

RIGHTS, PRIVILEGES, AND IMMUNITIES OF CONSULAR OFFICERS

Convention signed at Washington May 8, 1878

Senate advice and consent to ratification May 28, 1878

Ratified by the President of the United States June 4, 1878

Ratified by Italy July 9, 1878

Ratifications exchanged at Washington September 18, 1878

Entered into force September 18, 1878

Proclaimed by the President of the United States September 27, 1878

Article XI annulled and replaced by convention of February 24, 1881;¹

*articles XI and XIII abrogated by the United States July 1, 1916,
in accordance with Seamen's Act of March 4, 1915²*

*Revived (after World War II) February 6, 1948,³ pursuant to arti-
cle 44 of treaty of peace signed at Paris February 10, 1947⁴*

20 Stat. 725; Treaty Series 178

CONSULAR CONVENTION BETWEEN THE UNITED STATES AND ITALY

The President of the United States and His Majesty the King of Italy, recognizing the utility of defining the rights, privileges and immunities of consular officers in the two countries, have determined to conclude a consular convention for that purpose, and accordingly, have named:

The President of the United States, William M. Evarts, Secretary of State of the United States: His Majesty the King of Italy, Baron Alberto Blanc, his Envoy Extraordinary and Minister Plenipotentiary to the United States.

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 pledges itself to admit the Consuls General, Consuls, Vice-Consuls and Consular Agents of the other, in all its

¹ TS 179, *post*, p. 98.

² 38 Stat. 1164.

³ *Department of State Bulletin*, Feb. 22, 1948, p. 248.

⁴ TIAS 1648, *ante*, vol. 4, p. 325.

ports, places and cities, with the exception of those in which it may not be deemed proper to recognize such functionaries.

This reservation, however, shall not be applied to one of the high contracting parties without being applied in like manner to all the other Powers.

ARTICLE II

Consular officers shall receive, after presenting their commissions, and according to the formalities established in the respective countries, the *exequatur* required for the exercise of their functions which shall be furnished to them free of cost; and on presentation of this document, they shall be admitted by all the authorities of their place of residence, to the enjoyment of the rights, prerogatives and immunities granted them by this convention.

ARTICLE III

Consular officers, citizens of the State by which they were appointed, shall be exempt from arrest or imprisonment in civil cases and from preliminary arrest in penal cases, except in the case of offenses which the local law qualifies as crimes and punishes as such; and they shall be exempt from military billettings and from the performance of service in the army, in the militia, or national guard, and in the navy.

The aforesaid consular officers shall be exempt from all national, State or municipal taxes, imposed upon persons either in the nature of capitation tax or in respect of their property unless such taxes become due on account of the possession of real estate or for interest on capital invested in the State in which they reside. If they are engaged in trade, manufactures or commerce, they shall not enjoy such exemption, but shall be obliged to pay the same taxes as are paid by other foreigners under similar circumstances.

ARTICLE IV

Consular officers, citizens of the State which appointed them, and who are not engaged in trade, professional business or any kind of manufactures, shall not be obliged to appear as witnesses before the Courts of the Country in which they reside. If their testimony should be necessary, they shall be requested in writing to appear in Court, and in case of impediment their written deposition shall be requested, or it shall be received *viva voce*, at their residence or office.

It shall be the duty of the aforementioned consular officers to comply with such request without unnecessary delay.

In all the criminal cases contemplated by the VIth Article of the amendments of the Constitution of the United States, by virtue of which the right is guaranteed to persons charged with crimes, of obtaining witnesses in their favor, Consular officers shall be required to appear, all possible regard being paid to their dignity and to the duties of their office.

Consuls of the United States in Italy shall receive the same treatment in similar cases.

ARTICLE V

Consuls general, Consuls, Vice-Consuls and Consular Agents may place over the outer door of their office, the arms of their nation with this inscription: *Consulate* or *Vice-Consulate* or *Consular Agency of the United States or of Italy*. They may also hoist the flag of their country, over the house in which the Consular office is, provided they do not reside in the capital in which the Legation of their country is established.

ARTICLE VI

The Consular offices shall be at all times inviolable. The local authorities shall not be allowed to enter them under any pretext, nor shall they in any case examine or sequester the papers therein deposited. These offices, however, shall never serve as places of asylum.

When the Consular officer is engaged in trade, professional business or manufactures, the papers relating to the business of the Consulate must be kept separate.

ARTICLE VII

In case of death, incapacity or absence of the Consuls General, Consuls, Vice-Consuls and Consular Agents, their Chancellors and Secretaries, whose official character shall have been previously announced to the Department of State at Washington, or to the Ministry of Foreign Affairs in Italy, shall be permitted to discharge their functions *ad interim*, and they shall enjoy, while thus acting, the same rights, prerogatives and immunities as the officers whose places they fill, on the condition and with the reserves prescribed for those offices.

ARTICLE VIII

Vice-Consuls or Consular Agents, may be appointed by the respective governments or by the Consuls General or Consuls, with the approval of said governments, in the cities, ports, and places of each Consular district.

These Agents may be selected from the citizens of the United States or from Italian citizens or other foreigners, and they shall be furnished with a commission by the government or by the Consul appointing them, under whose orders they are to discharge their functions.

They shall enjoy the privileges provided in this Convention for consular officers, subject to the exceptions and reservations provided for the same.

ARTICLE IX

Consuls General, Consuls, Vice-Consuls and Consular Agents may have recourse to the authorities of the respective countries within their district, whether federal or local, judicial or executive, for the purpose of complain-

ing of any infraction of the treaties or conventions existing between the United States and Italy, as also in order to defend the rights and interests of their countrymen. If the complaint should not be satisfactorily redressed, the Consular officers aforesaid, in the absence of a diplomatic agent of their country, may apply directly to the Government of the country where they reside.

ARTICLE X

Consuls General, Consuls, Vice-Consuls, and Consular Agents, and their Chancellors or Consular Clerks, shall have the right to take in their offices, at the residence of the parties, in their own dwelling and even on board ship the depositions of captains and crews of the vessels of their nation, of passengers on board of the same, and of any other citizen or subject of their country.

They shall also have the right to receive at their offices, conformably to the laws and regulations of their country, any contract between citizens or subjects and other inhabitants of the country in which they reside, and also any contract between these latter, provided it relates to real estate situated in the territory of the nation to which the consular officer belongs, or to business which is to be transacted in said country.

Copies of papers relative to such contracts and official documents of all kinds, whether originals, copies or translations, duly authenticated by the Consuls General, Consuls, Vice-Consuls and Consular Agents, and sealed with the seal of office of the Consulate, shall be received as evidence in the United States and Italy.

ARTICLE XI ⁵

Consuls General, Consuls, Vice Consuls and Consular Agents shall have exclusive charge of the internal order on board of the merchant vessels of their nation, and shall alone take cognizance of questions, of whatever kind, that may arise, both at sea and in port, between the Captain, officers and seamen, without exception, and especially of those relating to wages and the fulfilment of agreements reciprocally made. The Courts, or Federal, State or Municipal authorities in the United States, and the Tribunals or authorities in Italy, shall not under any pretext, interfere in such questions, but they shall lend aid to Consular officers when the latter shall request it, in order to find out, arrest and imprison any person belonging to the crew, whom they may think proper to place in custody. These persons shall be arrested at the sole demand of the Consular officers, made in writing to the courts or Federal, State or Municipal authorities in the United States, or to the competent court or authority in Italy, such demands being supported by an official extract from the register of the vessel and from the crew-list, and they shall be

⁵ For a revision of art. XI, see supplementary convention of Feb. 24, 1881 (TS 179), *post*, p. 98.

detained during the stay of the vessel in the port, at the disposal of the Consular officers.

They shall be released at the written request of the said officer, and the expenses of the arrest and detention shall be paid by the Consular officer.

ARTICLE XII

According to the Act of Congress of March 5[3], 1855,⁶ *to regulate the carriage of passengers in steamships and other vessels*, all disputes and questions of any nature that may arise between Captains and officers on the one hand, and passengers on board of vessels on the other, shall be brought to and decided by the Circuit or district courts of the United States to the exclusion of all other courts and authorities.

ARTICLE XIII⁷

The respective Consuls General, Consuls, Vice-Consuls and Consular Agents, may arrest the officers, seamen and any other person forming part of the crew of the merchant and war vessels of their nation, who have been guilty of or charged with deserting from said vessels, in order to return them to their vessels, or to send them back to their country.

To this effect the Consular officers of Italy in the United States, may apply in writing, to either the Courts or the Federal, State or Municipal authorities of the United States, and the Consular officers of the United States may apply to any of the competent authorities in Italy, and make a demand for the deserters, showing by exhibiting the register of the vessel and the crew-list, or other official documents, that the persons claimed really belong to said crew. Upon such request, alone, thus supported, and without the exaction of any oath from the Consular officers, the deserters, not being citizens or subjects of the country in which the demand is made, at the time of their shipment, shall be given up.

All assistance and necessary aid moreover, shall be furnished for the search and arrest of said deserters, who shall be placed in the prisons of the country, and kept there at the request and at the expense of the Consular officer, until he finds an opportunity to send them home.

If, however, such an opportunity shall not present itself within the space of three months, counting from the day of the arrest, the deserter shall be set at liberty, nor shall he be again imprisoned for the same cause.

ARTICLE XIV

In the absence of an agreement to the contrary, between the owners, freighters and insurers, all damages suffered at sea, by the vessels of the two

⁶ 10 Stat. 715.

⁷ Abrogated by the United States July 1, 1916, in accordance with Seamen's Act of Mar. 4, 1915 (38 Stat. 1164).

countries whether they enter the respective ports voluntarily, or are forced by stress of weather or other causes over which the officers have no control, shall be settled by the Consuls General, Consuls, Vice Consuls and Consular Agents of the country in which they respectively reside; in case, however, any citizen of the country in which said Consular officers reside, or subjects of a third power, should be interested in these damages, and the parties cannot come to an amicable agreement, the competent local authorities shall decide.

ARTICLE XV

All operations relative to the salvage of United States vessels wrecked upon the coasts of Italy, and of Italian vessels upon the coasts of the United States, shall be directed by the respective Consuls General, Consuls and Vice Consuls of the two countries, and until their arrival, by the respective Consular Agents, where Consular Agencies exist.

In places and ports where there is no such agency, the local authorities shall give immediate notice of the shipwreck to the Consul of the district in which the disaster has taken place, and until the arrival of the said Consul, they shall take all necessary measures for the protection of persons and the preservation of property.

The local authorities shall intervene only to preserve order, and to protect the interests of the salvors, if they do not belong to the crew of the wrecked vessel, and to secure the execution of the arrangements made for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any customhouse charges, unless it be intended for consumption in the country in which the wreck took place.

ARTICLE XVI

In case of the death of a citizen of the United States in Italy, or of an Italian citizen in the United States, who has no known heir, or testamentary executor designated by him, the competent local authorities shall give notice of the fact to the Consuls or Consular Agents of the nation to which the deceased belongs, to the end that information may be at once transmitted to the parties interested.

ARTICLE XVII

The respective Consuls General, Consuls, Vice Consuls and Consular Agents, as likewise the Consular Chancellors, Secretaries, clerks or attachés, shall enjoy in both countries, all the rights, prerogatives, immunities and privileges which are or may hereafter be granted to the officers of the same grade, of the most favored nation.

ARTICLE XVIII

This Convention shall remain in force for the space of ten years from the date of the exchange of the ratifications, which shall take place in conformity

with the respective constitutions of the two countries, at Washington or at Rome, within the period of six months, or sooner, if possible.

In case neither party gives notice twelve months previously to the expiration of said period of ten years, of its intention not to renew the Convention, this shall remain in force until the expiration of a year from the day on which one of the parties shall have made such announcement.

In faith whereof, the respective Plenipotentiaries have signed this Convention, and have thereunto affixed their seals.

Done at Washington the Eighth day of May, Anno Domini, one thousand eight hundred and seventy-eight.

WILLIAM MAXWELL EVARTS [SEAL]
A. BLANC [SEAL]