# AUSTRIA-HUNGARY

## ABROGATION OF PROVISIONS OF CERTAIN TREATIES CONFLICTING WITH THE SEAMEN'S ACT OF MARCH 4, 1915.[1] ACCEPTANCE OF THE ABROGATION BY AUSTRIA, ITALY AND ROUMANIA. DENUNCIATION BY ITALY OF THE TREATY OF MAY 8, 1878. WITHDRAWAL OF THE DENUNCIATION BY ITALY AND ACQUIESCENCE THEREIN BY THE UNITED STATES

### AUSTRIA

File No. 711.6321/86

*Ambassador Penfield to the Secretary of State*

[Telegram]

AMERICAN EMBASSY,
*Vienna, July 17, 1916, 11 a. m.*

1339. Your instructions May 29, 1915, and circular telegram April 1, 1916. Ministry for Foreign Affairs now replies as follows:

According to understanding reached between Imperial Royal Austrian and Royal Hungarian Governments, Imperial and Royal Government of Austro-Hungarian Monarchy according to wish of Government of the United States of America agrees that Article 4 of additional convention of May 8, 1848, and Articles 11 and 12 of Consular Convention of July 11, 1870, between Austro-Hungarian Monarchy and the United States of America be repealed by an exchange of notes. However, in view of the fact that American Seamen's Act of March 4, 1915, encroaches upon Austrian and Hungarian legislation, with simultaneous disregard of axioms of international law, Imperial and Royal Governments must express the certain expectation that Government of the United States of America give Imperial and Royal Governments satisfactory assurances this regard.

PENFIELD

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File No. 711.6321/87

*Ambassador Penfield to the Secretary of State*

No. 1781

AMERICAN EMBASSY,
*Vienna, July 19, 1916.*

SIR: Referring to the Department's unnumbered instruction of May 29, 1915, relative to the intention of the United States to abrogate certain sections of the Treaties of May 8, 1848, and July 11, 1870, between the United States and Austria-Hungary, and enclosing copy of the Act of Congress of March 4, 1915 "An Act to Promote the Welfare of American Seamen," and to my telegram No. 1218 of April 4th last,[2] I have the honor now to transmit herewith a copy and translation of a Note from the Austro-Hungarian Minister for Foreign Affairs on this subject.

I have [etc.]

FREDERIC C. PENFIELD

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[1] Continued from For. Rel. 1916, p. 33.

[2] Not printed.

[Inclosure—Translation]

*The Minister of Foreign Affairs to Ambassador Penfield*

MINISTRY OF FOREIGN AFFAIRS,
*Vienna, July 13, 1916.*

With reference to the very esteemed note of his excellency the Ambassador Extraordinary and Plenipotentiary of the United States of America, Mr. Frederic Courtland Penfield, No. 2020 of July 1, 1915, the undersigned has the honor to state that according to an understanding reached with the Imperial Royal Austrian and the Royal Hungarian Governments, the Imperial and Royal Government of the Austro-Hungarian Monarchy, according to the wish of the Government of the United States of America, agrees that Article 4 of the Additional Convention of May 8, 1848, and Articles 11 and 12 of the Consular Convention of July 11, 1870, between the Austro-Hungarian Monarchy and the United States of America, be repealed by an exchange of notes. However, in view thereof that the American Seamen's Act of March 4, 1915, encroaches upon Austrian and Hungarian legislation, with simultaneous disregard of the axioms of internationl law, the Imperial and Royal Government must express the certain expectation that the Government of the United States give the Imperial and Royal Government satisfactory assurances in this regard.

The undersigned avails [etc.]

For the Minister:
IPPEN

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File No. 711.6321/86

*The Acting Secretary of State to Ambassador Penfield*

[Telegram]

DEPARTMENT OF STATE,
*Washington, July 24, 1916, 4 p. m.*

1305. Your 1339, July 17, 11 a. m. Department not entirely clear respecting meaning Foreign Office note. Mail copy as soon as possible.

POLK

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File No. 711.6321/90

*Ambassador Penfield to the Secretary of State*

No. 2447

AMERICAN EMBASSY,
*Vienna, January 30, 1917.*

SIR: Adverting to my telegram No. 1668 of the 29th instant, relative to the desire of the Government of the United States to abrogate by an exchange of notes certain sections of the treaties with Austria-Hungary of May 8, 1848 and July 11, 1870, in view of an act of Congress dated March 4, 1915 and entitled "An Act to Promote the Welfare of American Seamen", I have the honor to enclose herewith a copy and translation of a further note received from the Austro-Hungarian Ministry of Foreign Affairs, No. 782/8 of January 16th, in which the Imperial and Royal Government expresses the desire to be informed at an early date of the reply of the United States to certain questions raised by its note of July 13th last, a copy of which was forwarded with my despatch No. 1781 of July 19, 1916.

I have [etc.]

FREDERIC C. PENFIELD

[Inclosure—Translation]

*The Minister of Foreign Affairs to Ambassador Penfield*

MINISTRY OF FOREIGN AFFAIRS,
*Vienna, January 16, 1917.*

By its note verbale No. 67630/8 of July 13, 1916, this Ministry had the honor to make known to his excellency the Ambassador Extraordinary and Plenipotentiary of the United States of America, Mr. Frederic Courtland Penfield, that the Imperial and Royal Government of the Austro-Hungarian Monarchy agreed to Article 4 of the Additional Convention of May 8, 1848, and Articles 11 and 12 of the Consular Convention of July 11, 1870, being withdrawn by an interchange of notes, at the same time expressing the definite expectation of a satisfactory assurance on the part of the United States with regard to the infringements by the American Seamen's Act of March 4, 1915, on the rights of Austria-Hungary, and also to the disregard of certain axioms of international law.

The undersigned has now the honor to call to the attention of the Ambassador of the United States of America, that the Imperial and Royal Government is still looking forward to a friendly reply, all the more so as the alteration of the clauses in question has not yet been officially sanctioned by the authorities constitutionally empowered to do so.

The undersigned at the same time avails [etc.]

For the Minister:
IPPEN

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File No. 711.6321/89

*The Secretary of State to Ambassador Penfield*

[Telegram]

DEPARTMENT OF STATE,
*Washington, February 5, 1917, 6 p. m.*

1528 Your telegram 1668[2] and Despatch 1781. Department is not clear respecting either precise objections of Government of Austria-Hungary to the so-called Seamen's Act of March 4, 1915, or respecting character of assurances which they desire, since Foreign Office merely observes in general terms in the note addressed to you under date of July 13, last, that since act

encroaches upon Austrian and Hungarian legislation, with simultaneous disregard of the axioms of international law, the Imperial and Royal Government must express the certain expectation that the Government of the United States give the Imperial and Royal Government satisfactory assurances in this regard.

It is unfortunate that the municipal laws of the two countries conflict, as would appear from the Austro-Hungarian Government's note just mentioned to be the case. However, the Department inclined believe this fact will not result in any serious inconvenience to the vessels of each country. Since act took effect, representations have not been made to Department respecting any such inconvenience on part of ships of other maritime nations with which agreements have been made respecting the abrogation of treaty stipulations in conflict with act, nor have complaints been made to Department that any action taken by authorities of this Government in connection with the administration of act has been at variance with established rules international law. Department of opinion Government of Austria-Hungary will find no cause for such complaint in behalf their vessels. However, in case a satisfactory understanding cannot be arrived at for the abrogation of treaty stipulations between this Government

[1] Not printed.

and Austria-Hungary affected by the act, other provisions of the treaties in question remaining in effect, it would appear that a solution of this matter can only be found in the denunciation of these treaties in their entirety. Department of opinion Government of Austria-Hungary will not consider such course necessary. The Department has been under impression that Government of Austria-Hungary gave its consent to such an understanding in note addressed to you under date July 13, last.

Communicate at once with Foreign Office in sense of foregoing, with reference to its note referred to in your telegram under acknowledgment.

LANSING

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File No. 711.6321/90

*The Secretary of State to Ambassador Penfield*

No. 1386

DEPARTMENT OF STATE,
*Washington, March, 14, 1917.*

SIR: The Department has received your No. 2447, of January 30, 1917, in which, with reference to your telegram No. 1668, of January 29, relative to the desire of this Government to abrogate by an exchange of notes certain sections of the Treaties with Austria-Hungary of May 8, 1848 and July 11, 1870, in view of the Act of Congress dated March 4, 1915 and entitled "An Act to promote the welfare of American Seamen", you enclose a translation of a further note on the subject from the Austro-Hungarian Ministry of Foreign Affairs, expressing the desire of the Austro-Hungarian Government to be informed of the reply of the United States to certain questions raised by the Austro-Hungarian note of July 13, 1916, a translation of which was forwarded with your despatch No. 1781, of July 19, 1916.

In this relation you are referred to the Department's telegram No. 1528, of February 5, 1917.

I am [etc.]

For the Secretary of State:
FRANK L. POLK

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GERMANY

File No. 711.6221/153

*Ambassador Gerard to the Secretary of State*

No. 3754

AMERICAN EMBASSY,
*Berlin, August 7, 1916.*

SIR: With reference to the Department's circular instruction of March 9, 1916,[3] quoting, at the request of the Acting Secretary of Commerce, for the information of this Embassy and for communication to the German Government, a circular letter addressed by the commissioner of navigation, to collectors of customs, shipping commissioners and others concerned, and forwarding a print of the Act of

[3] For. Rel. 1916, p. 5.

Congress approved March 4, 1915, known as the "Seamen's Act," I have the honor to transmit herewith to the Department copies and translations of a note received from the Imperial Foreign Office, dated August 3, 1916, stating that, though the advice which is provided for in Section 16 of the above-mentioned act to the effect that the Government of the United States intends to annul the articles of the valid treaties conflicting with the contents of this act, after expiration of the terms of notice, has as yet not been received by the Imperial Government, the Foreign Office does not fail to advise the Embassy, for communication to its Government, that the Seamen's Act contains regulations which are not consistent with agreements in the treaties concluded by the Empire and the United States.

I have [etc.]

JAMES W. GERARD

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[Inclosure—Note verbale—Translation]

The Foreign Office has the honor to acknowledge receipt of the American Embassy's note verbale dated April 14, 1916—F. O. No. 9328—and of the print of the official edition of the act known as the "Seamen's Act" of the United States, under date of March 4, 1915, transmitted for the information of the Foreign Office.

Though the advice which is provided for in Section 16 of the above-mentioned act to the effect that the Government of the United States intends to annul the articles of the valid treaties conflicting with the contents of this act, after expiration of the terms of notice, has as yet not been received by the Imperial Government, the Foreign Office does not fail to advise the Embassy for communication to its Government that the Seamen's Act contains regulations which are not consistent with agreements in the treaties concluded by the Empire and the United States. Other provisions of this act are not consistent with the principle of international law, that the regulation of the terms of contract (existing) between the crew and the master only concerns the state of registry. As the legal affairs of the German seamen on German ships are regulated by the German Seaman's Act, the Imperial Government can not acknowledge an encroachment of American jurisdiction upon this sphere.

FOREIGN OFFICE,
*Berlin, August 3, 1916.*

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File No. 711. 6221/153

*The Secretary of State to Chargé Grew*

No. 3670

DEPARTMENT OF STATE,
*Washington, November 9, 1916.*

SIR: The Department acknowledges the receipt of the Ambassador's No. 3754 of August 7, 1916, with which, having reference to the Department's circular instruction of March 9, 1916, quoting, at the request of the Acting Secretary of Commerce, for the information of the Embassy, and for communication to the German Government, a circular letter addressed by the commissioner of navigation to collectors of customs, shipping commissioners and others concerned, and forwarding a print of the Act of Congress of March 4, 1915, known as the "Seamen's Act", the Embassy transmits a translation of a note of August 3, 1916, from the German Foreign Office stating that, though the advice which is provided for in Section 16 of the above-mentioned act to the effect that the Government of the

United States intends to annul the articles of the valid treaties conflicting with the contents of this act, after expiration of the terms of notice, has as yet not been received by the Foreign Office, the Foreign Office does not fail to advise the Embassy, for communication to its Government, that the Seamen's Act contains regulations which are not consistent with agreements in the treaties concluded by Germany with the United States.

In this relation you are referred to the Department's instruction of this day's date on the subject.

I am [etc.]

ROBERT LANSING

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File No. 711.6221/153

*The Secretary of State to Chargé Grew*

No. 3671

DEPARTMENT OF STATE,
*Washington, November 9, 1916.*

SIR: The Department encloses herewith a copy of an act of the Congress of the United States, approved March 4, 1915, entitled—

An Act To promote the welfare of American seamen in the merchant marine of the United States; to abolish arrest and imprisonment as a penalty for desertion and to secure the abrogation of treaty provisions in relation thereto; and to promote safety at sea.

It is deemed appropriate that an explanation be made of the origin of the legislation and the causes operating to move Congress to pass the Act of March 4, 1915.

The improvement of the condition of seamen, to bring it into harmony with the enlightened spirit of personal freedom of the modern age, had long been the studious purpose of the Congress of the United States. By the Act of Congress of December 21, 1898, the penalty of imprisonment for desertion of seamen from American vessels in domestic ports and in near-by ports was abolished. That act covered more than nine-tenths of the seamen on American vessels and antedated by twelve years the resolution of the International Seamen's Congress at Copenhagen in August, 1911, favoring the abolition of imprisonment for desertion wherever prescribed by the laws of maritime nations.

Again, many events occurred immediately prior to the present legislation which have profoundly influenced and moulded public sentiment in favor of stricter regulation of overseas traffic, in relation to the safety of passengers, and in relation to the necessity for the protection of seamen in their natural rights as a class of laborers, theretofore discriminated against in comparison with all other classes of workmen. The terrible disaster to the steamship *Titanic*, with the resultant loss of human life, attracted universal attention to the need of further legislation to promote the safety of passengers and seamen. The burning of the *Volturno*, with its disclosure of the lack of life-saving appliances, drilled crews, and of other defective conditions, added to the forces operating to secure remedial legislation. As a result of these tragedies on the high seas, and of the agitation engendered thereby, two great political parties of the United States

which express and move public opinion and policy, adopted in their platforms of 1912 declarations respecting the subject. The platform of one contained the following statement:

We urge upon Congress the speedy enactment of laws for the greater security of life and property at sea; and we favor the repeal of all laws, and the abrogation of so much of our treaties with other nations as provide for the arrest and imprisonment of seamen charged with desertion, or with violation of their contract of service. Such laws and treaties are un-American, and violate the spirit, if not the letter, of the Constitution of the United States.

The platform of the other contained the following:

We favor the speedy enactment of laws to provide that seamen shall not be compelled to endure involuntary servitude, and that life and property at sea shall be safeguarded by the ample equipment of vessels with life-saving appliances and with full complements of skilled, able-bodied seamen to operate them.

As a consequence of the public sentiment thus manifested, a bill was introduced in the House of Representatives on May 2, 1912, providing among other things, for the better protection of life at sea, and abolishing involuntary servitude imposed upon seamen in the merchant marine of the United States while in foreign ports and involuntary servitude imposed upon seamen of the merchant marine of foreign countries while in ports of the United States. As indicating the views of the Committee on Merchant Marine and Fisheries of the Congress of the United States, to which the bill was referred, the following extract from its report is quoted:

There is no other portion of our citizens or residents who can be compelled, under penalty of imprisonment, to fulfil a civil contract to labor. The seamen alone remain as the last remnant of serfdom.

It is needless in this age to argue for the right of men to be free. It is an established fact in our fundamental law and should be applied to seamen as well as others. You can not control man's labor without controlling the man himself. If he is to be free, he must have the right to labor or not, as best suits his own judgment or convenience. Labor power is a part of man; it is generated within him and can only be exercised and utilized through his brain power and will. To compel him to use it against his will is to make him to all intents and purposes a slave.

This bill relieves him from that condition. By relieving the seamen from any criminal proceedings for violating a contract to labor, leaving only the civil process as a remedy, you place him exactly in the same position as other workmen, and the result will be to gradually improve the standard of the men who go down to the sea, not only of those in our own shipping, but of those in all ships entering our ports, until it has reached the same standard as that of workmen on land.

The bill above referred to, which was not enacted into law, contained in substance the amendments to the navigation laws of the United States subsequently incorporated and passed in the Act of March 4, 1915.

Section 4 of this act, which is applicable to seamen on foreign vessels while in the harbors of the United States, provides, among other things, for the enforcement of certain specified rights of seamen respecting their wages and declares that the "courts of the United States shall be open to such seamen for its enforcement."

Sections 16 and 17, contain provisions abolishing the arrest or imprisonment of seamen for desertion from merchant vessels of the United States in foreign countries or from foreign vessels in American waters and authorizes the President to take steps looking to the termination of treaty stipulations between this country and other nations providing for the arrest and imprisonment of seamen deserting or charged with desertion.

It appears that Article 13 of the Consular Convention concluded December 11, 1871, between the United States and the German Empire, Article 10 of the Treaty concluded May 1, 1828, between the United States and Prussia, and Article 9 of the Treaty of Commerce and Navigation concluded December 9, 1847, between the United States and Mecklenburg-Schwerin, which contain stipulations relative to the jurisdiction of consular officers over merchant vessels, are affected by Section 4 of the act. And it appears that Articles 13 and 14 of the Treaty with the German Empire, Article 11 of the Treaty with Prussia and Article 9 of the Treaty with Mecklenburg-Schwerin, which contain stipulations relating to the arrest and imprisonment of deserting seamen, are affected by the terms of Section 16 of the act.

The application of the fundamental principles of the Act of Congress to alien seamen within the territorial jurisdiction of the United States involves an abrogation of such treaty stipulations as are inconsistent therewith. It is hoped that an understanding regarding this matter may be reached with but little inconvenience by a willingness on the part of the Government of Germany to consent to such abrogation as will leave intact all the other provisions of the treaties in question.

It is obvious that the Government of Germany is aware that sooner or later an amelioration of the legal status of seamen and the practice with regard to their treatment must have come, as a concomitant to the general advance of human liberty in other pursuits, to modify the strictness of the letter of municipal and conventional law existing for centuries in statutes and treaties. That national legislation has been the first to respond to this humane impulse is presumably due to the greater ease of amending local laws; but it is to be expected that international conventional arrangements will not long stand opposed to the complete release of seamen from the artificial restraints on their personal liberty and pursuit of happiness peculiar to their calling. That so little has heretofore been done in their behalf may be ascribed to the fact that the nature of their calling removes the circumstances and conditions of their lives from the veiw of the greater body of their fellow countrymen in whose regard generally reposes the welfare of individuals.

You are therefore instructed to bring this matter to the attention of the Minister for Foreign Affairs and you will explain to him that the President, using the discretion which he deems is granted to him under the Act of March 4, 1915, instructs you to propose an arrangement between the two Governments which will effect the purpose of the act by the abrogation of the treaty stipulations above referred to.

It is believed that the general observations made in a previous part of this instruction will convince the Government of Germany of the wise and humane purposes toward which the legislation in question is directed. That Congress did not contemplate the least infringement of the rights of foreign Governments respecting the control of their merchant marine while in the ports of the United States in a manner inimical to those Governments is evidenced by the reports from the various committees to which the bill was referred before its passage. It is likewise clearly shown by Section 16 of the act that the intent of Congress was not to disturb the valuable treaties now existing between the Government of the United States and

other countries, negotiated from time to time with much care and with much patience, but by appropriate legislation to correct and regulate the long existing and varying methods of procedure in matters affecting seamen. That such methods of procedure and standards of conduct towards seamen generally have not advanced as they should have, coincident with the improved treatment of other classes of labor, is believed to be so well established as to need no comment, and the President feels, therefore, that when all the facts and circumstances attendant upon the passage of the act are fully considered by the Government of Germany, no serious difficulties will be found to delay or to prevent an agreement for the mere abrogation or omission of the respective articles found to be inconsistent with the provisions of the act.

The President, although deeply anxious that an agreement be reached with the Government of Germany on this subject, is not concerned as to the particular method by which it may be consummated, whether by exchange of notes or by a short treaty annulling the treaty stipulations heretofore referred to which are affected by the act. The former course seems preferable because more easily effected. In case no satisfactory understanding can be arrived at for the abrogation of the treaty stipulations affected by the Act of March 4, 1915, other provisions of the treaties in question remaining in affect, it would appear that a solution of this matter can only be found in the denunciation of these treaties in their entirety.

In bringing this matter to the attention of the Minister for Foreign Affairs, you will hand him a copy of this instruction and express to him the earnest hope of this Government that the sympathetic consideration which the Government of Germany will undoubtedly bestow upon its proposal may result in an understanding as to the abrogation merely of those treaty stipulations which are affected by the Act of Congress of March 4, 1915, with as little disturbance as possible of the conventional relations now happily existing between the two countries.

I am [etc.]

ROBERT LANSING

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## ROUMANIA

File No. 711.7121/2

*Minister Vopicka to the Secretary of State*

[Telegram]

AMERICAN LEGATION,
*Bucharest, July 25, 1916.*

281. Department's circular April 1. Was assured verbally yesterday at Foreign Office that Seamen's Act approved and written acceptance would follow shortly.[4]

VOPICKA

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[4] No further reply seems to have been received from the Roumanian Government.

ITALY

File No. 711.6521/100

*Ambassador Page to the Secretary of State*

No. 324

AMERICAN EMBASSY,
*Rome, July 8, 1915.*

SIR: I have the honor to inform you that upon the receipt of the Department's unnumbered instruction of May 29th last relative to a formal notice to be given to the Italian Government of the desire of our Government to terminate the Treaty of 1878 with Italy, I communicated the contents of the Department's instruction to the Royal Italian Minister for Foreign Affairs in the manner therein indicated.

I am to-day in receipt of an acknowledgment of my communication, signed by Baron Sonnino, the Minister for Foreign Affairs, of which the following is a translation:

MINISTRY FOR FOREIGN AFFAIRS,
*Rome, July 5, 1915.*

MR. AMBASSADOR: In relation to your excellency's esteemed note No. 596 of June 21st, I have the honor to inform you that the Government of the King takes notice of the denunciation made in that note by your excellency, in behalf of your Government, of the Italo-American Consular Convention of May 8, 1878—such denunciation to take effect, according to the terms of the Convention itself, on the 1st of the current month.

Pray accept [etc.]

S. SONNINO,
*Minister for Foreign Affairs*

I have [etc.]

THOMAS NELSON PAGE

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File No. 711.6521/100

*The Secretary of State to Ambassador Page*

DEPARTMENT OF STATE,
*Washington, March 25, 1916.*

SIR: The Department has received your despatch No. 324 of July 8, 1915, with which you enclose a copy of a note from the Italian Minister for Foreign Affairs acknowledging notice on the part of this Government of the denunciation of the Italo-American Consular Convention of May 8, 1878.

The Department greatly regrets that in its instruction to you of May 29th last, you were inadvertently directed to give notice of the denunciation of the Consular Convention of May 8, 1878, between this Government and Italy, in its entirety instead of being directed to give notice of the intention of this Government to abrogate the Convention concluded between the two Governments February 24, 1881, and Article XIII of the Treaty of May 8, 1878. You will so inform the Italian Government and in this relation further communicate with it in the sense of the following:

It had been previously pointed out to the Italian Government that the application of the fundamental principles of the Act of Congress to alien seamen within the territorial jurisdiction of the United States involves an abrogation of such treaty provisions as are inconsistent therewith, and that the Act makes it mandatory on the President, within ninety days after the passage thereof to give notice to the several governments, respectively that

so much as hereinbefore described of all such treaties and conventions between the United States and foreign governments will terminate on the expiration of such periods after notices have been given as may be required in such treaties and conventions,

the period thus established terminating on July 1st next.

It appears that Article XIII of the Treaty of May 8, 1878, between the United States and Italy is affected by Section 16 of the Act of Congress, and that Article I of the Treaty concluded between the two Governments on February 24, 1881, which article was by this agreement substituted for Article XI of the Treaty of May 8, 1878, is affected by the terms of Sections 4 and 16 of the Act.

The Government of the United States, therefore, pursuant to the provisions of the Act of March 4, 1915, which have been made known to the Italian Government, hereby gives notice of its intention to abrogate the Treaty of February 24, 1881, and this Government hopes that such abrogation may take effect on July 1, 1916, the date on which it was intended to have it take effect when the inaccurate notice was given to the Italian Government.

The Government of the United States likewise pursuant to the provisions of the Act of March 4, 1915, also hereby gives notice of of its intention to abrogate Article XIII of the Treaty of May 8, 1878, to take effect likewise on July 1, 1916.

Inasmuch as treaties are contracts between governments, they can only be varied in whole or in part by mutual agreement or special consent. It is the hope, however, of the President, that such an agreement can easily be reached as will leave unaffected all parts of the treaties with foreign governments not inconsistent with the humanitarian and progressive provisions of the Act.

While recognizing that denunciation of a portion of a treaty may not, according to international practice, be made, the President, nevertheless, using the discretion which he deems is granted to him to interpret the Act of March 4, 1915, in the sense contemplated by Congress, instructs you to propose an arrangement between the two Governments which will effect the purpose of the Act by the mere omission of Article XIII of the Treaty of 1878, and by the nullification of Article I of the Treaty of January [February] 24, 1881, which in a sense is a part of the Treaty of 1878.

It is believed that the general observations made in the communication previously laid before the Foreign Office by you regarding the purposes of the Act of March 4, 1915, will convince the Italian Government of the wise and humane purpose toward which the legislation is directed. That Congress did not contemplate the least infringement of the rights of foreign governments respecting the control of their merchant marine while in the ports of the United States, in a manner inimical to those governments, is evident from the reports of the various committees to which the bill was referred before passage. It is likewise clearly shown by Section 16 of the act that the intent of Congress was not to disturb the great and valuable treaties now existing between the Government of the United States and other nations, negotiated from time to time with much care and with much patience, but by appropriate legislation to correct and regulate the long existing and varying methods of procedure in matters affecting seamen. That such methods of procedure and standards of conduct toward seamen generally have not been advanced as they should have

been, coincident with the improved treatment of other classes of labor, is believed to be so well established as to need no comment, and the President hopes, therefore, that, when all the facts and circumstances attendant upon the passage of the Act are fully considered by the other governments whose treaties may be affected in parts, no serious difficulties will be found to delay or to prevent an agreement for the mere abrogation or omission of the respective articles found to be inconsistent with the provisions of the Act.

The President, although deeply anxious that an agreement be reached with foreign governments on this subject, is not concerned as to the particular method by which it may be consummated, whether by signed protocols of conferences or by mutual exchange of notes, as is a common practice in the conduct of many diplomatic affairs of this character. The latter course seems preferable because more easily effected. It will not be necessary to refer to the Senate of the United States for its advice and consent such an agreement by an exchange of notes, and this method of procedure will be regular and effective because of the authority already granted to the President by Section 16 of the Act to abrogate the portions of the treaties inconsistent therewith. Hence it will be perceived that the intent of Congress may be fully realized by informal agreements between the Government of the United States and other Powers, and that in this way the various important treaties now subsisting may remain in full force and effect with the exception of certain articles relating to seamen.

This Government hopes that the sympathetic consideration which the Government of Italy will undoubtedly bestow on its proposal may result in means being found to effect the abrogation merely of those treaty stipulations which are inconsistent with the Act of Congress of March 4, 1915, with as little disturbance as possible of the conventional relations now happily existing between the two Governments.

I am [etc.]

ROBERT LANSING

File No. 711.6521/100

*The Secretary of State to the Italian Ambassador*

DEPARTMENT OF STATE,
*Washington, March 29, 1916.*

MY DEAR MR. AMBASSADOR: Referring to Mr. Brambilla's recent call at the Department, relative to the conflict of the so-called Seamen's Act, approved March 4, 1915, with certain treaty provisions between this Government and Italy, I beg to transmit, herewith, for your information, a copy of an instruction dated March 23, regarding the matter, which has been sent to the American Ambassador at Rome.

I am [etc.]

ROBERT LANSING

File No. 711.6521/109

*The Italian Ambassador to the Secretary of State*

[Translation]

No. 2163

ROYAL ITALIAN EMBASSY,
*Beverly Farms, Mass., June 29, 1916.*

MR. SECRETARY OF STATE: Your excellency was pleased to send me in your courteous note of March 29 last the text of a direct commu-

nication to the Ambassador of the United States at Rome dated the 23d [25th] of that month relative to the notice previously given in the name of the American Government to terminate the Italo-American Consular Convention of May 8, 1878. In that communication your excellency stated that the earlier denouncement was to be understood to be limited in the intention of the American Government to Articles 13 and 11 only of the Convention and, for the last named Article, the Treaty of February 24, 1881, whose one article superseded that very Article 11.

Your excellency will certainly have now heard from the Embassy of the United States at Rome that the King's Government has taken formal note of that communication by which it stands understood that from the 1st of July of this year just the 13th and 11th articles of the Italo-American Consular Convention of May 8, 1878, and for the last named Article, the Italo-American Treaty of February 24, 1881, are abrogated.

At the same time, I have, in pursuance of instructions received, the honor to notify your excellency that the King's Government denounces as of July 1 next, the whole Italo-American Convention of May 8, 1878, which, as provided by its Article 18, will remain in force for one year's time until July 1, 1917.

I shall therefore be thankful to your excellency if you will please make formal acknowledgment to me of the denouncement by the King's Government through me as of the 1st of July next of the whole Italo-American Consular Convention, the said denouncement maturing on the 1st of July 1917.

I take [etc.]

MACCHI DI CELLERE

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File No. 711.6521/111

*Chargé Jay to the Secretary of State*

[Extract]

No. 525

AMERICAN EMBASSY,
*Rome, June 30, 1916.*

SIR: In further reference to the Department's unnumbered instruction of March 23 last, relative to the abrogation of the Consular Convention between the United States and Italy, I now have the honor to transmit to you herewith translation of a note received to-day from the Minister of Foreign Affairs, taking due notice of the Embassy's note above referred to, and complying with the Department's request to disregard the instructions contained in its No. 324 of June 8, 1915, to give notice of the denunciation of the Consular Convention of May 8, 1878, between the United States and Italy in its entirety, and instead thereof to give notice of the intention of the Government of the United States to abrogate the Convention concluded between the two Governments February 24, 1881, and Article XIII of the Treaty of May 8, 1878.

I have [etc.]

PETER A. JAY

[Inclosure—Translation]

*The Minister for Foreign Affairs to Ambassador Page*

No. 31468/1121 MINISTRY FOR FOREIGN AFFAIRS,
*Rome, June 29, 1916.*

MR. AMBASSADOR: I have the honor to acknowledge the receipt of the esteemed note No. 1082 of April 21 with which your excellency makes known that you have been charged by your Government to inform the Government of the King that, owing to a pure misunderstanding, your preceding note No. 596 of June 21, 1915, gave notice of the desire of your Government to abrogate the entire Consular Convention between the United States and Italy of May 8, 1878, while it was the intention of the Government of the United States merely to abrogate Article XI of the Convention concluded between the two Governments February 24, 1881, and Article XIII of the Treaty of May 8, 1878, only.

In taking due cognizance of the foregoing, I beg [etc.]

S. SONNINO

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File No. 711.6521/109

*The Acting Secretary of State to the Italian Ambassador*

DEPARTMENT OF STATE,
*Washington, August 2, 1916.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of June 29, 1916, in which, referring to the notice given by this Government of its desire to terminate, on July 1, 1916, the Treaty concluded between the United States and Italy on February 24, 1881, and Article XIII of the Treaty concluded between the two Governments on May 8, 1878, you state that your Government has taken formal cognizance of this Government's notice, and that it is now understood that these treaty stipulations are terminated from July 1, 1916.

You further give notice in behalf of the Royal Italian Government that it denounces, from the date of July 1, 1916, the whole of the Convention concluded between the United States and Italy on May 8, 1878, which will remain in force until July 1, 1917. In accordance with the request contained in your note, I herewith make formal acknowledgment of your Government's notice of denunciation of this treaty, Article XIII of which ceased, as indicated above, to be in effect on July 1, 1916.

I may observe with respect to Article XI of the treaty of May 8, 1878, to which you refer in your note, that this article, as of course your Government is aware, was annulled by the Treaty of February 24, 1881.

Accept [etc.]

FRANK L. POLK

File No. 711.6521/111

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*The Acting Secretary of State to Ambassador Page*

No. 378 DEPARTMENT OF STATE,
*Washington, August 8, 1916.*

SIR: The Department has received Mr. Jay's No. 525 of June 30 last, enclosing a copy of a note from the Italian Minister of Foreign Affairs, making acknowledgment of your Embassy's note advising the Italian Government of the desire of the United States Govern-

ment to terminate the Convention between the United States and Italy of February 24, 1881, and Article XIII of the Treaty of May 8, 1878, between the same contracting Powers.

Reference in the note addressed to you by the Minister for Foreign Affairs to an Article XI of the treaty concluded between the United States and Italy on February 24, 1881, apparently is an inadvertence since the treaty contains but two articles and since in the Department's instructions of March 23, 1916, you were directed to give notice to the Italian Government of the intention of this Government to abrogate the entire treaty.

For your information the Department encloses herewith a copy of a note of June 29, 1916, received by it from the Italian Ambassador at Washington and a copy of the Department's reply.

I am [etc.]

FRANK L. POLK

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File No. 711.6521/118

*The Italian Ambassador to the Secretary of State*

[Translation]

No. 1662

ROYAL ITALIAN EMBASSY,
*Washington, June 11, 1917.*

MR. SECRETARY OF STATE: By a note dated June 29, 1916, after stating that by reason of the communications made by the Government of the United States to the Italian Government with respect to the Consular Convention of May 8, 1878, the King's Government had taken note that from the first of July 1916, Articles 13 and 11 of that Convention and instead of the last named article the additional Convention of February 24, 1881, were abrogated, I gave your excellency notice that the Royal Government through me denounced the whole Consular Convention of 1878 from the first of July 1916. By note of August 2, 1916, your excellency was pleased to make formal acknowledgment of the denunciation.

The purpose that moved the King's Government to denounce the Convention of May 8, 1878, was, as I had the honor orally to remark to your excellency, to substitute for the Convention another covenant which would better meet, to our mutual interest, the changed exigencies of consular tutelage.

Since the existing consular convention was negotiated the relations between Italy and the United States which call for the intervention of the respective consular offices have grown so much in numbers and become so complex that a revision and modernization of the rules that govern the powers and duties of the said officers appeared to be of manifest mutual advantage. The conditions of life, circumstances, business relations and the whole complex atmosphere in which consular duties are now performed and will be in the near future are plainly different from those which prevailed at the time when the existing convention was concluded and it does seem appropriate that the rules which govern those duties should also be modified accordingly. The Government of the United States surely shared that view and evidently proceeded to put it into operation, if

only in part, when it had to ask the King's Government to consider as abrogated two of the articles of the said convention because of their being antiquated and no longer meeting modern exigencies.

The present anomalous political juncture, which demands every attention, has however made it impossible to prepare, since the convention was denounced, a new instrument which could be substituted for that now in force with any advantage. And even though the studies set on foot on the subject by the King's Government had taken the concrete form of convention articles, there would not be enough time left before the first of July to discuss the said articles with the Government of the United States and to sign and ratify the instrument. Nor can it be foreseen when all the various stages in the conclusion of a new treaty can be thoroughly covered.

Under the circumstances the denunciation if allowed to stand unaltered before a new and more suitable convention comes into existence, would purely and simply mean the abrogation of the existing convention. And until a new convention could be put in readiness, Italy and the United States would be left without a covenant empowering and guiding their respective Consuls in the discharge of their official duties. And this for obvious reasons cannot suit either party. Besides the objectionable consequences it might bring in practice, the want of a covenant of the kind herein considered would not be consistent with the relations of staunch friendship happily existing between the two countries. A modification of the denunciation as made, if by so doing the exigencies of the moment and the object for which it was originally made are met, thus appears to be entirely to our mutual advantage. And since the objectionable features of the denunciation made on June 29, 1916, would be found in the fact that it is to take effect on a set date which is that of June 30 next, then, the solution that offers itself naturally is to do away with any fixed term and reduce it to a simple declaration of the intention of the Royal Government to denounce the existing convention at a convenient time and place.

And inasmuch as the King's Government took the initiative of serving the notice of June 29, 1916, so it now behooves the same Government of the King to ask the Government of the United States that it be withdrawn so that the existing convention may remain in force until further notice.

The reasons and motives of this step are such as to lead me to hope that the Government of the United States will readily accede to it in the general interest of the two countries and in the special interest of the functions of their respective Consuls. And being confident thereof, I take pleasure in begging your excellency kindly to acknowledge that the King's Government has formally withdrawn, with regard to the Government of the United States, as I hereby have the honor to do, the denunciation notified on the 29th of June 1916 and that consequently, and until further notice, the Consular Convention concluded between the two Governments on the 8th of May 1878, barring its Articles 13 and 11 and barring, for the last named article, the additional Convention of February 24, 1881, remains in full force and effect.

For which I extend my thanks to your excellency and beg [etc.]

MACCHI DI CELLERE

File No. 711.6521/118

*The Secretary of State to the Italian Ambassador*

No. 283 DEPARTMENT OF STATE,
*Washington, June 22, 1917.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of June 11, 1917, in which you refer to your note of June 29, 1916, wherein, referring to the notice given by this Government of its desire to terminate on July 1, 1916, the Treaty concluded between the United States and Italy on February 24, 1881, and Article XIII of the Treaty concluded between the two Governments on May 8, 1878, you stated that your Government had taken formal cognizance of this Government's notice, and that it was undertood that these treaty stipulations should be terminated from July 1, 1916, and wherein you further gave notice in behalf of the Royal Italian Government that it denounced from the date of July 1, 1916, the whole of the Convention of May 8, 1878, such denunciation to take effect July 1, 1917.

You call attention to the reasons which prompted the Italian Government to denounce this treaty and state that, since it has been found impossible to prepare, as your Government has taken steps to do, a new instrument which could be substituted for this treaty by July 1, 1917, a proper solution of the situation is to withdraw the notice of denunciation of the treaty and to reduce it to a simple declaration of the intention of the Royal Government to denounce the existing convention at a convenient time and place.

You, therefore, request that the Government of the United States acquiesce in the withdrawal of the notice given by your Government under date of June 29, 1916, and that I acknowledge that the King's Government has formally withdrawn, as is done in your note under acknowledgment, their notice of June 29, 1916, and that consequently, until further notice, the Consular Convention concluded between the two Governments on May 8, 1878, with the exception of Article XIII and Article XI, the last mentioned of which was annulled by the Treaty concluded between the two Governments on February 24, 1881, remains in full force and effect.

In accordance with your request, I have the honor to say that the Government of the United States acquiesces in the withdrawal of the denunciation of the Treaty of May 8, 1878, notified by your Government under date of June 29, 1916, and I hereby make formal acknowledgment of such withdrawal with the understanding that the Treaty of May 8, 1878, with the exception of Articles XI and XIII, remains in full force and effect.

Accept [etc.]

ROBERT LANSING

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**SEVERANCE OF DIPLOMATIC RELATIONS BETWEEN THE UNITED STATES AND AUSTRIA BY THE AUSTRIAN GOVERNMENT, APRIL 8, 1917, AND DECLARATION OF WAR AGAINST AUSTRIA BY THE UNITED STATES, DECEMBER 7, 1917**

(*See* supplementary volumes of "Foreign Relations of the United States.")