

Austro-Hungarian and American Diplomacy

Commerce and Navigation (1829)

Treaty of Commerce and Navigation Between Austria-Hungary and The United States; August 27, 1829

Concluded August 27, 1829; ratification advised by the Senate February 10, 1830; ratified, by the President February 11, 1830; ratifications exchanged February 10, 1831; proclaimed February 10, 1831.

(The period for the exchange of ratifications was extended, with the advice and consent of the Senate, by resolution of February 3, 1831, and the consent of the Emperor of Austria, expressed by his minister in the certificate of exchange of ratifications, February 10, 1831.)

The United States of America and His Majesty the Emperor of Austria, King of Hungary and Bohemia, equally animated with the desire of maintaining the relations of good understanding which have hitherto so happily subsisted between their respective States, of extending, also, and consolidating the commercial intercourse between them, and convinced that this object cannot better be accomplished than by adopting the system of an entire freedom of navigation and a perfect reciprocity, based upon principles of equity equally beneficial to both countries, have, in consequence, agreed to enter into Negotiations for the conclusion of a treaty of commerce and navigation, for which purpose the President of the United States has conferred full powers on Martin Van Buren, their Secretary of State; and His Majesty the Emperor of Austria has conferred like powers on Lewis, Baron de Lederer, his said Majesty's Consul for the port of New York, and the said Plenipotentiaries having exchanged their said full powers, found in good and due form, have concluded and signed the following articles:

ARTICLE I.

There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation. The inhabitants of their respective States shall mutually have liberty to enter the ports, places and rivers of the territories of each party, wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their commercial affairs; and they shall enjoy, to that effect, the same security, protection and privileges as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing.

ARTICLE II.

Austrian vessels arriving, either laden or in ballast, in the ports of the United States of America, and, reciprocally, vessels of the United States arriving, either laden or in ballast, in the ports of the dominions of Austria, shall be treated on their entrance, during their stay and at their departure, upon the same footing as national vessels coming from the same place, with respect to the duties of tonnage, lighthouses, pilotage and port charges, as well as to the fees and perquisites of public officers and all other duties or charges of whatever kind or denomination, levied in the name, or to the profit of the

Government, the local authorities, or of any private establishment whatsoever.

ARTICLE III.

All kinds of merchandise and articles of commerce, either the produce of the soil or the industry of the United States of America, or of any other country, which may be lawfully imported into the ports of the dominions of Austria, in Austrian vessels, may also be so imported in vessels of the United States of America, without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if the same merchandise or produce had been imported in Austrian vessels. And, reciprocally, all kind of merchandise and articles of commerce, either the produce of the soil or of the industry of the dominions of Austria, or of any other country, which may be lawfully imported into the ports of the United States, in vessels of the said States, may also be so imported in Austrian vessels without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if the same merchandise or produce had been imported in vessels of the United States of America.

ARTICLE IV.

To prevent the possibility of any misunderstanding, it is hereby declared that the stipulations contained in the two preceding articles are, to their full extent, applicable to Austrian vessels and their cargoes arriving in the ports of the United States of America; and, reciprocally, to vessels of the said States and their cargoes arriving in the ports of the dominions of Austria, whether the said vessels clear directly from the ports of the country to which they respectively belong, or from the ports of any other foreign country.

ARTICLE V.

No higher or other duties shall be imposed on the importation into the United States of any article the produce or manufacture of the dominions of Austria; and no higher or other duties shall be imposed on the importation into the dominions of Austria of any article the produce or manufacture of the United States, than are or shall be payable on the like article, being the produce or manufacture of any other foreign country. Nor shall any prohibition be imposed on the importation or exportation of any article the produce or manufacture of the United States, or of the dominions of Austria, to or from the ports of the United States, or to or from the ports of the dominions of Austria, which shall not equally extend to all other nations.

ARTICLE VI.

All kind of merchandise and articles of commerce, either the produce of the soil or of the industry of the United States of America, or of any other country, which may be lawfully exported or re-exported from the ports of the said United States in national vessels, may also be exported or re-exported therefrom in Austrian vessels, without paying other or higher duties or charges of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if the same merchandise or produce had been exported or re-

exported in vessels of the United States of America.

An exact reciprocity shall be observed in the ports of the dominions of Austria, so that all kind of merchandise and articles of commerce either the produce of the soil or of the industry of the said dominions of Austria, or of any other country, which may be lawfully exported or re-exported from Austrian ports in national vessels, may also be exported or re-exported therefrom in vessels of the United States of America, without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if the same merchandise or produce had been exported or re-exported in Austrian vessels.

And the same bounties and drawbacks shall be allowed, whether such exportation or re-exportation be made in vessels of the one party or of the other.

ARTICLE VII.

It is expressly understood and agreed that the coastwise navigation of both the contracting parties is altogether excepted from the operation of this treaty, and of every article thereof.

ARTICLE VIII.

No priority or preference shall be given, directly or indirectly, by either of the contracting parties, nor by any company, corporation or agent, acting on their Behalf or under their authority, in the purchase of any article of commerce, lawfully imported, on account of, or in reference to the character of the vessel, whether it be of the one party or of the other, in which such article was imported, it being the true intent and meaning of the contracting parties that no distinction or difference whatever shall be made in this respect.

ARTICLE IX.

If either party shall hereafter grant to any other nation any particular favor in navigation or commerce, it shall immediately bee come common to the other party, freely, where it is freely granted to such other nation, or on yielding the same compensation, when the grant is conditional.

ARTICLE X.

The two contracting parties hereby reciprocally grant to each other the liberty of having, each in the ports of the other, Consuls, Vice-Consuls, Agents and Commissaries of their own appointment, who shall enjoy the same privileges and powers as those of the most favored nations. But if any such Consuls shall exercise commerce, they shall be subjected to the same laws and usages to which the private individuals of their nation are subject in the same place, in respect of their commercial transactions.

ARTICLE XI.

The citizens or subjects of each party shall have power to dispose of their personal goods within the jurisdiction of the other, by testament, donation or otherwise; and their representatives, being citizens

or subjects of the other party, shall succeed to their personal goods, whether by testament or ab intestate, and may take possession thereof, either by themselves or by others acting for them, and dispose of the same at their will, paying such dues, taxes or charges only, as the inhabitants of the country, wherein the said goods are, shall be subject to pay in like cases. And in case of the absence of the representative, such care shall be taken of the said goods as would be taken of the goods of a native in like case, until the lawful owner may take measures for receiving them. And if any question should arise among several claimants to which of them said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are. But this article shall not derogate in any manner from the force of the laws already published, or hereafter to be published, by His Majesty the Emperor of Austria, to prevent the emigration of his subjects.

ARTICLE XII.

The present treaty shall continue in force for ten years, counting from the day of the exchange of the ratifications; and if twelve months before the expiration of that period neither of the high contracting parties shall have announced, by an official notification to the other, its intention to arrest the operation of said treaty, it shall remain binding for one year beyond that time, and so on, until the expiration of the twelve months which will follow a similar notification, whatever the time at which it may take place.

ARTICLE XIII.

This treaty shall be approved and ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Majesty the Emperor of Austria; and the ratifications shall be exchanged in the city of Washington, within twelve months from the date of the signature(1) hereof,a or sooner if possible.

In faith whereof the respective Plenipotentiaries have signed and sealed this treaty, both in the English and German languages, declaring, however, that, it having been originally composed in the former, the English version is to decide the interpretation, should any difference in regard to it unfortunately arise.

Done in triplicate, at Washington, this twenty-seventh day of August, in the year of our Lord one thousand eight hundred and twenty-nine.

[SEAL.] M. VAN BUREN.

[SEAL.] L. BARON de LEDERER.

(1) This period was extended, with the advice and consent of the Senate, expressed in its resolution of February 3, 1831 and with the consent of the Emperor of Austria, expressed by his Minister in his certificate of the exchange of ratification, February 10, 1831.

Convention of May 8, 1848

Concluded May 8, 1848; ratification advised and time for exchange of ratifications extended to July 4,

1850, by the Senate February 13, 1850; ratified by the President February 15, 1850, ratifications exchanged February 23, 1850; proclaimed February 25, 1850.

The United States of America and His Majesty the Emperor of Austria having agreed to extend to all descriptions of property the exemption from dues, taxes or charges, which was secured to the personal goods of their respective citizens and subjects by the eleventh article of the treaty of commerce and navigation which was concluded between the parties on the 27th of August, 1829, and also for the purpose of increasing the powers granted to their respective Consuls by the tenth article of said treaty of commerce and navigation, have named for this purpose their respective Plenipotentiaries, namely:

The President of the United States of America has conferred full powers on James Buchanan, Secretary of State of the United States; and his Majesty the Emperor of Austria upon his Charge d'Affaires to the United States, John George Hulsemann;

Who, after having exchanged their said full powers, found in due and proper form, have agreed to and signed the following articles:

ARTICLE I.

The citizens or subjects of each of the contracting parties shall have power to dispose of their personal property within the States of the other, by testament, donation or otherwise; and their heirs, legatees and donees, being citizens or subjects of the other contracting party, shall succeed to their said personal property, and may take possession thereof, either by themselves or by others acting for them, and dispose of the same at their pleasure, paying such duties only as the inhabitants of the country, where the said property lies, shall be liable to pay in like cases.

ARTICLE II.

Where, on the death of any person holding real property, or property not personal, within the territories of one party, such real property would, by the laws of the land, descend on a citizen or subject of the other, were he not disqualified by the laws of the country where such real property is situated, such citizen or subject shall be allowed a term of two years to sell the same, which term may be reasonably prolonged, according to circumstances, and to withdraw the proceeds thereof, without molestation, and exempt from any other charges than those which may be imposed in like cases upon the inhabitants of the country from which such proceeds may be withdrawn.

ARTICLE III.

In case of the absence of the heirs, the same care shall be taken, provisionally, of such real or personal property as would be taken in a like case of property belonging to the natives of the country, until the lawful owner or the person who has a right to sell the same, according to Article II., may take measures to receive or dispose of the inheritance.

ARTICLE IV.

The high contracting parties grant to each other the liberty of having, each in the ports of the other, Consuls, Vice-Consuls, Commercial Agents and Vice-Commercial Agents, of their own appointment, who shall enjoy the same privileges and powers as those of the most favored nations; but if any of the said Consuls shall carry on trade, they shall be subjected to the same laws and usages to which private individuals of their nation are subjected in the same place.

The said Consuls, Vice-Consuls, Commercial and Vice-Commercial Agents shall have the right as such to sit as judges and arbitrators in such differences as may arise between the masters and crews of the vessels belonging to the nation whose interests are committed to their charge' without the interference of the local authorities, unless the conduct of the crews or of the captain should disturb the order or tranquillity of the country; or the said Consuls, Vice-Consuls, Commercial Agents, or Vice-Commercial Agents, should require their assistance in executing or supporting their own decisions. But this species of judgment or arbitration shall not deprive the contending parties of the right they have to resort, on their return, to the judicial authority of their own country.

The said Consuls, Vice-Consuls, Commercial Agents and Vice-Commercial Agents, are authorized to require the assistance of the local authorities for the search, arrest and imprisonment of the deserters from the ships of war and merchant vessels of their country. For this purpose they shall apply in writing to the competent tribunals, judges and officers, and shall demand said deserters, proving by the exhibition of the registers of the vessels, the muster-rolls of the crews, or by any other official documents, that such individuals form legally part of the crews and, on such claim being substantiated, the surrender shall not be refused.

Such deserters when arrested shall be placed at the disposal of the said Consuls, Vice-Consuls, Commercial Agents, and Vice-Commercial Agents, and may be confined in the public prisons, at the request and cost of those who shall claim them, in order to be sent to the vessels to which they belong, or to others of the same country. But if not sent back within three months of the day of their arrest, they shall be set at liberty, and shall not be again arrested for the same cause. If, however, the deserter shall be found to have committed any crime or offense requiring trial, his surrender may be delayed until the tribunal before which his case shall be pending shall have pronounced its sentence, and such sentence shall have been carried into effect.

ARTICLE V.

The present treaty shall continue in force for two years, counting from the day of the exchange of its ratifications; and if, twelve months before the expiration of that period, neither of the high contracting parties shall have announced by an official notification to the other, its intention to arrest the operation of said treaty, it shall remain binding for one year beyond that time, and so on until the expiration of the twelve months which will follow a similar notification, whatever the time at which it may take place.

ARTICLE VI.(1)

This convention is concluded subject to the ratification of the President of the United States of America, by and with the advice and consent of the Senate thereof, and of His Majesty the Emperor of Austria; and the ratifications thereof shall be exchanged in Washington within the term of one year

from the date of the signature thereof, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the above articles, as well in German as in English, and have thereto affixed their seals.

Done in the city of Washington, on the eighth day of May, one thousand eight hundred and forty-eight, in the seventy-second year of the independence of the United States of America, and in the fourteenth year of the reign of His Majesty the Emperor of Austria.

[SEAL.] JAMES BUCHANAN

[SEAL.] HULSEMANN.

(1) Resolution of the Senate of the United States, February 13, 1850.

Whereas the time limited by the sixth article of the convention for the extension of certain stipulations contained in the treaty of commerce and navigation of August 27, 1829, between the United States of America and His Majesty the Emperor of Austria, concluded at the city of Washington the 8th May, 1848, has expired before the ratification of the said convention by the Senate: Be it, therefore,

Resolved, (two-thirds of the Senators present concurring,) That the Senate advise and consent to the exchange of ratifications of the convention aforesaid at any time prior to the 4th day of July next, whenever the same shall be offered by His Majesty the Emperor of Austria, and the said ratifications shall be deemed and taken to have been regularly exchanged, the limitation contained in said convention to the contrary notwithstanding.

Attest:

ASBURY DICKINS, Secretary Back

Extradition (1856)

July 3, 1856

Extradition Convention Between the United States and Austria-Hungary; July 3, 1856

Concluded July 3, 1856; ratification advised by the Senate with amendment August 13, 1806; ratified by the President December, 12, 1856; ratifications exchanged December 13, 1856; proclaimed December 15, 1856.

Whereas it is found expedient, for the better administration of justice and the prevention of crime within the territories and jurisdiction of the parties, respectively, that persons committing certain heinous crimes, being fugitives from justice, should, under certain circumstances, be reciprocally delivered up; and also to enumerate such crimes explicitly; and whereas the laws of Austria forbid the surrender of its own citizens to a foreign jurisdiction, the Government of the United States, with a view of making the convention strictly reciprocal, shall be held equally free from any obligation to surrender citizens of the United States; therefore, on the one part the United States of America, and on

the other part His Majesty the Emperor of Austria, having resolved to treat on this subject, have, for that purpose, appointed their respective Plenipotentiaries, to negotiate and conclude a convention; that is to say:

The President of the United States, William L. Marcy, Secretary of State; and His Majesty the Emperor of Austria, John George Chevalier de Hulsemann, his said Majesty's Minister-Resident near the Government of the United States; who, after reciprocal communication of their respective powers, have agreed to and signed the following articles:

ARTICLE I.

It is agreed that the United States and Austria shall, upon mutual requisitions by them or their ministers, officers or authorities, respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the fabrication or circulation of counterfeit money, whether coin or paper money, or the embezzlement of public moneys, committed within the jurisdiction of either party, shall seek an asylum or shall be found within the territories of the other: Provided, That this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had there been committed; and the respective judges and other magistrates of the two Governments shall have power, jurisdiction and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such judges or other magistrates, respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive. The provisions of the present convention shall not be applied, in any manner, to the crimes enumerated in the first article committed anterior to the date thereof nor to any crime or offense of a political character.

ARTICLE II.

Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this convention.

ARTICLE III.

Whenever any person accused of any of the crimes enumerated in this convention shall have committed a new crime in the territories of the State where he has sought an asylum or shall be found, such person shall not be delivered up, under the stipulations of this convention, until he shall have been tried and shall have received the punishment due to such new crime, or shall have been acquitted thereof.

ARTICLE IV.

The present convention shall continue in force until the first of January, eighteen hundred and fifty-eight; and if neither party shall have given to the other six months' previous notice of its intention then to terminate the same, it shall further remain in force until the end of twelve months after either of the high contracting parties shall have given notice to the other of such intention; each of the high contracting parties reserving to itself the right of giving such notice to the other at any time after the expiration of the said first day of January, 1858.

ARTICLE V.

The present convention shall be ratified by the President, by and with the advice and consent of the Senate of the United States and by His Majesty the Emperor of Austria, and the ratifications shall be exchanged at Washington within six months from the date hereof, or sooner if possible.

In faith whereof the respective Plenipotentiaries have signed this convention and have hereunto affixed their seals.

Done in duplicate at Washington, the third day of July, in the year of our Lord one thousand eight hundred and fifty-six, and of the Independence of the United States the eightieth.

[SEAL.] W. L. MARCY

[SEAL.] HULSEMANN.

Tobacco Agreement (1863)

Agreement Concerning Admission of Tobacco Between the United States and Austria-Hungary;
December 24, 1863

Whereas an informal Convention on the subject of the exportation of certain tobacco from the United States was, on the 23rd day of November last, concluded between the Secretary of State and the Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of the French, a copy of which Convention is hereunto annexed.(1)

It is hereby stipuated by and between Frederick W. Seward, Acting Secretary of State of the United States and Count Nicholas Giorgi, Minister Resident of His Majesty the Emperor of Austria, that the tobacco in this country, belonging to the Austrian Government, purchased and paid for prior to the 4th of March 1861, amounting to six hundred and twelve (612) hogsheads, or thereabouts, may be exported from places within the limits of the blockade, on conditions similar to those required for the exportation of tobacco belonging to the French government: but as it is not convenient for the Austrian Government to post any of its naval vessels for the purpose of superintending such exportation, it is farther stipulated that such exportation may be made under the superintendence of such of the vessels of the French navy as may be employed in superintending the exportation of the tobacco belonging to the Government of France.

Done at the City of Washington this 24th day of December, 1863.

F. W. SEWARD

(1) Not annexed to original in State Dept.

Consular Convention (1870)

Consular Convention Between the United States and Austria-Hungary; July 11, 1870

Concluded July 11, 1870; ratification advised by the Senate December 9, 1870; ratified by the President December 19, 1870; time for exchange of ratifications extended by the Senate May 12, 1871; ratifications exchanged June 26, 1871; proclaimed June 29, 1871.

The President of the United States of America, and His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary, animated by the desire to define in a comprehensive and precise manner the reciprocal rights, privileges and immunities of the Consuls-General, Consuls, Vice-Consuls and Consular Agents (their Chancellors and Secretaries) of the United States of America and of the Austro-Hungarian Monarchy, and to determine their duties and their respective sphere of action, have agreed upon the conclusion of a consular convention, and for that purpose have appointed their respective Plenipotentiaries, namely: the President of the United States of America, Hamilton Fish, Secretary of State of the United States; and His Majesty the Emperor of Austria, Apostolic King of Hungary, Charles, Baron von Lederer, Knight of the Imperial and Royal Order of Leopold, and His Majesty's Envoy Extraordinary and Minister Plenipotentiary in the United States of America, who, after communicating to each other their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I.

Each of the high contracting parties shall be at liberty to establish Consuls-General, Consuls, Vice-Consuls or Consular Agents at the ports and places of trade of the other party, except those where it may not be convenient to recognize such officers; but this exception shall not apply to one of the high contracting parties without also applying to every other Power. Consuls-General, Consuls and other Consular officers appointed and taking office according to the provisions of this article, in one or the other of the two countries, shall be free to exercise the right accorded them by the present convention throughout the whole of the district for which they may be respectively appointed. The said functionaries shall be admitted and recognized respectively upon presenting their credentials in accordance with the rules and formalities established in their respective countries. The exequatur required for the free exercise of their official duties shall be delivered to them free of charge; and upon exhibiting such exequatur they shall be admitted at once and without interference by the authorities, Federal or State, judicial or executive, of the ports, cities and places of their residence and district, to the enjoyment of the prerogatives reciprocally granted.

ARTICLE II.

The Consuls-General, Consuls, Vice-Consuls and Consular Agents, their chancellors, and other Consular Officers, if they are citizens of the State which appoints them, shall be exempt from military billetings, from service in the military or the national guard, and other duties of the same nature, and

from all direct and personal taxation, whether federal, state or municipal, provided they be not owners of real estate, and neither carry on trade nor any industrial business.

If, however, they are not citizens of the State which appoints them or if they are citizens of the State in which they reside, or if they own property, or engage in any business there that is taxed under any laws of the country, then they shall be subject to the same taxes, charges and assessments as other private individuals. They shall, moreover, enjoy personal immunities, except for acts regarded as crimes by the laws of the country in which they reside. If they are engaged in commerce, personal detention can be resorted to in their case only for commercial liabilities, and then in accordance only with general laws, applicable to all persons alike.

ARTICLE III.

Consuls-General, Consuls and their Chancellors, Vice-Consuls and Consular Officers, if citizens of the country which appoints them, shall not be summoned to appear as witnesses before a court of justice, except when, pursuant to law, the testimony of a consul may be necessary for the defence of a person charged with crime. In other cases the local court, when it deems the testimony of a Consul necessary, shall either go to his dwelling to have the testimony taken orally, or shall send there a competent officer to reduce it to writing, or shall ask of him a written declaration.

ARTICLE IV.

Consuls-Generals, Consuls, Vice-Consuls and Consular Agents shall be at liberty to place over the chief entrance of their respective offices the arms of their nation, with the inscription: " Consulate-General ", " Consulate ", " Vice-Consulate " or " Consular Agency ", as may be. They shall also be at liberty to hoist the flag of their country on the consular edifice, except when they reside in a city where the legation of their Government may be established. They shall also be at liberty to hoist their flag on board the vessel employed by them in port for the discharge of their duty.

ARTICLE V.

The consular archives shall be at all times inviolable, and under no presence whatever shall the local authorities be allowed to examine or seize the papers forming part of them.

ARTICLE VI.

In the event of incapacity, absence, or death of Consuls-General, Consuls, Vice-Consuls, their Consular Pupils, Chancellors or Secretaries, whose official character may have been previously made known to the respective authorities in the United States, or in the Austro-Hungarian Empire, shall be admitted at once to the temporary exercise of the consular functions, and they shall, for the duration of it, enjoy all the immunities, rights and privileges conferred upon them by the convention.

ARTICLE VII.

Consuls-General and Consuls shall have the power to appoint Vice-Consuls and Consular Agents in the cities, ports and towns within their consular districts, subject, however, to the approbation of the

Government of the country where they reside. These Vice-Consuls and Consular Agents may be selected indiscriminately from among citizens of the two countries or from foreigners, and they shall be furnished with a commission issued by the appointing Consul, under whose orders they are to be placed. They shall enjoy the privileges and liberties stipulated in this convention. To Vice-Consuls and to Consular Agents who are not citizens of the State which appoints them, the privileges and immunities specified in Article II. shall not extend.

ARTICLE VIII.

Consuls-General, Consuls, Vice-Consuls or Consular Agents of the two countries may, in the exercise of their duties, apply to the authorities within their district, whether federal or local, judicial or executive, in the event of any infraction of the treaties and conventions between the two countries; also for the purpose of protecting the rights of their countrymen. Should the said authorities fail to take due notice of their application, they shall be at liberty, in the absence of any diplomatic representative of their country, to apply to the Government of the country where they reside.

ARTICLE IX.

Consuls-General, Consuls, Vice-Consuls or Consular Agents of the two countries, also their chancellors, shall have the right to take at their office, at the residence of the parties, or on board ship, the depositions of the captains and crews of vessels of their own nation, of passengers on board of them, of merchants, or any other citizens of their own country. They shall have the power also to receive and verify, conformably to the laws and regulations of their country: 1st. Wills and bequests of their countrymen, and all such acts and contracts between their countrymen as are intended to be drawn up in an authentic form, and verified. 2nd. Any and all acts of agreement entered upon between citizens of their own country and inhabitants of the country where they reside. All such acts of agreement, and other instruments, and also copies thereof, when duly authenticated by such Consul-General, Consul, Vice-Consul or Consular Agent under his official seals, shall be received in courts of justice as legal documents, or as authenticated copies, as the case may be, and shall have the same force and effect as if drawn up by competent public officers of one or the other of the two countries. Consuls-General, Consuls, Vice-Consuls or Consular Agents of the respective countries shall have the power to translate and legalize all documents issued by the authorities or functionaries of their own country, and such papers shall have the same force and effect in the country where the aforesaid officers reside as if drawn up by sworn interpreters.

ARTICLE X.

Consuls-General, Consuls, Vice-Consuls or Consular Agents shall be at liberty to go on board the vessels of their nation admitted to entry' either in person or by proxy, and to examine the captain and crew, to look into the register of the ship, to receive declarations with reference to their voyage, their destination, and the incidents of the voyage; also, to draw up manifests, lists of freight, to assist in despatching their vessels, and finally to accompany the said captains or crews before the courts and before the administrative authorities, in order to act as their interpreters or agents in their business transactions or applications of any kind. The judicial authorities and custom-house officials shall in no case proceed to the examination or search of merchant vessels without previous notice to the consular authority of the nation to which the said vessels belong, in order to enable them to be

present.

They shall also give due notice to Consuls, Vice-Consuls or Consular Agents, in order to enable them to be present at any depositions or statements to be made in courts of law, or before local magistrates, by captains or persons composing the crew, thus to prevent errors or false interpretations which might impede the correct administration of Justice.

The notice of Consuls, Vice-Consuls or Consular Agents shall name the hour fixed for such proceedings, and upon the non-appearance of the said officers or their representatives, the case shall be proceeded with in their absence.

ARTICLE XI.

Consuls, Vice-Consuls or Consular Agents, shall have exclusive charge of the internal order of the merchant vessels of their nation. They shall have therefore the exclusive power to take cognizance of and to settle all differences which may arise at sea or in port between captains, officers and crews in reference to wages and the execution of mutual contracts: subject in each case to the laws of their own nation. The local authorities shall in no way interfere, except in cases where the differences on board ship are of a nature to disturb the peace and public order in port or on shore, or when persons other than the officers and crew of the vessel are parties to the disturbance, except as aforesaid' the local authorities shall confine themselves to the rendering of forcible assistance if required by the Consuls, Vice-Consuls or Consular Agents, and shall cause the arrest, temporary imprisonment and removal on board his own vessel of every person whose name is found on the muster-rolls or register of the ship or list of the crew.

ARTICLE XII.

Consuls-General, Consuls, Vice-Consuls or Consular Agents, shall have the power to cause the arrest of all sailors or all other persons belonging to the crews of vessels of their nation who may be guilty of having deserted on the respective territories of the high contracting Powers, and to have them sent on board or back to their native country. To that end they shall make a written application to the competent local authority, supporting it by the exhibition of the ship's register and list of the crew, or else, should the vessel have sailed previously, by producing an authenticated copy of these documents, showing that the persons claimed really do belong to the ship's crew. Upon such request the surrender of the deserter shall not be refused. Every aid and assistance shall, moreover, be granted to the said consular authorities for the detection and arrest of deserters, and the latter shall be taken to the prisons of the country and there detained at the request and expense of the consular authority until there may be an opportunity for sending them away. The duration of this imprisonment shall not exceed the term of three months, at the expiration of which time, and upon three days' notice to the consul, the prisoner shall be set free, and he shall not be liable to re-arrest for the same cause. Should, however, the deserter have committed on shore an indictable offence, the local authorities shall be free to postpone his extradition until due sentence shall have been passed and executed. The high contracting parties agree that seamen, or other individuals forming part of the ship's crew, who are citizens of the country in which the desertion took place, shall not be affected by the provisions of this article.

ARTICLE XIII.

In all cases where no other agreement to the contrary exists between owners, freighters and insurers, all damages suffered at sea by the vessels of the two countries, whether they enter the respective ports voluntarily or by stress of weather, shall be settled by the Consuls-General, Consuls, Vice-Consuls or Consular Agents of their respective nation, provided no interests of citizens of the country where the said functionaries reside, nor of citizens of a third Power are concerned. In that case, and in the absence of a friendly compromise between all parties interested, the adjudication shall take place under supervision of the local authorities.

ARTICLE XIV.

In the event of a vessel belonging to the Government, or owned by a citizen of one of the two contracting States, being wrecked or cast on shore upon the coast of the other, the local authorities shall inform the Consuls-General, Consuls, Vice-Consuls or Consular Agents of the district of the occurrence, or if such Consular Agency does not exist, they shall communicate with the Consul-General, Consul, Vice-Consul or Consular Agent of the nearest district.

All proceedings relative to the salvage of American vessels wrecked or cast on shore in Austro-Hungarian waters shall be directed by the United States Consuls-General, Consuls, Vice-Consuls or Consular Agents; also all proceedings relative to the salvage of Austro-Hungarian vessels wrecked or cast on shore in American waters, shall be directed by Austro-Hungarian Consuls-General, Consuls, Vice-Consuls or Consular Agents.

All interference of the local authorities in the two countries shall take place for the purpose only of assisting the consular authorities in maintaining order and protecting the rights of salvors not belonging to the crew; also for enforcing the regulations relative to the import or export of the merchandise saved.

In the absence and until the arrival of the Consuls-General, Consuls, Vice-Consuls or Consular Agents, or their duly appointed delegates, the local authorities shall take all the necessary measures for the protection of persons and preservation of the property saved from the wreck.

No charges shall be made for the interference of the local authorities in such cases, except for expenses incurred through salvage and tile preservation of property saved, also for those expenses which, under similar circumstances, vessels belonging to the country where the wreck happens would have to incur.

In case of a doubt concerning the nationality of the wrecks, the local authorities shall have exclusively the management and execution of the provisions laid down in the present article.

The high contracting parties also agree that all merchandise and goods not destined for consumption in the country in which the wreck takes place shall be free of all duties.

ARTICLE XV.

Consuls-General, Consuls, Vice-Consuls and Consular Agents, also Consular Pupils, Chancellors and Consular Officers shall enjoy in the two countries all the liberties, prerogatives, immunities and privileges granted to functionaries of the same class of the most favored nation.

ARTICLE XVI.

In case of the death of a citizen of the United States in the Austro-Hungarian Monarchy, or of a citizen of the Austro Hungarian Monarchy in the United States, without having any known heirs or testamentary executors by him appointed, the competent local authorities shall inform the Consuls or Consular Agents of the State to which the deceased belonged of the circumstance, in order that the necessary information may be immediately forwarded to the parties interested.

ARTICLE XVII.

The present convention shall remain in force for the space of ten years from the date of the exchange of the ratifications, which shall be made in conformity with the respective constitutions of the two countries, and exchanged at Washington within the period of ten months, or sooner, if possible.(1)

In case neither of the contracting parties gives notice before the expiration of the said term of his intention not to renew this convention, it shall remain in force a year longer, and so on, from Year year, until the expiration of a year from the day on which one of the parties shall have given such notice.

In testimony whereof the respective Plenipotentiaries have signed this convention, and hereunto affixed their respective seals.

Done in duplicate at Washington, the eleventh day of July, in the year of our Lord one thousand eight hundred and seventy.

[SEAL.] HAMILTON FISH

[SEAL.] LEDERER

(1) By resolution of the Senate the time for exchange of ratifications was extended three months.

Naturalization Convention (1870)

Naturalization Convention Between the United States and Austria-Hungary; September, 20 1870

Concluded September 20, 1870; ratification advised by the Senate March 1, 1871; ratified by the President March 24, 1871; ratifications exchanged July 14, 1871; proclaimed August 1, 1871.

The President of the United States of America, and His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary, led by the wish to regulate the citizenship of those persons who emigrate from the United States of America to the territories of the Austro-Hungarian Monarchy, and from the Austro-Hungarian Monarchy to the United States of America, have resolved to treat on this subject, and have for that purpose appointed Plenipotentiaries to conclude a

Convention, that is to say:

The President of the United States of America, John Jay, Envoy Extraordinary and Minister Plenipotentiary from the United States to His Imperial and Royal Apostolic Majesty; and His Majesty the Emperor of Austria, etc., Apostolic King of Hungary, the Count Frederick Ferdinand de Beust, His Majesty's Privy Counsellor and Chamberlain, Chancellor of the Empire, Minister of the Imperial House and of Foreign Affairs, Grand Cross of the Orders of St. Stephen and Leopold, who have agreed to and signed the following articles:

ARTICLE I.

Citizens of the Austro-Hungarian Monarchy who have resided in the United States of America uninterruptedly at least five years, and during such residence have become naturalized citizens of the United States, shall be held by the Government of Austria and Hungary to be American citizens, and shall be treated as such.

Reciprocally, citizens of the United States of America who have resided in the territories of the Austro-Hungarian Monarchy, uninterruptedly at least five years, and during such residence have become naturalized citizens of the Austro-Hungarian Monarchy, shall be held by the United States to be citizens of the Austro-Hungarian Monarchy, and shall be treated as such.

The declaration of an intention to become a citizen of the one or the other country has not for either party the effect of naturalization.

ARTICLE II.

A naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country committed before his emigration, saving always the limitation established by the laws of his original country and any other remission of liability to punishment.

In particular, a former citizen of the Austro-Hungarian Monarchy who, under the first article, is to be held as an American citizen, is liable to trial and punishment, according to the laws of Austro-Hungary, for non-fulfilment of military duty: 1st. If he has emigrated, after having been drafted at the time of conscription, and thus having become enrolled as a recruit for service in the standing army. 2d. If he has emigrated whilst he stood in service under the flag, or had a leave of absence only for a limited time. 3d. If, having a leave of absence for an unlimited time, or belonging to the reserve or to the militia he has emigrated after having received a call into service, or after a public proclamation requiring his appearance, or after war has broken out. On the other hand, a former citizen of the Austro-Hungarian Monarchy, naturalized in the United States, who by, or after, his emigration has transgressed the legal provisions on military duty by any acts or omissions other than those above enumerated in the clauses numbered one, two and three, can, on his return to his original country, neither be held subsequently to military service nor remain liable to trial and punishment for the non-fulfilment of his military duty.

ARTICLE III.

The convention for the mutual delivery of criminals, fugitives from justice, concluded on the 3d July, 1856, between the Government of the United States of America on the one part, and the Austro-Hungarian Monarchy on the other part, as well as the additional convention, signed on the 8th May, 1848, to the treaty of commerce and navigation concluded between the said Governments on the 27th of August, 1839 [1829], and especially the stipulations of Article IV. of the said additional convention concerning the delivery of the deserters from the ships of war and merchant vessels, remain in force without change.

ARTICLE IV.

The emigrant from the one State, who, according to Article I., is to be held as a citizen of the other State, shall not, on his return to his original country, be constrained to resume his former citizenship, yet if he shall of his own accord reacquire it, and renounce the citizenship obtained by naturalization, such a renunciation is allowable, and no fixed period of residence shall be required for the recognition of his recovery of citizenship in his original country.

ARTICLE V.

The present convention shall go into effect immediately on the exchange of ratifications, and shall continue in force ten years. If neither party shall have given to the other six months' previous notice of its intention then to terminate the same, it shall further remain in force until the end of twelve months after either of the contracting parties shall have given notice to the other of such intention.

ARTICLE VI.

The present convention shall be ratified by the President of the United States, by and with the consent of the Senate of the United States, and by His Majesty the Emperor of Austria, etc., King of Hungary, with the constitutional consent of the two Legislatures of the Austro-Hungarian Monarchy, and the ratifications shall be exchanged at Vienna within twelve months from the date hereof.

In faith whereof the Plenipotentiaries have signed this convention as well in German as in English, and have thereto affixed their seals.

Done at Vienna the twentieth day of September, in the Year of our Lord one thousand eight hundred and seventy, in the ninety-fifth year of the Independence of the United States of America, and in the twenty-second year of the reign of His Imperial and Royal Apostolic Majesty.

[SEAL.] JOHN JAY

[SEAL.] BEUST

Trade-Mark Convention (1871)

Trade-Mark Convention Between the United States and Austria-Hungary; November 25, 1871

Concluded November 25, 1871; ratification advised by the Senate January 18, 1873; ratified by the President January 27, 1872; ratifications exchanged April 1, 1872; proclaimed June 1, 1878.

The United States of America and his Majesty the Emperor of Austria, King of Bohemia etc., and Apostolic King of Hungary, desiring to secure in their respective territories, a guarantee of property in trade marks, have resolved to conclude a special convention for this purpose, and have named as their Plenipotentiaries:

The President of the United States of America, John Jay, their Envoy Extraordinary and Minister Plenipotentiary from the United States of America to His Imperial and Royal Apostolic Majesty; and His Majesty the Emperor of Austria and Apostolic King of Hungary; the Count Julius Andrassy of Csik Szent Kiraly and Kraszna Horka, His Majesty's Privy Counsellor and Minister of the Imperial House and of Foreign Affairs, Grand Cross of the Order of St. Stephen, &c., &c., &c., who have agreed to sign the following articles.

ARTICLE I.

Every reproduction of trade-marks which in the countries or territories of the one of the contracting parties are affixed to certain merchandize to prove its origin and quality is forbidden in the countries or territories of the other of the contracting parties, and shall give to the injured party ground for such action or proceedings to prevent such reproduction, and to recover damages for the same, as may be authorized by the laws of the country in which the counterfeit is proven, just as if the plaintiff were a citizen of that country.

The exclusive right to use a trade-mark for the benefit of citizens of the United States in the Austro-Hungarian Empire, or of citizens of the Austro-Hungarian Monarchy in the territory of the United States, cannot exist for a longer period than that fixed by the law of the country for its own citizens. If the trade-mark has become public property in the country of its origin, it shall be equally free to all in the countries or territories of the other of the two contracting parties.

ARTICLE II.

If the owners of trade marks, residing in the countries or territories of the one of the contracting parties, wish to secure their rights in the countries or territories of the other of the contracting parties, they must deposit duplicate copies of those marks in the Patent Office at Washington and in the Chambers of Commerce and Trade in Vienna and Pesth.

ARTICLE III.

The present arrangement shall take effect ninety days after the exchange of ratifications, and shall continue in force for ten years from this date.

In case neither of the high contracting parties gives notice of its intention to discontinue this Convention twelve months before its expiration, it shall remain in force one year from the time that either of the high contracting parties announces its discontinuance.

ARTICLE IV.

The ratifications of this present Convention shall be exchanged at Vienna within twelve months or

sooner if possible.

In faith whereof the respective Plenipotentiaries have signed the present Convention as well in English as in German and Hungarian, and have affixed thereto their respective seals.

Done at Vienna the twenty-fifth day of November, in the year of our Lord one thousand eight hundred and seventy-one, in the ninety-sixth Year of the Independence of the United States of America, and in the twenty-third year of the reign of His Imperial and Royal Apostolic Majesty.

[SEAL.] JOHN JAY

[SEAL.] ANDRASSY

Copyright Proclamation (1907)

1907

By the President of the United States of America.

A Proclamation.

Whereas it is provided by section 13 of the act of Congress of March 3, 1891, entitled "An Act to amend title sixty, chapter three of the Revised Statutes of the United States, relating to copyrights," that said act shall only apply to a citizen or subject of a foreign state or nation when such foreign state or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as its own citizens; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyrights by the terms of which agreement the United States of America may, at its pleasure, become a party to such agreement: "

And whereas it is also provided by said section that "the existence of either of the conditions aforesaid shall be determined by the President of the United States by proclamation made from time to time as the purposes of this act may require: "

And whereas satisfactory official assurances have been given that in Austria the law permits to citizens of the United States the benefit of copyright on substantially the same basis as to the citizens of that country:

Now, therefore, I, THEODORE ROOSEVELT, President of the United States of America, do declare and proclaim that the first of the conditions specified in section 13 of the act of March 3, 1891, is now fulfilled in respect to the subjects of Austria.

In Testimony Whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington, this 20th day of September, in the year of our Lord one thousand nine hundred and seven, and of the Independence of the United States of America the one hundred and thirty-second.

THEODORE ROOSEVELT.

By the President:

ELIHU ROOT

Secretary of State.

Arbitration Convention (1909)

Arbitration Convention Between the United States and Austria-Hungary; January 15, 1909.

Signed January 15, 1909; ratification advised by the Senate January 20, 1909; ratified by the President March 1, 1909; ratifications exchanged at Washington May 13, 1909; Proclaimed May 18, 1909.

The President of the United States of America and His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary, signatories of the Convention for the pacific settlement of international disputes, concluded at The Hague on the 29th July, 1899;

Taking into consideration that by Article 19 of that Convention the High Contracting Parties have reserved to themselves the right of concluding Agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment, have resolved to conclude the following convention and for that purpose have appointed their Plenipotentiaries:

The President of the United States of America, Elihu Root, Secretary of State of the United States; and

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary, Baron Ladislaus Hengelmuller de Hengervar, Grand Cross of the Orders of Leopold and Francis Joseph, 3rd Class Knight of the Order of the Iron Crown, His Majesty's Privy Counselor and Ambassador Extraordinary and Plenipotentiary to the United States of America;

Who, after communicating to each other their respective full powers, found in good and due form, have agreed upon the following Articles:

ARTICLE I.

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the High Contracting Parties, and which it may not have been possible to settle by diplomacy; shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899; provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the High Contracting Parties, and do not concern the interests of third Parties.

ARTICLE II.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure

It is understood that such special agreements on the part of the United States will be made by the

President of the United States by and with the advice and consent of the Senate thereof.

Such agreements shall be binding only when confirmed by the governments of the High Contracting Parties by an exchange of notes.

ARTICLE III.

The present Convention shall be ratified by the High Contracting Parties, and the ratifications shall be exchanged as soon as possible at Washington.

The present Convention shall remain in force for five years from the fifteenth day after the date of the exchange of the ratifications.

In testimony whereof the respective Plenipotentiaries have signed this Convention and have affixed thereto their seals.

Done in duplicate at Washington the 15th day of January, 1909.

ELIHU ROOT [SEAL]

HENGELMULLER [SEAL]