abide by his decision. And he by virtue of his signature to this treaty engages for himself and successors to declare the justice of the case according to the true interpretation of the treaty, and to use all the means in his power to enforce the observance of the same.

Original source: Department of State
National Archives

Editor's note: "Article 11" text:

'As the government of the United States of America is not in any sense founded on the Christian Religion, - as it has in itself no character of enmity against the laws, religion or tranquility of Musselmen, - and as the said States never have entered into any war or act of hostility against any Mehomitan nation, it is declared by the parties that no pretext arising from religious opinions shall ever produce an interruption of the harmony existing between the two countries.'