

## GERMAN EMPIRE.

[See Prussia; North German Union.]

## GERMAN EMPIRE, 1871.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE GERMAN EMPIRE RESPECTING CONSULS AND TRADE-MARKS, CONCLUDED AT BERLIN DECEMBER 11, 1871; RATIFICATION ADVISED BY SENATE JANUARY 18, 1872; RATIFIED BY PRESIDENT JANUARY 26, 1872; PROTOCOL ADVISED BY SENATE APRIL 24, 1872; PROTOCOL AGREED TO AND RATIFICATIONS EXCHANGED AT BERLIN APRIL 29, 1872; PROCLAIMED JUNE 1, 1872.

Dec. 11, 1871.

The President of the United States of America and His Majesty the Emperor of Germany, King of Prussia, in the name of the German Empire, led by the wish to define the rights, privileges, immunities, and duties of the respective Consular Agents, have agreed upon the conclusion of a Consular Convention, and for that purpose have appointed their Plenipotentiaries, namely:

Contracting parties.

The President of the United States of America, George Bancroft, Envoy Extraordinary and Minister Plenipotentiary from the said States, near His Majesty the Emperor of Germany; His Majesty the Emperor of Germany, King of Prussia, Bernard König, His Privy Councillor of Legation; who have agreed to and signed the following articles:

Negotiators.

## ARTICLE I.

Each of the Contracting Parties agrees to receive from the other Consuls General, Consuls, Vice-Consuls, and Consular Agents in all its ports, cities, and places, except those where it may not be convenient to recognize such officers. This reservation, however, shall not apply to one of the Contracting Parties without also applying to every other Power.

Consular officers.

## ARTICLE II.

The Consuls General, Consuls, Vice-Consuls, or Consular Agents shall be reciprocally received and recognized, on the presentation of their commissions, in the forms established in their respective countries. The necessary exequatur for the exercise of their functions shall be furnished to them free of charge, and, on the exhibition of this instrument, they shall be admitted at once, and without difficulty, by the territorial authorities, Federal, State, or communal, judicial, or executive, of the ports, cities, and places of their residence and district, to the enjoyment of the prerogatives reciprocally granted. The Government that furnishes the exequatur reserves the right to withdraw the same on a statement of the reasons for which it has thought proper to do so.

Exequaturs.

## ARTICLE III.

The respective Consuls General, Consuls, Vice-Consuls, or Consular Agents, as well as their chancellors and secretaries, shall enjoy in the two countries all privileges, exemptions, and immunities which have been granted, or may in future be granted, to the agents of the same rank of the most favored nation. Consular officers, not being citizens of the country where they are accredited, shall enjoy, in the country of their residence, personal immunity from arrest or imprisonment except

Privileges and immunities.

[See Article VII.]

in the case of crimes, exemption from military billetings and contributions, from military service of every sort and other public duties, and from all direct or personal or sumptuary taxes, duties, and contributions, whether Federal, State, or municipal. If, however, the said consular officers are or become owners of property in the country in which they reside, or engage in commerce, they shall be subject to the same taxes and imposts, and to the same jurisdiction, as citizens of the country, property-holders, or merchants. But under no circumstances shall their official income be subject to any tax. Consular officers who engage in commerce shall not plead their consular privileges to avoid their commercial liabilities. Consular officers of either character shall not in any event be interfered with in the exercise of their official functions, further than is indispensable for the administration of the laws of the country.

[See protocol, p. 220.]

Engaging in commerce not to avoid liabilities.

#### ARTICLE IV.

Flags, inscriptions, &c.

Consuls General, Consuls, Vice-Consuls, and Consular Agents may place over the outer door of their offices, or of their dwellings, the arms of their nation, with the proper inscription indicative of the office. And they may also hoist the flag of their country on the consular edifice, except in places where a legation of their country is established.

They may also hoist their flag on board any vessel employed by them in port for the discharge of their duty.

#### ARTICLE V.

Inviolability of archives.

The consular archives shall be at all times inviolable, and under no pretence whatever shall the local authorities be allowed to examine or seize the papers forming part of them. When, however, a consular officer is engaged in other business, the papers relating to the consulate shall be kept in a separate enclosure.

Inviolability of office and dwelling.

The offices and dwellings of Consuls missi who are not citizens of the country of their residence shall be at all times inviolable. The local authorities shall not, except in the case of the pursuit for crimes, under any pretext invade them. In no case shall they examine or seize the papers there deposited. In no event shall those offices or dwellings be used as places of asylum.

Not to be used for asylum.

#### ARTICLE VI.

Rights of acting consuls, &c.

In the event of the death, prevention, or absence of Consuls General, Consuls, Vice-Consuls, and Consular Agents, their chancellors or secretaries, whose official character may have previously been made known to the respective authorities in Germany or in the United States, may temporarily exercise their functions, and, while thus acting, they shall enjoy all the rights, prerogatives, and immunities granted by this convention to the incumbents.

#### ARTICLE VII.

Vice-Consuls and Consular Agents.

Consuls General and Consuls may, with the approbation of their respective Governments, appoint Vice-Consuls and Consular Agents in the cities, ports, and places within their consular jurisdiction. These officers may be citizens of Germany, of the United States, or any other country. They shall be furnished with a commission by the Consul who appoints them and under whose orders they are to act, or by the Government of the country which he represents. They shall enjoy the privileges stipulated for consular officers in this convention, subject to the exceptions specified in Article III.

[See Article III.]

## ARTICLE VIII.

Consuls General, Consuls, Vice-Consuls, and Consular Agents shall have the right to apply to the authorities of the respective countries, whether Federal or local, judicial or executive, within the extent of their consular district, for the redress of any infraction of the treaties and conventions existing between the two countries, or of international law; to ask information of said authorities, and to address said authorities to the end of protecting the rights and interests of their countrymen, especially in cases of the absence of the latter; in which cases such Consuls, etc., shall be presumed to be their legal representatives. If due notice should not be taken of such application, 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.

Applications to local or national authorities.

## ARTICLE IX.

Consuls General, Consuls, Vice-Consuls, or Consular Agents of the two countries, or their chancellors, shall have the right, conformably to the laws and regulations of their country—

1. To take at their office or dwelling, at the residence of the parties, or on board of vessels of their own nation, the depositions of the captains and crews, of passengers on board of them, of merchants, or of any other citizens of their own country.

May take depositions, &c.

2. To receive and verify unilateral acts, wills, and bequests of their countrymen, and any and all acts of agreement entered upon between citizens of their own country, and between such citizens and the citizens or other inhabitants of the country where they reside; and also all contracts between the latter, provided they relate to property situated or to business to be transacted in the territory of the nation by which the said consular officers are appointed.

May verify wills, &c.

[See protocol, p. 260.]

All such acts of agreement and other instruments, and also copies and translations thereof, when duly authenticated by such Consul General, Consul, Vice-Consul, or Consular Agent, under his official seal, shall be received by public officials, and 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 or authenticated by competent public officers of one or the other of the two countries.

Authenticated copies to be evidence.

## ARTICLE X.

In case of the death of any citizen of Germany in the United States, or of any citizen of the United States, in the German Empire, without having in the country of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the nation to which the deceased belongs of the circumstance, in order that the necessary information may be immediately forwarded to parties interested.

Residents dying intestate.

[See protocol, p. 260.]

The said consular officer shall have the right to appear personally or by delegate in all proceedings on behalf of the absent heirs or creditors, until they are duly represented.

In all successions to inheritances, citizens of each of the contracting parties shall pay in the country of the other such duties only as they would be liable to pay, if they were citizens of the country in which the property is situated or the judicial administration of the same may be exercised.

Succession duties.

## ARTICLE XI.

Consuls General, Consuls, Vice-Consuls, and Consular Agents of the two countries are exclusively charged with the inventorying and the safe-keeping of goods and effects of every kind left by sailors or passengers on ships of their nation who die, either on board ship or on land, during the voyage or in the port of destination.

Effects of deceased sailors or passengers.

## ARTICLE XII.

Powers in respect  
to vessels.

Consuls General, Consuls, Vice-Consuls, and Consular Agents shall be at liberty to go either in person or by proxy on board vessels of their nation admitted to entry and to examine the officers and crews, to examine the ships' papers, to receive declarations concerning their voyage, their destination, and the incidents of the voyage; also to draw up manifests and lists of freight, to facilitate the entry and clearance of their vessels, and finally to accompany the said officers or crews before the judicial or administrative authorities of the country, to assist them as their interpreters or agents.

The judicial authorities and custom-house officials shall in no case proceed to the examination or search of merchant-vessels without having given previous notice to the consular officers of the nation to which the said vessels belong, in order to enable the said consular officers to be present.

They shall also give due notice to the said consular officers, 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 officers or persons belonging to the crew, thus to prevent errors or false interpretations which might impede the correct administration of justice. The notice to Consuls, Vice-Consuls, or Consular Agents shall name the hour fixed for such proceedings. Upon the non-appearance of the said officers or their representatives, the case may be proceeded with in their absence.

## ARTICLE XIII.

Settlement of  
differences be-  
tween masters and  
crews.

Consuls General, Consuls, Vice-Consuls, or Consular Agents shall have exclusive charge of the internal order of the merchant-vessels of their nation, and shall have the exclusive power to take cognizance of and to determine differences of every kind which may arise, either at sea or in port, between the captains, officers, and crews, and specially in reference to wages and the execution of mutual contracts. Neither any court or authority shall, on any pretext, interfere in these differences, 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 efficient aid to the Consuls, when they may ask it, in order to arrest and hold all persons, whose names are borne on the ship's articles, and whom they may deem it necessary to detain. Those persons shall be arrested at the sole request of the Consuls, addressed in writing to the local authorities and supported by an official extract from the register of the ship or the list of the crew, and shall be held during the whole time of their stay in the port at the disposal of the Consuls. Their release shall be granted only at the request of the Consuls, made in writing.

The expenses of the arrest and detention of those persons shall be paid by the Consuls.

## ARTICLE XIV.

Deserters from  
vessels.

Consuls General, Consuls, Vice-Consuls, or Consular Agents may arrest the officers, sailors, and all other persons making part of the crews of ships of war or merchant-vessels of their nation, who may be guilty or be accused of having deserted said ships and vessels, for the purpose of sending them on board or back to their country.

To that end, the Consuls of Germany in the United States shall apply to either the Federal, State, or municipal courts or authorities, and the Consuls of the United States in Germany shall apply to any of the competent authorities, and make a request in writing for the deserters, sup-

porting it by an official extract of the register of the vessel and the list of the crew, or by other official documents, to show that the men whom they claim belong to said crew. Upon such request alone thus supported, and without the exaction of any oath from the Consuls, the deserters (not being citizens of the country where the demand is made either at the time of their shipping or of their arrival in the port) shall be given up to the Consuls. All aid and protection shall be furnished them for the pursuit, seizure, and arrest of the deserters, who shall be taken to the prisons of the country and there detained at the request and at the expense of the Consuls, until the said Consuls may find an opportunity of sending them away.

If, however, such opportunity should not present itself within the space of three months, counting from the day of the arrest, the deserters shall be set at liberty, and shall not again be arrested for the same cause.

#### ARTICLE XV.

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 countries, whether they enter port voluntarily or are forced by stress of weather, shall be settled by the Consuls General, Consuls, Vice-Consuls, and Consular Agents of the respective countries. If, however, any inhabitant of the country, or citizen or subject of a third Power, shall be interested in the matter, and the parties cannot agree, the competent local authorities shall decide.

#### ARTICLE XVI.

In the event of a vessel belonging to the Government or owned by a citizen of one of the two contracting parties being wrecked, or cast on shore, on the coast of the other, the local authorities shall inform the Consul General, Consul, Vice-Consul, or Consular Agent of the district of the occurrence, or if there be no such consular agency, they shall inform 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 the territorial waters of the German Empire shall take place in accordance with the laws of Germany; and, reciprocally, all measures of salvage relative to German vessels wrecked or cast on shore in the territorial waters of the United States shall take place in accordance with the laws of the United States.

The consular authorities have in both countries to intervene only to superintend the proceedings having reference to the repair and revictualling, or, if necessary, to the sale of the vessel wrecked or cast on shore.

For the intervention of the local authorities, no charges shall be made, except such as in similar cases are paid by vessels of the nation.

In case of a doubt concerning the nationality of a shipwrecked vessel, the local authorities shall have exclusively the direction of the proceedings provided for in this article.

All merchandise and goods not destined for consumption in the country where the wreck takes place shall be free of all duties.

#### ARTICLE XVII.

With regard to the marks of labels of goods, or of their packages, and also with regard to patterns and marks of manufacture and trade, the citizens of Germany shall enjoy in the United States of America, and American citizens shall enjoy in Germany, the same protection as native citizens.

Damages suffered  
at sea.

Wrecked or  
damaged vessels.

Salvage.

Trade-marks.

ARTICLE XVIII.

Duration of convention.      The present convention shall remain in force for the space of ten years, counting from the day of the exchange of the ratifications, which shall be exchanged at Berlin within the period of six months.

Ratifications.      In case neither party gives notice, twelve months before the expiration of the said period of ten years, of its intention not to renew this convention, it shall remain in force one year longer, and so on, from year to year, until the expiration of a year from the day on which one of the parties shall have given such notice.

Signatures.      In faith whereof the Plenipotentiaries have signed and sealed this Convention.

Date.      Berlin, the 11th of December, 1871.

[L. S.]      GEO. BANCROFT.  
[L. S.]      B. KUENIG.

PROTOCOL.

April 29, 1872.      The undersigned met this day, in order to effect the exchange of the ratifications of the Consular Convention, signed on the 11th day of December, 1871, between the United States of America and Germany.

Explanatory declaration.      Before proceeding to this act, the undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, declared—

Word “property” in Articles III and IX to mean real estate.      1. That, in accordance with the instruction given him by his Government, with the advice and consent of the Senate, the expression “property,” used in the English text of Articles III and IX, is to be construed as meaning and intending “real estate.”

Article X to apply also to females.      2. That, according to the laws and the Constitution of the United States, Article X applies, not only to persons of the male sex, but also to persons of the female sex.

Signatures.      After the undersigned, President of the office of the Chancellor of the Empire, had expressed his concurrence with this declaration, the acts of ratification, found to be in good and due form, were exchanged, and the present protocol was in duplicate executed.

Date.      Berlin, the 29th April, 1872.

GEO. BANCROFT.  
DELBRUECK.