STATE SOVEREIGNTY IN A TRANSNATIONAL WORLD:
U.S. CONSULAR EXPANSION AND THE PROBLEM OF
NATURALIZED MIGRANTS IN THE HABSBURG EMPIRE,
1880–1914

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Since the seventeenth century, territorial sovereignty has been a key component of European and then global international politics. By mutual agreement, governments recognized one another as exercising sovereign authority over specific, mutually exclusive territories. A government’s citizens or subjects were simply those people who lived within the territory it controlled.1 Territorial sovereignty was sufficient when people stayed in one place, but by the mid-nineteenth century, technological innovations including steamships and railroads significantly reduced the costs of travel. As a result, people began crossing international borders in ever larger numbers. People traveled back and forth across the Atlantic to find work, pursue business interests, obtain an education, visit relatives, and see the world.2 Much of this movement was between the United States and the Habsburg Empire (Austria-Hungary). Many German-, Czech-, Slovak-, Polish-, Yiddish-, Ukrainian-, Magyar-, Romanian-, Serbo-Croatian-, Slovene-, and Italian-speaking people with Austrian or Hungarian citizenship traveled to the United States to make money before returning to Europe to establish themselves permanently there. Others stayed in the United States and later sent their children to Europe to pursue an education. Between the 1880s and the beginning of World War I, millions of people traveled between the two diversely populated countries for short sojourns and long-term stays.3

What made this pre-World War I movement unique was that almost all of it was done without passports or any other documentation that would mark an individual’s citizenship status.4 As a result, an individual’s identity was open to challenge every time he or she crossed the border. The increased volume of unregulated international travel created new types of problems for individual people and their governments. In the U.S.-Habsburg relationship, naturalized U.S. citizens who returned to the empire were often held for military service or arrested for political crimes because Habsburg authorities presumed they were Habsburg citizens, and the individuals had no documentation to prove otherwise. To address these new types of problems faced by individual citizens, the U.S. government—along with other governments—expanded the size of its consular
service and augmented its agenda. Consuls, once focused on facilitating and promoting trade, became responsible for protecting a broader set of interests for their country’s citizens abroad. They worked to claim sovereign jurisdiction over their citizens regardless of their physical location. Their increasing ability to enforce this body-based understanding of sovereignty undermined traditional claims to territorial sovereignty and contributed to the idea of a nation as a community of citizens rather than a physical-geographic entity.

As a result of consular activity in the decades immediately preceding World War I, notions of territorial and body-based sovereignty coexisted uncomfortably. It was up to consular officials to decide which would prevail in any individual case. Consular officials typically sought to have their body-based claims recognized as more important than other states’ territorial claims, while at the same time making sure that their country’s own territorial claims trumped other states’ body-based claims. In other words, consular officials wanted their own sovereign claims to transcend the physical borders of the nation, while confining claims of other governments to a limited space.

U.S. consuls in the Habsburg Empire worked to align individuals’ location, citizenship, and political loyalties. If a person was clearly committed to U.S. citizenship, U.S. consuls worked to free him or her from Habsburg territorial jurisdiction, but they also took steps to return those individuals to the United States, where jurisdictional questions would be silenced. The U.S. consular staff in the empire grew to an adequate size so that, when coupled with Habsburg authorities’ commitment to the rule of law, U.S. consuls were generally successful in pursuing their agenda in the empire.

Only in the extraordinary circumstances of World War I and the subsequent Paris Peace Conference was the tension between territorial and body-based sovereignty addressed systematically. The men charged with negotiating the peace settlement at the end of World War I sought to make changes at the international level that would reduce the frequency of problems that arose from the conflict between territorial and body-based sovereignty. Dual citizenship loopholes were closed in the treaties that ended the war, and wartime passports and visas became staples of peacetime travel. These changes were aimed at two goals: first, giving every individual a single, legally documented citizenship, thus eliminating arguments over status; and second, making it more difficult to cross international borders, thus reducing the frequency of conflicting territorial and body-based sovereignty claims. These efforts were an attempt to shore up territorial sovereignty in the postwar world by restricting movement so that an individual’s citizenship and physical location would align in the newly created successor states of the Habsburg Empire.
Together with the embassy in Vienna, the official U.S. presence in the Habsburg Empire expanded in size over the course of the nineteenth century as the consular agenda diversified from trade facilitation to promotion and finally to the protection of citizens abroad. The number of U.S.-Habsburg interactions increased significantly over the course of the century as a fairly meager trade relationship gave way to huge waves of transatlantic migration. By the outbreak of World War I, the United States had seven consular posts in the empire: consulates general at Vienna and Budapest, and consulates at Trieste, Prague, Reichenberg (Liberec), Carlsbad, and Fiume (Rijeka). With the exception of Carlsbad, which primarily served American tourists, all of these posts initially opened for commercial reasons. Reichenberg alone stayed almost exclusively commercial. Emigrants to the United States departed from the ports of Trieste and Fiume, adding to the consuls’ busy commercial agenda there. Prague maintained a heavy commercial workload, but it also became the post that had to deal most often with the effects of nationalism, which, as we will see, was fostered by travel between the crown land of Bohemia and the United States. The consulates general at Vienna and Budapest dealt primarily with citizenship matters; in the U.S.-Habsburg context, these were usually military service cases.

This essay focuses on the citizenship cases arising in the Prague, Vienna, and Budapest consular districts. In both military service and arrest cases, U.S. officials intervened with Habsburg authorities with the intention of claiming jurisdiction over the bodies of U.S. citizens. There were limits to how far U.S. authorities would go, however. If the person asking for release from military service declared his intention of staying in Austria-Hungary, U.S. officials declined to assist him. Similarly, in the Prague arrest cases, the U.S. consulate did not challenge the final decisions of the Austrian courts, letting people whose political convictions were still Austrian be governed by Austrian territorial sovereignty, even if they were technically U.S. citizens. In both types of cases, U.S. officials aimed to align a person’s physical location with his political identity.

The case of Zdenek Bodlak provides an example of a citizen protection case in Prague. Bodlak’s Czech-speaking parents—or at least his father—were born in Bohemia, emigrated to the United States, and became naturalized U.S. citizens. Bodlak himself was born in St. Paul, Minnesota, in 1893 and was therefore a U.S. citizen. He was fluent in Czech and English, and in June 1913, the twenty-year-old Bohemian American went to Prague to study music.

Prague in 1913 was a key theater for the development of Czech nationalism. The crown land of Bohemia, along with neighboring Moravia and Silesia, made up the Kingdom of Bohemia, which the Habsburg
family had acquired through marriage in the early sixteenth century. The
dominant languages in the province were German and Czech, and a sig-
nificant portion of the population was bilingual.7 While the Kingdom of
Bohemia had not always been fully supportive of the Habsburgs, dissatis-
faction intensified when the Ausgleich created Austria-Hungary in 1867.
Many in Bohemia wanted the kingdom to have equal status with Hungary—a
Triple Monarchy rather than a Dual Monarchy—but only a few wanted
some sort of fully independent Czech state at this point; in fact, independ-
dence as a viable option did not gain much popular support in Bohemia
until well into World War I.8 However, many did want the Czech language
to be legally equal to German in the kingdom, for civil servants to speak
both Czech and German, and for the government to make Czech-language
schools more widely available.

These dissatisfactions, along with opportunities for economic ad-
vancement in America, prompted many Bohemians to migrate to the
United States. These emigrants included a significant number of middle-
class people, who reached a greater level of prosperity in the United States
more quickly than many of their fellow countrymen.9 Once in the United
States, Czech speakers, like other immigrant groups, banded together for
the benefit of the community as a whole. Various Czech communities be-
gan publishing their own Czech- and English-language newspapers.
Those newspapers included comments on events in Austria, as well as
reports on conditions there derived from personal letters exchanged
among transatlantic networks of Bohemians.10 The basic editorial stance
of many of these publications was critical of the Austrian government and
in favor of Czech nationalism.

Those Czech nationalist American newspapers frequently found their
way to Bohemia, where they were circulated among the local population.
They also found their way to the Habsburg authorities, including the
Prague police. Charles Hoover, the U.S. consul in Prague from 1913 to
1917, reported that “the authorities are greatly enraged over the articles
which appear in the Bohemian papers of Chicago and it is certain for that
reason to go hard with any American who transgresses the Austrian law.”11
Hoover went so far as to advocate that the Department of State approach
the editors of these papers: “it would serve the interests of the American
citizens of Bohemian origin who travel in this country if these papers were
to adopt a more temperate tone regarding affairs in this country, although
I am aware that it would be difficult to suggest such a course to them.”12

To combat the transatlantic nationalist network, the Prague police
were especially vigilant, scrutinizing the public statements of U.S. citizens
as well as the letters they wrote to Austrian citizens. Zdenek Bodlak’s ar-
rest resulted from this increased police scrutiny, as did several others.
Hoover told the Department of State that “the records here are full of
instances” of this nature, and that “such convictions are more than daily happenings here.”

Bodlak was arrested and incarcerated on 27 November 1914 for “disturbing the public order.” That had been a crime in Austria-Hungary before the war, but after the war started, it was expanded, and the sentences were more serious. Over the course of four months, Bodlak had sent a series of letters to his family and friends in the United States. When mailing them, he marked them “open,” which meant that they were not directed exclusively to the addressee. More importantly, it meant that Austrian authorities were entirely free to open and read the letters, which they did. Bodlak also sent a number of letters to a local girl in Prague that contained news and newspaper clippings from the United States. Bodlak marked these letters “closed,” but he did not tell the recipient to destroy or hide them, and the police discovered them when they conducted a voluntary search of her parents’ home.

Bodlak’s letters are extremely critical of Austria and Germany, and they are rife with sarcasm. He criticized the Austrian government for drafting eighteen-year-old “children” for the service. He also pointed out the Austrian government’s press censorship, writing to his father in America that “quite a number of things you knew in August were first made known to us at the beginning of November.” When Turkey entered the war on the side of the Central Powers, Bodlak wrote, “Isn’t it just grand to see the peerless German culture shake hands with such a heathenisch [sic] murdering skunk as is Turkey?” He also called the conflict “the war of Kaiser extermination” and wrote that “It should last until Germany and Austria disappear from the map.”

The Austrian court determined that “in circulated writings ... also publicily, [Bodlak] endeavored to stir up hatred and contempt against the Government ... the person of the Kaiser ... the form of government ... [and] the unity of the Empire.” Bodlak’s rather late admission that “he had written improper matter in the letters” did little to help him; it was more than offset by the fact that he repeatedly sent such letters and made no attempt to keep them private. On the contrary, the court observed, “he rather wished that they should be circulated, as to be expected of such persons who are so evilly disposed toward the State.” Bodlak was sentenced to three years hard labor, “sharpened by one fast day each three months,” and, on completion of his sentence, banishment from the empire. With the help of Hoover and the embassy, Bodlak appealed the verdict, but it was upheld.

After the initial conviction, Consul Hoover informed the Department of State of the case, but the despatch did not arrive, given uncertain wartime mail conditions. The Department of State found out about it from the American Czech population, which was in an uproar over the incident and especially the sentence. Hearing of events from the public and not
from U.S. officials overseas was not to the department’s liking, and they sent Hoover multiple telegrams asking for a report. Hoover then wrote a number of communications to the Department of State explaining the case and offering his assessment. He criticized the Austrian legal system for the inclusion of political activities as illegal acts. In a statement that office personnel at the Department of State took pains to label as definitely not for publication, Hoover wrote:

This is a conviction for a purely political crime and as such it is entirely impossible to comprehend the logic of the argument upon which the conviction was based when considered from the standpoint of American law. What might under American practice be considered the grossest distortion of fact, trivial, childish, and malicious, might be in entire consonance with the laws of other countries. To take away three years of the life of a human being for having put a little ink on a piece of paper in a certain form when it did not injure any one in the slightest and could not have injured any one if it had been seen by the whole world is not in accord with American ideas of justice.21

Hoover also found fault with the methods of the Prague police, commenting that “there is no need for the authorities to go into private letters for statements which have been given no publicity to find sedition for it is rife here and the fact that it is is well known to the authorities.”22

Although Hoover was no fan of the Austrian legal system, he stood by Bodlak’s conviction. Hoover wrote that, “when Bodlak came to this country he placed himself under its laws and there seems to be no question of his having committed the acts for which he was convicted under the Austrian law by a regularly constituted court.” Perhaps Hoover was hoping that Bodlak’s fate would serve as an example to other members of “that exasperating class to which danger of imprisonment has the same attraction that the flame of a candle has for a moth.” Bodlak and others like him seem to have enjoyed taunting the police; Hoover complained that they put “every possible temptation to arrest them in the way of the officials by boasting of their immunity from arrest,” as they were U.S. citizens.23

The Austrian government had allowed U.S. consuls and the embassy to intervene in previous cases and secure lighter punishments for U.S. citizens, but Hoover observed that, “now in war time all criticism[s] of the State are punished with the greatest rigor.”24 Hoover was content to let the Austrian government have its way. By doing so, he helped align politics and physical location. If naturalized U.S. citizens were more interested in Austrian politics than American politics and went so far as to return to Bohemia to promote nationalist ideologies, then they should not be able
to hide behind the barrier of U.S. citizenship. If their priorities were in Austria, then their bodies should be there, too—even if those bodies were in an Austrian jail.

No doubt making the traditional assumption that consuls were primarily concerned with commerce, Ralph Busser, the U.S. consul in Trieste in 1915, asserted that his post was “undoubtedly the busiest Consulate in Austria.”25 Had he been referring to the decades before the 1880s, he might have been right, but at this late date, he was definitely wrong. It is difficult to say which post actually was the busiest, but it was probably Vienna, or, even more likely, Budapest. Paul Nash, consul general in Budapest in 1911, observed that “The responsibilities of this post are so much greater than those of the average consulate, principally on account of the complicated protection cases.”26 Ambassador Penfield also pointed to the high number of citizenship and military service cases as a mark of the uniqueness of U.S.-Habsburg relations.27

Dominating the consular agenda at Vienna and Budapest were military service cases. Although exact figures regarding the number of cases do not exist,28 we know from the consuls themselves that these cases were time-consuming; the surviving files concerning them make up the second largest subset in the Department of State’s U.S.-Habsburg “protection of interests” files.29 Some concrete statistics are available, however. The Budapest consulate general alone processed 108 military service cases in the 1912/13 fiscal year, 105 cases between 1 August 1914 and 31 December 1914, and an additional 114 cases in the calendar year 1915.30 Records also indicate that some cases did not come to the attention of U.S. authorities until 1919,31 after the fighting had stopped but before all prisoners of war had been released, and at least one case was not successfully resolved until August 1921.32

The Habsburg military was based on the idea of universal service—all male Austrian and Hungarian citizens of a certain age could be called for military service, and all were obliged to attend multiple training sessions and medical examinations.33 Military service was important to Habsburg authorities. Not only did it help to protect the country in actual wars, but service exposed people to a broad cross section of the empire’s population, thus building supranational identity and loyalty to the emperor.34 Because of the universal nature of the service and its importance to the state, Habsburg authorities expected all males of the right age who were physically located on Habsburg soil to participate. When a man claimed exemption because he was a U.S. citizen, authorities were less than pleased, and they waited for citizenship to be established through official channels before releasing him. They did typically confine men to the barracks pending citizenship decisions rather than assign them to active duty.35 During World War I, however, that was not always possible, as fighting occurred on Austro-Hungarian soil, and several people claiming to be U.S. citizens
became prisoners of war in Russia, Serbia, and Italy. Existing records indicate that only one man was actually killed in action: Joseph Tott died in June 1915, six months before his family was able to report his impressment.

While men claiming U.S. citizenship waited, officials at the U.S. embassy and consulate general in Vienna and the consulate general in Budapest took action to investigate citizenship claims and request the release of those holding legitimate U.S. citizenship. There were four categories of military service cases, which I will outline in the following pages. The first category consisted of cases clearly covered by the 1870 naturalization treaty between the United States and Austria-Hungary, which were relatively easy to resolve. The second category included cases of incomplete or illegal naturalization, which were equally easy to resolve, if more trying for the people who asked for and were denied assistance. The third category pertained to dual citizenship cases, which fell into a loophole in the 1870 treaty and were therefore far more contentious. Finally, there were cases where the man in question had been in Austria-Hungary for more than two years, and as a result, a presumption of expatriation arose against him. To convince U.S. authorities to help him, he had to provide a good reason for his lengthy stay in his native country. For U.S. consuls, these were the most frustrating cases because they had to make an essentially subjective decision about where an individual’s loyalties lay. All of these cases required a significant amount of work by the staff of the Vienna and Budapest consulates general and the embassy. By the end of the war, U.S. officials were ready to change the international legal system to resolve dual citizenship cases and institute passport and visa systems to more effectively mark citizenship and regulate international movement.

The 1870 U.S.-Habsburg naturalization treaty was supposed to resolve citizenship and military service issues, and in many cases, it succeeded. The treaty held that properly naturalized citizens were not liable for military service in their native land. In the United States, naturalization was a multi-step process. After a specific period of residence, a man declared his intention to become a U.S. citizen and the court issued his so-called first papers. After another period of residence, the man received his second papers. He was then examined by a judge, and if that interview was a success, he became a naturalized U.S. citizen. When he was naturalized, any minor children he had who had been born abroad but currently resided in the United States also became U.S. citizens. Men who had gone through the whole naturalization process themselves or who were legally U.S. citizens via their father’s naturalization were clearly covered by the 1870 treaty, and the Habsburg government released them from service after the embassy or the Budapest consulate general made an official request.

In these clear-cut cases, the Habsburg government trusted U.S. representatives to acquire legitimate proof of citizenship. If the embassy or
consulate general was satisfied enough to make an official request for release, the Habsburg government was satisfied. This trust was a product of the diplomatic culture of the Great Power System: it was a further indication that the Habsburg government recognized the sovereign authority of the U.S. government over its citizens, and by not contesting U.S. claims, the Habsburg government hoped the U.S. government would return the favor.

The burden of proving citizenship was therefore on the staff of the embassy or consulate general, and they did their best to acquire proper documentary evidence. Consulate general, embassy, or Department of State staff needed to see a man’s passport or his naturalization papers—or his father’s naturalization papers—to be convinced of the man’s citizenship. As previously mentioned, such documentation was not required for international travel, so many of those asking for assistance could not provide it. The consulate general or embassy would send a telegram to the Department of State, which would then attempt to secure the necessary information. If the man had ever had a passport, which required proof of naturalization to obtain, the department would go to its own files to find the application. To get naturalization papers, they wrote to the man’s family or the court that had originally issued them. When the department was convinced of the man’s citizenship status, they telegraphed the embassy or consulate general, who then wrote to the Ministry of Foreign Affairs to present the case.43

Before the war, the Habsburg government could take months or even a year to process such cases, much to the frustration of U.S. officials.44 One explanation for the slow pace would be that the Habsburg bureaucracy could be a very slow moving, inefficient, and un-modern entity.45 It seems more likely, however, that the process was intentionally slow in an effort to send a message to the individual man and others like him. That message was, if you are going to leave the country and become a U.S. citizen, do not come back. The Habsburg government, like that of the United States, was interested in an alignment between citizenship and physical location.

During the war, however, the Habsburg government responded to these cases with much greater speed. Consul General William Coffin made sure to mention this progress to the Department of State: “I wish to say that the Hungarian Government has shown a gratifying disposition to give immediate consideration to the claims of naturalized citizens to exemption from military service and the consideration of them has been much prompter than in time of peace.”46 In part, it was out of concern for the individual, as the chances of injury or even death were much greater during wartime. More importantly, however, the Habsburg government did everything it could to keep the United States out of the war. Irritating it over military service cases was not in the Habsburg interest.
The second category of military service cases were those that involved incomplete or illegal naturalization, or other false claims to U.S. citizenship. Since U.S. naturalization was a multi-step process, there were many people who thought they already were U.S. citizens or were at least entitled to consular protection when in fact they had only gone through part of the process. The idea that they were already entitled to protection was furthered by the fact that many midwestern, western, and southern states allowed non-citizens or those with only their first papers to vote, as part of efforts to attract settlers.\textsuperscript{47} Surely, they thought, if they could vote, they were entitled to consular protection. Some even made sure to mention that they had voted Democratic, in hopes of winning favor with Wilson administration officials.\textsuperscript{48} U.S. consuls had to inform them that they were not eligible for protection.

Other people who asked for protection discovered that their naturalization had been illegal and was therefore invalid.\textsuperscript{49} This was most common among people who had been recruited in Europe directly by mining corporations that handled all immigration and citizenship matters in-house. They presented large numbers of immigrants to judges all at once, and the information they provided about length of residence was not always accurate. Those discrepancies came out when the consulate asked the men to provide an account of their time in the United States, and many did not know that they needed to lie in order to be considered legal U.S. citizens. Like those with incomplete naturalization, U.S. officials declined to assist these illegally naturalized people.

Finally, U.S. officials denied protection to a third group of individuals: children of naturalized U.S. citizens who had never been to the United States themselves.\textsuperscript{50} It was common practice for men to travel to the United States to find work while leaving their wives and children at home in Austria-Hungary. If the men became naturalized U.S. citizens, their children could only claim U.S. citizenship for themselves if they had resided in the United States. That residency requirement was not always clear to either the fathers or their children.

Cases where a person clearly was not a U.S. citizen or, conversely, clearly was solely a U.S. citizen were easy to resolve. Other cases, however, were far more complicated. The 1870 treaty contained a significant loophole as it did not stipulate how people with dual citizenship should be handled. At the outbreak of the war, R. W. Flourney, chief of the Department of State’s Bureau of Passport Control, wrote that he was “afraid that our naturalization ... treaty with Austria will be put to a pretty severe test, unless peace is established in Europe.”\textsuperscript{51} Dual citizenship cases arose from the conflict between American \textit{jus soli} citizenship laws and Austro-Hungarian \textit{jus sanguinis} laws. U.S. law held that people born on U.S. soil were U.S. citizens, regardless of the citizenship of their parents. Austro-Hungarian
law, however, posited that a child born anywhere in the world to a man who held Austrian or Hungarian citizenship was an Austrian or Hungarian citizen. That meant that all the male children born on U.S. soil to Austrian or Hungarian immigrants were liable for military service if they went to Austria-Hungary, as they held dual citizenship.

U.S. policy was to try and get proven dual citizens released from service in Austria-Hungary. Proving birth in the United States could be more difficult than one might expect, however. Not only did people rarely travel with their birth certificates in the nineteenth century, but many jurisdictions did not even issue them. Significantly for U.S.-Habsburg relations, Cook County, Illinois—the county in which Chicago is located—did not begin to issue birth certificates until the first decade of the twentieth century. Chicago natives had to rely on the testimony of parish clergy to prove their place of birth—if the clergyman could still be found.

Once they had proof of U.S. citizenship, U.S. officials would present their claim to the Habsburg government and request the man’s release from service. During the war, the Habsburg military wanted every man it could get, and so the government asserted its right to claim the dual citizenship status of these men and retain them for military service. Ambassador Frederic Courtland Penfield, the U.S. consuls, and the Department of State staff in Washington all knew that the treaty was ambiguous in these cases and that international agreements had to be respected. With this in mind, they did not pursue cases after the Habsburg government had claimed dual citizenship.

This approach, while perfectly legal, produced significant protest in the United States. The issue was broader than U.S.-Habsburg relations; other countries, notably Italy, had similar laws and similarly ambiguous treaties with the United States. Perhaps the most prominent person to question how U.S. citizens could be held for military service on dual-citizenship grounds was Senator Henry Cabot Lodge. In a letter to the Department of State requesting action to release a U.S. citizen from the Italian army, Lodge wrote:

I cannot assent for a moment to the proposition that such a thing as dual citizenship is possible. As you well know, we constituted ourselves as champions against the doctrine of indefeasible allegiance and have succeeded in compelling the acceptance of our view by all the nations with the exception, I think, of Russia and Turkey. The abandonment of indefeasible allegiance is in itself the establishment of the principle that there can be no such thing as dual citizenship, either in whole or in part, and to attempt to retain the right over a boy born in this country of parents not naturalized ... for military service in the country of origin of the parents is absurd on its face and is something to which we should never assent for a moment.
Secretary of State Robert Lansing drafted a lengthy letter detailing the official State Department perspective on the issue in June 1915. The department had to defend its position on dual citizenship so often that the letter was printed and used as a department circular, distributed to politicians and people who were denied assistance because they held dual citizenship. The issue received sufficient attention among policy-makers so that the post-World War I treaty regime contained provisions that eliminated all previous ambiguities in favor of the U.S. position on sole citizenship. The consuls had upheld international agreements during the war, but they were undoubtedly in favor of subsequent changes that resolved this issue.

Finally, there were the cases in which a presumption of expatriation had arisen against the man claiming U.S. citizenship. In March 1907, the U.S. Congress had passed a law that declared people expatriated if they had been absent from the United States for two years or more. To retain a claim to U.S. citizenship, a man had to provide evidence to overcome the presumption of expatriation. This issue became increasingly hazy as the war progressed, however. Once the war started, it was difficult and unsafe to travel. Without proper papers, which most people had not brought from the United States, one could not leave the empire, and a short trip to visit relatives could quickly become two years.

U.S. officials were generally willing to assist people who had clearly come to Austria-Hungary for a fixed amount of time. Such trips to visit relatives, obtain an education, or dispose of property that were begun shortly before the war were easily recognized as cases worthy of intervention. U.S. officials were also willing to accept that people were in the empire for medical reasons. Many women who were ill returned to Austria with their children to recover their health while the father remained in the United States; some of the children had obtained their majority during their stay in Austria-Hungary, and the men among them were thus eligible for service. Other men were there because of their personal health or the health of their wives. Medical practitioners at the time frequently prescribed "a change of air" to restore people to health, and in many of the cases presented here the patients had been taking the empire’s air for ten years or more.

The Department of State instructed U.S. officials in the empire to determine whether or not the men had taken an oath of allegiance to Austria-Hungary, Emperor Franz Joseph, or the Habsburg flag. Taking such an oath would be a violation of the naturalization agreement, since it was a show of loyalty to a state other than the United States and a practical election of foreign citizenship. It was, however, virtually impossible to be on active duty in the Habsburg army without having taken such an oath.

Most people claiming U.S. protection swore in an affidavit that they were forced to repeat the oath against their will. Whether or not someone had taken such an oath was never the exclusive reason assistance was denied,
but it was taken into consideration. In one case, the Department of State even argued that applying to the Habsburg government for the travel pass necessary to get to an embassy or consulate to report an impressment case was a profession of Austrian or Hungarian citizenship and therefore a sign of expatriation.

More important than taking an oath or applying for a travel pass was whether or not the person in question had issued a formal protest to the Austro-Hungarian authorities at the time of their arrest or impressment. Ernest Harris, the American consul general in Vienna after the war, wrote:

According to the “Wehrgesetz” (National Defense Law) of the Monarchy, there were two appropriate authorities to which cases of this nature, protesting against service in the Austro-Hungarian Army, should have been lodged. After having received the official notification to appear on a certain day before the recruiting board, a protest could have been lodged with either the “Bezirksheutenantmannschaft” or governmental administration authorities or with the recruiting board itself. The latter consisted of representatives of the provincial government, of the military authorities, the municipality, and two physicians.

Many impressed soldiers said that they failed to protest to the Habsburg military officials because they were afraid of being penalized by the authorities. Fred Jaklitsch, a man who applied for the release of himself and his son in Trieste in April 1916, testified, “It is war, and one does not know if anything is allowed or not. I have always heard that one must not oppose the military authorities if one does not wish to be punished.”

Other factors that affected the U.S. government’s willingness to intervene included proof of involuntary service, prior registration as a U.S. citizen, and presenting oneself as a United States citizen rather than as an Austrian. Those who had been in Austria-Hungary for a number of years and who owned property or engaged in business in the empire were often considered expatriated. Owning property was considered a sign of involvement in the country where the property was located, and while owning property in the empire was a detriment to those claiming U.S. citizenship, owning property and having a family in the United States were definitely assets in protection cases.

U.S. officials also wanted to know about the impressed man’s plans for returning to the United States. They were uninterested in getting people out of the army who were then going to stay in Austria. Officials dealing directly with the men and department staff in Washington both recognized that many people were asking for assistance merely to avoid military duty. After receiving help, they demonstrated “the greatest
disinclination to return to the United States." Ulysses Grant-Smith, the U.S. consul general in Vienna, pointed out that many naturalized American citizens of Polish, Croatian, Hungarian or other origin, return to their countries of their nationality for the purpose of taking up their permanent abode therein; and when the question of their military service is involved endeavor to obtain protection under the cloak of forfeited American citizenship.... Had it not been for the present war, there is no doubt that many such persons would have continued to reside in their former homes as American citizens without any wellfounded claims as such.

In two cases, efforts to secure release were completely dropped when men admitted that they did not plan to go to the United States. Department of State officials in Washington instructed U.S. officials in Austria-Hungary to inquire about an impressed man’s intent to return and to make every effort to facilitate a speedy departure, either when the case was resolved, or, if possible, after the man was released pending a decision. By facilitating a man’s return to the United States, the consular service ensured that the case could not be reopened. More importantly, the man’s physical location and citizenship would be in alignment.

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The conditions created by the unregulated movement of millions of individuals between 1880 and 1914 prompted the U.S. government to expand its consular services to enforce its claims to sovereignty more effectively. As U.S. consuls sought to limit the applicability of Habsburg laws to U.S. citizens, they destabilized the international system by pushing for a body-based conception of sovereignty that undermined territorially based sovereignty. U.S. consuls argued that American jurisdiction over U.S. citizens should operate irrespective of place, while U.S. officials operating at home tried to enforce their jurisdiction over foreign citizens on U.S. soil. Efforts to have it both ways frustrated Habsburg officials, and negotiations to resolve the tensions between the two sovereignties on a case-by-case basis were not particularly successful.

U.S. officials used the opportunities created by World War I and the subsequent peace conference to change the system. In conjunction with the Allied and successor states, the United States kept emergency wartime passports in place after the war, thus providing an internationally recognized way to mark an individual’s citizenship status and a government’s body-based sovereign rights. Passports alone would have signaled the primacy of body-based sovereignty in the postwar system. However, U.S. officials and representatives of other governments also implemented strict
border controls, and the U.S. government introduced immigration quotas, which reinforced territorial sovereignty. By limiting mobility and marking individuals’ identity with passports, governments in the post-World War I world more effectively delineated the physical, political, and population borders of the nation, using the power of the state to confront and reduce the problems produced by the transnational movement of people.

Notes


3 The best available statistics on return migration are in Wyman, Round-Trip to America. Actual numbers are difficult to determine because U.S. officials used racial categories rather than citizenship categories to classify immigrants. Based on Wyman’s statistics for various groups, approximately 50 percent of Austrian and Hungarian citizens returned to their native land.


6 Bohemian was the term commonly used by pre-World War I U.S. authorities, including Department of State and Immigration personnel, and American newspapers. It referred to both the people and the language we know today as Czech. Czech did not really enter these sources until Tomas Masaryk and his supporters introduced the idea of a Czecho-Slovak state into the American imagination during the war.


8 See Alan Sked, The Decline and Fall of the Habsburg Empire, 1815–1918 (London, 1989); and King, Budweisers into Czechs and Germans.

For an example of these transatlantic networks, see “Imprisonment of Zdenek Bodlak,” Hoover to the Secretary of State, Prague, 10 March 1915, file no. 363.112 B63/3, United States National Archives and Records Administration, College Park MD, General Records of the Department of State, Record Group 59, Decimal File, 1910–29 (hereafter cited as NARA).

A similar sentiment is expressed in No. 320, Hoover to the Secretary of State, Prague, 28 December 1918, file no. 363.112 B63/3, in NARA.

“Imprisonment of Zdenek Bodlak,” 10 March 1915.

No. 49, “Imprisonment of Zdenek Bodlak,” Hoover to the Secretary of State, Prague, 28 July 1915, file no. 636.112 B 63/8, in NARA. Another well-documented case in the archives is that of Albert Bohdan, who was arrested for “inciting soldiers to treasonable conduct” by telling them not to “shoot at the Servians [sic], they are our brothers.” See No. 475, Penfield to the Secretary of State, Vienna, 16 April 1915, file no. 363.11 B63/9; and “Imprisonment of Albert Bohdan, American Citizen,” Hoover to the Secretary of State, Prague, 14 November 1914, enclosed in Grant Smith to Carr, Vienna, 16 April 1915, file no. B63/10; and “Imprisonment of Albert Bohdan,” Hoover to the Secretary of State, Prague, 3 August 1915, file no. 363.11 B63/12, all in NARA.

Translation of the Trial Transcript for the Bodlak Case, page 6, file no. 363.112 B63/8, in NARA.

Bodlak to Ohl, 26 October 1914, included in Translation of the Trial Transcript for the Bodlak Case. Eighteen-year-olds could enter the U.S. military at the time, but perhaps Bodlak viewed that voluntary service as qualitatively different from conscription.

The first three quotations can be found in Bodlak to John Bodlak, 11 November 1914, included in Translation of the Trial Transcript for the Bodlak Case. Map quote: Bodlak to Junek, 17 November 1914, in Translation of the Trial Transcript for the Bodlak Case.

Translation of the Trial Transcript for the Bodlak Case.

Hoover and Penfield also contemplated making a direct appeal to Franz Joseph, but that had been tried unsuccessfully in earlier cases, as the emperor had merely referred the case back to the court, which upheld its previous ruling. No. 49, “Imprisonment of Zdenek Bodlak,” 28 July 1915. Bodlak was released from prison early, in October 1916, due to illness; he died in December 1917 while staying with a relative in Bohemia. See Hoover to the Secretary of State, Prague, 20 October 1916, file no. 363.112 B63/14; and Hoover to the Secretary of State, Prague, [no date, 1917/18], file no. 363.112 B63/18, both in NARA.

On problems with wartime mail, see file no. 125.2346, in NARA.


No. 320, Hoover to the Secretary of State, 28 December 1918.


Ibid.

No. 202, “Recommendations for improvement in ranking and facilities of American Consulate at Trieste,” Ralph Busser to the Secretary of State, Trieste, 9 November 1915, file no. 125.9453/36, in NARA.

No. 212, Paul Nash to the Secretary of State, Budapest, 21 March 1911, file no. 125.2433/10, in NARA.

No. 38, Penfield to the Secretary of State, Vienna, 10 December 1913, file no. 124.63/-, in NARA.

The documentary evidence on military service cases—and protection cases in general—is incomplete. Standard record-keeping practice was to record cases in the consulate’s log book, and all correspondence relating to a case would be kept in the consulate archives. Correspondence generated by the Department of State and the consulate was generally done in triplicate, so one copy was sent to the designated recipient, one copy was retained in the consulate.
archives, and one copy was sent to Washington. Once World War I began—and the workload of the consulates skyrocketed—this system could not be maintained. Only some items were mailed to Washington at all, and because of the uncertainty of wartime mail, even for diplomatic correspondence, not all of the items mailed arrived and found their way into departmental files. In terms of military service cases, 157 cases from the 1910–22 period found their way into Washington files in some form, although most are incomplete. The consular archives themselves were sealed when the United States severed diplomatic relations with Austria-Hungary in the spring of 1917, and most posts in the former Habsburg Empire did not reopen until at least 1921. The keys to the archives were left with Habsburg police authorities. Needless to say, not everything survived. See, among others, “Conduct of the Consulate General at Budapest, Hungary, since July 4, 1914,” Mallett to the Secretary of State, Budapest, 14 September 1914, file no. 125.2436/32, in NARA.

29 The largest subset of files consists of requests from Americans to locate friends and relatives in the empire and report on their welfare during World War I; Department of State files contain approximately 3,000 such requests. See file 363.11, in NARA. On the consular workload during the war, see also Katharine Elizabeth Crane, Mr. Carr of State: Forty-Seven Years in the Department of State (New York, 1960).

30 On the 1912/13 year, see “Memorandum with regard to questions 33 and 36 on pages 7 and 8 respectively, of the inspection return,” Mallett to the Secretary of State, 6 September 1913, file no. 125.2436/23; for other statistics, see “Work of the Budapest Consulate General during the war,” Coffin to the Secretary of State, Budapest, 6 January 1916, file no. 125.2436/42, all in NARA.

31 See file nos. 363.117/532 and 543a, in NARA.

32 The case of Chaim Hook, a naturalized U.S. citizen born in Galicia, is the most extreme military service case, and it was not resolved until 1921. Hook traveled to Galicia to visit relatives in the spring of 1914. When the war started, Habsburg officials called him twice for military service; the first time, right after the start of the war, they honored his claim to U.S. citizenship without investigation. In 1915, he was called again, and this time he was imprisoned for six weeks before being sent to the Russian front. He served for ten months, and just before the Habsburg Ministry of Foreign Affairs approved his release, he was captured by the Russians and sent to a POW camp. The Department of State approached both the tsarist and liberal governments of Russia to secure his release, but those requests were denied. Hook was finally sent back to Austria in the spring of 1918 as part of a prisoner exchange when Soviet Russia left the war. Upon arrival in Austria, he was reimpressed and sent to the Italian front, where he was again captured and sent to a POW camp. Before the U.S. government could secure his release from the Italians, he was exchanged again in late 1919 and sent to the new Polish state, which was in upheaval as it attempted to secure its existence. The Department of State told the U.S. consul in Warsaw to give Hook an emergency passport and help him return home as soon as conditions in Poland were favorable for travel. His brother in the United States also sent Hook $200 through the Department. Hook, who was in serious financial distress, traveled to Warsaw to get his passport and money. When he went to the Legation in Warsaw for the passport, they refused to give it to him because he could not pay the required $1 fee. Hook then went to the Consulate in Warsaw for the $200, but they refused to give it to him because the orders from the Department said to give him the money after an emergency passport had been issued. Hook finally returned to the United States on 1 August 1921. For Chaim Hook’s case, see file nos. 363.117/60, 258, 344, 411, 466, 486, 537, H76, in NARA.

33 The laws regarding military service in Austria and Hungary varied over time and were not always the same in both halves of the empire. By 1910, the laws were brought in line with each other, and throughout the Habsburg crown lands a man was liable to be taken for service “after the 1st of January of the calendar year in which the man in question reaches his twenty-first year and ends with the 31st of December in that year in which the man in question ends his 36th year.” This meant a change in the Hungarian law, which had held men between the ages of 19 and 42 liable for service. See Flourney to Van Dyne, Washington, 20 October 1910, file no. 363.117/2, in NARA.

35 No. 135, “Work of the Budapest office since the war commenced,” Coffin to the Secretary of State, Budapest, 2 January 1915, file no. 125.2436/35, in NARA.

36 Examples of POW cases include Max Gelb in Russia, file nos. 363.117/34 and 341; Dusan Ratkovich in Italy, file nos. 363.117/300 and 346; and Robert Fuchs in Serbia, file nos. 363.117/351 and 396, all in NARA. See also the Chaim Hook case in note 32.

37 The case of Joseph Tott can be found in file nos. 363.117/229a, 262, 271, 277a, 292, 349, in NARA.

38 After 1867, the Habsburg army was divided into three major parts: the imperial army, which served the monarchy as a whole and was under the jurisdiction of the joint war ministry; the Landeswehr, which was for the Austrian half of the country; and the Honvéd, for Hungary. To get someone removed from the military rolls for the imperial army or the Austrian Landeswehr, the U.S. embassy in Vienna had to address a communication to the Ministry of Foreign Affairs, which then passed the message on to the war ministry or the Austrian government for investigation and an eventual decision, which would then be transmitted to the embassy via the Ministry of Foreign Affairs. For the Hungarian Honvéd, the Budapest consular general dealt directly with the Hungarian authorities. There was also an imperial navy, but there are no cases of naval impressment in the existing military service records.

39 The treaty was negotiated in 1870 and entered into force in 1871.


42 See, for example, the case of Andrew Kanalkiewicz, file no. 363.117/333, in NARA.

43 See, for example, the case of John Tulea, file nos. 363.117/88 and 153, in NARA.

44 See file no. 363.117/W181, in NARA. For a complaint from a U.S. official, see Grant-Smith to the Imperial and Royal Ministry of Foreign Affairs, 2 August 1914, file no. 363.117/8, in NARA.


46 No. 135, “Work of the Budapest office since the war commenced,” 2 January 1915.

47 It was common for states and territories created between the 1840s and 1900 to include provisions for non-citizen voters. In addition, several southern states, including Texas and Florida, altered their constitutions after Reconstruction to allow white non-citizens to vote in an effort to offset African American suffrage. In midwestern, western, and southern states, U.S. citizenship became a requirement for suffrage between 1900 and 1920. See, among others, John Higham, *Strangers in the Land: Patterns of American Nativism, 1860–1925*, 2002 ed. (1955; New Brunswick, NJ, 2002).

48 Congressman Igoe to Lansing, Washington, 12 April 1917, file no. 363.117/418; see also the case of Joe Grund in file nos. 363.117/43, 44, 46, 47, all in NARA.
See, for example, the case of Frank Tadejevic, file nos. 363.117/310 and 388, in NARA.

See, for example, the case of Franjo Simac, file no. 363.117/261, in NARA.

Flourney to Putney, Washington, 31 July 1914, file no. 363.117/51, in NARA.

Petrich to the Department of State, Cleveland, 5 January 1916, file no. 363.117/226; and County Clerk of Cook County IL to the Department of State, Chicago, 12 November 1918, file no. 363.117/487, both in NARA.

See, for example, the case of Joseph Zunic, file nos. 363.117/414, 511, in NARA.

See, for example, the case of John Kulusich, file nos. 363.117/86, 101, 103, 117, and 131, in NARA.

Lodge’s comments were reprinted as part of Robert Lansing, “Status of Persons Born in the U.S. of Alien Parents and of Foreign-Born Persons Naturalized in This Country,” 9 June 1915, file no. 363.117/181, in NARA.

Ibid.

Carr to Busser, Washington, 26 June 1916, file no. 363.117/315, in NARA.

See, for example, the case of Joseph Zunic, file nos. 363.117/168, 451, 456, and 468, in NARA.

Gerard to the Department of State, Berlin, 20 April 1916, file no. 363.117/299, in NARA.

Ibid.; Lansing to the U.S. Legation in Berne, Washington, 2 July 1918, file no. 363.117/457, in NARA.

Busser to the Department of State, Trieste, 22 December 1916, file no. 363.117/399, in NARA.

U.S. Legation at Berne to the Department of State, Berne, 14 March 1918, file no. 363.117/444, in NARA.

Harris to the Department of State, Vienna, 10 December 1929, file no. 363.117/551, in NARA.

Affidavit of Fred Jaklitsch, in Penfield to the Department of State, Vienna, 19 April 1916, file no. 363.117/308, in NARA.

U.S. Legation at Berne to the Department of State, Berne, 3 October 1918, file no. 363.117/475, in NARA.

Penfield to the Department of State, Vienna, 26 April 1916, file no. 363.117/290, in NARA.

Grant-Smith to the Department of State, Vienna, 31 January 1916, file no. 363.117/H76, in NARA.

The case of Mike Roth can be found in file nos. 363.117/222, 242, 246, 280, 293, 311, 314, 348; the case of Eugene Neuwirth can be found in file no. 363.117/361, all in NARA.

Crosby to Paris, Vienna, 17 February 1916, file no. 363.117/238, in NARA.

See Torpey, Invention of the Passport.