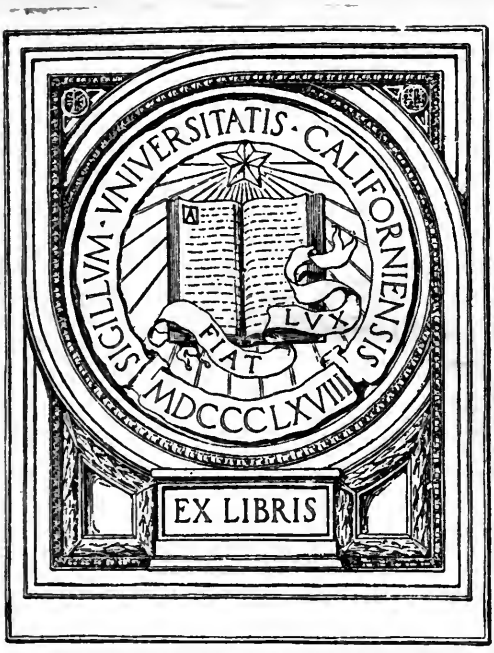

INTERNATIONAL AMERICAN CONFERENCE.

REPORTS OF COMMITTEES

AND

DISCUSSIONS THEREON.

Volume II.

(Revised under the direction of the Executive Committee by order of the Conference, adopted March 7, 1890.)

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VOLUME II.

PATENTS AND TRADEMARKS.

REPORT OF THE COMMITTEE ON PATENTS AND TRADE-MARKS.

[As submitted to the Conference February 19, 1890.]

To the honorable the International American Conference:

According to the invitation of the United States Government to the other Governments of America, and according to the act of Congress in virtue of which that invitation was extended, one of the objects for which this Conference has been called together is to concert measures for the protection of literary and artistic property, patents on inventions, and trade-marks belonging to citizens of any one of the countries represented in this Conference within the territory of each of the others of said countries.

The property of man in the fruits of his intellect, whether they consist of literary or scientific works or of works of art, is recognized by all civilized nations, receives in all the protection of the law, and in some is the object of special attention in the constitutions or fundamental laws. All the nations of America protect literary and artistic property. All have placed in their codes legal provisions by virtue of which the author's or artist's property in his works is acknowledged and assured to the citizens of each of them and to foreigners who live under the protection of their laws; and the violation of these rights incurs the penalty of the law, and is punished in such manner as the legislation of each State determines.

The right of property in industrial products receives the same protection and the same guaranties. The person who discovers new industrial products, or invents new processes for their preparation or manufacture, or improves upon

the processes already known, contributes by his discovery or invention to the development of industry and to the increase of public wealth, and has a right thereto as clear and incontrovertible under the laws of all civilized nations as that which the manufacturer has to the products of his factory or the laborer to his daily wages.

In consequence of the industrial development of the present age and the daily increase of international commercial relations very great importance has lately attached to the signs and marks employed by manufacturers to distinguish the products of their factories, and by traders to distinguish the wares which they select and place upon the market, which marks and signs are commonly called manufacturers' or dealers' trade-marks. The tradesman or merchant who wins reputation for a trade-mark by the superiority of the articles to which he attaches it acquires a right to that mark, which the law should foster and protect, and it should punish those who violate this right, either by making unlawful use of, or by counterfeiting or forging a mark belonging to another.

This will protect not only the maker or seller, but also the buyer, who must generally rely in selecting an article upon the trade-mark which has made it known in the market. When an accredited trade-mark is unlawfully used or forged, with the intent of giving to the market and the consumer an adulterated article of food, the deception generally assumes increased gravity; for, at the same time that the proprietor's right of ownership of the unlawfully appropriated or counterfeited mark is violated, and that the buyer, who is a victim of the imposition, is defrauded, the health of the consumer is frequently injured and at times his death occasioned.

As a general rule, the laws relating to literary, artistic, and industrial property protect in each country, only the proprietor who is a citizen or resident of the country itself, and tacitly permit the violation of similar rights of property guarantied by the laws of other nations within their own territories. Even in countries where the movable property of a foreigner is protected from the moment he enters the national territory, and where the property of an

absent foreigner is respected like that of a citizen or subject, no protection whatever is granted to the author, inventor, or artist for the rights which belong to him, and which, on account of their immaterial and intangible character, can be more easily violated. Henry Clay, speaking in the United States Senate in 1837 of literary property, said:

> A British merchant brings or transmits to the United States a bale of merchandise, and the moment it comes within the jurisdiction of our laws they throw around it effectual security. But if the work of a British author is brought to the United States, it may be appropriated by any resident here and republished without any compensation whatever being made to the author. We should all be shocked if the law tolerated the least invasion of the rights of property in the case of the merchandise, while those which justly belong to the works of authors are exposed to daily violation without the possibility of their invoking the aid of the laws.

This protection—which may be termed international—of literary and artistic copyright outside of the country of its origin, has been accorded by the nations of Europe and America only in reciprocity for equal protection given to their citizens or subjects simply as an act of international comity, or by virtue of compacts and conventions, but it has never been demanded as an invested right.

It was not until 1815, in the Congress of Vienna—and then only in a limited degree—that the principle of international protection of literary and artistic property was first recognized in Europe by the provision, which was there adopted, that the authors and artists of every State included in the Germanic Confederation should enjoy throughout said Confederation the same protection granted by law to authors and artists who were citizens. Afterwards Denmark, Great Britain, Switzerland, and Austria, each separately, agreed to recognize the intellectual property of those nations which should grant them reciprocal rights. To France belongs the honor of being the first to solemnly proclaim, as it did in 1852, the principle of unlimited and absolute international protection of intellectual property and of making the unauthorized reproduction of works published in foreign countries a punishable offense. This liberal principle was also adopted

unanimously in 1858 by the Literary Congress of Brussels, which, with the object of generalizing it, made some very important declarations, which were adopted (although without immediate practical results) of the Literary Congress of Antwerp in 1861, of Vienna in 1873, of the Hague in 1875, and of Bremen in 1876. It was not, however, until 1886, in the Literary and Artistic Conference of Berne, in which Germany, Belgium, France, Spain, Great Britain, Hayti, Italy, Liberia, and the Regency of Tunis took part, that a positive and official result could be reached. In fact, the nations represented constituted themselves an *International Union for the Protection of Literary and Artistic Works.* They signed a convention, in which "literary and artistic works" were defined and enumerated, the rights of authors clearly specified, and means adopted for rendering them effective; and the *Union* established an international office, under the supervision and supreme authority of the Swiss Confederation, the functions of which were fixed with the common consent of the contracting parties.

As a general rule, the nations of Europe have not granted the protection of their laws to the industrial property of foreigners, except as acts of reciprocal courtesy or in virtue of express stipulations contained in international compacts. Just as in the case of literary and artistic copyright, to France belongs the honor of first proclaiming the ample and absolute principle of international protection to industrial property. The "International Congress of Industrial Property," held in Paris in 1878 under the auspices of the French Government, included in its labors every subject relative to "industrial property;" but, confining itself within the limits of its mission, it merely recommended the Governments to open negotiations with a view to equalizing the legislation of the several nations on so important a subject. The Conference of 1880, which also assembled in Paris, endeavored to give a practical and definite form to the declarations made in 1878; and, with this intent, prepared a draught of an international convention, in which it was provided that all the nations adopting it should constitute a union, within which in-

dustrial property should enjoy uniform protection before all the courts of justice.

Nevertheless, this convention did not obtain the ratification of the Governments, and it was not until 1883 that the establishment of a Union for the International Protection of Industrial Property was definitely realized. According to the terms of the convention, signed in Paris on the 20th of March of that year by the representatives of France, Belgium, Brazil, Spain, Guatemala, Italy, Holland, Portugal, Salvador, Servia, and Switzerland, these nations constituted themselves a Union for the Protection of Industrial Property. It was, moreover, provided that this property, in the broadest acceptation of the term, should enjoy in each of the countries composing the Union all the advantages granted by their respective laws to citizens or subjects. Special provisions were formulated with the object of protecting the names of business firms and facilitating the punishment of counterfeiters of trademarks. And, finally, it was agreed to organize an "International Office of Industrial Property," to be maintained by funds appropriated by the contracting States, and placed under the high authority and supervision of the superior administration of the Swiss Confederation. The ratifications of the Governments were quickly exchanged, and, in conformity with the provision, the International Office was organized in Berne, under the authority of the Swiss Government.

To the recent Congress of Private International Law, of Montevideo, assembled in response to an invitation issued by the Governments of the Argentine Republic and the Republic of Uruguay to the other nations of South America, is due the high honor of having been the first to acknowledge on this continent and solemnly establish the most wholesome principles of law for the solution of disputes arising from the differences of the legislation of one country from that of another, and of establishing among these principles that of international protection of literary, artistic, and industrial property. In the three treaties on literary and artistic copyright, on trade-marks, and on patents, subscribed to by the representatives of the Argentine

Republic, Bolivia, Brazil, Chili, Paraguay, Peru, and the Republic of Uruguay, who attended said Congress, your Committee on Patents and Trade-marks finds the principles set forth which, in its opinion, should be adopted throughout this continent, in order to assure and give effective protection to the rights of literary, artistic, and industrial property acquired in any of the nations represented in this Conference.

In the treaties referred to literary and artistic works, trade-marks, and patents of invention are clearly and precisely defined; in the same manner are prescribed the rights of authors and artists, proprietors of trade-marks and inventors, which the contracting powers guaranty and protect; the formalities to be observed in obtaining this protection and guaranty; the limits of said rights, and the manner in which they may be exercised. All the conflicts on those subjects which may arise from diversity of legislation between the contracting States are settled by clear and precise provisions, which are formulated with all due respect to the sovereignty and laws of each State. Thus, for instance, in respect to literary and artistic copyrights, it is provided that authors and artists shall enjoy the rights accorded them by the law of the State in which the original publication or production of their works took place; but that no State is obliged to recognize such rights for a longer time than that allowed to authors who obtain the same right in that State.

Rights to trade-marks granted in one country are recognized in the others, but with due regard to the laws of the latter; and to enjoy the right to an invention for which a patent has been obtained in any one of them it is necessary to have the patent registered in any other in which its recognition is asked for in the form prescribed by its laws. With regard to the duration of patents, the same principle is established which was previously mentioned in relation to literary and artistic copyrights, and it is moreover provided that the duration of the patent may be limited in each State to the period prescribed by the laws of the State in which the patent was first granted, if such period be the shorter. It is also provided that questions arising on

the priority of invention shall be settled according to the date of the application for the respective patents in the countries where they were granted. Finally, in all these treaties the principle is established that those who violate the rights of property therein recognized and guarantied can be legally arraigned only before the courts of the country in which the offense may have been committed.

The Committee on Patents and Trade-marks begs leave to append to this report copies of the treaties of the Congress of Montevideo, above referred to. Being persuaded that, by the formal adoption on the part of the nations here represented of the just principles embodied in those treaties, and by their enactment into positive law, the necessary protection of the rights of literary, artistic, and industrial property will be secured, your committee respectfully submits the appended resolution to the consideration of the Conference. If the above-mentioned treaties are ratified by the subscribing nations, and are furthermore adopted by the Republics of Columbia, Ecuador, and Venezuela, which, although they approved the proposition to assemble said Congress, could not take part therein owing to the pressure of time, then those principles shall be the law in force on the subject in the whole of South America. In Central and North America they may likewise have equal authority if, in accordance with the stipulations of Article 6 of the Additional Protocol of the South American Congress, the subscribing nations consent, as is to be expected, to the adoption of the treaties by those nations who were not invited to it, in the same form as those which, while approving the proposal that it should assemble, took no part in its deliberations.

José S. Decoud.
Andrew Carnegie.
Clímaco Calderón.

RECOMMENDATIONS.

Whereas the International American Conference is of the opinion that the treaties on literary and artistic property, on patents, and on trade-marks, celebrated by the South-American Congress of Montevideo, fully guarantee

and protect the rights of property which are the subject of the provisions therein contained;

Resolved, That the Conference recommend, both to those Governments of America which accepted the proposition of holding the Congress, but could not participate in its deliberations, and to those not invited thereto, but who are represented in this Conference, that they adopt the said treaties.

José S. Decoud.
Andrew Carnegie.
Clímaco Calderón.

Appendix.

TREATY ON LITERARY AND ARTISTIC COPYRIGHT.

His Excellency, the President of the Republic of ———, etc., etc., having agreed to enter into a treaty on literary and artistic copyright through their plenipotentiaries in congress assembled, in the city of Montevideo, by invitation of the Governments of the Argentine Republic and of the Eastern Republic of Uruguay.

His Excellency, the President oft he Republic of ———, being represented by Mr. ———, etc.

Who, after exhibiting their full powers, which were found in due form, and after the conferences and discussions necessary to the case, have agreed upon the following stipulations:

Article I.

The contracting States promise to recognize and protect the rights of literary and artistic property, according to the provisions of the present treaty.

Article II.

The author of any literary or artistic work, and his successors, shall enjoy in the contracting States the rights accorded him by the law of the State in which its original publication or production took place.

Article III.

The author's right of ownership in a literary or artistic work shall comprise the right to dispose of it, to publish it, to convey it to another, to translate it or to authorize its translation, and to reproduce it in any form whatsoever.

ARTICLE IV.

No State shall be obliged to recognize the right to literary or artistic property for a longer period than that allowed to authors who obtain the same right in that State. This period may be limited to that prescribed in the country where it originates, if such period be the shorter.

ARTICLE V.

By the expression literary or artistic works is understood all books, pamphlets, or other writings, dramatical or dramatico-musical works, chorographies, musical compositions with or without words, drawings, paintings, sculptures, engravings, photographs, lithographs, geographical maps, plans, sketches, and plastic works relating to geography, topography, architecture, or to sciences in general; and finally every production the field of literature or art which may be published in any way by printing or reproduction.

ARTICLE VI.

The translators of works of which a coypright either does not exist or has expired, shall enjoy with respect to their translations the rights declared in Article III, but they shall not prevent the publication of other translations of the same work.

ARTICLE VII.

Newspaper articles may be reproduced upon quoting the publication from which they are taken. From this provision articles relating to sciences or arts, and the reproduction of which shall have been prohibited by the authors are excepted.

ARTICLE VIII.

Speeches pronounced or read in deliberative assemblies, before tribunals of justice, or in public meetings, may be published in the public press without any authorization whatsoever.

ARTICLE IX.

Under the head of illicit reproductions shall be classed all indirect, unauthorized appropriations of a literary or artistic work, which may be designated by different names as adaptations, arrangements, etc., etc., and which are no more than a reproduction without presenting the character of an original work.

ARTICLE X.

The rights of authorship shall be allowed, in the absence of proof to the contrary, in favor of the person whose names or pseudonyms shall be borne upon the literary or artistic works in question.

If the authors wish to withhold their names, they should inform the editors that the rights of authorship belong to them.

ARTICLE XI.

Those who usurp the right of literary or artistic property shall be brought before the courts and tried according to the laws of the country in which the fraud may have been committed.

ARTICLE XII.

The recognition of the right of ownership of literary and artistic works shall not prevent the contracting States from preventing by suitable legislation the reproduction, publication, circulation, representation, or exhibition of all works which may be considered contrary to good morals.

ARTICLE XIII.

The simultaneous ratification of all the contracting nations shall not be necessary to the effectiveness of this treaty. Those who adopt it will communicate the fact to the Governments of the Argentine Republic and the Eastern Republic of Uruguay, who will inform the other contracting nations. This formality will take the place of an exchange.

ARTICLE XIV.

The exchange having been made in the manner prescribed in the foregoing article, this treaty shall remain in force for an indefinite period after that act.

ARTICLE XV.

If any of the contracting nations should deem it advisable to be released from this treaty, or to introduce modifications in it, said nation shall so inform the rest; but it shall not be released until two years after the date of notification, during which time measures will be taken to effect a new arrangement.

ARTICLE XVI.

The provisions of Article XIII are extended to all nations who, although not represented in this Congress, may desire to adopt the present treaty.

Wherefore, the plenipotentiaries of the nations enumerated sign and affix their seals to the foregoing, to the number of —— exemplars, in the city of Montevideo, on the —— day of the month of January, in the year 1889.

[L. S.] (Signatures.)

TREATY ON TRADE-MARKS.

His Excellency, the President of the Republic of ———, etc., etc., having agreed to enter into a treaty on trade-marks, through their plenipotentiaries in congress assembled, to the city of Montevideo, by invitation of the Governments of the Argentine Republic and of the Eastern Republic of Uruguay.

His Excellency, the President of the Republic of ———, being represented by Mr. ———, etc.

Who, after exhibiting their full powers, which were found in due form, and after the conferences and discussions necessary to the case, have agreed upon the following stipulations:

ARTICLE I.

Any person to whom shall be granted in one of the contracting States the exclusive right to a trade-mark shall enjoy the same privilege in the other States, but with due respect to the formalities and conditions established by their laws.

ARTICLE II.

The ownership of a trade-mark shall include the right to use or to sell or otherwise convey it.

ARTICLE III.

By trade-mark shall be understood the sign, emblem, or exterior motto which the merchant or manufacturer adopts and applies to his wares and products in order to distinguish them from those of other dealers or manufacturers trading in articles of the same character.

To this class of marks shall belong those called trade devices, or designs, which by means of weaving or stamping are affixed to the product exposed for sale.

ARTICLE IV.

Counterfeits or alterations of trade-marks shall be prosecuted before the courts, according to the laws of the State in whose territory the fraud was committed.

ARTICLE V.

The simultaneous ratification of all the contracting nations shall not be necessary to the effectiveness of this treaty. Those who adopt it will communicate the fact to the Governments of the Argentine Republic and the Eastern Republic of Uruguay, who will inform the other contracting nations. This formality will take the place of an exchange.

ARTICLE VI.

The exchange having been made in the manner prescribed in the foregoing article, this treaty shall remain in force for an indefinite period after that act.

ARTICLE VII.

If any of the contracting nations should deem it advisable to be released from this treaty, or to introduce modifications into it, said nation shall inform the rest; but it shall not be released until two years after the date of notification, during which time measures will be taken to effect a new arrangement.

ARTICLE VIII.

The provisions of Article V are extended to all the nations who, although not represented in this Congress, may desire to adopt the present treaty.

Wherefore the Plenipotentiaries of the nations enumerated sign and affix their seals to the foregoing to the number of —— exemplars, in the city of Montevideo, on the —— day of the month of January in the year 1889.

[L. S.] (Signatures.)

TREATY ON PATENTS OF INVENTION.

His Excellency, the President of the Republic of ———, etc., etc. having agreed to enter into a treaty on patents of invention through their Plenipotentiaries in Congress assembled, in the city of Montevideo, by invitation of the Governments of the Argentine Republic and of the Eastern Republic of Uruguay:

His Excellency, the President of the Republic of ———, being represented by Mr. ———, etc.

Who, after exhibiting their full powers, which were found in due form, and after the conferences and discussions necessary to the case, have agreed upon the following stipulations:

ARTICLE I.

Any person who shall obtain a patent or privilege of invention in any of the contracting States shall enjoy in all the others the rights of inventor, if within a year at the utmost he shall cause his patent to be registered in the form prescribed by the laws of the country in which he shall ask for its recognition.

ARTICLE II.

The duration of the privilege shall be that fixed by the laws of the country in which it is to take effect. This period may be limited to that prescribed by the laws of the State in which the patent was first granted, if such period be the shorter.

ARTICLE III.

Questions arising as to the priority of invention shall be settled according to the date of the request for the respective patents in the country where they were granted.

ARTICLE IV.

By invention or discovery shall be understood any new method, mechanical or manual apparatus, for the manufacture of industrial products; the discovery of any new industrial product, and the application of perfected methods for obtaining results superior to any previously known.

No patents shall be granted—

(1) To inventions or discoveries already made public in any of the contracting States, or in others not bound by this treaty.

(2) To those contrary to good morals or to the laws of the country in which the patents are to be issued or recognized.

ARTICLE V.

The rights of the inventor shall inc'ude that of enjoying the use of his invention and of transferring it to others.

ARTICLE VI.

Those persons interfering in any way with the rights of the inventor shall be prosecuted and punished according to the laws of the country in which the offense may be commuted.

ARTICLE VII.

The simultaneous ratification of all the contracting nations shall not be necessary to the effectiveness of this treaty. Those who adopt it will communicate the fact to the Governments of the Argentine Republic and the Eastern Republic of Uruguay, which will inform the other contracting nations. This formality will take the place of an exchange.

ARTICLE VIII.

The exchange having been made in the manner prescribed in the foregoing article, this treaty shall remain in force for an indefinite period after that act.

ARTICLE IX.

If any of the contracting nations should deem it advisable to be released from this treaty, or to introduce modifications in it, said nation shall so inform the rest; but it shall not be released until two years after the date of notification, during which time measures will be taken to effect a new arrangement.

ARTICLE X.

The provisions of Article VII are extended to all nations who, although not represented in this Congress, may desire to adopt the present treaty.

Wherefore the Plenipotentiaries of the nations enumerated sign and affix their seals to the foregoing to the number of ——— exemplars, in the city of Montevideo, on the ——— day of the month of January in the year 1889.

[L. S.]

(Signatures.)

DISCUSSION.

SESSION OF MARCH 3, 1890.

Mr. CRUZ, a Delegate from Guatemala, stated that his vote would be given with the proviso that it should not affect the previous arrangements which his Government might have entered into.

Mr. CASTELLANOS, a Delegate from Salvador, expressed himself in the same sense.

Mr. ROMERO at the subsequent session submitted the following statement of the views of the Mexican Government and delegation on this subject:

The Argentine Government has proposed to the Mexican Government the approval of the treaties signed in Montevidio by the South American Congress, and according to information furnished by the Government of Mexico to its delegation in Washington the former is now diligently engaged in making a careful study of those treaties, animated by the best desire to approve them to the end, among others, of contributing on its part to the harmonizing of private international law between all the American nations.

The Delegates from Mexico in this conference have not yet received notice from their Government that it has completed that study, nor much less of what its result has been, and under these circumstances and without instructions in the premises they believe it is their duty to abstain from voting in this case and in others where the acceptance of said treaties by the nations represented in the Conference is proposed, because they do not believe they should

anticipate the resolution of a question which is now engaging the attention of the Government.

For this reason the Delegates from Mexico beg leave of the Conference to reserve their vote, to be given when they shall receive the instructions from their Government; and that if there be any objection to this, that their vote may not be counted because they abstain from giving it at the time of the discussion and vote upon the report of the Committee on Trade-marks, Patents, and Literary Property, which recommends to the nations represented therein the acceptance of the treaties upon these subjects, signed in Montevidio.

The vote having been taken, the conclusions of the report of the committee were unanimously approved, as follows:

RECOMMENDATIONS AS ADOPTED.

Whereas the International American Conference is of the opinion that the treaties on literary and artistic property, on patents and on trade-marks, celebrated by the South-American Congress of Montevideo, fully guaranty and protect the rights of property which are the subject of the provisions therein contained:

Resolved, That the Conference recommend, both to those Governments of America which accepted the proposition of holding the Congress, but could not participate in its deliberations, and to those not invited thereto, but who are represented in this Conference, that they adopt the said treaties.

THE EXTRADITION OF CRIMINALS.

REPORT OF THE COMMITTEE ON EXTRADITION.

[As submitted to the Conference, April 10, 1890.]

The International American Conference resolves to recommend to the Governments of the Latin American nations the adoption of the treaty of penal international law drafted by the South American Congress of 1888, and also that each one of them shall conclude with the Government of the United States of America special treaties of extradition upon bases acceptable to them and as uniform as possible.

JERONIMO ZELAYA.
WM. HENRY TRESCOTT.
MANL. QUINTANA.
ROQUE SAENZ PEÑA.

APENDIX.

DRAFT OF A TREATY ON INTERNATIONAL PENAL LAW.

[Adopted by the Congress of Montevideo in 1888.]

TITLE I.—*On Jurisdiction.*

ARTICLE I.

The crimes and offenses committed within the territorial jurisdiction of a nation shall be punished according to the laws of that nation; and the offenders, whatever their own nationality, or the nationality of the victim, or wronged party may be, shall be subject to trial before the courts of the country where the offense was committed.

ARTICLE II.

Such violations of criminal law as are perpetrated in a State, but exclusively affect rights and interests guarantied by the laws of another

State, shall fall under the jurisdiction of the State affected by them, and shall be punished according to its laws.

ARTICLE III.

When an offense affects different States, the jurisdiction of the State in whose territory the offender is caught shall prevail.

If the offender should seek shelter in a State different from the ones affected by his action, the jurisdiction of the State which first requests the extradition shall prevail.

ARTICLE IV.

In the cases referred to in the preceding article, if there is only one offender there shall be only one trial, and the penalty to be imposed shall be the severest one imposed by the penal laws of the different States concerned.

If the penalty ascertained to be the severest one should be one not permitted in the State in which the trial takes place, the severest penalty which is permitted shall be imposed.

The court shall, in all cases, apply to the executive power in order that due notice of the initiation of the proceedings may be given through it to the interested States.

ARTICLE V.

Each one of the contracting States shall have the power to expel from its territory, under its own laws, offenders who have taken shelter therein, if after notice to the State against which the refugee committed an extraditable offense no action shall have been taken by such State.

ARTICLE VI.

Acts done in the territory of a State, which are not punishable according to its laws, but are punishable in another country, in which they produce injurious results, shall not be made the subject of judicial action in the latter, except in case the offender is found within its territory.

This rule shall be applicable to those offenses also which do not admit of extradition.

ARTICLE VII.

In the trial and punishment of offenses committed by a member of a legation, the rules of public international law shall be observed.

ARTICLE VIII.

Crimes and offenses committed on the high seas, or on neutral waters, on board either a man-of-war or a merchant vessel, shall be investi-

gated and punished according to the laws of the State to which the flag of the vessel belongs.

ARTICLE IX.

Crimes and offenses committed on board a man-of-war when in the waters of a foreign nation shall be investigated and punished by the courts of the State to which the vessel belongs, and according to its own laws.

The same rule shall be applicable to offenses committed outside the vessels by members of the crew thereof, or by persons employed on board the same, if the said crimes or offenses infringe only the law or rules of discipline in force upon the vessel. But when the crimes or offenses herein referred to, committed outside the vessel, were so committed by persons not belonging to the ship's company, then the jurisdiction to try the offenders shall belong to the State in whose territorial waters the vessel may happen to find itself.

ARTICLE X.

Crimes and offenses committed on board a man-of-war, or on board a merchant vessel, under the circumstances mentioned in Article II, shall be investigated and punished as provided by that article.

ARTICLE XI.

Crimes and offenses committed on board a merchant vessel shall be investigated and punished according to the laws of the State in whose territorial waters the vessel happens to be found.

ARTICLE XII.

For purposes of jurisdiction, territorial waters are declared to be those comprised in a belt five miles wide running along the coast, either of the mainland or of the islands which form part of the territory of each State.

ARTICLE XIII.

Acts of piracy, as defined by public international law, shall be subject to the jurisdiction of the State under the power of which the offenders may happen to fall.

ARTICLE XIV.

Criminal prosecution shall be barred by the statutes of limitations of the country having jurisdiction to punish the offense. The expulsion of offenders shall likewise be governed by the laws of said country.

TITLE II.—*On Asylum.*

ARTICLE XV.

No offender who has taken refuge in the territory of a State shall be surrendered to the authorities of any other State except upon request for extradition and in the regular course of proceedings provided for that purpose.

ARTICLE XVI.

Political refugees shall be afforded an inviolable asylum; but it is the duty of every State to prevent refugees of this kind from doing within its territory any acts whatever which may endanger the public peace of the nation against which the offense was committed.

ARTICLE XVII.

Such persons as may be charged with offenses non-political in character, and seek refuge in a legation, shall be surrendered to the local authorities by the head of the said legation, either at the request of the secretary of foreign relations, or of his own motion. But for political offenders taking refuge at a legation, the legation shall be an asylum, and shall be respected as such. The head of the legation, however, shall be bound to give immediately, to the government of the State to which he is accredited, information of what has happened; and the said Government shall have the power to demand that the refugee be sent away from the national territory in the shortest possible time.

The head of the legation shall, in his turn, have the right to require proper guarantees for the exit of the offender without any injury to the inviolability of his person.

The same rule shall be applicable to the refugees on board a man of war in the territorial waters of the State.

ARTICLE XVIII.

The provisions of Article XV shall not be applicable to deserters from vessels of war while in the territorial waters of the State.

Said deserters, whatever their nationality may be, shall be surrendered by the local authorities, upon proper identification, whenever the the legation, or if there is no legation, the consular officer of the country concerned may request it.

TITLE III.—*Extradition.*

ARTICLE XIX.

Every nation shall be bound to deliver up to another such offenders as have taken refuge within its territory, whenever the following circumstances shall concur, namely:

(1) That the nation which asks for the delivery has competent jurisdiction to take cognizance of and punish the offense with which the refugee is charged.

(2) That the kind and gravity of the offense are such as to justify extradition.

(3) That the nation which demands the extradition has presented such documents as, under its own laws, authorize the imprisonment and trial of the offender.

(4) That the action against the offender has not been barred by the statute of limitations, under the laws of the country which makes the demand.

(5) That the offender has not been sentenced for the same offense, and served out his sentence.

ARTICLE XX.

Extradition shall in no case be barred by the nationality of the offender.

ARTICLE XXI.

The offenses for which extradition is warranted are the following:

(1) As to non-convicted offenders, those offenses which under the laws of the country which demands the extradition are punishable by imprisonment for not less than two years, or the eqivalent thereof.

(2) As to convicted offenders, those offenses the minimum penalty for which is imprisonment for one year.

ARTICLE XXII.

No person shall be delivered up on extradition proceedings when the offense charged is one of the following: Duelling, adultery, libel, treason. But common (non-political) offenses connected with any of the above named shall warrant the extradition of the offenders.

ARTICLE XXIII.

Political offenses, offenses subversive of the internal or external safety of a State, or common offenses connected with these, shall not warrant extradition.

The determination of the character of the offense is incumbent upon the nation upon which the demand for extradition is made; and its decision shall be made under and according to the provisions of the law which shall prove to be most favorable to the accused.

ARTICLE XXIV.

No civil or commercial action affecting the offender shall prevent the extradition from being accomplished.

ARTICLE XXV.

The extradition of the offender may be delayed as long as he shall continue subject to the penal action of the State from which he is demanded; but the extradition proceedings shall not be interrupted for that reason.

ARTICLE XXVI.

Such offenders as shall have been delivered up on extradition proceedings, shall never be either tried or punished for political offenses, or for any acts connected with political offenses, previously committed.

But said offenders may be subject to trial and punishment in the country to which they were surrendered, upon consent of the State which surrendered them, for offenses which are extraditable but which did not form part of the charge upon which extradition was granted.

ARTICLE XXVII.

When several nations demand the extradition of an offender for different offenses, he shall be surrendered to the nation against which the gravest offense was committed.

If the offenses are equally grave, then the delivery shall be made to the nation which first asked for it. But if all the demands are of the same date, the delivery shall be made according to the discretion of the Government which grants the extradition.

ARTICLE XXVIII.

If, after an offender is delivered up to one State, a new demand for his extradition is made by another State, it shall be optional with the State which first granted the extradition whether or not to accede to the new demand, provided always that the prisoner has not been set at liberty.

ARTICLE XXIX.

When the penalty for the offense with which the offender is charged is the penalty of death, the nation which grants the extradition may demand as a condition of the surrender the commutation of the sentence, and the imposition of the penalty next lower in degree.

TITLE IV.—*Proceedings for Extradition.*

ARTICLE XXX.

Demands for extradition shall be presented through the respective legations or consular offices, but if no such legations or offices have been established such demands shall be presented directly from Government

to Government, and they must be accompanied by the following documents:

(1) In cases of non-convicted offenders, by an authenticated copy of the statute or provision of criminal law applicable to the offense on which the demand is based, and of the warrant of arrest and other papers referred to in paragraph No. 3 of Article 19.

(2) In cases of convicted criminals, by an authenticated copy of the final sentence passed against the offender and the proper evidence that the condemned man was summoned and was either represented at the trial, or legally adjudged *in contumaciam*.

ARTICLE XXXI.

If the Government upon which the demand for extradition is made should deem the said demand to be unwarranted, owing to some defects of form, it shall return the papers to the Government which made it, with the proper explanation of the defects.

ARTICLE XXXII.

If the demand for extradition is made in due form, the Government upon which it is made shall transmit all the papers to a judge or tribunal of competent jurisdiction on the subject; and the said judge or tribunal shall order the arrest of the offender, if it is deemed proper, under the provisions of this treaty.

ARTICLE XXXIII.

Whenever, under the provisions of the present treaty, the arrest of the refugee is to be made, due notice shall be given to him, within the twenty-four hours next following his arrest, of the causes and reasons for which he was arrested, and of the right which is vested in him under the following article.

ARTICLE XXXIV.

The prisoner shall be allowed, within three days and no more, to be counted from the date of his first examination, to object to his extradition on the following grounds:

(1) That he is not the person to whom the demand for extradition refers.

(2) That the documents upon which the demand is based are not in due form.

(3) That the extradition is not warranted.

ARTICLE XXXV.

Evidence in support of his statements, whenever such evidence may be necessary, shall be admitted; and this admission shall be governed

by the same rules, as far as relevancy and time are concerned, as are in force in the country in which the proceedings take place.

ARTICLE XXXVI.

After the whole evidence is on file, the judge or tribunal shall decide within ten days, and without any further steps, whether the extradition must or must not be granted.

An appeal can be taken against this decision to the court of final jurisdiction on the subject, within three days, and that court shall decide within five days.

ARTICLE XXXVII.

If the decision is to the effect that the extradition be granted, the tribunal which rendered it shall give notice thereof immediately to the executive power, in order that the proper provision may be made by it for the delivery of the prisoner.

If the decision be adverse to the extradition, the judge or tribunal shall at once order the release of the prisoner, and shall give due information to the executive power by sending to it a copy of its decision. If extradition was refused because the documents were not sufficient, the case shall be re-opened whenever the Government whose demand was refused presents new documents, or supplements those which had been presented before.

ARTICLE XXXVIII.

Whenever the prisoner acquiesces in his surrender the court, upon entering the said acquiescence in due form, shall render a decision granting his extradition.

ARTICLE XXXIX.

Every article or object found in the possession of the offender, and having anything to do with the offense for which the extradition takes place, shall be delivered up together with the prisoner.

Those found in the possession of third parties shall not be delivered up without the possessor thereof having been first given the proper hearing, and a decision being rendered upon his statements.

ARTICLE XL.

When the extradition is to take place by land, the Government which delivers up the prisoner shall be bound to take the latter to the frontier, either of the State which makes the demand, or of the State through which he has to be carried.

When the extradition is to take place over sea or by a river route, the prisoner shall be delivered up to the agents of the other nation at the port of embarkation.

The nation requesting the extradition shall always have the right to send one or more police officers for the proper custody of the prisoner; but the functions and power of said officers shall be subordinate to and dependent upon the authority of the police of the country which makes the delivery, or of the country over which the prisoner is conveyed.

ARTICLE XLI.

Whenever the extradition of a prisoner has been granted but the delivery cannot be actually accomplished without passing through the territory of another State, the latter shall grant permission to do so, upon no other requisite or formality than the exhibition, diplomatically, of the decree by which the extradition was granted, and of which an authenticated copy shall be put on file.

If the permission is granted, the provisions of the third paragraph of the foregoing article shall be complied with.

ARTICLE XLII.

The expenses which may be incurred owing to the demand of extradition up to moment of the delivery, shall be paid by the State upon which the demand is made; but all those incurred after such delivery shall be paid by the Government making the demand.

ARTICLE XLIII.

Whenever the extradition is granted, and the offender delivered up is not a convicted criminal, the Government of the nation to which the said offender was delivered up, shall be bound to communicate to the Government which granted the extradition the decision which may be rendered in the case or trial for which it was granted.

TITLE V.—*Of the precautionary arrest.*

ARTICLE XLIV.

In cases of urgency the State upon which the demand of extradition is made, shall order the precautionary arrest of the offender, if so asked by mail or by telegraph, by the State which makes the demand, on condition, however, that a sentence, or a warrant of arrest, against the said offender is positively asserted to have been issued, and the nature of the offense with which he is charged is clearly stated and defined.

ARTICLE XLV.

The person so arrested shall be set at liberty if within ten days subsequent to the arrival of the first mail sent after the date of the petition for the precautionary arrest no formal demand of extradition shall have been made,

ARTICLE XLVI.

In all cases of precautionary arrest the responsibility thereof belongs to the Government which asked for it.

General provisions.

ARTICLE XLVII.

No simultaneous ratification of this treaty by all the contracting States shall be necessary for its validity. Any State which approves of the treaty shall communicate its approval thereof to the Governments of the Argentine Republic and of the Oriental Republic of Uruguay, which shall give notice thereof to the other contracting States. This process shall take the place of an exchange.

ARTICLE XLVIII.

The exchange having been made in the manner provided for in the preceding article, the treaty shall remain in force for an indefinite period of time.

ARTICLE XLIX.

If any one of the contracting nations should deem it advisable to discontinue its adhesion to the treaty, or should desire to make some modification of its provisions, it shall be in its power to do so: *Provided*, That it give notice of its intention to do so to the other parties; but it shall not be released from its obligation until after two years have elapsed after the notice aforesaid was given by it; and in these two years it shall endeavor to reach some arrangement on the subject.

ARTICLE L.

The stipulations of this treaty shall be applicable only to offenses committed during the time in which it has been in operation.

ARTICLE LI.

The provisions of Article XLVII are applicable to nations which have not attended this Congress, but wish to adhere to this treaty.

REPORT OF MR. ZELAYA.

Mr. PRESIDENT: The undersigned delegate has deemed it to be his duty to submit a report on the project of International Penal Law drafted by the South American Congress of Montevideo, a proposed treaty which the com-

mittee over which he has the honor to preside recommends for adoption to the Spanish-American Governments, as being the best model to be followed by them in framing the extradition treaties which they may make with each other, while at the same time it recommends also to the said Spanish-American Governments to conclude with the United States special treaties of extradition founded on other principles more suited to the peculiar circumstances and habits of legislation of the latter country, and more in harmony with the other treaties thus far concluded between the United States and many other nations, both of Europe and America.

The Montevideo treaty, to the consideration of which I now proceed, can not, in view of the circumstances above referred to, provide for extradition to and from the United States.

The treaty contains five titles: the first on jurisdiction; second, on asylum; third, extradition; fourth, proceedings for extradition; fifth, on the precautionary arrest; said five titles being subdivided into fifty-one articles.

On the subject of jurisdiction the treaty provides that the territorial law and the power of the courts in whose territory the crime is committed, must prevail. The right of punishing belongs naturally and in justice to the State whose laws have been violated, and against whose sovereignty an attack has been made by the offender. It is natural and just that the investigation be made and ended at the same place where the crime was perpetrated; where the proofs and instruments relating to the same are found; where all abettors and accomplices are; and where a greater number of proofs can be collected to secure conviction.

It, therefore, belongs to the courts of the territory to take cognizance of the case, to conduct the proceedings and to impose the deserved punishment on the guilty party.

I think it opportune to quote here a few sentences from the instructive report submitted to the Montevideo Congress by Mr. Saenz Peña, a member of the committee which drew the draft of the treaty:

Fortunately, honorable plenipotentiaries, private international law, which has not taken out naturalization papers in any particular country, has resisted with foresight and prudence all outbursts of national pride. According to it, the right of punishing exclusively belongs to the State whose laws have been violated, and whose sovereignty has been offended by the crime. The States whose laws have not been touched, and which have not seen either their territories or their citizens subjected to any wrong or offense, can not exercise that right, because they have no interest in the punishment, and can not invoke the right of self-defense, in whose name society exercises the right of punishing. That lawful self-defense can not be invoked by a State which has not been offended, because self-defense implies an attack, and that which is done against the laws of one nation can not be avenged by the others without accepting the principle that justice is absolute and universal, a principle which modern philosophy has gone far to deprive of its theocratic sway.

The tendencies of the theocratic school have been supported with fruitless declamations about impunity; but those who refuse acquiescence in the conclusions reached by that school are far, nevertheless, from advocating disorder and from encouraging crime by suppressing penalties. The territorial jurisdiction measures the punishment and makes it to be in accordance with its social interest. It represses the attack by making use of a lawful and natural self-defense; and this repression so exercised within the limits of its own sovereignty, and under the proper jurisdiction, is as far distant from securing impunity as is the law far distant from arbitrary action or from the crime itself.

The consequences of this alleged universal jurisdiction are not less pernicious when these arguments are ignored and the law of the place where the offense was committed is applied in foreign countries. Such a solving of the problem does, to my judgment, attack more clearly and obviously the principle of the sovereignty of States. The national courts, those having original jurisdiction, and representing the outraged law and society, would be replaced by foreign courts which have neither mission nor rights nor duties within the borders of that sovereignty; and we would meet again here those angry avengers, who have profanely aped divine justice, and exercised or rather usurped human justice.

Several writers on private international law advocate the principle that the nationality either of the offender or of the victim, and not the nationality of the country where the crime was committed, must prevail. But this principle has not been admitted, and has against it, as stated elsewhere in this report, the declarations made by the laws of England and of the United States of America, which are absolutely in favor of the prevalence of the law

of the territory in which the crime was committed, without taking into consideration at all the nationality of the offender, or that of the victim or injured party.

It is laid down in the proposed treaty that such violations of criminal law as are perpetrated in a State, but exclusively affect rights and interests guarantied by the laws of another State, shall fall under the jurisdiction of the State affected by them, and shall be punishable according to its laws; such is the provision of the second article. In this case the jurisdiction which, according to the general principle, belongs to the courts of the territory, will pass to the courts of the country affected by the crime, just as if said crime had been committed there, which is in accordance with the principle proclaimed by Fiore:

> Whoever the perpetrator, or the victim of a crime, may be, the repression of the latter corresponds to the tribunal and to the laws which protect the violated right.

It is true that the instruments with which the crime was committed are not there, neither are the other evidences which could help to secure conviction, there; but it was there that the crime produced its effects, where the wrong was done, where society was attacked, and where, therefore, proceedings should be begun against the offender, as an implication, if so it can be termed, of the principle of territorial jurisdiction. In support of this provision, Mr. Saenz Peña, the reporting member of the committee, expressed himself as follows:

> The history of criminal cases shows that a crime can be committed in one State and affect exclusively the rights and interest of another State. Which is the proper tribunal to try the guilty party? Which are the laws applicable to the case? Under the admitted principle of relative justice, which looks only to the interest of the States affected by the crime, it is necessary to recognize that the jurisdiction belongs to the country which has been wronged, because it is the only one which can invoke the principles of lawful self-defense as foundation and reason for the penalty. For instance, the counterfeiting of stamps and coins may be accomplished in a territory other than that to which these stamps and coins belong. Where can the desire for repression be found except in the country whose rights of sovereignty have been trampled down, whose laws have been violated, and whose public au-

thority has been deprived of one of its exclusive rights? I think it unnecessary to insist upon this point, about which all the authors and penal legislations agree; the committee accept the jurisdiction of the wronged country, but it does not believe that by so doing it deviates from the principle of territorial jurisdiction, as it has been understood and explained in this report, namely, that the jurisdiction of the crime is that of the country which protects the violated rights.

As sometimes a crime may affect several States, Article 3 provides that the jurisdiction of the State in whose territory the offender is caught shall prevail for his punishment; but if the offender should seek shelter in a State different from the ones affected by his action, the jurisdiction of the State which asked first for the extradition shall prevail. But in the cases referred to in the said article, if there be only one offender there shall be only one trial, and the penalty to be imposed shall be the severest one imposed by the penal laws of any of the different States concerned; and if the penalty ascertained to be the severest should not be permitted in the State where the trial shall take place, then the severest one which is permitted shall be imposed. In explanation of this article, the author of the report of the committee on international penal law before the Montevideo Congress says:

The honorable plenipotentiaries are aware that when the penal law in force in one of the States is more severe than that of the State where the trial takes place, the result is that a foreign law is applied, because the penalty is regulated, not according to the law of the case, but according to the law which is most severe. We must bear in mind, however, that the country where the trial takes place punishes the crime not only as one affecting it, but also as one affecting the other injured countries. The investigation is made in the name of all the victims, under a delegation of the authority and jurisdiction of the other States, so that there need be no more than one trial. No abdication of sovereignty or jurisdiction takes place in this case; there is merely a concurrence of penalty, legitimately imposed, and based on the necessity of repression and punishment.

As to the election of the severest penalty, it is justified by the scope of the crime. Suppose the case of a State that punishes with a brief confinement an offense punished severely by the laws of another nation which has the same right to punish it. Could the latter be satisfied with the judgment of the former that imposes a penalty resembling impunity more than punishment? Is it not necessary to see that the

laws of all the Governments affected by the crime be complied with? This is what is just, and this is the answer which forces itself as essentially judicial; much more so if we consider that the plurality of wronged interests is an aggravating circumstance of the crime, because through it the injury done is by so much the greater. The severity must be proportionate to the extent of the circle, or number, of persons injured by the perversity of the offender, whether said persons are private individuals, or corporations, or States.

Article 5 gives each of the contracting States the power to expel from its territory, under its own laws, the offenders who have taken shelter therein, if after having given notice to the State against which the refugee committed an extraditable offense no action is taken by it.

Although the expulsion of the offenders has been considered as an ungenerous limitation of the right of asylum or of the hospitality which every nation should liberally bestow on foreigners, in the present case, however, the expulsion is agreed to as a measure of social security. Generous and liberal, indeed, should every nation be toward the honest and laborious foreigners who go there to reside, and to share the advantages of that political community; but not towards those foreigners who arrive infected with crime and who only take refuge in the bosom of a foreign nation for the purpose of escaping punishment for the crimes perpetrated by them in their own country. Every political community has the right and the duty to watch for its safety and eliminate from its own national body all new elements of immorality which, in addition to those always existing within it, owing to the feebleness of human nature, may do harm to it. On this subject, as in all others dealt with by him, the remarks of the reporting member of the committee of the Montevideo Congress above named are worthy of note. But I will deprive myself of the pleasure of transcribing what he said, for the sake of brevity.

Article 6 provides that all acts done in the territory of a State, which are not punishable according to its laws, but are punishable in the country where they produce injurious effects, shall not be made the subject of judicial action in the latter, except in case the offender is found within its territory. The foundation of this article is that

according to the laws of the country where the act was done this has not the character of a crime, and the author thereof appears as innocent. This being so, the Government of that country could protect him and refuse his extradition when requested.

Article 7 and the following up to the thirteenth, inclusive, relate to extraterritorial jurisdiction. The rules of public international law are adhered to for the trial and punishment of the offenses committed by members of a legation.

In regard to crimes or offenses committed on the high seas or on neutral waters, either on board a man of war or a merchant vessel, the treaty provides that they shall be investigated and punished according to the laws of the State to which the flag of the vessel belongs. Here we can see the territorial law applied, because of the fiction that a man of war is a portion of the national territory floating over the waters. It is also owing to this same fiction that the offenses committed on board a man of war are tried and punished according to the law of the nation to which the flag belongs, no matter what the maritime jurisdiction may be in which the vessel may happen to find itself. The same provision is made with regard to merchant vessels on the high seas; and so the offenses committed on board these vessels are tried and punished according to the laws and by the tribunals of the country to which the vessel belongs. In support of this provision, namely, the prevalence of the jurisdiction of the flag on the high seas, the reporting member of the aforesaid committee of the Montevideo Congress cites the case of the *Creole*, and the discussion which took place thereon between the United States and Great Britain, whose respective Governments claimed to have jurisdiction of a crime committed on the high seas. Great Britain had to yield to the principle of the jurisdiction of the flag.

But when the offenses are perpetrated on board of merchant vessels which are on territorial waters of another nation the provision is that such crimes shall be investigated and punished according to the laws of the State in whose territorial waters the vessel happened to be at the

time in which the offense was perpetrated. For purposes of penal jurisdiction, territorial waters are declared to be those comprised in a belt 5 miles wide, running along the coast, either of the mainland or of the islands which form part of the territory of the State.

With Article 14 ends Title 1, relating to jurisdiction, and it sets forth that criminal prosecutions shall be barred by limitation as may be provided by the laws of the country which has jurisdiction of the offense. With reference to this article, the reporting member of the committee of the Uruguayan Congress speaks as follows:

Limitation, as applied to penal actions, says Ortolan, is the inevitable result of the constant march of time by which all the necessities of public utility, all human recollections, all means of evidence, are modified or obliterated. Time takes away from society the right of punishing, because the interest of society for the repression of that special offense becomes extinguished through its expiration.

While all legislation recognizes the principle that punishment may be prevented by the lapse of time and that time has the power to make penalties inapplicable, they differ much as to the period of time which is required to do this. Hence the conflict arises. It may be that the criminal action becomes extinguished by limitation, under the laws of the nation which is requested to deliver up the offender, while under the laws of the nation which requests the extradition it has not been so extinguished. Must the law of the asylum prevail in this case over that which keeps the action alive, and which after all must try the offender? Shall the jurisdiction of the country which conducts the proceedings be, on the contrary, recognized and accepted for the purpose of deciding whether that limitation does or does not exist?

The committee has settled this conflict in a way favorable to the country requesting the extradition, because it is the one which has power to conduct the proceedings. It is not unknown to the committee that most of the treaties already entered into between the nations oppose this principle. The treaty between France and England, of 1876, provides that the statute of limitation of the country from which the extradition is requested must be the rule to be followed. France also has made a treaty with Spain, Belgium, and Switzerland, wherein the country to which the request is made can refuse the extradition when the prosecution is barred by limitation under its own law. But it must be observed, nevertheless, that whenever Switzerland has been called to construe these compacts, the federal council has had to deliver up the offenders, as was the case with France, even in cases in which the action was barred by limitation under the Swiss laws but not under the French.

The committee, in pronouncing in favor of the law of the country making the request, believes its decision to be in keeping with the principles of territorial jurisdiction and of unity of trial and proceedings. The State which makes the request is always the injured one, and has undeniable jurisdiction to take and punish the offender. Its jurisdiction must not be obstructed or nullified by the country of asylum, unless it wishes to dissolve the bonds which connect all countries in the interest of justice, and render it necessary for them to refuse asylum to persons guilty of common crimes.

The committee finds that if the statute of limitation of the country to which the request is made is to be followed, two jurisdictions would be created for the same offense; one having the right of conducting the trial, and the other having authority to decide whether the action is or is not extinguished by limitation. On what juridical foundation can we rest to proclaim such a partnership for the trial of one and the same offender? The committee finds no ground upon which such a doctrine can be based, and in spite of the authority of the authors and the treaties which favor it, feels compelled to reject it. It notices, on the other hand, that this principle fills with uncertainty everything relative to punishment. What will be the use, for instance, of a law providing fixed periods of time for the extinction of action in criminal cases if those periods become nugatory under the laws of other countries, among which the offender will carefully select that one where he will be free from punishment? Suppose the case of a State in which for reasons of a private and national character the action in criminal matters is not extinguished by limitation until after the lapse of thirty years. Can its power to do so, which is founded on its own sovereignty and on local necessities, as stated by the French writer just named, be ignored to such an extent? And what advantages would we derive from acknowledging that that State has the right to make its own laws if said laws can become nugatory and nullified by the action of other laws, providing that after ten years the prosecution is barred by limitation? Is there any doubt that the offenders would go and shelter themselves there?

I believe, gentlemen, that it is necessary for us to act against these practices and doctrines accepted by international compacts. The Swiss Federal Council placed itself on a true juridical ground when it waived the right which it had under a treaty with France. We must see that in the treaties to be concluded in the future the delivery of the offender should be obligatory and not optional, as mere juridical interest will not always prevail against circumstances, or against formal refusals, derogatory of jurisdiction and sovereignty.

Let us now pass to the second title, which deals with the right of asylum.

The legislations of all countries agree in extending to

strangers, more or less generously, the right of asylum. In far off periods, when neither the solidarity of mankind nor the principle of universal justice, which demands prompt and inexorable punishment of all offenders, were well understood, the nations used to protect foreigners, even when guilty of the gravest crimes in their own native country, because they were foreigners.

When they had left their countries after the perpetration of an offense another nation sheltered them and gave them protection, even if their hands were stained with blood. In modern times, times of advanced civilization and progress in all the branches with which the spirit of man has dealt, such a thing does not happen any more. The right of asylum is generally granted to the honest and industrious foreigner, or to the political refugee, who, after a firm fight for the triumph of his ideas, is forced to leave his country. I shall give here the literal text of Article 15, Title 2, on asylum:

No offender who has taken refuge in the territory of a State shall be surrendered to the authorities of any other State, except upon request for extradition and in the regular course of proceedings provided for that purpose.

Article 16 reads as follows:

Political refugees shall be afforded an inviolable asylum; but it is the duty of every State to prevent refugees of this kind from doing within its territory any acts whatever which may endanger the public peace of the nation against which the offense was committed.

With reference to the latter article, the learned reporting member of the committee on penal international law of the Montevideo congress says:

The determination of the character of these offenses is often subject to the changes undergone by political institutions, which are modified and changed much more frequently than the ordinary law. Hence it is, for instance, that a man deemed to be a criminal, a traitor to the country, prosecuted as the author of a felonious crime against his king, may afterwards be considered as the redeemer of his country, the savior of its liberties, and the hero of the new-born republic. What I say about the forms of government is fully applicable to all the movements which produce a change in the political situation, and also in the legal condition of the offender. Forms of government, has said the attorney-general of the court of Liége, are things purely conventional, different

in each country; the efforts made to change them do not affect the universal conscience. Failure renders the authors criminals, success transforms them into heroes.

Furthermore, political asylum is a factor in the work of reparation, possibly to be effected some day, a reparation which would be made *post-mortem* if revenge were to have been allowed by granting extradition. It is necessary on the other hand for all human opinions to find shelter somewhere in the world and be free from persecution and punishment. Should the latter be possible in the country of asylum, an outrage would be committed against the freedom, not of action, but of thought. This right of sheltering the political exiles is coupled with the duty on the part of the country of asylum, of preventing any acts against the nation where the offense was committed, from being perpetrated. It is clear that the refugee has not the right of conspiring from there against his country, and that there is the right of watching him so as to prevent him from disturbing the relations between the injured Government and the Governments of the country of asylum.

The State which is threatened by the proximity of the offender when he has sought asylum in a neighboring country has the right to demand his being removed from the border and forced to go to the interior of the country; and this is always granted between Governments which are on friendly terms, even if no provision to that effect is found in the treaties. Some States have enacted temporary provisions tending to guaranty inaction on the part of the political refugee; and I remember, among others, a law of Spain which compels the refugees not to reside within 120 kilometers from the frontier of France and Portugal, and to make their residence once chosen unchangeable unless with the previous consent of the Spanish Government. It seems to me, however, that this provision lessens the extent of the political asylum, and subjects the refugee to a law which is oppressive if it is not required for the interest of the adjacent country, whose peace may be well assured with or without the presence of the offender near the frontiers. In the States of South America no provisions of this nature have been made, and it is to be hoped that they never will be. The political refugee must find a hospitable asylum, without any other limitation than that which should be imposed to prevent him from engaging again in subversive acts; one must not look at him as a criminal, for he is not one to the eyes of the other nations, which can not punish human opinions even if these are inimical to the order established in others, provided that they do not issue in practical action within the territory of refuge.

With regard to common offenders taking refuge in a legation, it is stated in article 17 that they shall be surrendered to the local authorities by the head of the said legation at the request of the secretary of foreign rela-

tions, or of his own motion; but for political offenders the legation shall be an asylum and shall be respected as such. The head of the legation, however, shall be bound to give immediately to the Government of the State to which he is accredited information of what has happened, and said Government shall have the power to demand that the refugee be sent away from the national territory.

The head of the legation shall, in his turn, have the right to require proper guaranties for the exit of the offender without any injury to the inviolability of his person.

The same rule shall be applicable to the refugees on board a man-of-war in the territorial waters of the State.

The provisions of this seventeenth article as to the asylum for political offenders in the legation follow the same principle referred to above, by virtue of which the legations are considered to be a portion of the national territory whose Government they represent; but the diplomatic asylum, restricted as it is to political offenders, does not exist for such persons as are charged with offenses of non-political character, who must be surrendered immediately to the Government to which the legation is accredited. The reasons for this limitation are clear.

The provisions of article 15 are not applicable to deserters from vessels of war while in the territorial waters of a State, and they, whatever their nationality may be, are to be delivered up by the local authorities upon proper identification at the request of the legation, or, if there is no legation, of the consular officer of the country concerned. Let us hear what the reporting member of the South American Congress has to say:

Article 18 of the project refuses the asylum to deserters from the navy, and this refusal is based on conditions essential to the existence of the latter. Calvo regards this extradition merely as an act of courtesy based on the mutual convenience of the States, which have seen the danger of leaving the vessels unprotected by extradition, and furthermore on the wish to punish all offenses against the flag. Some agreements to this effect have been generally inserted in the consular treaties and in those of navigation and commerce. France has done so with Belgium on February 5, 1883, and with Greece in 18 6. There are besides the treaties of Austria with Russia (1808, 1815, and 1822), of Prussia with Denmark (1820), and with Luxemburg (1844).

The United States, like all the maritime powers, grant without difficulty the extradition of deserters from the navy, but not so readily that of deserters from the army. The committee, however, has made the rule equally applicable to the latter. I am well aware that this will give rise to a great discussion; but if it is admitted that military spirit and discipline must be preserved on board a man-of-war, I do not see why it must not be preserved in the same way in the army. The army indeed would suffer more than the navy through granting asylum and immunity to deserters. We represent here countries, most of them bordering upon each other, which have on their frontier, if not large bodies of soldiers, at least some detachments or military posts. The States have to keep their regular forces at those places; and demoralization would soon prevail among them, and the forces would soon be scattered, if punishment could be escaped by merely crossing the frontier, which is often an imaginary line distant a few steps from the camp.

It is said, gentlemen, that desertion is a peculiar offense; but no person can deny that it is an offense. It is, when judicially considered, the non-performance of the duty to do something which is due to the nation, and the fulfillment of which is evaded by the flight of the debtor. The safety of the nation is endangered thereby, as at a given moment of critical importance for the preservation of a State whole armies might be disbanded. It is said also that military punishments are too severe; but the impunity of desertion by making it non-extraditable would render that severity still more necessary. Those who are at the head of the army would be obliged to be more vigilant and to punish with all possible severity simple attempts at desertion. The result would be that while the attempt would be cruelly punished the accomplished offense would remain unpunished.

It has been incorrectly alleged that there is some analogy between political offense and desertion from the army. But this is inadmissible. Veiss rejects the idea in an argument as true as it is eloquent. If political refugees, says this writer, are entitled to hospitality, it is because for them exile is the only way of escaping the revenge of their victorious opponents, and because after having fought faithfully for their cause they can raise their heads and hope for better days. But can this be said of the deserter, the man who having been brought up in his own country, under the protection of its laws, refuses it his services, which are owed at its demand by all citizens, and takes to flight, leaving to others the defense of homes and property.

We have now reached title 3, on extradition.

By Article 19 of this title, each of the contracting nations shall be bound to deliver up to any other the offenders that have taken refuge within its territory, whenever such circumstances shall occur as are generally stated in the extradition treaties.

But the text of Article 20 is the following:

Extradition shall in no case be barred by the nationality of the offender.

According to this article the offender who takes refuge in the territory of his native country, after having committed crime abroad, is not free from extradition. This is against the opinion of respectable authorities and against the stipulations of several treaties entered into by and between several European States, wherein an exception in favor of their own citizens seeking for a refuge in their native territories is established. But some other authorities, no less respectable, can be cited in support of the provision of the article above quoted; and it is, on the other hand, in perfect harmony with the principle of territorial jurisdiction. This article was fully discussed in the Congress of Montevideo, and was adopted there. The reporting member, in supporting it with all the weight of his convictions, expressed himself as follows:

The offenses committed by a citizen of a State, while abroad, can be considered under three different aspects.

The first is when the offender remains in the foreign territory where he perpetrated the offense; the second, when after committing the offense he has sought for asylum in a third State, different from his own and from the one where he committed the offense; and the third, and of this we are now speaking, when the offender has come back to the territory of his own native country.

The first and second cases present no difficulty for us, as we have voted in favor of the principle of territorial jurisdiction. The courts and law of the territory where the offense was committed indisputably have all power and jurisdiction. This I think, too, I have fully shown in the general report. But in the third case, when the offender has come back to his own nation, can this principle be abro ated on account of the political ties and connections of the offender with the nation wherein he has sheltered himself? In other words, can the original jurisdiction of the criminal courts be given up because of the nationality of the offender, when his own country gives him asylum?

I understand, gentlemen, that such a strange privilege as that his nationality should withdraw the offender from the *locus delicti* would disturb the whole system of jurisdiction and oppose the principle that the territorial law must prevail. It would be detrimental to sovereignty. The interests of citizenship can not go so far as to allow so disturbing an exception to be admitted. It would carry us to pitiful inconsistencies. The fact is, that through it more favors would be given to the

interest of the guilty man, who must have no nationality before the penal law, than to the interest of the citizen.

I can understand the individualism of the law when it is based on a lawful interest; I can understand that the personal status follows the persons wherever they go, and I understand it without finding justification for it, because although it tends to insure a protection which is unnecessary in modern times, it deals, however, with lawful and honest interests, as is without doubt the exercise of the civil rights. But protection when granted to criminal acts and to malefactors and guilty persons can not be based upon any moral or judicial idea. Protection is explicable when granted to one who claims what is his, or defends his rights; but it is inexplicable when granted to the perpetrator of a crime.

Extradition, on the other hand, does not imply trial or punishment. Its only purpose is to deliver up the offender and cause him to be subject to the proper jurisdiction, all things coming back to the *status quo* existing at the time when the offense was committed. It prevents the flight from altering at all the legal condition of the offender, and prevents also the creation of a kind of undue complicity between the criminal and the country of refuge. This principle, therefore, flows logically and naturally from modern international law which has consecrated the union, jointly and severally, of all the States in favor of justice and against impunity; different from the old school which protected the offender against the demands of social justice. We can not break this compact of universal union simply on the ground of the political tie, which neither aggravates nor extenuates the offense. That tie can not affect the original jurisdiction, because, as Dr. Ramirez said in his remarkable book, society punishes an offender as a member of society not as a member of this or that political community. The prosecution is not against the Belgian, the Frenchman, or the Austrian, but against a conscious human being who is responsible to the tribunals and the law within whose jurisdiction he has committed a crime.

It is said in support of the rule, that the country of origin does not desire the impunity of the offender, but only claims the right to punish him. But under what law would the penalty be fixed? Would it be under the law of the country of origin?

If so, we would fall into the error of applying a law which was not violated or ignored by the act to be punished. Neither the penalty imposed nor the law applied is the one to which the offender was subjected at the time of the offense, inasmuch as he was then subject to the jurisdiction and power of the sovereign in whose territory the offense was committed. And so we may easily see what a great disturbance would be created by admitting this dualism of sovereignties, applying simultaneously to one and the same person; and this without counting the impeachment of the independence of a State involved in the taking of measures, for the punishing of offenses and the insuring of safety and order, which are primarily incumbent upon the territorial sovereign.

If the laws applied are not those of the country of origin, but those of the territory where the crime was committed, then the incongruity will be still more evident, because the penal law, which is territorial by its character, by its essence, and by the unanimous vote of the honorable Congress, would then cross the frontiers of each State and be applied by foreign judges, replacing those of the nation itself, in further derogation from the principle of sovereignty. The laws and nation outraged would receive in this case no satisfaction or redress, and punishment would cease to be exemplary in character.

A very important provision is the one contained in Article 21 of this title, by which the extraditable character of the offenses is fixed as follows:

(1) As to non-convicted offenders, those offenses which under the laws of the country which demands the extradition, are punished by imprisonment for not less than two years, or the equivalent thereof.

(2) As to convicted offenders, those offenses the minimum penalty for which is imprisonment for one year.

It can be seen by this article that the committee in adopting the proposed treaty of penal law of Montevideo, entirely deviated from the old system of describing by name the offenses which admit of extradition, and adopted in lieu thereof the method of classifying offenses according to the punishment prescribed therefor. This classification covers a larger number of offenses than were reached by the old system, under which only a few specified offenses are extraditable. Owing to that system many offenders escape punishment, which is a grave evil for society as well as for the State, for, according to a well-known and important saying, "If you close the doors of punishment, you will open those of crime." Let even the slightest offenses be punished, for if they are tolerated that will encourage the offenders to commit greater ones.

Article 22 provides that no person shall be delivered up on extradition proceedings for duelling, adultery, libel, or offenses against religion. The final part of the same article provides that persons guilty of common (*i. e.*, nonpolitical) offenses connected with any of the above named shall be subject to extradition.

There is nothing in this article which needs explanation. The same can be said in reference to the last five articles

of Title 3. With regard to the fourth and fifth titles, which respectively refer to the "Proceedings for Extradition" and to the "Precautionary Arrest," it is enough to say that their provisions are substantially similar to those generally set forth in extradition treaties.

Before ending the report which I have the honor to submit to the Conference, I must state that in my modest work I have used as a guide the conscientious and most elaborate report which the learned delegate from the Argentine Republic, Dr. Saenz Peña, submitted to the South American Congress, and for which I take pleasure in extending to him my sincere congratulations. If my honorable colleagues wish to consult this excellent document, for the enlightenment of their opinions on this subject, they will find in it the strong reasons which led that Congress into formulating the Montevideo draft of a treaty on penal law, which I recommend for adoption to the honorable Conference.

A further reason, and not a slight one, in its favor is to be found in the fact that the plenipotentiaries of seven South American nations did sign that draft, and that it is to be hoped that it will become a law between those nations.

The tendency towards unity of legislation is general, and the solidarity of mankind is admitted; but if that coveted unity is only a generous utopia when applied to the whole of mankind it will perhaps become something practical when applied to our hemisphere, or to the young nations which inhabit it—nations which, all alike possessing, thanks be to God! free institutions, which alone dignify mankind, are destined to be united by the closest ties, by many social, political, and economic bonds, by the adoption of the same international laws, by the interchange of their products, and by the sympathetic spirit of faithful and loving fraternity.

JERÓNIMO ZELAYA.

WASHINGTON, *April* 10, 1890.

DISCUSSION.

SESSION OF APRIL 14, 1890.

Mr. TRESCOT. We have the extradition report ready; I do not think it will be the subject of much discussion, and in twenty minutes we can get considerably ahead with it.

The FIRST VICE-PRESIDENT. That requires unanimous consent. Is there objection to the motion of the honorable delegate, Mr. Trescot? The Chair hears none. It is approved.

The report of the committee, together with the appendix thereto, and Mr. Zelaya's explanation thereof as chairman of the committee, were then read by the Secretaries in the form above set forth.

Mr. ALFONSO. I shall begin with the same declaration which I have made on other occasions. The committee here recommends that the Conference adopt the Treaty on Penal Law which the Congress of Montevideo adopted; then comes the second recommendation, as to the negotiation of treaties with the Republic of North America.

As to the first point I have to say, and I wish that it be recorded in the Journal, that the Government of Chili did not accept the Treaty on Penal Law adopted by the Montevidean Congress; consequently its delegation finds itself in the position of being unable to adhere to the first recommendation of the report, but it is willing to accept the second, as that recommends that the treaties to be concluded with the United States be as nearly uniform as shall be compatible with their being respectively acceptable to the nations negotiating them.

Under these circumstances each Government is left in entire liberty as to concluding them, and for this reason it is that there is no objection on the part of the Chilian delegation.

Mr. TRESCOT. Mr. President, I would suggest that this is a recommendation by the committee. Their desire was to obtain a uniform extradition treaty. It was found that we could not conform the views of the different governments. There is no obligation to accept the Montevidean treaty; it is simply a recommendation as to which the States will be ready to negotiate afterwards.

Mr. GUZMAN. I agree fully with the remarks just made by the Hon. Mr. Trescot. I believe no delegation can fully commit its Government, but the delegation can compromise itself before its Government by recommending something the Government can not accept. In a case similar to this, when there was recommended I do not remember exactly which of the treaties of the Montevidean Congress, the resolution read that the study and examination of those treaties be recommended to the Governments of America, in order that, if the latter considered such treaties advisable, they should adhere to them. Obviously, there is a difference between saying that the nations of America are advised to adopt those treaties and simply recommending their consideration.

I am the first to recognize that the treaty to which the report under discussion alludes, being the work of so learned a congress, must be very good; but with all that, it has just been handed to us this moment and I must state that I have not had time even to read it. I do not consider myself competent,

absolutely, to vote upon it, and I shall ask the Conference that more time be given us to study it so as to give an intelligent vote.

Mr. ZELAYA. Perhaps, Mr. President, it would be advisable to accede to the suggestion of the honorable delegate from Nicaragua, for it may be that many of the honorable delegates are in the same position; that is, they are unacquainted with the treaty of Montevideo to which we refer in the report.

I second, therefore, the motion of the honorable delegate from Nicaragua that the debate on this question be continued at the next session, be it in the morning or the afternoon.

The FIRST VICE-PRESIDENT. The Chair has heard no formal motion on this point and begs the honorable delegates to be good enough to formulate it in order that it may be put to the Conference.

Mr. ROMERO. Before the motion is formulated, I wish to make known that, as the Conference will remember, on a former occasion, upon it being proposed in one of the reports that one of the Montevidean treaties be accepted, the Mexican delegation stated that it would be impossible for it to vote on the question because these treaties had been proposed to the Mexican Government by the Argentine Republic and the former was considering them without as yet having decided upon them.

Naturally the Mexican delegation can not anticipate the decision to be arrived at by its Government, and we should also state that in this connection and pursuant to what we have communicated to our Government, it has informed us that it has not yet finally passed upon the treaties; that the Department of

Justice is examining them and it has given us special instructions not to vote either for or against them. For these reasons the Mexican delegation will abstain from voting on the first part of the report, having no objection to accepting the second, although for Mexico it is really unnecessary, as it has a treaty now with the United States which appears to have satisfied all its needs up to the present.

SESSION OF APRIL 15, 1890.

The PRESIDENT. The Extradition report is before the Conference.

Mr. CAAMAÑO. Before giving my vote in favor of the report of the Committee on Extradition and recommending to my Government the adoption of the principles which it establishes as bases for extradition treaties, I wish to state the motives for the reservations with which I shall make said recommendation. If the conclusions of the report contained in detail the articles included in the body thereof, I would propose a change in the twenty-third so that it would remain couched in these terms: "Political offenses and offenses endangering the internal safety of a State shall not warrant extradition." But I must state why I restrict the article to this form; because it is repugnant to my conscience to undertake to recommend it as it is now worded, even though approved by the Congress of Montevideo, which will be ever memorable in history.

I have had barely time to study the erudite report of the committee submitted twenty hours since; thus, without going to the length I desire, I might, and the

subject requires I shall, make a few observations; and claiming as a right the exercise of the practice lately established in this Conference, I ask that they may be spread upon the minutes of this meeting.

Every offense, from the very fact of being such, is subject to penalty, and every penalty should be made effective under pain of weakening the foundation upon which human society rests. The application of this principle, as imperative as the necessity to guaranty the well-being of society, has been tempered by tolerance born of the culture of the time and of education which, generalizing itself, teaches duties and rights, and forms a part of the system of corrective legislation. But that tolerance, carried to the extreme, is the worst of tyrannies, because, applied to the practices which at bottom affect social tranquility, it either obliges individuals again to exercise the rights of primitive ages, or imposes on society the duty of tolerating crimes which ought to be expiated; and it imposes it in favor of the guilty, who are placed in a position of preference. This inverses the established order and saps our social life, which, as we know, is a compromise by which we renounce part of our rights in consideration of preserving the rest.

Why this compromise? Because laws and institutions, acting with the calmness which almost always is wanting in the victim of a crime, take in hand its detection and punishment to prevent its going unpunished and dissuade from its repetition. Philanthropy as a word is euphonic and sweet, as a sentiment delicate, and as a practice noble. Woe to the heart which it does not inspire! Woe to the society of whose policy it is not a factor! But philanthropy,

like every good act, has its scope and opportunity; for neither is absolute benevolence conceivable among men, nor are charitable acts really such when they engender countervailing effects. Among the considerations which limit, or should limit the application of a principle of compassion, one must be that of measuring its scope, and measuring it by taking into account the number and quality of the favored, as also the number and quality of those who are divested of the guaranty, directly or indirectly, which the punishment of a punishable act carries.

These antecedents, viewed in connection with Article 23, result in that there are excluded from extradition all offenses subversive of the external safety of the State and common offenses connected therewith or with offenses subversive of the State's internal safety.

What is the effect of extradition? It is to put the offender in the hands of the justice of the country wherein the crime is perpetrated, in order that the enforcement of the law may not be evaded; it is an act of deference, a mark of respect which the nations show to each other, mutually protecting one another against violence, placing the culprit outside the pale of the protection of the land in which he seeks refuge. Very well, is it just that this protection be more generously lavished upon him who commits atrocious crimes than upon those whom the plan to which I allude makes subject to extradition? What offense does he commit who puts, or tries to put in danger the external safety of a State, and actually attacks its sovereignty? What? It is the crime of high treason, the worst that human perversity can conceive; it is

the crime of crimes and which brands with a stain that centuries can not wipe out. Can it be that our plan protects that crime? Treason, that kills, that desires to kill the second religion, which is love of country; does that crime which attacks its own home deserve that refuge be accorded it in another place? Should any land be favorable to such a monster? What is the philosophy of this principle? On what is it founded? What its scope? Are the purely moral sanctions relied upon? If so, let us burn our penal codes, because there is no offense which can not as well be left to that sanction, very often of little force. Does the most abominable of crimes deserve to be treated with the greatest consideration?

Very well, offenses properly called political are such as are committed with the intent of changing the institutions of a country, reforming them or changing the administrative personnel, without subjection to the laws of the country, by having recourse to bribery or arms. I know, know it well, as we all do, that these acts, if they are never excusable in the face of a constitution being broken, a law violated, or a right trampled upon, come within the category of acts of a debatable nature, because many are the doctrines set up by good and bad writers, and because in this sphere of action what to-day is an offense to-morrow is described as an heroic act. I do not go into this matter, but considering as political offenses those attempts or acts against internal order, which are so considered by the laws in force at the time when said offenses are committed, I ask: Why should the common offenses which precede, accompany, or follow those acts be excepted? Is it, per-

chance, not easy to determine what are the measures demanded by said acts, and to separate those which are purely military measures from those that are outbreaks of wickedness, of personal revenge, or of perversity? Are crimes, perchance, necessary to bring about a change or uphold a principle? I not only reply that they are not, but that any change founded on crimes is inacceptable, and instead of an extenuating circumstance it is an aggravating one, leaving the offenses that may be perpetrated in all their deformity under the ban of the penal law.

Do transgressions affecting society in general merit favorable exceptions? Is it philanthropy, is it humanity, is it justice to shield the assassin, the incendiary, the robber, depriving a whole country of its rights and despoiling it of the prerogatives which protect its dignity and assure its preservation? Is it natural to place on the further side of a frontier of easy access a bulwark for bandits that they may waylay and threaten the respectable portion of the population? Is the offender to be considered and not public vengeance, which has its jurisdiction and claims the exercise thereof?

The principle recommended to us once accepted, the result would be that a chief of highwaymen can organize a band, proclaim a political principle, and a leader as bad as they, and to the sound of that cry and under the banner of that principle, rob, fire, flee from the public force, take refuge in a neighboring country, and enrich himself and profit by their depredations. It would be the same as saying that a soldier could make himself a dictator, and during the prevailing disturbance sack a bank and flee to enjoy his plun-

der in foreign parts. It would be the same as saying that a group of conspirators could kill a ruler and afterwards flee to boast of what they would call a political act, though it is a treacherous murder, or to incite the commission of like crimes. Why should a treacherous assassin have more guaranties than those who commit offenses which are in a sense of minor importance, like many of those subject to extradition and which our codes punish with one year of imprisonment?

I think, gentlemen, that the offenses which should be excepted are political offenses, those which are purely political; but never common offenses, because they are not indispensable to the securing of social ends, and the contrary will open the door to criminality. I believe that persons committing common offenses, and who at the same time are responsible for political offenses, should be subject to extradition for the former, under a formal pledge of the demanding nation not to prosecute for crimes committed before extradition.

The last clause of the twenty-third article I think inadequate and even harmful to national dignity. Looking over the five series of articles which comprise the treaty on penal law of Montevideo, we see that the first, second, third, sixth, and that upon "jurisdiction" provide that *offenses shall be tried and punished by the courts of the nation where they are perpetrated;* that under "*Extradition*," articles 19 (section 3) and 21 (section 1) agree in that *the nation demanding the extradition shall present such documents as, under its own laws, authorize the imprisonment and trial of the accused.*

Why, then, does the section of article 23 give the right of classification to the nation upon which the demand is made? I do not understand it, because I can not conceive why in this one case, and one which may be born of the crime of treason, or of common offenses of a grave nature, a country is shorn of its right to judge that another may assume the right to qualify its proceedings and override its decisions. The general rule of demanding extradition when the courts have adjudged criminality to exist, once adopted, the section tends to make that judgment, which is issued in due form, nugatory, subjecting it to amendment or revocation.

Having made these remarks, I vote for the plan as a whole.

(At this point, the President, Mr. Blaine, left the chair, which was then occupied by Mr. F. C. C. Zegarra, of Peru, the first Vice-President of the Conference.)

Mr. ZELAYA. Article 23, to which the honorable delegate for Ecuador has just referred, applies only to political offenses, wholly excluding offenses of an ordinary nature. Thus, for instance, the assassination of a governor is deemed an ordinary crime and the perpetrator would be extradited.

Mr. BOLET PERAZA. Mr. President, the Venezuelan delegation is sorry to be compelled to disagree in part with the honorable members of the committee in their report. It will vote for a part of it—that in which the governments are left at liberty to conclude extradition treaties without subjecting itself entirely to the provisions of that wise treaty of the Montevidean Conference, because in the very article

criticised by my honorable colleague from Ecuador there is a point upon which it is impossible for the Venezuelan delegation to agree or compromise, for in it those who conspire against the safety of a nation in foreign countries are excluded from extradition.

In common language this crime is known as high treason, and there can not, nor should there be, a mantle of impunity to protect those guilty of so monstrous a crime. The Venezuelan delegation can not give an approving vote, or recommend an article of a treaty which places under the protection of any nation in the world, and much less under the protection of an American nation, whoever may conspire with the foreign invader who tramples our soil, against its sovereignty and integrity. For such an attempt, for such a crime, comparable only to parricide, all the legal penalties should be heaped up, all the ire of legislation, as are all the maledictions of moral nature, to condemn it.

With regard to so-called political offenses, I do not recognize them in the category of offenses meriting punishment. These so-called political offenses are apt to become some day the aureole of great men, of great patriots, when the judgment of history confronts them and examines their conscience and the motives which prompted them to act. By this path of sublime effort have ascended to glory all the great figures humanity recognizes as liberators of their fellow-men.

By mind and by affiliation liberal, and a sincere democrat, I can not recognize that so-called offense. To my mind they are properly excepted from extradition, as prescribed by the article cited, and I also consider as properly excepted those common offenses

which originate therefrom, because, as the honorable Delegate from Honduras has well said, the tendency of some vindictive or oppressive governments is to confound one with the other. These common offenses connected with political acts may appear, in the light of some principles, as meriting penal severity, but they are justifiable if the right which parties as well as nations have to defend themselves is considered.

It would be more correct, therefore, to leave that part of the article as it is, which provides a refuge for the man who leaves his country, persecuted by a tyrannic government, which his duty and his honor obliges him to disown and to oppose. Do not let us appear less generous than the foreigner who offers hospitality to the unjustly persecuted. If we were to include among extraditable offenses those called political, we would expose ourselves to bring that danger upon ourselves, because, young as our Republics are, still subject to the contingency of revolts, to establish our liberties, which of us can be sure that he will not be to-morrow in a somewhat different situation from to-day? Which of us can say that, to-day the representative of a government, he will not to-morrow be the representative of a revolution, because the honorable governments we now have may be changed for others which shall put an end to our liberties?

But, I repeat, that with respect to the crime of high treason, I am of the opinion it should be included in the facilities which nations have to reach their offenders even on foreign soil.

For the reasons adduced the Venezuelan delega-

tion abstains from adhering to the whole of the articles of the treaty of Montevideo to which I refer, regretting extremely not to accompany fully the honorable committee which has recommended that work, so worthy of the applause of natives and foreigners.

In conclusion, I shall only say that I beg the Chair to be good enough to insert this declaration in the minutes of to-day's session.

Mr. QUINTANA. Gratefully and with pleasure do I accept the kindness of the honorable Delegate from Colombia, Mr. Martinez Silva, in ceding me the floor for a moment, as I think that what I am about to propose in the name of the committee might shorten this debate, for which there is no necessity and which probably would be interminable.

Mr. President, to suppose that a treaty of the latitude covered by the penal law of the Montevideo Congress, and signed by quite a number of nations, could entirely satisfy, without the slightest exception, each of the Delegates representing the contracting nations, and that all and each article should be acceptable both substantially and in detail, would be utopian. From this stand-point, Mr. President, it would be necessary to renounce, and that in the most positive manner, any attempt at a treaty. On the other hand, this Conference, composed of distinguished men of America, is not a Congress of jurisconsults, prepared to discuss, with the antecedent knowledge necessary, all the questions, great and small, which are involved in a treaty of international law.

From the scope of our debates, and with the desire which animates us all, to terminate the labors of this

Conference, a prolonged discussion should not take place, nor still less, be permitted; but for these considerations, Mr. President, I would take the greatest pleasure in replying—I will not say triumphantly, because I do not wish to be thought boastful—to the various remarks made upon the several articles of the treaty under discussion. Nevertheless, I can not refrain from saying, Mr. President, that to refuse extradition for a crime, is not by any means to announce impunity, as has been, incidentally, asserted by the honorable delegate from Ecuador.

To refuse extradition for the crime of treason against one's country is a prescription to be found in all treaties of this class, and is recommended by all publicists of note, without any exception whatever. The reason is simple. If there is a crime truly and purely political, it is that of treason, and for this reason, however condemnable it may be, it is not in the eyes of the law a crime; excepting only to that nation against which it is committed, because it is an absolutely indispensable element of this crime that the person committing it be a citizen of the country.

If we go back some years in the history of the world we find identically the modern ideas with which I agree, and which appear to be engraved upon the hearts of all men, and yet these are not those held by the ancient republics, which we quote when speaking of sciences, art, and letters.

We have only to take up Plutarch's Lives of Illustrious Men, Mr. President, in order to recall the phases through which these public men passed; amongst whom we, not unfrequently, find that motives purely personal, without the shadow of public character,

actuated many of them to leave their country and unite with its adversaries in a struggle against the fatherland; and at this moment I recall, amongst others, the names of Acibiades and Themistocles, before whom we bow respectfully.

But I was allowing myself to ramble, Mr. President, in this discussion, which, as I have already stated, has no good reason for continuing, and I beg the pardon of the Conference in general, and more especially that of my distinguished colleagues to whom I have had the honor to reply.

I can not, nevertheless, avoid informing them, addressing myself to them personally, if this be proper in a conference of this kind, that I can never understand how opposition to a certain article of a treaty of this extent and importance can give rise to a negative vote on the treaty as a whole and in its essential aspects.

It is easily understood, of course, that this recommendation made by the delegations to the several governments does not exclude the examination of the sundry stipulations of the treaty recommended to those governments, and from the analysis they may make of the various provisions of the treaty recommended they will determine whether it be acceptable in general, as a whole, because of its principal ideas, the conclusions arrived at and the results it may bring; but by no means because of each and all of the secondary recommendations, for, as I said before, that would be aspiring to a Utopia.

And to prove that this is so, I have not the slightest objection to declare, in the name of my colleague and my own, since we are the only ones here who

had the honor to belong to the Montevidean Congress, that not one of those treaties bearing our signatures has, in its every word, gained the sanction of our government, nor been adopted by it.

But a treaty is a compromise, and it is necessary to make certain sacrifices. A treaty is an agreement, an understanding, and to exact that its entirety should be exclusively subordinated to our views upon the divers questions the scientific world is discussing, and upon which it has not yet pronounced judgment, would not be seeking an agreement, but rather seeking the imposition of our own ideas upon all the others.

When the Committee on Private International Law was engaged upon the treaties on civil and commercial law, it limited itself to advising the study of those same treaties to the governments so that within a given time they should announce their opinion thereon, whether their approval was unconditional or with certain qualifications.

The special reason for recommending that course to the Conference, and which it afterward sanctioned, was that those treaties, because of their length and extent, demanded a more exhaustive examination than the honorable delegates could give it in the short time left for the sessions. As regards the treaty on penal law, these reasons did not apply, for if there is a concise, plain, and easy matter it is this of extradition. All cases are provided for; it is simply a question of choice. Many of the provisions of the plan are nothing more than proceedings which have received the sanction of the treaties so frequently concluded from the beginning of the century to the present time.

Taking all the treaties which have been concluded and are now in force it would be easy to arrive at this conclusion; notwithstanding the diversity of forms and difference of wording, it may be said that they are all made in a common mold, although they have been concluded at different times between country and country.

The committee even thought that it might separate from that course and advise the adoption plain and simple suggested by the Hon. Dr. Zelaya, who had been engaged upon the study of this question, for it being provided in this treaty itself that the Governments, after examining it, should decide at the end of ten years whether they accepted it wholly or partially, the committee thought it was justified in following this course.

So that, as a matter of fact, the final adoption of the treaty will take ten years, during which time the amendments which experience may prove advisable may be offered.

The committee was further guided by another precedent established by the Conference itself. This body upon taking up the plan of trade-marks, patents, and literary property, sufficiently difficult matters, and upon which the scientific world is still divided, honored the Montevidean Congress by accepting the recommendation of the report which proposed the adoption of those treaties, fully, clearly, plainly, without any restrictions whatever.

For these very brief reasons, Mr. President, and I say very brief, not because I have talked little, but because of the importance these matters might have, I persist in the belief that the committee has advised

the Conference correctly, but I state, at the same time (and this is a special statement, in the name of my colleague and my own), that being, for reasons not unknown to the Conference, the least competent to insist, we have no objection to adopting for this treaty on international penal law, a course similar to that adopted by the Conference regarding the treaties on commercial law and literary property, that is: that in place of saying that they advise the adoption, it be said they advise the study of the treaty of Montevideo on international penal law, in order that the nations may declare within a given time whether they accept it with or without restrictions.

Happily, the task of wording this short report has been performed by the honorable delegate from Nicaragua, and I add, believing that I interpret the opinion of the committee, that we accept that wording so as to quiet all susceptibilities and facilitate the good understanding which has always existed among the Spanish American delegates on these questions which are destined to bind them closer every day.

Mr. Silva. As the subject which has given rise to this brief discussion is most interesting, I beg the leave and pardon of the Conference to claim its attention for a few brief moments, for the purpose of stating my opinion of the point in debate.

Reading with some care this plan of extradition, I believe that not only are all of its articles acceptable, but that some of them lay down very important principles, which should obtain an efficacious sanction on the part of the Conference. For instance, it is a novelty appearing in this plan to lay down the principle that for the purposes of extradition there is no

distinction of nationality, and this is a great step, for, up to the present many Governments have upheld the doctrine, an absurd one, according to my views, that a citizen who has committed a crime in a foreign country and who afterwards seeks refuge in his own can not be delivered up because of an unjustifiable protection which a country affords its citizens.

This is a new principle which I believe has not yet been sanctioned. We are dealing with extradition in all the nations of the Continent, and I think it would be very important to lay this down expressly and explicitly. As regards article 23, it appears to me that all its clauses are harmonious and that absolutely nothing can be stricken out, for the second part is co-ordinate to the first, and the second paragraph, in turn, is complementary to the first part of the article.

I think we are all agreed that in no case can extradition be recognized for so-called political offenses. This is a sort of canon of the public law; but here there arises a very grave question, which is as follows: What is a political offense? How can the dividing line between the common and the political offense be drawn? For example, the Phœnix Park murder in Ireland, is that a political or a common offense? It is a common offense considered as a murder, and it is political if we consider the motives the murderers had for committing it.

The notorious assassination of the illustrious Lincoln, is it a common or a political offense?

It is precisely the same as the former case, a common offense, because it was a murder and a great offense, because the victim was the head of the

State and a personage with so many titles to distinction; and a political offense, if it be remembered that there entered to a great extent in the commission of this crime motives of resentment due to the war just ended.

We have in our Colombian history a classic event, which is known to many of the Spanish-American Delegates. General Orlando, a celebrated military chieftain in my country, headed a revolution in the year 1840; he was vanquished and exiled from the Republic, but General Orlando, it was discovered afterwards, had been the prime mover in the assassination of the illustrious Marshal Sucre. The Government of New Granada demanded him first of Ecuador, afterwards of Peru, and later of Chili, not as a revolutionist of the year 1840, but as accomplice and prime mover in the murder of Marshal Sucre.

But the governments of Ecuador, Peru, and Chili replied that they could not accede to the demands of the Government of New Granada, because, although it might be true that he was guilty of the offense charged, it was also true that he was an exiled political chieftain. This reply appears to me to be well founded, and under similar circumstances any government would act in like manner. Therefore it is very difficult to draw the line between a purely political offense and a purely common one. I shall illustrate this by another example: In the revolutions as we conduct them in our countries the common offenses are necessarily mixed up with the political in many cases. A revolutionist has no resources. My distinguished colleague General Caamaño knows how we carry on wars. A revolutionist needs horses for

moving, beef to feed his troops, etc., and since he does not go into the public markets to purchase those horses and that beef, nor the arms and saddles to mount and equip his force, he takes them from the first pasture or shop he finds at hand. This is called robbery everywhere, and is a common offense in time of peace, but in time of war it is a circumstance closely allied to the manner of waging it.

It can be seen, therefore, that the article in debate is very ably worded, and that no different form could be demanded. It is as follows:

> Political offenses, offenses subversive of the internal safety of a State, or common offenses connected with these, shall not warrant extradition.
>
> The determination of the character of the offense is incumbent upon the nation upon which the demand of extradition is made, and its decision shall be made under and according to the provisions of the law which should prove to be most favorable to the accused.

I believe this is perfectly expressed, for if the last part of the first paragraph were stricken out, then all political offenses would become common and extradition would have a scope that we cannot recognize.

The second paragraph is the co-relative of the first, because if this were expunged, then we might go to the other extreme, still more dangerous, which is that of protecting under the name of political offenses very grave common offenses. What is the only means of preventing this? To leave it to the Government upon whom the demand is made to decide whether the offense is political or common, and this in the light of the facts and proofs; for if the character given it by the country making the demand were to

decide, then, I repeat, all political offenses would become common, when party feeling were to intervene.

But there are cases in which it is necessary to ignore the political aspect and appearances so as to see what there is at the bottom. For example, in the case of the assassination of President Lincoln, if the offender had sought refuge in the territory of Ecuador and had been demanded, then the Government of Ecuador would enter upon the judgment of the case, decide whether the offense was political or common, and I am inclined to believe that it would have been qualified as a common offense, and that offender would have been delivered up to the authorities making the demand. For this reason I hold that the classifying of the offense should be left to the country upon whom the demand for the offender is made.

For these reasons I am of the opinion that the paragraphs of that article are inseparable, and that we cannot expunge either of them; and I repeat that the general idea, the substance of the plan, is very satisfactory, and that there are laid down therein very just and advanced principles in the premises, which deserve the encomiums of all learned men.

Mr. Saenz Pena. Mr. President, I am not going to reply to the observations which have been made regarding the treaty of extradition, because there is a plan which tends to obviate this debate. I am going simply to correct some facts and assertions made respecting the idea and spirit of the treaty in so far as it refers to political offenses.

Several attempts against the life of heads of States have been cited, and I wish to establish that the draft of a treaty which we are considering embraces those offenses in the extraditable cases.

The Montevidean treaty proceeded by way of exclusion, that is to say, enumerating non-extraditable offenses, and among the exclusions attempts against the life of public men did not figure, for the very reason that this is an offense included among extraditable cases. This explanation is obvious, not only from the spirit and text of that treaty, but I had the honor to make it there as the reporting member of the committee. I desire that this correction may be recorded in order that the honorable delegates may have full knowledge of the spirit of that convention with reference to this offense.

I said that I did not intend to reply to all the observations made touching this plan, in the first place because there is another which tends to obviate all discussion, and further, because it would be unnecessary to repeat all the arguments I had the honor to make in that Congress, which are in the hands of the honorable delegates, and which support each and all of the articles of this treaty.

Messrs. Guzman and Cruz handed to the Chair an amendment, which was unanimously accepted by the Committee. It was read as follows:

The American International Conference resolves:

(1) To recommend to the Governments of the Latin-American nations the study of the treaty of penal international law made at Montevideo by the South American Congress of 1888, in order that within a year, to be counted from the date of the final adjournment of this Conference, they may express whether they adhere to the said treaty, and in case their adhesion is not complete, which are the restrictions or modifications with which they accept it.

(2) To recommend at the same time that those Governments of Latin America which have not already made

special treaties of extradition with the Government of the United States of North America, should make them.

H. GUZMAN,
FERNANDO CRUZ.

The PRESIDENT. I understand that the committee has accepted this proposition.

Mr. ZELAYA. Yes, sir; the committee accepts it.

The PRESIDENT. If there is no objection it will be voted upon in this form.

Mr. ROMERO. Mr. President. During yesterday's session I stated to the Conference that, in view of the instructions received by the delegates from Mexico as to the treaties, we did not feel called upon to cast our vote in favor of the report as presented, since so to do would in a sense have implied their approval; and that consequently the Mexican delegation would abstain from voting. But as the case now stands, the report of the committee having been modified, the reason in view of which the Mexican delegation then declined to vote, of course no longer exists, and that delegation will now vote in favor of the modification which has been suggested. I make this explanation so that it may not appear strange that the delegation, having spoken upon one side, shall vote upon the other. I will take this opportunity to offer two slight corrections to views which have been stated here.

Some honorable delegate has said that when the chief magistrate of a State is assassinated, there is doubt as to whether the crime is a political or a common one. During recent years, for the last ten years at least, not a single extradition treaty has been made which has not decided this case in the most express and explicit manner.

In all of these it was stated that any attempts against the life of a chief magistrate, or of any of his family, be he chief of a republic or of a monarchy, should not be considered as a political crime, in any case, whatever the motive of the crime, but should be considered as a common crime and therefore subject to extradition.

Upon this point the other treaties go even further than the Montevideo treaty, because in the latter the rule is not well laid down, and by the failure to express the subject it is easy to confound it with the general rule.

With regard to the other point relating to the extradition of native citizens the treaty of Montevideo really contains a new principle, far in advance of that generally accepted up to the present. This was not rejected as was stated by some of the delegates. The general clause of all the treaties is clear and set down more or less in these terms: "No State is obliged to give up its own citizens," which leaves the subject to the will of every Government in each case to decide whether it will deliver up its own citizens.

Mexico has treaties with the United States drawn up with these very words, and in this country it is understood that this, which we consider as an authorization to each Government to decide in each case as to the delivery up of its citizens, is considered as a restriction upon the faculty of the President of the United States to deliver up the citizens of this country, because according to the law prevailing here, the President has no further faculties than those expressly given him by the Constitution and the laws, and the

Attorney-General of the United States does not construe the provision that no country is obliged to deliver up its own citizens, as giving to the United States the power to make this delivery. So that, practically, whilst we understand that the President is authorized to deliver up the citizens and a considerable number of Mexicans have been delivered up, as far as this Government is concerned we have never been able to succeed in getting a single citizen of this Government delivered up to us, because the Government of the United States does not do this.

With the object of obviating these difficulties a treaty was concluded, not yet ratified, in which the phraseology was somewhat modified. In place of saying: "No Government is obliged," it is stipulated that each Government has the power to deliver up its native citizens when it thinks proper to do so. The Senate of the United States has approved this amendment, and probably before long we will have that reciprocity which is indispensable, especially in neighboring countries where those who commit crimes within the limits of the one, take refuge in the other.

In virtue of these statements, as I said at first, the Mexican delegation will have no objection to vote in favor of the proposition.

Mr. Alfonso. I remarked, yesterday, Mr. President, that the delegation of Chili would vote for the second part of the conclusions of the report, and against the first part because the treaty of penal law approved in Montevideo had not been approved by our Government.

Though the proposition be modified, the position

of the delegates from Chili remains the same, because the treaty of penal law has not been approved by its Government, and it is clear that it can not recommend anything to it which it would not accept as good for it, nor can it even recommend to it the study of a subject with which it is acquainted. But I must ask that it be entered in the minutes that I have instructions for acting as I do, and to say that the Government of Chili accepts the amendment made to the treaty in regard to what is termed "the extradition of natives."

Upon this point I have always held an opinion, which I have sustained in international treaties, insisting that there could be no such exceptions. I contend that in treating of an extraditable crime the native as well as the foreigner could be delivered up, and that the only country which should judge the criminal should be that in which the crime had been committed. Consequently, always maintaining my vote, which would be contrary to the treaty of penal law and would favor extradition, I ask that this opinion, which I express in the name of my Government, should appear in the minutes.

Before concluding, Mr. President, I ask that the Conference vote upon the two propositions separately, because the delegates from Chili, as I have shown, will vote one way upon one part of the article and in a manner entirely different upon the other part.

The PRESIDENT. The vote will be taken separately upon the propositions, as requested by the honorable delegate from Chili. The Secretary will proceed to read the resolution.

The resolution was read, and the vote was taken, with the following result:

AYES—14.

Nicaragua,	Costa Rica.	Bolivia,
Peru,	Paraguay,	United States,
Guatemala,	Brazil,	Venezuela,
Colombia,	Honduras,	Ecuador.
Argentine,	Mexico,	

NAY—1.

Chili.

The PRESIDENT. The first part of the plan is approved by a vote of fourteen to one.

The vote upon the second part is in order.

The roll was called and the second resolution was unanimously approved, the same States voting as before.

RECOMMENDATIONS AS ADOPTED.

The American International Conference resolves:

(1) To recommend to the Governments of the Latin-American nations the study of the treaty of penal international law made at Montevideo by the South American Congress of 1888, in order that within a year, to be counted from the date of the final adjournment of this Conference, they may express whether they adhere to the said treaty, and in case that their adhesion is not complete, which are the restrictions or modifications with which they accept it.

(2) To recommend at the same time that those Governments of Latin-America, which have not already made special treaties of extradition with the Government of the United States of North America, should make them.

INTERNATIONAL AMERICAN MONETARY UNION.

REPORT OF THE COMMITTEE ON MONETARY CONVENTION.

[As submitted to the Conference, March 12, 1890.]

To the President of the International American Conference:

The Committee on the Monetary Convention has duly considered the interesting matters submitted to its deliberation, and has invited all those who are willing to come forward and give their views for or against the common silver coin to be a legal tender in all the American States represented in this Conference.

A great mass of interesting material has been collected which would form a volume, and all possible consultations have been held with experts so as to form a competent opinion.

The text of Article 6 shows clearly that the committee could not go outside of its expressed limitations, and it therefore presents its report in conformity therewith.

The committee, or its majority, regrets to report that a unanimous opinion has not been arrived at, and that a minority report will be introduced.

Mr. Coolidge has handed in a report with much data and eloquent arguments. Mr. Estee has also presented one which has great merit and does honor to its author; both of these are attached, as also those of Srs. José Alfonso and E. A. Mexía.

REPORT OF COMMITTEE.

The committee presents to the Conference for its consideration the following:

The International American Conference recommends to the nations represented in it—

(1) That an "International American Monetary Union" be established.

(2) That as a basis for this Union, an international silver coin be issued, which shall be a legal tender in all the countries represented in this Conference.

(3) That to give full effect to this recommendation, there shall meet in Washington a commission composed of one delegate from each nation, which shall determine the quantity, value, and proportion of the international coin and its relation to gold.

That this commission meet in Washington in a year's time or less after the final adjournment of this Conference.

E. A. MEXÍA.
J. ALFONSO.
JUAN F. VELARDE.
CARLOS MARTINEZ SILVA.
JERÓNIMO ZELAYA.

WASHINGTON, *March* 10, 1890.

REPORT OF MR. MEXÍA, A DELEGATE FROM MEXICO.

The sixth section of the act of the Congress of the United States approved May 4, 1888, reads as follows:

Sixth. The adoption of a common silver coin, to be issued by each Government, the same to be legal tender in all commercial transactions between the citizens of all the American States.

Pursuant to this article a committee has been named to report upon the method of carrying into effect the idea which it sets forth.

According to all the data at hand the importations into the United States from the several countries comprising the Spanish-American Republics exceed by a considerable amount the exportations of the United States to the same countries; the excess, which is a very large figure, is against the United States, who pay it in gold.

The object in giving a common silver coin to the nations which compose this Conference is to facilitate the commercial transactions, and to avoid those great fluctuations in silver which have been the cause of serious difficulties to the nations using this metal, and at the same time have

rendered burdensome the commercial intercourse between the United States and the Spanish-American Republics. This committee essays the task of discovering the method of counterbalancing these difficulties in such a way as to make it prejudicial neither to the Government of the United States nor to the Spanish-American States.

Two methods present themselves: The first—adopting as a general basis the project suggested by the Secretary of the Treasury of the United States, Mr. Windom, who proposes the issuance of certificates of deposit in exchange for silver bullion deposited, giving to the certificates the value the bullion may have in the market on the day of its receipt, and redeeming said certificates upon the basis of the market value of silver on the day of redemption.

This method, important as it is, on account of the position and talent of its author, is still in the form of a bill and subject to alterations when it shall reach discussion in the Congress of the United States; it lacks, therefore, a definite basis upon which the committee could formulate a report. It is clear that it would be impossible, or at least very difficult, for this committee to present a project based upon that of Mr. Windom, when the latter might be defeated, or not be acceptable to the majority of the House of this Congress, thereby entirely repudiating the idea; however, it would not be difficult for a like scheme to be adopted by the several countries here met together, each one receiving the deposit of the bullion and issuing promissory notes, or certificates of deposit, under the same conditions as those of the Government of the United States.

I repeat, this is still a hypothetical case which should not at the moment occupy our attention, but rather should we follow the course of the debates in the American Congress, so that they may serve us as a guide in the future.

Another project which appears to be the easiest and most practicable, for it is within the reach of all, that is to say, of the masses, is the adoption of a silver coin of one or more denominations of a design and value hereafter to be agreed upon, based upon the dollar which now exists in the United States of North America.

A 50-cent coin would also be of great utility, if it were given a value equivalent and proportionately equal to the aforesaid dollar.

The probable production of the United States is to-day from $59,000,000 to $60,000,000 of silver per annum; that of Mexico from $45,000,000 to $50,000,000, while the other Republics of Central and South America only coin some $25,000,000, more or less.

The issue of this international coin should be equitably distributed between the several countries in proportion to their population and coinage, leaving always a margin for the natural expansion which might and would result from this monetary union. The circulation of the international money should be compulsory among all the nations represented in this Conference, as regards the dollar, and with respect to the 50-cent piece, only in payments of the latter amounting to $50 in each case.

A monetary commission might be created by the governments interested, each naming one or more representatives, who should assemble and occupy themselves exclusively with the details of issuing the aforesaid international coins. The amount coined by the projected Monetary Union to be limited to $——— per annum, the monetary commission meeting every three or five years to determine in assembly the increase or diminution of the amount to be issued.

The great importance of this Monetary Union can not be denied, for without prejudicing any one outside of our own limits, it greatly benefits the industries of the Spanish-American nations, of the United States, and of all which compose this Conference; it increases the wealth of the world, for it stimulates the production of silver, and, giving it a fixed value, prevents those terrible fluctuations so dreaded by merchants and producers.

Establishing a fixed type would serve as a basis for all commercial transactions and would inhibit one nation from so influencing exchange that the benefit might always accrue to it, at the expense of the American continent.

E. A. Mexia.

REPORT OF MR. ALFONSO, A DELEGATE FROM CHILI.

The law of the 24th of May, 1888, which authorized the calling of the International American Conference, said in the sixth clause, section 2, that the Conference was called to consider "the adoption of a common silver coin, to be issued by each Government, the same to be legal tender in all commercial transactions between the citizens of all the American States;" and on the approval of the report of the committee named to report upon the committees that should be named, the Conference resolved—

that a committee of seven individuals should study and present the bases for a monetary convention between the countries represented in this Conference.

The undersigned, a member of the special committee, having studied the point submitted to his consideration, is of the opinion that the first question which should be decided is, if the basis presented for his attention forbids absolutely that gold coin should be legal tender together with silver, or, in other words, whether the plan which should be submitted to the consideration of the Conference would fall back on the silver coin alone, excluding the gold.

Although the sense of the sixth clause, section 2, of the law lends itself to an affirmative answer, it is evident that the agreement arrived at by the Conference on naming the committees did not limit the work of this committee to a convention on silver coin, recommending that it present the bases for a monetary convention without stating the kind of coin. A closer examination of the clause mentioned shows, moreover, that by it the gold coin has not been either expressly or partially excluded from the combination which may be proposed.

But setting aside this question of hermeneutics, in the opinion of the undersigned, the idea and the purpose which have dominated in this matter do not make incompatible the circulation of both coins, and can the better be realized with the adoption of bi-metallism.

The end that is aimed at is that there should be throughout America common coin of equal weight and equal

value which may circulate as an international medium of exchange in all the countries represented in the Conference, and that some expedient be adopted tending to stop the depreciation of silver with relation to gold. The advantages of a common coin are so notable and evident that the statement of the proposition alone suffices to impress one with the force of a demonstrated truth. That firmness and stability be given to the value of silver with relation to gold is a necessity which has been felt for some time in the commercial transactions of the entire world. The confusion which is caused by the fluctuation in the value of those two precious metals is as frequent as it is injurious, and few measures would be of more use to commerce than those which would cause its disappearance. It suffices to say that the greater part of the world uses silver coin. Such nations as produce silver have a special interest in it above all.

These two advantages may be fully reached with bi-metallism, it being established, as it should be established, that it might be optional with the debtor to pay with coin of either of the two metals. Silver coin having by this means an obligatory circulation, and this rule governing an entire continent, it is pretty sure that it would hold its value with relation to that of gold.

To reach this end it is not a serious objection, and much less an insuperable one, that it might be said to come from the instability of the value of silver with relation to gold, because it is known that the basis of bi-metallism adopted by France at the beginning of the century, at the ratio of $15\frac{1}{2}$ to 1, has existed nearly three-fourths of a century, although during that period some fluctuations have taken place in the respective values of the two metals, and because the great fall in the value of silver experienced recently is not due principally to natural causes of production, but to the adoption of gold as standard by Germany in 1873, and by a like measure in the United States of North America at about the same time, should have resulted, as it did result, in a great abundance of silver on the market, and the consequent fall in its value.

From this resulted also that the Latin Union in 1874

limited the coining of silver, a measure which contributed necessarily to create the same result.

In view of these antecedents it seems that it would not be difficult to celebrate a monetary convention on the basis of the bi-metallic system, fixing the ratio in the value of the two metals at a standard which would, if wished, increase the previously existing difference a little, to which it does not seem that any serious obstacles should stand in the way of the American Governments.

In the opinion of the undersigned, it is impossible to lose sight of the fact that there accrues no advantage from the exclusion of gold from metallic circulation. Since an equal weight of gold represents many times the value of silver, it is a coin which offers such facilities in transactions as can not be overlooked. Moreover, some of the nations represented in the Conference acknowledge the double standard.

Above all, it is of great importance to consider that to have uniform coinage in America and so prevent the depreciation of silver, coining in this metal alone is not the only expedient. The two ends can be reached completely with the circulation of both kinds of coin, and it is certain that commerce will be found more expeditious in its operations, disposing at the same time of gold and of silver.

Nor should it be overlooked that the adoption of a monetary plan in America on this basis will be more efficacious, exercising an influence in the entire commercial world. It is known that the great fall in the value of silver has produced and produces many perturbations in the European markets, which would feel influenced by the example of America and seek a remedy for the evils which affect them, adopting analogous or the same expedients.

It is well to have in mind that the effort of European monetary congresses to make universal the use of the two metals, seeking a new ratio between them, has been overthrown by the resistance of Great Britain, who has wished to maintain her single standard of gold, fearing that a material change in its system by the adoption of bi-metallism might be the cause of greater perturbations than those which it tries to avoid.

It is worthy of notice that Great Britain thought seriously over the question of bi-metallism and a short time since, in 1886 and 1887, her Government named a committee for the purpose of studying the situation caused by the commercial perturbations, the outcome of the variable and inconsistent relation in the respective values of gold and silver.

If it is true that the International American Conference has been convoked to occupy itself with subjects relating to America, and to make closer the relations between the various countries represented in it, it is a fact that the greater part of the commerce that they engage in is associated with Europe, and facts come upon us with the force of a fatal necessity and it is not possible to avoid them. Moreover, it would be a great mistake to suppose that the union of the American nations which is sought for by means of the International Conference should signify something which should be interpreted as an estrangement, or something similar, with respect to the Old World.

For that reason it is of interest that the committee should have before them what is thought and proposed with respect to bi-metallism in Great Britain, one of the first commercial nations of the world.

The above-mentioned committee carried out its mission with much zeal and a great accumulation of data, and it divided into equal parts on the making of the report. One portion was of the opinion that both metals should be coined as legal tender, fixing the ratio between them, and being of use in payment of all obligations, at the option of the debtor. In their opinion this was the only way that an end could be put to the difficulties caused by the variation in the relative value of the two metals.

The other portion was opposed to the adoption of bi-metallism, which it feared should be liable to cause in the commercial world greater perturbations than those they are trying to avoid, but advises the convenience of opening up negotiations with other countries which would tend to extend the coining of silver, and proposes the issue of bills of small denomination, having this metal for a basis. Acknowledging the advantage of uniformity in coins, it

fears that a too early solution may remove instead of producing the good which the measure should bring about.

It is certain that Germany would for her part be in favor of the adoption of bimetallism if it be adopted in Great Britain.

These facts are interesting, and it doubtless is good for this committee to bear them in mind in the solution of the problem which has been submitted to their consideration. It is easily understood that if the silver coin were in common, not only to America but also to the entire commercial world, the benefit acquired would be much greater. The adoption of a common silver coin can be established for the whole of America. No serious obstacle or objection can be seen in the way of it. The reason of the lack of security or of guaranty for the issue of the coin according to weight and quantity agreed upon, discussed by one of our colleagues, Mr. Coolidge, is of such a nature that if it were established there would be reason for its not being included among the matters which should occupy the attention of the Conference. The same might be said concerning the fear of what might happen in case of revolts or revolution, in regard to which it is useful to observe that mints can not exist in all places. It should be believed that when the Congress of this country made the law of the 24th of May, 1888, and the Executive complemented it, inviting the American nations to meet in a conference called to consider, among other things, the adoption of a common silver coin for America, it was borne in mind that the dealings would be with nations having serious governments capable of fulfilling the engagements they contracted. Otherwise the convocation of the Conference would be inconceivable.

As to the internal disorders which may occur, and from which unfortunately no nation is free, they, from the fact that they are accidental, can not have anything to do with the rejection of a measure of a general and permanent character. Discarding these objections, born of a feeling of distrust incompatible with the purposes which have determined the convocation of the International Conference, it is easily understood that the means proposed by the same

delegate, Mr. Coolidge, does not, on the one hand, agree with the basis marked in this matter for the consideration of the Conference, and on the other hand, even when they do agree, it would be far from producing the results which should rationally be expected from the adoption of a common silver coin in America.

The idea of the honorable delegate consists of the emission by the Treasury of this country of certificates of deposits of silver, which would be paid in gold by the value of the silver, according to its current price in the market. It is held that as these certificates are received in the United States in payment of obligations in favor of the State, in the same way they would be received in Mexico and in Central and South America; and that in this way they would have an international circulation, based above all on the value in gold of the silver bullion, and then on the credit of the United States of North America. That a certificate issued for a deposit of silver bullion is not a silver coin is a statement which is demonstrated by the fact alone of so stating. Although paper may serve the purpose of coin, it is clearly not coin, and much less a coin of a determined metal. And as the International American Conference has been convoked to deliberate, among other things, on the adoption of a common silver coin, it is evident that the proposition made by the honorable Mr. Coolidge is outside of this programme. This insuperable defect of form constituted a decisive argument against the proposition.

As to the intrinsic merit of the idea that it contains, it may be held that the deposit of silver bullion in the Treasury of the United States in exchange for certificates payable in gold, according to the current price of silver in the market, would be far from producing the effects which are expected from the adoption of a common silver coin in America. Is it conceivable that the owners of silver bullion resident in Chili, Bolivia, Peru should decide to send it to Washington to deposit in the Treasury of this city and receive in exchange certificates which should represent the value of silver in the market? Without doubt they can get this same price in the place in which they

live without incurring the expenses of transportation, commissions, and insurance, or they will send it to the places where they have to settle balances resulting from international transactions, obtaining the same value. It would be to call up a veritable illusion to imagine that even in commerce any one should wish to incur an expense or a trouble which is absolutely unnecessary; and it should be patent that, simply by the fact of the celebration of an international agreement in the sense in which the honorable Mr. Coolidge puts it, the silver bullion produced in the mentioned nations and in others of America would not come to the Treasury to be exchanged for certificates, because this exchange would not in the actual state of things bring any advantage, but on the contrary an injury, an expense, which is incompatible with the ends of commerce.

Among other considerations, why should the silver bullion be deposited only in this Treasury, and not likewise in that of all the nations which form part of the Conference? Only the reason of distrust, before mentioned, could authorize this distinction, this species of monopoly in favor of one only of the nations represented in the Conference; and it has already been said that for this reason an invitation to deliberate in international conferences is inconceivable. The union which is sought by means of them would actually and beforehand be destroyed. The rule should, therefore, be the same for all the American nations, it being possible thus to effect the deposit of the silver bullion in the treasury of each of them in exchange for certificates.

Supposing that it should be thus established, the measure could not have the power which will be necessary to produce the adoption of a common silver coin for all the Republics of America. Although the certificates of deposit should be well guarantied, and without doubt they will be, since they represent an effective value, in their capacity of paper they can not perfectly and completely serve the purposes of metallic coin.

When all the civilized nations have employed the precious metals for money, it certainly has not been by reason of caprice or being led by an illusion. They have consid-

ered that those metals were the most appropriate for this purpose, because in addition to the fact that they represent their value in a comparatively small volume, that value is effective, that is to say marketable, which does not happen with paper. For this reason it is, that if in abnormal and transitory occasions paper can serve the purposes of coin and replace it in part ordinarily for the facility and prompt performance of certain transactions, it has not yet been thought that it can be a substitute for coin in a general and absolute manner, and in a system of a permanent nature. Founded, doubtless, on precedents of this nature, the act of Congress which authorized the convocation of the Conference has set down among the bases of consideration the adoption of a metallic coin and not of a paper currency.

And as it is undeniable that these premises rest on a solid foundation, and are besides in conformity with the acts of Congress which gave origin to the Conference, it is necessary to investigate how and in what form may be effected the adoption of a common silver coin, which is in this respect the only matter submitted to the consideration of the Conference, and from which this committee may not depart. The common silver coin must necessarily be of equal weight and of equal fineness of metal for all the nations which may adopt it. There would be no opposition to taking the silver dollar of the United States of North America as standard. In this particular no serious difficulties can present themselves. But if it is thought that the ratio of $15\frac{1}{2}$ to 1 between the silver and the gold, which has been the rule during the greater part of what has passed of this century, is not sufficient, the ratio of $16\frac{1}{2}$ to 1 might be taken, or another more or less in the same proportions, without losing sight of the fact that an American agreement in this sense would contribute to assure the value of silver which has fallen, among other reasons, for having been demonetized in some places, and for having its coinage limited in others. It is well to keep these facts firmly in mind, because they are of great importance in the decision of the problem which the committee has to solve. With the increase of the use of silver

with the greater employment of it which will take place in case it serve as international coin in nearly all the nations of America, it is a natural law that not only will it not continue to depreciate, but that it will see its value increased. This result comes in the order which governs all commercial transactions, and is precisely one of those which is aimed at with the adoption of a common silver coin.

It is certain that the commercial balance of the exportations and importations between the United States of North America and those of the other Republics of this continent leaves a margin of many millions of dollars against the former, and that this fact shows the direction in which the current of the international coin would flow, and, moreover, constitutes no obstacle to its adoption.

It will at once interest the United States of North America to increase their commercial relations with the other sections of this continent, and toward that object tend many of the measures proposed for the consideration of the Conference. With its adoption it would be difficult to reckon how the balances of the commercial difference would be formed, and to what quantities they would be reduced.

Then, again, the United States of North America are producers of silver and the greatest producers, and accordingly the greater employment of coin of this metal would be to their interest.

Undoubtedly those interests that control and fix exchanges, would not be as much benefited by the adoption of a common silver coin which would exercise great influence on many transactions which the aforesaid interests evolve. It is to be questioned whether this difficulty is of such a character as to nullify the advantages of a common silver coin. The answer should be no, and a thousand times no. It suffices to have in mind the advantages which should accrue from the circulation of the same coin throughout America, to be convinced that they are much more powerful than the transitory difficulties which might occur in some commercial transactions. The immediate effect of the adoption of a common silver coin on the exchanges of the general commerce of America can not be

other than that of bettering them, and probably little by little and at no remote period that effect will be felt also in the exchanges with Europe, as it is not possible to be unaware of the fact that the use of a common coin in nearly the whole of America will exert an influence in that sense on the transactions of the entire world, to which it will be of great service to give consistency to the value of coin which is used in the greater part of the nations which form it, and which suffer in consequence of the instability of silver with relation to the value of gold.

If the adoption of a common silver coin for America is to cause, as a first result, the stability or rather the security of the value of this metal, it is not possible to aver that the establishment of this measure would be the same as to say to the North American people that it could pay its debts in different prices every day, according to the value of silver. It is precisely to avoid this difficulty that the common coin tends; and if this coin were, as is pretended, the same which to-day circulates in this country, the reason is incomprehensible why the same argument exactly can not be made against what is practiced here, when in commerce and all transactions the silver dollar is received with a nominal value with respect to that which the metal has in the market, and when the recommendation of the Conference will have to be limited to the adoption by the countries in it represented of a system equal or analogous to that of the United States of North America, and in union with them. Such a fear is, indeed, more chimerical than real, and would exist rather to-day since the end to which it aspires is to better the condition of the silver, extending its circulation.

Moved by these considerations, the undersigned permits himself to request that the committee do not accept the proposition of the Hon. Mr. Coolidge, notwithstanding the fact that it contains a circumstance which gives it a special character. Said proposition is nothing more than the literal reproduction of the one on the same subject which the Secretary of the Treasury has presented to the Congress of this country, from which results a situation for the committee, and also for the Conference, which merits careful consideration.

As is known, the International American Conference has been called to deliberate, among other matters, on the adoption of a common silver coin for America. The subjects submitted to consideration were chosen by the inviting Government. If it is easy to imagine that the Governments invited might accept all, the greater part, or only some of the subjects proposed for the consideration of the Conference, since they could not choose them beforehand, this supposition can not be allowed by the Government which issued the letter of convocation. It seems that a change of opinion must have taken place, which it would have been necessary to communicate to the Conference, which, in the face of this fact, should have determined that which it considered opportune and convenient.

The explanations called forth in the committee to overcome this difficulty have not produced a result which can be considered satisfactory, and have left it as it was. The distinction which is claimed between administration and government, so as to deduce from that that the government made the law to which the Conference owes its origin, and that the administration has done nothing but execute it and carry it into effect, this distinction can not establish between these two entitles such a line of departure as shall make him that executes conflict with him that orders, it being evident that the truth is just the contrary, since the execution should conform itself to the letter and the spirit of the command which it has to fulfill. One would have to clash with all the principles of a correct administration to admit a different idea.

Moreover, that the proposition presented to Congress should have for its object to regulate the relations of internal order in this country, and that the Conference should occupy itself only with international matters is not an argument that will set this point any straighter. Many of the matters submitted to the consideration of the Conference, in case they should succeed in establishing an international agreement, and notwithstanding this character, should authorize a direct and immediate influence in the internal condition of all the nations which may participate in it. Among these is numbered one relating to the

adoption of a common silver coin which will circulate, if it should be accepted, in all the countries represented in the Conference. And so true is this that one of the reasons which is put forth to defeat the measure consists exactly in the danger which the citizens of this country would encounter being obliged to accept this coin.

It should still be added that the Conference can not maintain relations nor negotiate except with what is called the administration, whose plans and propositions are the only ones it takes cognizance of. It must not for this reason await the result which the report of the Secretary of the Treasury may attain in Congress. What interests, is to know what is the opinion of the administration. At present that opinion, shown by an official act, consists in the issue of certificates for deposits of silver bullion payable in gold for the value of the silver according to its current price in the market, the deposits being made in the Treasury. It would leave absolutely annulled the law called "Bland," which authorizes the purchase and coinage of not less than two millions and no more than four millions of dollars in silver per month. Evidently a measure is discussed which is diametrically opposed to that of the adoption of a common silver coin.

Leaving these last considerations for a moment, and speaking of the proposition of the honorable delegate, Mr. Estee, the undersigned accepts the general idea which this proposition contains relative to the establishment of an American monetary union. He thinks illogical the limitation to the effect that the international coin issued may be used only up to a given quantity in each payment, since it is proposed to circumscribe within certain limits the quantity which will be allowed to be coined. He reserves his liberty of action for the appreciation of the details of the proposition which perhaps might be improved by the introduction of some modifications more of order than of meaning. With regard to the general principles on which he depends, he agrees perfectly with the honorable delegate.

JOSÉ ALFONSO.

REPORT OF MR. ESTEE, A DELEGATE FROM THE UNITED STATES.

GENTLEMEN: The act of Congress providing for the "American International Conference" prescribes, among other subjects to be submitted for its consideration—

The adoption of a common silver coin to be issued by each Government, the same to be legal tender in all commercial transactions between the citizens of all the American States.

It must be admitted that "the adoption of a common silver coin to be issued by each of the American Republics" would be something new in international American finance.

In Europe the Latin Union did substantially the same thing that we are now trying to do in America, and between the years 1865 and 1877 actually coined in silver 1,338,000,000 of francs of uniform weight and fineness.

The American Congress passed the law submitting this question to us for our consideration, and thus gave to the measure the full force of its sanction, and of necessity made it our duty to consider it. Two ways may be followed in considering a subject of this character; one is to try to defeat its purpose by presenting in the strongest light all possible objections to it, either imaginary or real; the other is to weigh both sides of the question, but with an earnest desire to carry out the intent of the law-makers who prescribed the question for our consideration.

I therefore approach the consideration of this question with the hope that it may be found possible to carry out what I believe to be the wishes of the American people.

The adoption of an international American silver coin would be the longest step ever taken by the American Republics towards building up and maintaining increased trade relations with each other, because a uniform money and close commercial relations necessarily go hand in hand. This would give to a specific coin, uniform in weight and fineness, a continental character; and by reason of its having the indorsement of the eighteen American nations and one hundred and twenty millions of people, it would have a value in the financial world that otherwise it could not maintain; and although the coin would be distinctively

American, yet the commercial relations of many of these nations with the rest of the world, and the uniformity of the coin used by all the American Republics, would give it a conspicuous and favorable recognition in most of the great trade and monetary centers even beyond the limits of the continent; like a uniform system of weights and measures, it would be potential because uniform. The making of such a coin would change the present system of exchange between the several Western nations, and save to the people large sums of money now lost by reason of the different monetary systems existing among each of them, and it would tend to keep in America much of the money and trade now sent to Europe, but which of right belongs to America.

At the threshold of this inquiry we are met with the objections, among others, that nations can not afford to become copartners in coining money; that some nations are strong financially, while others are weak; that by this financial scheme the weaker nations would be made stronger and the stronger nations would be made correspondingly weaker; that wealth is created by the slow process of prudent accumulations and not by means of legislation; that at best the making of an international coin would be an experiment, and that experiments in finances are always dangerous, conspicuously so when nations and not individuals are dealing with each other, for, as between nations, if a mistake is made the remedy is slow of application and most difficult to reach.

It is further argued that Europe is the great monetary center, and all values are measured by European standards; that an organized effort on the part of the American nations to make from silver an international coin, receivable everywhere in America at par, would be discountenanced by European financiers; that as Europe has hitherto fixed the rate of exchange with most of the American trade centers, it would view with alarm any financial steps which tend to change the old order of things, and, further than this, would frighten capital away from America, and thus affect unfavorably European investments already made here; that gold is the true measure of values, and

that no system intended to increase the money value of silver beyond the present demands can be permanent.

Most of these objections required no answer. If America can not financially stand alone by this time, when profound peace prevails over the continent, it never will. If European investments would not be safe when we shall have an international silver coin of undoubted weight and fineness, how can they be more so now when every one of these nations has a silver coin of its own coinage, receivable only within its own territory, and whose value is not measured by any uniform law or custom of trade, and which coin is not known or recognized beyond the limits of the nation issuing it. The making of an international coin may be an experiment, but it is an experiment in the right direction, because this would tend to build up and not to depreciate the value of silver. In America it should require no argument to prove that silver is one of the precious money metals, and that in a large part of the world it will always be such; from the remotest ages it has been so recognized. The Bible informs us that "Abraham returned from Egypt rich in cattle, silver, and gold," and while it is true that in 1873 Germany demonetized silver, and subsequently the "Latin Union broke the link between silver and gold, which had kept the price of the former, as measured by the latter, constant at about the legal ratio," and when this was done, the price of gold went up or the price of silver went down, in any event, the relative value of the two metals became wider and wider apart, yet silver still remains, and doubtless always will remain, one of the precious money metals.

Money is now coined from silver by every American nation but one, and by many of the other nations of the earth. It may be repeated that one of the objects of this measure is to enlarge the use of silver and thus increase its value. This is not alone an American idea; for, if we are to be guided by the unquestioned trend of public opinion, in both Europe and America, we must believe bimetallism will soon be everywhere adopted, and when so adopted silver will assume its old-time relative value with gold.

From a report recently made by United States Consul Mason, at Marseilles, I venture to make the following quotation:

> One of the clearly defined tendencies of public opinion in Europe, notably so in France, Germany, and England, is seen in the steadily growing sentiment in favor of restoring the bimetallic standard of currency.

Note also the more recent discussions in the House of Commons; observe the lengthy but pointed quotations from recent French, English, and German sources, found on pages 194 and 195 of the report of the Hon. Edward O. Leech, Director of the United States Mint, in his report for 1889, and you can not but observe a most marked change of public sentiment favoring silver as a money metal.

These references would not be complete without quoting from the very able report just made by Mr. Secretary Windom, the Secretary of the Treasury of the United States, where he says that—

> It is unquestionably true that in this country public sentiment and commercial and industrial necessity demand the joint use of both metals as money. It is not proposed to abandon the use of either gold or silver money. The utilization of both metals as a circulating medium and as a basis for paper currency is believed to be essential to our national prosperity. We can not discard either, if we would, without invoking the most serious consequences.

Add to this the further thought that at least one-half of all the gold produced is used in the arts, and we must be impressed with the fact that there is not gold enough to carry on the world's business, and there is no probability of an increased production. Indeed, the enhanced value of gold, peculiar to this decade, should have largely increased the production of that metal were it possible to do so; but the old sources of supply are either exhausted or less productive.

If, in the consideration of this subject, we look for precedents as a guide for our future action in relation either to the finances or the commerce of the New World, we shall find ourselves groping in the dark; new questions confront us as new necessities have to be met. This is a commercial age, full of new experiences, and experiences

peculiar to America. The march of progress has reached every part of the American continent; an improved order of things now exists; governments have become more stable, business industries more widely diversified; and yet, by reason of the remoteness from each other of the great populous communities in the South and of the difficulties of frequent and rapid communication, the Central and South American Republics would be more benefited by a uniform and permanent and financial system than can now be anticipated. The purchasing power of this new money would be everywhere known, and although the people using this money are citizens of different nations, yet, excepting those of the United States and part of Brazil and Hayti, they all speak the same language, and are descended from the same people.

It is admitted that the value of money depends on its purchasing power, and it is admitted that, in times past, gold has been at a discount; now it is at a premium. Who can say what the relative value of gold and silver will be ten years from now? We do know that it would be to the interests of the American Republics to increase the value of silver, and we can do that only by in creasing its use.

This is an important fact, in view of the circumstance that a large part of all the precious metals are produced in America. For instance, the amount of the world's production of silver during the year 1888, as we learn from the report of the Director of Mint of the United States, was $142,437,150, of which amount the United States produced $59,195,000; Mexico, $41,373,000; the Argentine Republic, $425,000; Colombia, $1,200,000; Bolivia, $11,000,000; Chili, $8,537,350; Peru, $3,128,000; Central American States, $350,000; making a total of $125,208,350 of silver produced in the United States and Central and South America, leaving only the sum of $17,228,800 produced elsewhere in the world. Of this amount only a small portion was produced in Europe; the balance coming from Africa, Asiatic Turkey, and Australasia.

During the year 1888 the world's production of gold was $105,994,150. Of this sum the United States produced

$33,175,000, about one-third; Australasia, $27,327,000, about one-fourth; Russia, $21,302,000; Africa, $4,500,000; Chili, $1,591,400; Colombia, $1,500,000; leaving a small balance produced in various other countries. It will thus be noted that America and Australasia are the great producers of gold, and that America alone furnishes fully nine-tenths of all the silver.

The American nations are thus called upon, by every impulse of self-interest, to do what can be safely and wisely done to sustain the value of one of its chief products. The Western Continent is the undoubted treasure-field of the world. The inquiry forces itself upon us, Shall distant nations, which must have what America produces, be permitted to fix the price of our productions, and yet we make no effort to maintain their value at home? Shall we reverse all our past experiences, by saying gold shall be a money metal and silver shall not, and thus increase the price of money by making it scarce, and decrease the price of products, when we are the largest producers in the world and have more products for sale than any other people.

It must be admitted that money is power, whether that money be a yellow metal, a white metal, or a simple promise to pay; and its value in the great commercial world depends largely on supply and demand. The more money a nation possesses the more power it has. Silver money is a necessity to the American nations, because business could not be carried on without it. Then, if it is used as money now, and if it will be used as money in the future, the best and most universal use of that money should be adopted; the largest possible purchasing power should be given to every silver dollar coined. This can only be done by increasing the demand for it; everybody is willing to take money for what he has to sell, and silver is money in every country but one on the Western Continent, and is taken in payment for debts in all of them.

It is true, little or no hard money is in actual use among the English and American financiers, except as a security for their paper; hard money must always be used for this purpose. In order to maintain the reputation of paying

their debts when due, and of paying in money or its equivalent, there must be a sound governmental financial policy behind all private transactions. A stable and wise system for the coinage of money is one of the best evidences of good government, and goes farther towards maintaining credit than any other one thing. The nation to which the individual financier belongs must have a healthy financial policy in order that the individual may have credit; for where national credit is affected the individual credit of the persons forming that nation is also affected; you can not destroy the one and successfully maintain the other. The fact that a coin is of full weight and of uniform fineness is taken as true when great financial nations stand behind it; and thus an American continental silver coin would stand at the head of the silver money of the world, because it would be sustained by the greatest financial power of any other silver coin.

It thus becomes all-important to every business man, to every producer of raw material, and to every manufacturer who has something to sell or who wishes to buy something, and who lives in any one of the American Republics, that his country shall adopt this coin and thus have a sound financial policy, for this would tend to maintain its credit at home and abroad. No successful monetary system can rest on anything but gold and silver—not upon one alone, but upon both—because in times of financial troubles it will require both metals, and all of both, to sustain the credit of any country. It is evident that in America gold and silver are the coin-making precious metals; that the nation that has most of these precious metals on hand, and for use if called for, has the most ready capital capable of instant market. This coin may remain in Government vaults and paper may represent it, but when the coin is wanted and the paper is not, the coin will be there for use. And we may here note that silver coin is always needed and always used to a large extent by all peoples; it is the pocket-money of the world. The value of gold and silver may fluctuate, yet neither peace nor war will destroy it. The world uses both metals for money; some nations use one, some the other, and some

both. But in all countries these metals have a value; differing, it may be, but still a positive, certain value remains; and in this connection it may be said that it is not true that England has a gold standard in the sense that it pays in gold (save only when compelled to do so). In fact, London is called "the city of gold," yet gold is rarely seen there. At home, England uses paper as money; in India, silver.

Mr. James Patton, an English author, in his recent book on "Money," pages 88 and 89, says:

> The whole operation of this monetary metropolis (London) would come to a stand-still if the payments and exchange of property had to be carried on in gold. * * * The gold itself in such quantities could not be procured. * * * Happily, says the author, the yellow metal is not wanted.

But, it is admitted, if it was wanted it could not be obtained in sufficient quantities to carry on the business of the country. In times of great financial stress it has always been wanted, even in England, and when wanted most it could not be obtained. The fact is there is not gold enough in England, nor, indeed, in the world, to carry on its business for a day, and so it is done by paper; but there must be some security for this paper. Gold alone can not furnish this security, because there is not enough of it; silver must help do this.

We submit, then, that silver is a necessity to the financial world; that without it business can not be safely carried on; that over a large part of the earth it is the chief, if not the only, coin metal; that, even if the use of gold should be extended to new countries where it has not hitherto been in circulation, this would only increase the difficulty of doing the world's business with gold as a single money metal, because the uses for gold would be increased but the supply would not; that there is an infinitely greater danger in increasing the uses of gold, in view of the limited supply, than in extending and broadening the use of silver, in view of the great demand for this coin.

It may be repeated that, in most countries, banks are created with gold and silver in their vaults, not, indeed,

for large daily use, but rather as a security for their paper, which of itself has no actual value. Gold and silver thus becomes a most valuable kind of property, because it is capable of immediate and universal use, and because it can be stored away in vaults; and thus, while in truth it is rarely paid over the counters of banks—paper having usurped its functions—yet something has to stand behind bank paper to give it commercial vitality. An international coin, receivable in all commercial transactions between the people of all these nations, would also be of great value for this purpose; and if this coin is made of uniform weight and fineness, and possessed of as great metallic value as any other silver coin of like denomination ever made, then we are not giving a theoretical or fiat value to a new money of less metallic worth, but we are making a coin of more actual merit and infinitely greater commercial value, by reason of its more general use.

The known character of this coin in the American money markets, the name it would bear, and its unquestioned metallic weight and fineness, would soon force it into general use. We are thus not violating any law of finance, or of common honesty, for the power of the eighteen nations represented in this Conference would not be used to give a face value to what was valueless, but, on the contrary, we would only put into new form a coin made from a metal now everywhere in use on the American continent.

It is correctly argued that this would be an experiment in American finance. The answer is: The very existence of this conference is something new in the history of nations, and anything it may do will be novel in the experiences of the past. Indeed, if anticipated theories of financial disaster were to prevail in our councils, we need but read the debates in the United States Congress, made upon the consideration of the famous "Bland bill," in 1878, to learn that the ablest so-called financiers of this country have all been false prophets, and that the coining of silver by the mints of the country has not resulted in either driving gold out of the country, or in national bankruptcy, as was prophesied. These mistakes do not arise from a want of intelligence, or a want of sincerity on the part of the

parties who made them, but rather from the fact that the conservatism of banking does not advance with the tide of business progress, or move on as the world moves; indeed, those who loan money are interested in hard times, because all money is then worth more, and has a greater purchasing power.

Events of striking importance are approaching us now. No man can look the future full in the face, who will not within the next ten years see railroads connecting North and South America, reaching up and down both sides of the American continent. The people of the Western World are learning more about each other. We are just commencing to foster international enterprises. Coining money is one of the most potential of all the means suggested to increase our acquaintance and enlarge our business industries.

Money will be in demand to carry on the great works of the future, and this money ought to be American money. At this time there are as many different kinds of money—and mostly paper—in actual use among the American republics as there are nations. Of necessity this increases the cost of exchange, and is a serious drawback to trade. Some of these states are small in territory and limited in influence, and there is no reason why the largest of the American States can not well afford to aid in giving character to their and to our money, by stamping upon it the same value the same coin now bears and which value all the nations recognize, and which all of them are interested in maintaining.

It may be further noted that as communication between these countries becomes more rapid and certain, trade and travel will largely increase. A uniform monetary system will facilitate this to a very great extent. To show the importance of this question, last year it appears from official sources that more than $70,000,000 in gold was sent to Europe to the credit of the expense account of the citizens of the United States who visited those countries as travelers, and yet no parts of the globe present so many interesting features to the intelligent traveler as the American Republics.

The time is long past for America to look backward. We can not now take European precedents as our guide in American affairs. Our situations and necessities are different. Indeed, no one nation can be the arbiter of the world's finances, or by itself make a money the world will receive. In modern times England may have come nearest it, and yet its policy is no broader than the little island where the true Briton lives. England is in favor of keeping down the price of silver because it is to her interest to do so. England makes money by buying silver at a discount and selling it to her own people at par, and America loses by permitting this to be done. On the question of England's interest in depressing the price of silver, I venture to quote from a recent address by Mr. William P. St. John, president of the Mercantile National Bank, New York, at the annual convention of the American Bankers' Association, held at Kansas City, September 26, 1889:

With the price of silver thus enhanced and thus to be maintained we tend to wrest from England her present all-sufficient inducement to oppose bimetallism, and by means of which may yet serve to bring her, hat in hand, to beseech of us co-operation in behalf of legal-tender silver money. For the opinion that this achievement may be one result of the adoption of our proposition I rely upon the statistics of fifteen years, which are furnished by British India's financial secretary: That the silver rupee of India will purchase as great quantity of India's home products to-day, when now that rupee is obtainable in London for 1*s.* 4½*d.*, as when formerly that same rupee could not be had in London at less than 2*s.* ½*d.* Thus about 33 per cent. will measure the profit to Englishmen at home upon their full-priced manufactured goods, for which the patient, uncomplaining Hindoo returns in payment India's vast quantities of her cereals and cottons. For, bear in mind, imports of woolen and cotton goods at Calcutta are paid for by the banker in the silver Indian rupee. He obtains his surplus of rupees by imports of silver bullion, which he deposits at India's free mints, and procures the legal-tender coin. His interest is thus always to depress the price of silver. Exports of wheat and cotton at Calcutta are paid for in this rupee, obtained with gold in London by purchase of India council bills, for which the rate of exchange depends upon the market price of silver, which must be purchased and shipped to India for all the excess of the sums of these bills over the sum of dues in India for taxation. Therefore the lower the price of bullion for minting in India, the lower the price of the council bill of exchange, and con-

sequently, the greater the quantity of wheat and cotton obtainable in Calcutta for the sum of gold in London.

Here again is the Englishman's interest to depress the price of silver.

It will thus be noted that England has the strongest possible business reason for not using silver as a money metal, because so long as she can buy it as a commodity at a discount of, say, 30 per cent. in London, and pass it at par as money on her own subjects in India, Englishmen living in England will become rich, while Hindoo Englishmen living in India will grow poor. For substantially the same reason—though not carried to the same extent—the American bankers in Wall street have a tacit understanding that neither American silver dollars, nor, indeed, silver certificates, although made receivable for public dues by law, shall pass the clearing-house, but that transactions there must be carried on entirely in gold currency. And yet one of the anomalies of the financial unwisdom which prompts this action may be noted in the fact that $9,309,750 of gold certificates have in the past four years been sent to the national Treasury by the same bankers in exchange for silver certificates, namely:

For fiscal year ending June 30, 1886	$2,641,000
For fiscal year ending June 30, 1887	4,506,450
For fiscal year ending June 30, 1888	1,223,420
For five months ending November 30, 1889	938,880
	9,309,750

In addition, we must add the sum of $15,804,805 in gold coin, which has within the same time been exchanged at the United States Treasury for a like amount of silver coin.

Thus it must be observed that practically American silver coin possesses the same commercial value as gold coin, and that silver coin and silver certificates are largely used by the American people, and thus silver is a public convenience as well as a public necessity, and further that it can not be slandered out of use by any one or all of the clearing-houses in the country, because in every-day life it is used ten times where any other money is used once. It is the money of small but numberless transactions.

I do not argue in favor of an unlimited coinage of silver, for I do not know what might be the result; nor, indeed, would I favor an iron-bound rule as to the coining of money applicable alike to all times and circumstances; but I do submit that a few people engaged in banking, however powerful financially, can no more succeed in slandering American silver out of an American market as money than could a congress of doctors drive flour or corn-meal out of use as the great food substances of the age by telling the people that hot bread is indigestible.

It thus appears evident that if the American republics represented in this Conference can adopt a universal silver coin, common to all these countries, and receivable for public dues by the country that issues it, it would be wise to do this. The simple question is, can it be safely done?

If this coin is made receivable in limited amounts at par in all commercial transactions, as was done by the Latin Union as to some of its silver coin, by all the people of the American nations, no one of them will dispose of it at less than par, and each country will save the difference between the present price of silver as bullion and its par value as money. Indeed, to-day American silver dollars are worth as much in London as New York, less the cost of transportation, and because that money passes at par in America. Nearly everything that any one of the people of the American nations want to purchase can now be had at reasonable prices from some citizen of another American nation, and thus the money of each country will interchange with all the others. But should this not prove true, the fact still remains that every American nation produces something that Europe must have. Central and South America raise coffee, India rubber, dye-stuffs, rare woods, hides, wool, tobacco, and sugar, and as the productions of these countries increase, as increase they must, trade will be more and more in their favor, and Europe will pay them more money instead of less money.

It goes without saying that trade and the use of money are necessary incidents to each other. The republics represented in this Conference are all neighbors, and all large producers. They occupy the same great continent, all

have the same form of government, peace is the settled policy of all of them; the productive capacity of these countries is so boundless, and what they produce is so much needed in Europe, that trade ought to be in favor of these republics. This would seem to be a most propitious moment to agree upon some settled financial policy, co-extensive with the continent and of uniform application. If an American coin, limited in amount of coinage, but general in its use, can be made, and which will be known all over the continent, and whose circulation will be as universal as are the demands of trade and the commercial necessities of the people, American progress will have received its greatest impulse and American finance its most useful lesson.

Note the experiment made by the Latin Union. It was organized in 1865, and was composed of France, Italy, Belgium, Switzerland, and Greece. These nations agreed upon the weight, fineness, and names of the coins to be coined by them. The silver coin issued by the union, as before stated, amounted to 1,388,000,000 francs. Delegates were appointed by the respective governments forming this union with full power to act. In 1878, as Germany and other nations were unloading their silver on the rest of the world and thus absorbing the gold, the Latin Union ceased to coin silver five-franc pieces and have coined none since.

The Latin Union was successful in two things: first, in making both a gold and silver coin uniform in value, weight, fineness, and inscription, and also making it receivable at par by those countries forming the union; and, second, in regulating the amount of coin each country should issue. In these respects the Latin Union was and is a success. It was the first experiment of the kind made which ripened into a practical reality. America should create the second great financial union, for in this union there would be financial strength. The financial forces of the continent would thus be under our own control. Europe could not master or direct them if we should wisely use the power we have.

The position of Mr. Secretary Windom on the silver

question has strong and most earnest indorsers among some of both the silver producers and the gold men, and if the single point was to advance the price of silver in the United States, and if I felt that under the law I was authorized to consider the question of issuing silver certificates instead of "coining a common silver coin to be issued by each government, the same to be a legal tender in all commercial transactions between the citizens of all the American states," I would feel myself bound to be guided by the very exhaustive and able report made by the distinguished Secretary of the Treasury. His direct and logical argument in favor of the theory he advances would tend to convince almost any one who did not feel that the line of duty compelled him to follow in another course.

In the matter before us for consideration, however, we must deal with a silver coin and not with silver certificates, the chief object being to encourage closer trade and financial relations between the American republics, and while the Secretary's plan might work with one nation, it could hardly prove practical in dealing with eighteen nations, many of whom produce little or no silver, their money being largely obtained by an exchange of commodities which they have for sale, and for which they are paid in coin.

And again, silver coin is an object-lesson; paper is not. A continental silver coin would be a perpetual advertisement. Paper money issued on account of the small republics in Central and South America would have little value beyond the territory of the nation issuing it, unless the United States or some equally powerful country would guaranty its redemption; and this would not be done even under the most favorable circumstances. Silver coin in thirteen of these nations is the unit of value. The great trouble is that their coins are of many denominations, and are not at all uniform in weight or fineness. I therefore can not indorse the proposition made by my distinguished colleague, Mr. Coolidge, namely, to follow the recommendation of Mr. Secretary Windom in formulating his monetary system for all the American republics. I can not see how this can be safely or successfully done.

I venture to make the following recommendations. In doing so I can not but appreciate the gravity of the questions involved, nor am I unmindful of the many difficulties which beset the way. Yet, I am persuaded, the scheme herein presented, though but the outline of what must be licked into better shape, is practical, and that its adoption would be of infinite and permanent advantage to all the American nations.

First. I recommend the creation of an *American Monetary Union* composed of all the nations represented in this Conference; that each nation shall select one delegate as its representative to said monetary union; that said delegates shall meet in joint session as often as once in each year, their first meeting to be in Washington, on or before the 1st day of January, 1891, or as soon thereafter as possible; that they shall appoint from among their own number three delegates, one from the United States of America, one from the Republics of Mexico, Central America, and Hayti, and one from the South American republics; that said three delegates shall, under the direction of the whole body of delegates, have the exclusive control over the coining of the moneys hereinafter described; they shall regulate the amount to be coined by each of the nations represented in this Conference, according to the terms herein provided, and they shall see to it that every coin so made shall be of full weight, uniform in fineness, and of the proper inscription, and bear the true date of coinage; no more than the amount of coin herein prescribed to be made shall be issued by the American nations or any one of them. From time to time they shall test the weight and fineness, and examine the inscriptions upon all international coins made pursuant to this union; they shall order all abraded coin, which shall be found to have lost 1 per cent. of its weight or value, to be recoined by the country issuing it. They shall refuse to permit any of said coin to be made or circulated which is not of full weight and standard fineness, and they shall perform all such other services as may from time to time be imposed upon them by the whole body of delegates representing the American monetary union, and of which they form a part.

Second. The nations represented in this Conference, or such number of said nations as shall agree hereto, shall have the power, and it is hereby made their duty, to coin an international silver coin of uniform weight and fineness; that the name of each nation coining any of said money shall appear upon every coin made by such nation; that such coin shall consist of 412½ grains of silver, 900 fine, shall bear a uniform inscription hereafter to be agreed upon, and that the United States of America shall coin not less than $2,000,000 of such coins nor more than $4,000,000 of such coins each month, and the Republics of Mexico, Central and South America, and Hayti shall coin in the aggregate of said international coin not to exceed $4,000,000 each month, the amount of such coinage by each of said Republics of Mexico, Central and South America, and Hayti to be apportioned among said last-named republics according to the population thereof. The said delegates to the said monetary union shall make such apportionment in accordance with the terms herein prescribed, and no larger amount of said international coin shall be coined by any one of said countries than is herein provided for.

Third. The international silver coin, made as hereinbefore prescribed, shall be a legal tender in all commercial transactions between all the citizens of the nation issuing it, and be receivable at par for all public dues by said nation, and the said silver coin shall also be legal tender in all commercial transactions between the citizens of all the other American republics belonging to the said American monetary union to the extent of $50 for each single payment in all commercial transactions, and to no greater or larger amount, except by consent of the parties receiving said money. Provided, however, that said coin shall be an unlimited legal tender in all of said countries when the discount on silver compared with the value of gold at 16 to 1 shall not exceed 5 per cent.

Fourth. The coinage of the continental silver coin herein provided for may be suspended from time to time, or the coinage thereof limited in amount or increased in amount by the affirmative action of those nations coining in the

aggregate two-thirds of all the silver coin herein permitted to be coined each month by the several nations forming this monetary union.

Fifth. Upon the dissolution of said American monetary union, or of the suspension of the coinage of said international silver coin, the nation coining it shall receive the same at par for all public dues and in all commercial transactions, and the citizens of such nation shall continue to receive the same at par, and for that purpose it shall be a legal tender, notwithstanding such dissolution of said monetary union or of such suspension of coinage.

Sixth. The American monetary union which is herein created shall come into full force and effect on the 1st day of January, 1892, and it shall remain in full force and operation for the term of five years thereafter and if one year before the expiration of said five years the nation or nations forming said monetary union and which shall actually coin one-half or more of said continental coin shall not have declared said American monetary union terminated by notice given to the other nations forming said union then the same shall continue and be in full force and effect from year to year until such notice shall be given.

Yours, etc.,

MORRIS M. ESTEE.

REPORT OF MR. COOLIDGE, A DELEGATE FROM THE UNITED STATES.

By an act of the Congress of the United States, May 24, 1888, the President was authorized to arrange a conference between the United States of America and the Republics of Mexico, Central and South America, Hayti, San Domingo, and the Empire of Brazil, and he was requested, in forwarding the invitations to the said governments, to set forth that the conference was called to consider certain specific subjects. Among these, the sixth in number, is "the adoption of a common silver coin to be issued by each Government, the same to be legal tender in all commercial transactions between the citizens of all the American States."

The issue of a coin which would pass as a legal tender in all the States of South America, Central America, and the United States would be a great assistance in facilitating commerce between the two countries, and would, to a certain extent, place the exchanges between the different nations in the condition which exists between one State of the United States and another. A merchant would be able to draw on New York from Rio Janeiro or Buenos Ayres with the same facility with which a merchant now draws on New York from San Francisco. The invoices would all be made in the international currency, and as it is proposed that the currency should be a legal tender everywhere, there would be no variation in the exchange, except to the small extent which the cost of transportation of the coin from one State to another to settle balances might cause.

Nothing is said in the statement of the sixth subject of conference about the amount which each nation should coin, but it was probably assumed that any agreement which might be reached would be determined either by the population of the respective States, or by their comparative commerce. But as the amounts required for an international currency would be very large and would require several years to coin, it may for the present be assumed that the coinage would be practically unlimited the first years. The Latin Union coined from 1866 to 1876 about $15.50 per inhabitant, of which $10 was in gold. If we assume that we should require only $5 per head of silver coinage in ten years, it would take $600,000,000. As the yearly product of silver in the Americas in 1887 was $112,000,000, we may consider that for the first years the coinage would be limited only by the power of the mints and the supply of the metal, as it would require $60,000,000 a year to coin as much silver per inhabitant as the Latin Union coined, leaving out their gold coinage.

It would seem at first that commercial countries should require much more coin per capita for business purposes than agricultural ones, but their need of coin is limited by their greater use of checks, clearing-houses, bills of exchange, and the transference of bank deposits, and like

instrumentalities for economizing the use of specie. In countries unprovided with such agencies transactions are made more frequently by exchange of the coin itself, and sometimes coin is hoarded for investment. An extreme example of this is agricultural India, which absorbed from 1853 to 1885, inclusive, $1,300,000,000 of silver in addition to the enormous and unknown amount already held there.

As the language of the act of Congress mentions "a silver coin only," it is not proposed to take into consideration the coinage of gold, but only that of silver. If found practicable, a monetary treaty might be adopted somewhat similar to the Latin Union entered into December 23, 1865, between France, Belgium, Italy, and Switzerland, leaving out the gold coinage. In the third article of that union the contracting nations bound themselves not to coin, or permit to be coined, silver pieces of 5 francs except of a given weight, standard, tolerance, and diameter. The contracting parties agreed to receive the above pieces at par, unless reduced 1 per cent. by wear, or unless the devices were worn off. In article 4 of the same treaty they agreed to the weight and fineness of small pieces of silver of 2 francs and under. These pieces were to be recoined by their respective governments when reduced by wear, and were only to be a legal tender to the sum of 50 francs between the individuals in the State in which they were issued, but the nation issuing them was to receive them in any amount. They also agreed to coin subsidiary pieces only to the extent of 6 francs for each inhabitant. The total silver coinage of the Latin Union under that agreement, excluding a subsidiary coinage, was, from 1865 to 1877:

	Francs.
France	625,000,000
Italy	355,000,000
Belgium	350,000,000
Switzerland (about)	8,000,000
Total	1,338,000,000

When the treaty was made, December, 1865, the ratio of silver to gold was 15.44, or about 15½, which was the ratio of the coinage; but that ratio fell gradually, until in

1872 it was 15.64; in 1873, 15.93; in 1874, 16.16; in 1875, 16.63; in 1876, 17.48. The effect of this was to cause a greatly increased flow of silver to the mints, because the money brokers received for 15½ ounces of silver an ounce of gold, and they could buy with that ounce of gold 16 ounces of silver, leaving a profit of one-half an ounce of silver. Before the fall of silver was noticeable, in 1871–'72, only 5,000,000 francs of silver bullion were offered to the mint in France, but in 1873 154,000,000 were offered; and in Belgium, 111,000,000, against 33,000,000 in 1872. This led to a meeting of the delegates at Paris in January, 1874. At this meeting and at others, which were held annually, it was agreed that the silver coinage should be limited to 140,000,000 francs for 1874, 150,000,000 for 1875, and 108,000,000 for 1876. The total of these three years was limited at 398,000,000. Each state coined its share except Switzerland. In 1877 and 1878 all the States of the Latin Union, by agreement, ceased to coin the 5-franc piece, standard silver, as they found that, as the value of silver in proportion to gold continued to decline, a further issue of silver at 15½ would take from them all their gold. I have gone into these details because they may shed much light on the question before us, and may teach us how to avoid the difficulties which proved fatal to the Latin Union.

The first point to be taken up seems to me to be the question of making the proposed silver coin a legal tender through all the countries uniting in the treaty. The coin would circulate without being a legal tender if it were received for Government dues, and the mere fact of its being a legal tender would not prevent it from depreciating; for during civil war in the United States, although the greenback was a legal tender, it fell very much in value, and in the French Revolution the *assignats*, which were based on real estate and were legal tenders, became worthless.

It is probable that difficulties might arise in the effort to establish a coin which would be struck at the mints of various nations, and which would become, by force of treaty, an obligatory legal tender between individuals in

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The United States have in circulation, etc., of gold, silver and paper about $26 per head.

each of these countries in their financial dealings with one another. Questions of constitutional law might arise which would naturally cause delays and uncertainties, and would, therefore, tend to discredit a measure meant to be beneficent in its application. It is certainly undesirable to court such obstacles, particularly if there does not appear any necessity for so doing.

The agreement of a government to receive a dollar at a certain valuation in payment of public dues is simple and easy of fulfillment.

The legal tender clause might be thought a very dangerous innovation for another reason: The coinage of each State would have to be regulated in amount and would have to be of a certain weight and fineness of metal. Now, with all the safeguards that could be put around the mints, although trustworthy people were employed to supervise the quantity and quality of coins of all the mints wherever situated, still human nature is fallible, and the temptation might be so great as to cause an inferior coin to be issued or a greater quantity to be put forth than was agreed upon. We will suppose, for the sake of illustration, that it was decided to coin a legal-tender dollar similar in weight and fineness to the dollar of the United States, which is now worth about 72 to 74 cents. It will at once be seen that there would be a profit to the nation furnishing the silver to the amount of 25 cents on the dollar, or 33 per cent. for every dollar coined. This enormous profit involves great danger of attempts by individuals or States to put upon the market indefinite quantities of coins exactly similar and of equal value, which would be indistinguishable from the others, and which, as soon as issued, would, as obligatory legal tenders, be receivable for a dollar in all the Americas, when they only cost 75 cents. In case of a rebellion or revolution in one of the contracting countries, two governments might be set up. Each government would naturally claim for itself the right of coinage, and vast amounts of coin might be issued by either of them at an immense profit, and it would be impossible to distinguish between the coins and refuse to accept them without throwing discredit upon the whole system of coinage in all

the countries. I can not but think that it would be very difficult, if not impossible, to devise adequate guaranties against this peril.

But even if the quality of the compulsory legal tender were given up, I think the international coin would pass at its face value if the several Governments agreed to receive it for all taxes and custom-house dues to the Government in their respective territories. And such is the credit of the United States that I think it probable that the issue of even more than $100,000,000 might be maintained at their par value, as our present silver dollar is maintained. That question I do not propose to argue, because opinions upon it are very conflicting, and nothing but experience can teach us to what extent we may go in the issue of coin to be current at more than its bullion value. But, of course, the increase of such silver coinage would add to the load which at the present time presses on the United States, and which, if carried to excess, would, in the belief of many of our most experienced financiers, necessarily result in a premium on gold and the establishment of silver monometallism. It might also be a question whether any of the contracting states would consider it wise to allow silver coins to be put out on which there was a profit of 25 to 33 per cent. to the nations coining them, whereas the loss inherent on their falling below their face value might all come on one or two of the contracting states. In their present issue of silver the United States makes the whole profit and takes the risk of the depreciation of the coin. In the proposed international plan a large part of the coinage would be made by other nations, who would thus make the profit between the face value of the dollar and its bullion value, whereas the United States would bind itself to receive it at its face value for all dues whatever its market value might be. We must reflect that the international coins would not necessarily remain in the state for which they were issued, but would flow to those countries where they were of most value. In any state where an irredeemable paper existed, or where the legal tender was for some reason or other worth in bullion less than the silver dollar which it is proposed to coin, it would be a profit to export

the silver and draw bills against it, with which the exporter could buy a greater value of legal tender than the silver would represent. The tendency, therefore, of the new coin would be to leave the countries where the currency was depreciated and make its way gradually to the stronger and richer countries.

Another question is whether the issue of silver coin worth, say, 75 cents, could be used by the North in the purchase of the various articles of commerce produced in the South to advantage, or by the South in purchasing the manufactures of the North, without regard to the standard of gold existing throughout the whole civilized world. We must not forget that the commerce of the world has adjusted itself, rightly or wrongly, to a single standard, and that that standard is at the present time a given weight of gold. Monometallism, bimetallism, and trimetallism may be the rule in particular countries. Gold coin of different weight and fineness may be a legal tender, or silver coin may be a limited or full legal tender; and even when a full tender may, through a restriction in the coinage, be kept at a par with gold as a token. Even copper may be and is a legal tender in some countries. In other countries inconvertible paper may circulate. The various countries in which these different systems prevail exchange product for product with each other, but in order to settle their exchanges a uniform standard is of necessity established, and that standard has become a given weight of gold, without regard to acts of legal tender, without any treaty stipulations, and without regard to the coinage acts of any one country. The merchant will purchase his goods where he can do it to the best advantage; in other words, where they are cheapest, taking into consideration the freight and the credit which he is given on them. Would, then, the merchants of South America come to the United States and be enabled, through the issue of this coin, to purchase merchandise in the United States to better advantage than they could in Europe?

Suppose that a bale of dry goods was of the same value in New York as in London. The South American trader would have received the silver dollar not at the value of

bullion, but at the face value of the coin. The profit would have been made by the nation coining it. If he had a certain amount of these dollars in New York, it would be just as easy for him to deposit them in a bank and draw bills of exchange against them for gold in London as to use them for the purchase of merchandise in the United States. In his transactions, therefore, he would not be guided by the existence of the international coin, but entirely by the cost of goods, the freight, and the credit he would receive from the various bankers. In other words, trade depends upon supply and demand, and would go on in the same way and on the same principles as if the proposed coinage did not exist. It has been suggested that there would be a profit to the American importer of coffee if he could pay for the coffee which he buys in South America with this 75-cent international dollar; but the same principle would apply. If the credit of the United States kept the dollar at par with gold, the profit of the coinage would go to the United States and not to the merchant. It would cost him as much as the gold dollar, and when he attempted to make purchases of hides or coffee he would find that the articles cost him as much whether he paid for them in the international coin or in bills of exchange on England. But it may be said that he would save the commission he pays the banker. If he did not require any credit to do his business he might save paying a banker's commission, but if he required that credit he would have to pay for it whether it was done in New York or in England. And as much the largest amount of the trade of the Central and South American States would continue to be done with England, France, Germany, and Italy, the exchanges would continue to be settled in pounds sterling. If, from any cause, the international dollar should fall in value below its face, nothing could compel the South American merchant to receive it at its face value, and if he was obliged to do so by law or custom he would simply charge more for his merchandise than if he expected to be paid in gold.

If, however, it became profitable to the American trader to use the new coin for making purchases in the United

States, either because he could save a banker's commission, or buy his goods cheaper, or make a profit in drawing gold bills on England against the deposit of silver coin in New York, the international coin would gradually come to the United States. There it would accumulate in the banks. It could not be exported, because Europe would only receive it at its bullion value. The only use the banks would have for it would be in the payment of public dues. Now, it is well known that by a tacit understanding the banks of New York and some other centers of commerce do not use the silver certificate or the silver dollar in their clearing-houses, but that the transactions are carried on entirely in a gold currency. Whenever they receive, as they are obliged to do, silver certificates on deposit, they send them down to the custom-house and get rid of them to people who desire to pay dues to the Government. As yet their accumulation has not been sufficient to make it difficult to get rid of them in that way, but every increase of silver coinage worth less than its face in bullion would make the position of the banks more difficult, and tends to reduce the gold received by the United States Government on imports to the full extent of the whole coinage. Now, it is on that gold that the Government relies to pay the interest on its public debt and to redeem its legal tenders. If, from any circumstances, such as the accumulation of silver coinage or a heavy adverse balance of trade, the Government should find itself without the necessary gold to meet its gold demands, or even if the public should fancy that there was danger of such a difficulty coming about, we should have a premium on gold at once, together with a monometallism of silver and a disturbance of all trade and all property in the country.

But the friends of the measure may say that all these difficulties might be avoided by the coinage of an international currency if we should give up the point of the obligatory legal tender and make coins to contain their face value in bullion. There would then, it is said, be no danger of depreciation, and the coinage would make a demand for silver, which seems to be much desired. This sugges-

tion, however, introduces a new difficulty. Unfortunately, the value of silver is varying every day. If we should attempt to coin the international dollar at its gold value, with silver at 46*d.* to the ounce in England, it might fall to 42*d.*, when it would no longer represent its face value; or, should the increased demand for the arts and the gradual and extraordinary growth of this country make the demand for silver larger than the supply, silver would rise from 46*d.* to 48*d.* or 50*d.* to the ounce. The consequence would be that all these silver international coins would be of more value as bullion than as a commercial token, and would be melted up and disappear from the country, and you would have to issue a new and different system of coinage. Besides, it would be very undesirable for any nation to have silver dollars in circulation which were of different bullion value and still receivable for Government dues. In case, therefore, the United States coined a 100-cent dollar as an international coin, it would find itself with two totally different dollars, which would greatly tend to complication and commercial difficulties, and perhaps to recoinage of one or the other issue.

Besides, the present silver dollar is inconveniently large, and to increase its bulk would make it intolerable. But, to quote the words of Secretary Windom in his report, the paramount objection to this plan is that it would have a decided tendency to prevent a rise in the value of silver. Seizing it at its present low price, the law would in effect decree that it must remain there forever, so far as its uses for coinage are concerned.

It has been suggested that instead of an international coin the mints of the various countries should be allowed to put the international stamp on a certain weight of silver of a fixed degree of fineness, and that such silver should merely be used at its bullion value as merchandise, without being received for Government dues, in transactions between one nation and another. This would really only be settling the exchanges between the various nations in silver bullion, and the stamp would merely save the buyer the trouble of weighing and refining the silver to make sure that it was bullion of the proper degree of weight

and fineness. It would vary in value continually, and I can see but very little use for such bullion. It would not greatly increase or facilitate the commerce between the different nations, as it is not likely that the exchanges would be settled by silver bullion except in very small quantities. In fact, however, the exchanges between the United States and South America are settled almost entirely by sales of merchandise in Europe. The United States imports $110,000,000 more from the South American States than it sells to them, but that is paid by shipping merchandise to England and not by exporting silver bullion. As the balance of trade between the United States and all the countries of the world has, in recent years, been in its favor, the balance, which has usually been small, has been settled in gold. If we succeed by opening steamer routes and by giving long credits and better banking facilities, and by making such goods as they desire, in increasing our trade with our southern friends, the settlement will still be made much in the same way, with the difference only that a part of the merchandise which we now ship to Europe would be shipped to them.

For the above reasons I am of the opinion that we can not safely issue an international coin of silver, whether a legal tender or not, and whether the coin is greater than or only equal to its bullion value. There is one way which, perhaps, might give a useful and a common currency to all the American nations without the dangers and difficulties which have been pointed out. That is, by taking advantage of the suggestions made in the admirable report of Secretary Windom. He suggests the issuing of Treasury notes against deposits of silver bullion at its gold market value. These notes are to be received for all public dues in the United States. If they were received equally for all dues in Mexico and the states of Central and South America, those states could send us their silver and receive in pay these notes, and they would have an international currency based, first of all, on the gold value of the silver bullion, and secondly, on the credit of the United States of America.

It is no doubt well known to the committee that the

policy of promoting the general restoration of silver to its former legal equality with gold was inaugurated by the United States, through the act of Congress calling the International Monetary Conference, held in Paris in 1878; and that measures have been taken since that date in the various countries interested which betoken the world-wide importance of the question so raised. It is in connection with this policy that the new suggestions of the Secretary of the Treasury are made, and as a result of their adoption by Congress an important rise of the value of silver relatively to gold is expected to ensue. That the other American states will share in the benefits of this rise is plain.

In case of the adoption of these bullion notes, instead of a varying silver coin we should have a note whose value would not vary; a note, the issue of which would be surrounded by all possible checks to secure safety. These notes could be issued in any sums required for international currency. Their transportation would cost nothing more than the expense of the mails, and their quantity would be limited by the demand, as they could at any moment be reconverted into silver bullion at the gold value.

This seems to me to accomplish all the purposes which were desired by the coinage of an international silver dollar, and I suggest, therefore, that the Conference recommend to their respective governments that when the Congress of the United States shall have authorized the issue of Treasury notes against silver bullion at its gold value, that these certificates be received in all the respective countries of all the Americas for all dues to Government, provided that the Congress of the United States be requested, if it have not already done so, to allow the importation of silver from all the countries of the Americas who agree to receive the Treasury notes of the United States for Government dues.

JANUARY 11, 1890. T. JEFFERSON COOLIDGE.

DISCUSSION.

SESSION OF MARCH 25, 1890.

The PRESIDENT. The next in order is the report of the Committee on Monetary Convention. The Secretary will read the resolutions offered by the majority of the committee.

(The conclusions of the report were read.)

The PRESIDENT. Following that is the report of the honorable delegate from Mexico, Mr. Mexia, but without recommendations.

Mr. MEXIA. What is called a report there is only an appendix. It is merely explanatory of the report. The others are the same.

The PRESIDENT. And Mr. Alfonso's the same?

Mr. MEXIA. The same.

The PRESIDENT. The concluding paragraph of the minority report of Mr. T. Jefferson Coolidge, a delegate from the United States, will now be read in Spanish.

(It was read in Spanish.)

Mr. Coolidge desires that that paragraph be withdrawn and the following inserted:

> I therefore suggest, that the Conference advise their respective Governments that it is inexpedient to adopt a common silver coin to be either a partial or full legal tender in the countries of the Americas, until the efforts of the United States to establish bimetalism have been successful.

The PRESIDENT. This will be inserted. The honorable delegate has a right to modify his report before its discussion. It will be inserted as the original report. The report of the committee is before the Conference.

REMARKS OF MR. ARAGON.

Mr. PRESIDENT, HONORABLE DELEGATES:

We are confronted to-day by one of the most interesting subjects that could claim the attention of the Conference. We all know the question before us; it is that to which the sixth section of the inviting act refers—by which all the Spanish-American nations were invited to confer upon the advisability of adopting a common silver coin, the same to be legal tender in all commercial transactions between the countries here represented. This is, then, a question upon which no doubt should rest, at least as regards the judgment of the inviting nation; and we came here naturally under the impression that steps would have been already taken in order that the common silver coin which might be here agreed upon would be adopted without difficulties other than those presented by nations whose judgment had not been consulted and which it was desired to know so as to attain that result.

I shall not tire the Conference by enumerating the advantages to be gained by the unification or uniformity of coinage, for this is so simple and elementary that it would be almost an insult to the Conference to go, at any length, into considerations of this character. On the other hand, they have been intelligently expounded in some of the reports which have been before this assembly; and even if this task were proper, I should save myself entering upon it, since I could discover neither choicer terms nor more forcible arguments in which to recommend a measure of this importance.

But to-day we find ourselves in a really singular situation. We find that the nation which has invited us has changed its mind upon this subject.

I commence by declaring that my words do not embody a criticism of anything or anybody, but I must take note of the facts as they are, so as to judge of the possibility of reaching an agreement upon this point. Above all, I ask the indulgence of the assembly for having to be somewhat extended in my remarks, because the subject demands it.

I have just said that I found that the opinion of the in-

viting nation had changed, and I need no strenuous efforts to demonstrate it, since we see the difference in tone marking the reports of two of the members of the American delegation forming a part of the reporting committee. Still, this would be of little moment were there not another significant fact which reveals the idea which prevails upon this subject.

I know not the importance which the words of a Secretary of State have in the United States. I think, however, it is great, because, amongst us at least, the Secretary of State speaks for the Government in such a case, and, consequently, I take the liberty of assuming—applying the same rule—that the Secretary of State expresses in the United States the opinion of the Government. If I am mistaken in this, I state whereon I base it, and, in this way, should there be any resentment, it will entirely disappear, knowing upon what I founded my impression. I say that what is taking place is very significant, because I have had occasion to read carefully the report of the Secretary of the Treasury to Congress, and in that report he commences by expressing an opinion adverse to the increase of silver currency. The first words of the report of the Secretary of the Treasury on this subject establish this, and as I essay to give to mine the greatest possible weight, I shall take the liberty of stating why I believe the judgment of the Secretary of State differs somewhat from what, to my mind, should be the spirit of the Conference, or, at least, of the American delegation in this regard. But before reading what the Secretary says in the premises, I have to say that, to my mind, the idea of calling together the American nations to agree upon the coining of a silver coin of a fixed fineness and weight and of legal currency in all the countries of America, presupposed that the question of increasing the circulation of silver had been settled on the part of the Government of the United States, because it cannot be conceived that it was intended to admit in commercial transactions between the American nations money coined in other countries, save on condition that it would be received here, and that the increase of this money would not be viewed with dis-

trust, it having the same fineness and weight agreed upon, and which, I presume, would be similar to that used in this country.

Arguing from this stand-point I believed, as I have said, that it was intended to increase the circulation of silver.

But behold the words in which the Secretary of the Treasury expresses himself in the very beginning of that part of his report wherein he speaks of silver:

> The continued coinage of the silver dollar in a quantity which increases monthly is an element of disturbance in the financial conditions of the conntry, etc.

The continuation of the coinage in the United States of silver money under the same law which has regulated it up to the present is already an element of disturbance. I think, in consequence, that the Secretary of the Treasury does not believe in increasing the coinage of silver, and if any doubt remain upon this point the development of his ideas, in the discussion of the subject, dissipates it entirely.

Later on I shall take the opportunity to make other quotations from the report of the Secretary of the Treasury, by which this fact will be corroborated.

It says, further, as follows:

> This coinage would be a positive difficulty in the way of any international agreement that may be reached regarding the free coinage of both metals in a fixed proportion.

It appears to me that what I have said sufficiently explains the motives which lead me to believe and the reasons upon which I base my supposition that the opinion of the Secretary of the Treasury does not agree with the general idea set forth in the sixth section of the inviting act.

Taking up another point, we study the reports which the honorable delegates from the United States have submitted in this regard. That which approaches nearer to the original idea is Mr. Estee's. This gentleman expresses very enlightened ideas upon the advisability of the use of silver, and concludes with some recommendations which, to my mind, differ but little from those submitted by the majority of the committee. About the only substantial differ-

ences existing between the two consist in the fact that Mr. Estee in his conclusions formulates definitely a point which the committee thought advisable not to so formulate, but rather to leave it to be considered by the Monetary Union when it should meet. Mr. Estee at once fixes what should be the weight and fineness of this coin, differing in other details, which, I repeat, are not in my judgment substantial, since they do not attack the idea. One thing, however, I do discover in Mr. Estee's report. He says that the coinage should be limited to a quantity to be agreed upon by the monetary convention, and as regards this point nothing is said in the committee's majority report, for the reason, precisely, that it leaves this point, as all the others, to the decision of the committee of the monetary convention.

Let us now take up Mr. Coolidge's idea.

This honorable delegate separates himself entirely from the original idea, and so far that the amendment which he ultimately offers advises us to desist for the present from any action in the premises until the efforts of the United States to arrive at the adoption of bimetallism shall have succeeded. We shall return later to this part of the report. But Mr. Coolidge commenced his argument by stating that before proceeding to the coinage of money, the deposit in the Treasury of the United States of silver bullion would be more advisable, so that there might be issued for that bullion, Treasury notes to the silver value of the bullion. That is, adopting to a certain point the ideas formulated by Mr. Windom in a bill he presented to Congress, which bill I have before me and shall read.

Mr. Coolidge undoubtedly starts from the hypothesis that silver bullion from all America could be admitted to the Federal Treasury for the issue of Treasury notes, when Mr. Windom in his famous bill expressly limits this matter, for he says:

> But no deposit consisting in whole or in part of silver bullion or foreign silver coins imported into this country, or bars resulting from melted or refined foreign silver coins, shall be received under the provisions of this act.

Therefore, even supposing we should wish to adopt this

plan to-morrow, that is to say, even supposing we should wish to affix our signatures to the plan of Mr. Windom to reach a solution, even if it were not by the direct medium of the coin, but indirectly by sending our silver here, I do not believe that this was the intention of Congress. Only yesterday it was said in the Conference that all these questions are a veritable obstacle to our labors bearing fruit, for they are small obstacles which present themselves at the very time when we are trying to bring opinions together so as to reach an agreement upon the several matters occupying our attention, and this is one of them.

Whence springs this fear? I judge that it must be the same here among us. The Secretary of the Treasury represents the views of the Executive on questions of finance, and would not present a bill to Congress that had not passed through the crucial test to which plans of this character are subjected amongst us, and which exercise an influence on the Congress.

This is the situation in which we find ourselves. I, of course, do not oppose in the slightest degree the report submitted by the majority; on the contrary I approve it, and shall give it my support in so far as I can if we can not reach another result.

Very well; since we can not attain any such result, I take the liberty to throw out this idea while the discussion is pending, so that it may be considered in advance and its acceptability judged. My idea is this: the problem is so complex and so many difficulties have placed themselves in its way, some real and others imaginary, that it becomes necessary to seek neutral ground among all those points where it has been attacked, and to my mind that neutral ground would be the following:

To agree to the adoption of a common silver coin; to agree that all the nations of America shall concur in its coinage, be it limited or unlimited, for so far as my plan is concerned the limit cuts no figure, and to let the coin thus issued have a free circulation in all markets, but not to pretend to give this coin any fixed value in relation to gold but leave it to run the chance which silver money has to run. If trade to-morrow assigns it the same value as

gold, that value will remain, but at all events we shall have reaped the advantage of having one uniform silver coin throughout America, with a circulation in all the nations, and we shall not precipitate the question whether or not it has such or such inconveniences in relation to gold.

I should make another statement, which is, that to me silver has no value other than as a commodity. It obeys its laws, is subject to the fluctuations of supply and demand, and even precious stones, which are still more valuable, obey this law as does gold.

Consequently, it being a commodity we all have, let us equalize it, or essay to equalize it. Afterwards trade itself will fix the price of this commodity. We will then know whether if I, for instance, go to the Argentine with dollars of 42 grams 900 millegrams, those dollars will be received in that country as its own are received.

In what way will the change disturb the present relations of our countries? I think in no way, because we all have different money. In no way is there established an equivalence between gold and silver. We are subject to what trade may do, and, I repeat, we shall not disturb in any way the actual conditions in the several nations if we enter upon the task of assimilating our coins, reducing them all to a fixed type and an equal size, weight, and fineness.

From this there would result many, a great many, advantages, as I said at the beginning. It is not worth while to enumerate them, as they are apparent to the consideration of all. It might be that the United States would not admit our money under these conditions. If they should, all the better. We would receive their money; but even if they should not admit ours, we would still have taken a step forward, and even the United States would have the advantage of knowing that the dollars circulating in each of these nations are as good as those circulating in North America.

I ought not to take my seat without making a statement in this regard.

In this matter Costa Rica has no interest at all. Costa

Rica does not produce silver, but gold. Its mines produce only gold, and consequently such bullion as we have there is purchased abroad; but we are perfectly convinced that in our relations with America silver predominates, and we shall have to accept that medium, which is the circulating medium.

I should also make another statement, and it is that I support these ideas with zeal not precisely for the benefit of Costa Rica, which has hardly anything to sell but much to buy, and it is to the interest of the buyer to see danger where it exists. We buy from all the Republics of Central and South America the greater part of our goods. We buy, for example, cacoa, hats, beef, etc., from Ecuador, Colombia, Guatemala, and other States, and we have nothing to sell them, for the principal production of Costa Rica is coffee. So that even in this respect it is the interest of others and not our own which moves us to favor this union, in view of the reasons given in the premises.

Once more I say that if I have given attention to the present question it is purely and simply in its general relations, without intending any criticism of persons or known ideas, and I indorse the words of Mr. Saenz Peña, spoken yesterday, when, on taking his seat, he said:

I do not criticise; all I do is to take into consideration these questions for the bearing they have on the prosperity of all the American countries.

REMARKS OF MR. COOLIDGE.

Mr. Coolidge. Mr. President: I regret very much that I have been obliged to make the minority report on the silver question which now lies before you. During the meetings of the committee I was in hopes that the whole matter of coining a silver dollar could be put off and left to a new Conference to be appointed later. But the honorable delegates who were my colleagues refused to do this unless the report of the Conference instructed the delegates, that were to be chosen a year hence, to pass a bill for the coinage of a dollar which should be a legal tender in all the Americas. To this I could not agree. They have therefore submitted to the Conference the majority

report signed by five of the committee, in which they advocate the coinage of a silver dollar to be a full legal tender in all the countries forming the Conference. My esteemed colleague, Mr. Estee, agrees with them in the report which is now laid before you, except that he desires that the dollar should only be a partial legal tender, and suggests that it should be receivable only up to the sum of fifty dollars. In my judgment there is no serious difference between these two reports. All my colleagues have favored the coining of a silver dollar which shall be a *legal tender*. It is this principle which I consider most dangerous, and which I have objected to in the report before you. I will not go over the reasons which I have there given, but beg the honorable gentlemen to give my arguments all the weight which they may think due to them.

The difficulty of the subject is caused principally by misusing or misunderstanding the terms which are applied in the discussion. I will endeavor to make my suggestions clear, and hope that any of my colleagues will interrupt me and ask any question which may occur to them.

At the present time the United States of America are on a gold basis. You will say, how can that be when they have got over three hundred and thirty millions of legal-tender silver dollars, three hundred and forty millions of legal-tender notes, and over two hundred millions of national-bank notes that circulate as freely as the notes of the Government, and over seventy millions of fractional silver? My answer is that by the universal practice of the United States a man holding a legal-tender note, called a greenback, receives gold when he asks for it at the Treasury; that anybody presenting a national-bank note at a bank receives gold when he asks for it, and that anybody depositing silver dollars in a bank can also receive their value in gold, although they are legal-tender. The bonds of the United States Government, although in many cases they only promise to pay interest in coin, have that interest always paid in *gold* coin. The Government of the United States receives all the silver dollars in lieu of gold dollars in the payment of all duties to the Government. In other

words, whatever currency a man may hold, he knows that he can get gold for it.

The exchange on England is another conclusive proof that the United States are on a gold standard. Its par is $4.86, and it never varies more than 1 or 2 per cent. from that par, because as soon as it gets higher or lower, coin is exported or imported to equalize matters. If the United States were on a silver standard the exchange with England would be nearer $7 to the pound sterling, because it would be necessary to export silver, which is only worth 72 per cent. of its face value. England is on a gold standard, although there is a large circulation of bank-notes, and they are now coining silver double florins as subsidiary silver. Germany is on a gold standard, and France is also on a gold standard, because, like the United States, it maintains its silver money at par with gold by paying gold for it. This it could not do if it continued to coin silver, and that has been abandoned since 1878

But, gentlemen, the states of South America are not on a gold basis. Some of them have gold as a legal tender, and some of them have silver, and some have paper, but the proof that they are not on a gold basis is the rate of exchange between them and England. If they were on a gold basis that exchange could never rise beyond the cost of the transportation of the coin. In reality the exchange represents in many of the countries the difference between the value of the pound sterling and the value of their depreciated paper. In other countries like Mexico it represents the difference between the value of the gold pound sterling and the silver. Under these circumstances the endeavor to make a silver coin pass as a legal tender in all the Americas is to endeavor to make a silver currency which shall be of equal value in a silver monometallist country and a gold monometallist country. This, gentlemen, is in my judgment a practical impossibility.

Mr. Alfonso, in his very able report, endeavors to show that because the United States imports eighty millions more than it exports from the Southern countries the silver would not flow to the United States, but would be

carried the other way to pay for the debts caused by the excess of importations. If all the countries were on the same standard that would be true, but as long as the Southern countries are on a paper or silver standard there would be no profit in sending silver dollars to the South, for you would only receive silver in return. Whereas, if the silver dollar was sent to the United States, as long as the United States is on a gold standard, the silver could be exchanged there, if it was a legal tender, for gold at a profit of 33 per cent. Not one dollar would be used to pay the debts of the United States to the South because they could be paid by gold or merchandise, and that gold or merchandise could be bought in the United States for two-thirds that it would cost in England or in the other markets of the world.

My learned colleagues all assume that coining silver dollars and making them a legal tender would raise the value of silver until it became equal to gold. That is an assumption which is at the best doubtful. The experience of the Latin Union goes to show that such would not be the effect, for the Latin Union found that even with free coinage of silver the price depreciated in comparison with gold every day until they were obliged to stop the coinage.

But, gentlemen, the United States being the largest producer of silver in the world, and being desirous to increase their currency, are most anxious to see the value of silver raise until it can circulate with gold. They desire to accomplish this by establishing bimetallism. Now, what is bimetallism? Bimetallism is the uses of gold and silver jointly as currency, the ratio between them being fixed at a point which would keep the value of silver relative to gold invariable, and so cause the concurrent uses of both metals in all the countries of such a league. In other words, that gold and silver coins should circulate as currency of equal value, and that neither should leave the country.

An agreement with England to fix a certain ratio for silver and gold would be adopted by the other countries and would establish bimetallism at once. This the United States hope to do. They do not like the gold standard on

which they now are. But they do not wish any more monometallism of silver. In other words, they want an expansion of currency and not a contraction If a man was to present a greenback at the Treasury and have silver given him instead of gold, if a bank refused to take on deposit silver certificates and pay out an equivalent of gold, if the United States were to refuse to accept silver at their custom-houses the holder would immediately think that gold was more valuable than silver because he could not get it in exchange. He would therefore hoard all the gold and use only silver in order to reserve to himself the profits between gold and silver. In other words, gold would go to a premium, and what would be the effect? The seven hundred millions of gold coin now in this country would be withdrawn from circulation at once, and you would have the most terrible contraction of currency equivalent to at least one-half. This would cause the ruin of every man who was in debt, for his property would only sell for one-half, whereas the face value of his debt would remain the same.

The United States might and should go to work to coin sufficient silver and legal tenders to take the place of gold, but it would take a long time to do that. The silver and the legal tenders would be depreciated, and a state of panic and confusion would ensue which would end in our standard becoming that of silver. In their wisdom the United States desiring to increase its currency and not to diminish it can not afford to take any risks of that kind. There are two plans now before Congress, both of which are intended to establish bimetallism and to prevent monometallism either of gold or silver. One of these plans is Secretary Windom's which is before the House of Representatives; the other one is the Senate silver bill, which has been introduced by Senator Jones in the Senate. They differ in many particulars, but they agree in one point, the purchase of silver bullion and the entire stoppage of the coinage of seventy-five cents silver dollars. If we judge by the action of either the administration or Congress, they do not look favorably on any more silver dollars, and therefore would not be likely to agree to coin themselves and to

allow other nations to coin for them legal-tender silver dollars.

The majority of the committee propose that the dollar should be a full tender. I have endeavored to show that the United States could not allow this in safety. The minority report of my esteemed friend, Mr. Estee, proposes that the dollar should only have a legal tender force up to $50. Now, if that was sufficient to keep it, by the credit of the United States, at par, it would come here, and gold would be drawn out of the country just the same as if it were full legal tender. If making it a legal tender up to $50 was not sufficient to keep it at par with gold, then all the contracts in this country would be upset, because the railroads and the miners and the manufacturers who pay off their help weekly or semi-weekly, in sums less than $50, would purchase the depreciated silver, and would pay their operatives less than they were fairly entitled to receive. But you may say that if it was a legal tender up to $50 the operative might go to his store and use it in the purchase of food or clothing, or in the payment of rent. Unfortunately, gentlemen, you can compel a man to receive a silver dollar for one hundred cents, but you can not compel him to sell his groceries, or his rent, or his clothing at as low a price if he is paid in depreciated silver as if he were paid in gold. He would simply raise the selling price of every article of merchandise.

I have endeavored to show in my report that there are grave doubts as to the constitutionality of an act of the Government by which all the contracts of citizens of the United States could be altered by the coinage of silver not in his own country, but in a totally foreign country. That this point would be raised and have to be settled by the Supreme Court of the land I have no doubt.

Under all these circumstances I proposed in my minority report that the States of Central and South America, instead of coining silver, should take the Treasury notes of the United States, and make them receivable in their countries for public dues, and thus introduce currency through all the Americas. This plan has met with no favor, and the reason is evident. To get the Treasury

notes of the United States the other countries would have to pay their gold value. The only advantage would be that the same currency would circulate everywhere. There seems to be a feeling that if they could coin silver dollars, and those silver dollars were legal tenders, that they could avoid the heavy exchanges which they now have to pay with Europe.

I have endeavored to show that that idea is correct; but that it would be done at the expense of the United States, who would have to lose all the exchange that the South American States would gain. Senor Alfonso, in his able report, points out other difficulties in the way of accepting the Treasury notes of the United States. Such as that the law is not yet passed by which they are to be issued, and that it could be just as easy to buy English pounds sterling as to buy United States notes. These reasons are correct, and as I offered this proposition originally merely as a more courteous way of declining to coin the international dollar, and as I find it does not meet the approbation of my colleagues, I beg leave to strike the whole of the last sentence out of my minority report, beginning at the words "This seems to me to accomplish all the purposes which were desired by the coinage of an international silver dollar," and to insert instead:

I therefore suggest that the Conference advise their respective Governments that it is inexpedient to adopt a common silver coin to be either a partial or full legal tender in the countries of the Americas, until the efforts of the United States to establish bimetallism have been successful.

An argument has been used several times that as we were called upon to consider the adoption of a common silver coin we could not consider any other question. I do not think there is any force in that suggestion, because the United States in asking us to consider, must have had in view that we might consider that it was not desirable to adopt a common silver coin, and that we would then be very likely to suggest some other manner of establishing an international coin. But as my recommendation now reads this argument would not apply. I can not close these few remarks without suggesting that even if the

Conference adopts the report which I have the honor of presenting to them, that we still have means of carrying on commerce between the various countries without much difficulty from the various moneys employed in the different Americas, by favoring the establishment of large banks whose principal duty it would be to furnish exchange in every principal town of the Americas on the other countries at legitimate rates. The report on banking will soon be in, and will, if adopted, I trust, prevent the failure of a common international legal coin from being so injurious to business as it might at first appear.

I wish it distinctly understood that I approve entirely of all the Republics of the Americas adopting a currency of uniform fineness and weight. My objection is to the legal-tender clause.

REMARKS OF MR. ESTEE.

Mr. President and Gentlemen of the Conference:

I regret exceedingly that I do not agree with my distinguished colleague (Mr. Coolidge). I certainly did not come here with the intention of disagreeing with the distinguished gentleman or with any other American delegate. I am compelled, however, Mr. President, in the outset, to say that I would not feel that I was faithful to the principles which I believe should govern the monetary policy of these Republics, or the solemn duties which I, as a member of this Conference, am called upon to perform, did I not express, in an humble way though it may be, the views which will control my opinion in voting upon this question. The remarks which I have prepared, Mr. President, were prepared in view of a response to the report made by my distinguished colleague, but before I reach that point I want to say one word in response to the speech that my friend has just made.

First, I do not believe this is a single gold standard country. A nation that has $431,000,000 of silver circulating throughout the country, receivable at par and made receivable for public dues can not be a single gold standard country. In Wall street it may be, but among the

people of this country—the sixty-five millions of people—it is not a single gold standard country. Bimetallism, it is true, is not fully adopted, but gold and silver circulate through every part of this great country, except on Wall street in New York, and is receivable everywhere for every debt that can be contracted either by the nation or by any individual.

Again, my distinguished colleague has repeated, in a very eloquent way, the arguments that were made in the opposition to the so-called Bland bill some years ago in Congress, and I admit that those arguments were exceedingly impressive then and they seem to have grown impressive as time has passed. Now, Mr. President, the questions that are involved in this controversy are above and beyond any question of private interest. They lie beyond even the sphere of a single nation's vision. They reach or should reach, the limits of the continent; and they receive or should receive, the candid and deliberate consideration of every delegate accredited to this Conference. The act of Congress calling us together intended that we should draught a complete financial system for international purposes.

Mr. President, I shall not follow my distinguished colleague at this time in response to the remarks that he has made, but I will venture to make my reply to his report, which I submit to your consideration, trusting there is nothing in it that is not founded upon the historical records of our own country, and nothing that will not meet the candid approval and deliberate judgment of the best thinking people of all the American nations.

The question presented for our consideration is, "The adoption of a common silver coin to be issued by each Government, the same to be legal tender in all commercial transactions between the citizens of all the American States." These are the words of the act of Congress, and at the time of the enactment of this law it voiced the sentiments of the American people, and, as I believe, voices the sentiments of the people to-day.

Indeed, I very much doubt if any subject of equal importance will come before this Conference. The effect

which the adoption of this proposition would have upon the trade, the industries, and finances of the American States can not now be measured by any means within our knowledge. True, this may be new to Americans and to American finance, but it will be far-reaching and of infinite importance to its future prosperity.

One thing to me seems clear, if we can adopt an international American silver coin, uniform in weight and fineness, which coin shall be made a legal tender in all commercial transactions between the citizens of all the American States, and without inflicting any serious injury on any one of them, it ought to be done, and it was clearly the intention of the American Congress when this law was passed that it should be done.

I do not care to repeat the arguments presented in my report or elaborate upon what I then said, yet it may not be unprofitable to take a general view of the present financial systems of the Central and South American Republics, and to briefly state why a stable and uniform currency would be of value to them, and why an international silver coin would be of value to us. We find that of all the nations represented in this Conference but one is single gold standard, two double standard, and the rest are single silver standard countries, and that silver coin is in every-day use among the American people. Indeed, there is no place on the American continent where silver is not a recognized money metal, and it is the unit of value in most parts of America. At present more than four-fifths of all Central and South American exchange is sold on London; and of necessity the trade of a country largely goes where the money goes.

So long as the American nations have no uniform financial system of their own, or international coin, of necessity this will be so; and thus prices of both commodities and exchange will be fixed by European money standards. We must bear in mind that our position in America differs widely from that of Europe. We are builders of new systems, and to build well we must utilize the material we have; they are repairing and maintaining old systems. We have new and peculiar conditions to meet and a finan-

cial future to create; they have only a past to follow and imitate. We are too remote from the financial centers of Europe to be controlled by them, and we ought to declare our financial independence; but to do this we must be prepared to maintain it. True, we are filling pages of history with advanced thought and new experiences, but we must not forget that if we think wrong we will not act right; and thus, while we live amid the most progressive and enlightened influences of a new age, full of something to do, but without precedent as to how it shall be done, of necessity every step we take is an experiment. In fact, our conditions are as peculiar as our necessities are varied. More than a century ago the United States was born as a nation, and yet we are just learning what a wonderful continent America is, what boundless resources it possesses, and its stupendous importance to the rest of the world. One by one our sister republics south of us joined the family of American Republics, until the continent is divided among free and independent nations, each in its own good time and way working out its own destiny; but each when standing alone, unable to do all that needs to be done. As the representatives of these Republics we are here to devise ways of advancing our interests and harmonizing our conflicting opinions. To do this something must be given as well as received, for upon the wise performance of these duties depends future rewards not yet dreamed of and peaceful conquests greater than anything hitherto known in American history. Failure can only come from our mistakes, while our success will be the most splendid triumph of peace.

The proposition under consideration is to make an international silver coin. To understand what effect this would have in the financial world we must know something of the extent and character of the silver coins now made.

There was coined throughout the world in 1888 $149,737,442 of silver. Of this amount over 81 per cent. was issued as and is a full legal tender. More than nine-tenths of the world's supply of silver comes from America, and much the larger part of this comes from Mexico and the United States. Business could not be done without it. In many of the coun-

tries all values are fixed by silver. Indeed, almost all over the continent the difference in value between gold and silver is not fully known or appreciated until you buy exchange on London. It will then be found that the western nations have one kind of money for themselves and another kind of money for European markets. It goes without saying that Europe thus fixes the value of American money made from American metal, and that the value of our money to a great extent establishes the value of our products. It is therefore submitted that the time is a propitious one to make a change in this respect. Let there be a divided sovereignty; let America do its part and fill a large space in the financial world, for by a wise and united action we can accomplish much. A coin of known value, issued and sustained by every American Republic, could not fail to have financial force; there would not be an American nation not interested in maintaining the par value of this new money. It would soon be familiar to American eyes and universal in use with the people of America. It is our interest to agree upon this question, and we therefore ought to agree upon it, and it may here be noted that this proposition does not interfere with the continued coinage by any one of the American countries of any coin now being made by it. It only provides for one American coin continental in its character, to be coined by each nation, uniform in its weight and fineness, and which shall be receivable at par by all American nations.

And further, when a uniform currency is adopted, which shall be known and accepted by all the American nations, trade will follow such uniform monetary system with unerring certainty. An interchangeable money leads to interchangeable commodities, and thus the American States will look to each other for commercial support in time of peace and for moral and financial aid in time of war. Whatever may have been the prevailing sentiment of the American nations towards each other in the past, in the future we will be friends. As railroad and telegraphic communication become established for the whole length of the continent, and we are thus brought nearer each other, we can not afford to be enemies. We all live on

the same continent; all have a common form of government, a common interest, and a common destiny; all are aspiring to a more exalted position among the nations of the earth; each, it is true, has its antagonisms and jealousies, but which time and a common interest will heal. To-day the course of empire is southward, not westward; nations now little known, to-morrow will fill a large space in the world's history.

The pursuits of peace and the achievements of commercial supremacy are the highest aims, and will be the greatest glory of the American Republics. How to best accomplish these purposes is the object of this Conference. It is true, arbitration, as an international American policy, will secure justice to the weak nations and confidence in the more powerful ones; but an international coin would give new force to American finance, uniformity in prices, and business confidence to all. With this done, no one is great enough to call a halt to American progress in its march southward, or successfully oppose closer friendly and commercial relations among the people of all the American States.

This is manifest destiny.

In pursuing this point let me ask: *Would the United States and others among the more powerful American Republics suffer by the adoption of an international American silver coin?*

I answer, this would be impossible under the scheme recommended.

The coinage value of all the silver produced in the world for the year 1888 was $142,000,000.

The actual value of the silver so produced was about $103,400,000, while the silver coinage of the world for the year 1888, as elsewhere appears, was $149,737,442.

And this makes no allowance for silver used in the arts, which may be estimated at from $20,000,000 to $25,000,000 annually. No note is taken of recoinages of silver, because it does not appear there were more recoinages for the year 1888 than for the years before that date or for the year since; indeed, since 1875 there has undoubtedly been less recoinages of silver in Europe, due largely to the fact that

Germany demonetized silver and the Latin Union ceased to coin it.

To-day, if we are to be guided by the official reports made to the great monetary centers, there is no unsold silver bullion in the markets of the world. The demand has exceeded the supply, and in the near future there must be a stiffening of prices of silver; and in this connection permit me to say the figures furnished as to the world's supply of silver are somewhat misleading for the reason that not less than $20,000,000 of each year's production is used in the arts, and which of necessity sells upon the market at the market rates, and which is thus not given a fiat value, as is the case with coined silver; this alone would decrease the actual coinage value of the silver production for 1888 to about $138,000,000. Indeed, on the question of the present world's supply of silver, Mr. Secretary Windom says:

> There is in fact no known accumulation of silver bullion anywhere in the world. Germany long since disposed of her stock of melted silver coins, partly by sale, partly by re-coinage into her own new subsidiary coins, and partly for use in coining for Egypt. Only recently it became necessary to purchase silver for the Egyptian coinage executed at the mint at Berlin. * * *

Again, note what the distinguished Secretary says relative to the absorbing by the United States of the European supply of silver coin:

> Nor need there be any serious apprehension that any considerable part of the stock of silver coin of Europe would be shipped to the United States for deposit for Treasury notes.

Noting the above, the answer may well be made, if this would not be done for the Treasury notes it would not be done for gold, for in the United States both are receivable at par for all public dues, both are the legal money of the country and interchangeable for all other kinds of American money; but observe Mr. Windom's reasons why America would not absorb European silver. He says:

> There is much less reason for shipping coin to this country than bullion, for while the leading nations of Europe have discounted the coinage of full legal-tender silver pieces, they have provided by law for maintaining their existing stock of silver coins at par.

And says the Secretary further:

> It is safe to say there is no stock of silver coin in Europe which *is not needed for business purposes.*

This would seem to settle this proposition.

It may be stated in this connection that while Europe claims to have demonetized silver and thus treats it only as a subsidiary coin, yet the stock of gold coin in circulation in Europe is only £145,594,659 sterling, while there is actually £93,094,000 sterling of silver coin in circulation; in other words, of all the coin in circulation in Europe near two-fifths is silver, and this, says our Secretary of the Treasury, "*is all needed for business purposes*," while the paper money in actual circulation in Europe is over £400,000,000 sterling, or about $2,000,000,000. Then, if it be true, first, that there is no surplus in the world's supply of silver, and second, that the silver coins of Europe are by law maintained at par in the countries that issue them, and third, that all the silver coin now issued in Europe is necessary for the business purposes of those countries, America can not and will not absorb any part of the present European supply of silver, and this must be true, because the result of the best experience of the leading financiers of our times sustains that opinion.

The next inquiry is, What would be the effect in the American monetary market, assuming we adopt a uniform silver coin receivable at par by all of the citizens of the other republics? Would any one of the American Republics absorb all the silver of the other American Republics, and which country would do this and how much silver could it so absorb?

In considering this proposition, I submit that, by making an American coin uniform in weight and fineness and by also making it a legal tender in all commercial transactions among all the people of the American Republics, *we do not thereby increase the world's supply of silver coin, nor do we increase America's supply.*

There will not be, there can not be, any material change in the amount of silver coin in circulation on this conti-

nent, because all the silver now in existence is coined, and all future coinage must depend on the future supply of silver bullion, and we note no large increase in the production of silver, so that we may safely assume that the demands for silver by India, China, Japan, Europe, and for the arts will not be less in the future than it has been in the past. And hence the supply of silver in America for coinage purposes will not be increased.

And thus the amount of silver coin will not be greater, but its circulation will be increased, for a greater demand will be created for it. This can not fail to be so, because this coin will be known throughout the entire American world. It will be an honest coin in weight and fineness. It will bear the stamp of all the American Republics. Behind it will stand the great commercial nations of the New World, with all their developed and undeveloped resources—one hundred and twenty millions of people now living in these republics would claim it as theirs.

And of necessity it would increase the price of silver, because it would increase its use. It would enlarge the trade of the American States with each other, and thus benefit all of them. With this coin adopted and in use the ties of a common interest would bind more closely together the American Republics and would everywhere add dignity and power to the American name.

This would be shared alike by the great and small American nations.

SESSION OF MARCH 26, 1890.

The First Vice-President. The order of the day will be taken up. It is the continuation of the discussion upon the report of the Committee on Monetary Convention. The honorable delegate from the United States, Mr. Estee, has the floor.

REMARKS OF MR. ESTEE.

Mr. Estee. Mr. President and gentlemen, I will try not to detain the Conference very long to-day. Yesterday, up to the time I quit speaking, I had attempted to show the

necessity of the adoption of an international silver coin, and to show, in so far as I could, that it was impossible for this country to absorb any considerable amount of the coins of other countries. In fact, that proposition is sustained by the report of Mr. Windom, and I attempted to show the condition of the monetary systems of the other American states, and to show also what countries were gold countries, and what were double standard, and what were single silver standard.

Now, Mr. President, I venture to claim your attention a short time longer upon this subject. I attempted in opening my remarks yesterday to reply very briefly to my friend Mr. Coolidge, on the proposition that the United States could not suffer should we adopt the monetary system recommended by me. I confess that my colleague made a very clear and strong statement in his speech yesterday, which I have thought over since; and the strongest point he did make, in my judgment, was that the United States, being gold standard, as my friend said—but in which I can not agree with him—would absorb this international silver. Now, let me say that the views of both the committee and myself are, as appears in our reports, that the money which shall be made as a continental money shall be received and be receivable at par and be a legal tender in all matters of private contract, as well as by the Governments of each nation that issues it. If that is so, Mr. President, permit me to ask my distinguished colleague a single question. If Peru, the country from which the distinguished chairman of this Convention comes, makes some of this money of uniform weight and fineness, and if it is true that this is a legal tender in Peru, receivable at par in all transactions, both Governmental and private, I want to know how under the sun it will be possible for any person to get any of that money except by paying par for it; and when he does get it I want to know how it will get into the United States for less than par? I can not understand; and I would like to know if my colleague or any other gentleman can explain how it could be done? And I will ask a further question in the same connection. The United States has to-day

431,000,000 of silver dollars in circulation. Now I want to know, if it is a legal tender and receivable at par for all public dues, how can an Englishman, or Frenchman, or German come here and speculate in this money by buying it for less than its nominal value when it passes there at par? I confess, sir, that these are problems which I can not understand as my colleague understands them. I have no more idea that it is possible for the United States, or for Mexico, or for Peru, or for Chili to suffer in this respect, provided they declare silver to be a legal tender and receivable for public dues, than it is for them to suffer by reason of the legal-tender character of their five-dollar gold pieces. The question is not how much silver makes a dollar, nor is the question how much gold is put into five-dollar pieces. The question is, can that money, whether silver or gold, when made receivable at par by any one of these nations for all public dues and in all private contracts made by the people of the country that issues it, be obtained by speculators for less than par? And if it is made receivable at par I can not conceive or imagine a condition whereby there can be any speculation in the money, unless the nation issuing it becomes bankrupt. Then, I admit, the gold five-dollar piece, if composed of less than five dollars of gold, or the silver dollar, if composed of less than a dollar's worth of silver, would be sold on the market as commodities and only bring their commercial value. To-day, owing to the fact that we have a different ratio of alloy and pure gold than England, a five-dollar gold piece is worth just about 14 cents less than the same weight of English-coined gold, because the United States, in its wisdom, or folly—I think in its wisdom—has thought best to make its five-dollar gold pieces harder and less susceptible to abrasion than the English gold pieces, and hardened the coin by more alloy; and so if sold as gold it will not bring quite as much as English gold coin of like weight.

This Conference represents eighteen nations. We come here to discuss the international questions which have been submitted to us for our consideration. These nations occupy almost an entire continent, and we are to-day try-

ing to mark out new lines of financial policy for all these nations. We are planting milestones along the financial and commercial highways of the new world. Let us make them permanent. I confess an abiding attachment for everything that is American. In my judgment, the future of this continent is going to be advanced in a marked degree by what this Conference will do. Its success can not be measured by anything that we can now conceive of. "We are possibly building better than we know." We hardly appreciate the magnitude of the questions which are presented to us for our consideration. The future alone can tell this and make secure what may now seem insecure.

It is admitted that the United States is the greatest financial power on the Western Continent. The territorial extent of this country, its vast and increasing population, its varied industries, its extensive banking capital, and its boundless resources in almost every field of industry, give this country a conspicuous position among the great powers of the world. Hitherto the United States has found a fair market for its productions and has inspired but slight opposition from European sources, but the improvement in facilities for transportation, the active competition of India, Russia, and Australia, the increased production of our own country, and many new conditions not before considered, now make it necessary to shape our course to meet new commercial questions as they arise. To do this we must put our house in order and prepare to face economic problems not heretofore experienced by the American people, and this new condition of things will in time be as seriously felt by the republics south of us as by the people of the United States. It is a fact that prices of what America exports to Europe are every day shrinking. An overproduction may be one of the causes. A note of alarm is already sounded through the great West of our own country; the producers are being heard from. Manufacturing may feel the effect next, and indeed the world is recasting its balances and marking out new trade and commercial courses to follow. In this re-arrangement of productive forces the American nations will have to play

their part and do their full duty, or they will be left to occupy a secondary position among the commercial powers of the world. If we hope for success, the American nations must first control their own markets and supply each other with what each most needs and what the other nations produce, so that American money will be expended in America, and then both money and trade would act together. The time is long past when any great producing or commercial people can, oyster-like, get into its shell and live upon what comes to it.

For many years Europe has sought South American trade, while the United States has neglected it.

That we may fully appreciate the force of the statement that the United States has neglected the trade of America it is only necessary to refer to the facts.

The trade of the countries south of us on the Western Continent, including Cuba and the other West India islands, for 1889 was as follows: Total exports, $564,000,000. Of this sum the United States took $212,000,000, or 36 per cent. For the same year the imports were $522,000,000, of which the United States only sent them the sum of $80,000,000, or 15.6 per cent. It will thus be seen the United States is the largest purchaser from the southern countries, and they are the smallest purchasers from us.

Their trade is thus against the United States by about $132,000,000 annually, and this condition of things can be and ought to be remedied, and the remedy would be of equal advantage to all the American Republics, for all of them are large producers, and, the greater the demand for what they produce, the better the market.

To recur more directly to the question involved in this discussion. As before stated, trade follows the drift and uses of money, and the more general the uses of money the greater is its purchasing power. If Brazil has the same kind of money as the United States, when a Brazilian merchant pays a debt in the United States he will pay in a draft either on his own bank or on a bank in the United States; and so when an American merchant makes purchases in Brazil, because the value and character of the money is known in both countries. This will facilitate

business and build up trade, and Americans will hereafter pay American debts in America with American money.

We are told that as the United States is the largest and, financially, the most potential among the American States, in time it would absorb all this American silver coin.

I regret to say our sister American Republics are absorbing our surplus money now, and I would deem it a most flattering result to the commercial wisdom of my own country if the United States in the near future might absorb some of the money of the other American Republics, but this can not be until trade changes, and in the very nature of things this will only occur after the lapse of time, and so we will not and can not absorb any considerable amount of this international American silver. Yet its very purpose is to be interchangeable, and to circulate all over the continent; we want some of this money to come to us and some of ours to go to them.

In a word and to recapitulate, we can not absorb too much of this international coin.

First, because it will be needed for business purposes in the countries issuing it, as is the case (according to Mr. Windom) with European silver coin; and second, it could not possibly come to the United States in any large quantities, because trade is so much against this country and the United States is all the time paying to our sister Republics in coin the balances which are due for what we buy of them; and lastly, if it did come here the United States would not be injured, because there would not be silver coin enough to affect in any perceptible degree our financial system or largely increase the amount of silver now on hand. An increase of the circulating medium of this country is now a financial necessity, and if not done by these means it will be done by some other. All the silver in the world, except that used in the arts, is now made into coin, and the financial stomach of the world digests it and asks for more. How, then, can the United States get too much of it? The real fact is we are absorbing South America's products and they are absorbing our money.

The unquestioned trend of public opinion both in Europe

and America is in favor of silver as one of the coin metals of commerce. It is admitted that as the United States is the chief financial nation of the Western continent, the responsibility of this financial step would rest largely upon this country; yet the danger of such a course is imaginary and unreal, while the benefits would be certain.

I confess I do not expect to be sustained in the views I express on this subject by the so-called financiers of Wall street, nor indeed by those who think that trade and commerce will, without effort on our part, but simply by reason of our real or assumed greatness, come to the United States and remain with us, nor do I think we have too much silver coin now in circulation; but I do think that the real dangers to American finance, if any there be, will be found within our own country, and coming from some of our own people. Indeed, I know of nothing any foreign nation has ever done, nor can I imagine anything that any foreign nation can do, so injurious to American finance, and hence to American trade and commerce, as what is now being done by some of our own people.

To illustrate, the United States has four kinds of money —gold, silver, currency or greenbacks, and national-bank notes. This does not include gold and silver certificates. All of these four kinds of money are by law made receivable at par for all public dues and are legal tender in all commercial transactions. And as to the legal-tender qualities of the coins of the United States, silver occupies an equal position with gold, and thus one would suppose that silver coin in a country that produces more silver than in any other one nation, and also in a country where that coin is made receivable for all public dues and is a legal tender in an unlimited amount, and especially in a country where $431,000,000 of silver is in actual circulation among the people, would have no opponents.

My distinguished colleague, Mr. Coolidge, has made a very able report to this Conference, wherein he opposes the adoption of an international silver coin. His points are clearly and candidly made, and that I may reply to him I venture to quote from his report, so I may not do him an injustice. He says, among other things:

If, however, it became profitable to the American trader to use the new coin for making purchases in the United States, either because he could save a banker's commission, or buy his goods cheaper, or make a profit in drawing gold bills on England against the deposit of silver coin in New York, the international coin would gradually come to the United States. There it would accumulate in the banks. It could not be exported, because Europe would only receive it at its bullion value. The only use the banks would have for it would be in the payment of public dues. Now, it is well known that by a tacit understanding the banks of New York and of some other centers of commerce do not use the silver certificate or the silver dollar in their clearing-houses, but that the transactions are carried on entirely in a gold currency. Whenever they receive, as they are obliged to do, silver certificates on deposit, they send them down to the custom-house and get rid of them to people who desire to pay dues to the Government. As yet their accumulation has not been sufficient to make it difficult to get rid of them in that way, but every increase of silver coinage worth less than its face in bullion would make the position of the banks more difficult, and tends to reduce the gold received by the United States Government on imports to the full extent of the whole coinage.

The objections interposed by my colleague were evidently considered by the Congress of the United States when the law was passed submitting this subject to the Conference of American Nations for their adoption; and I must assume that the expressed wishes of the representatives of 65,000,000 of people is more potential than the interested action of some, but not all, of the bankers in Wall street. However, two points are made by my colleague in his argument showing why there should not be an international silver coin—one, that some of the banks of New York are against it, because "by tacit consent the banks of New York city will not pass silver through the clearing-house," and thus will not receive it as money; the other point is that if an international American coin were adopted "it would gradually come to the United States, there to accumulate in the banks."

I confess I can not see how this international money will accumulate in the banks if the banks will not receive it, and according to my colleague's statement they do not receive our own silver coin now, although an unlimited legal tender for all purposes. This international American silver coin can not possess any higher legal tender qualities

than our own coin now does. So I am compelled to believe, much against my wish, that none of this coin will ever reach the vaults of some of the Wall street banks. I am, however, reminded that even in New York there are banks of well-known stability which will gladly carry on foreign exchanges, even though some of it may be in international silver money. We are, therefore, not without hope. Indeed, my colleague will pardon me if I suggest that the reference by him to the fact that some of the New York banks are now engaged in slandering American silver coin out of an American market is an unhappy one, for in considering the grave questions before us we can not but pause to inquire why the New York banks should make war upon one of the legal coins of this nation, and ask what would be the inevitable result if they succeeded in rendering this money valueless. Think of the consequences which their success would entail on this nation. According to Mr. Windom, as before said, there is $431,000,000 of American silver coin now in actual circulation in the United States. This is a legal tender by the laws of our country. If the legal-tender qualities of this vast sum of money was destroyed (and that must be the sole purpose of those banks in refusing to receive this money), it would destroy more men, destroy more industries, bring beggary and want to more families than any other one thing (war excepted) that has ever hitherto occurred during the life of this Republic.

Think of it! Who could be benefited if the banks were successful? Possibly a few men who want dear money and cheap products; no one else. Who would suffer? Ask the farmer at his home, the mechanic at his factory, and all the workers wherever they may be and whatever their line of labor—these would be the sufferers. Think of what a price would be paid for such a financial victory! But such a victory is impossible. The American nation would not and will not permit it. And why? Because you can not depreciate the value of the money of a country without affecting its credit.

You can not affect the credit of a country without injuring the credit of the individuals composing this nation; and that you can not do either without imperiling its business

industries, blocking up the courses of trade, destroying its commerce, and creating a want of confidence and unrest in the business world that years can not remedy. These are the financiers whose advice we are asked to take and whose financial experience imitate.

On the first day of November, 1889, the estimated amount of gold and silver in the United States was $1,115,379,639. Of this vast sum $684,194,686 was gold, $343,638,001 was silver dollars, $76,628,781 was silver coin, and $10,918,171 silver bullion, or a total of silver of $431,184,953. It will be noted that there is about one-third more gold in the United States than silver, though our country produces about one-third more silver than gold. It thus appears as an uncontrovertible fact that gold accumulates in the United States more rapidly than silver; in other words, American silver seeks foreign and even domestic markets more readily than does American gold. It will be noticed also that an accumulation of silver coin in the United States beyond the demands of trade has not resulted from the experience of the past, for nearly all the silver coin now held in the Treasury of the United States is in practical circulation by reason of the silver certificates, while there are $189,988,945 gold coin in the Treasury unrepresented by gold certificates.

And this is the result notwithstanding the efforts made both in Europe and in New York to depreciate the price of silver. In England this is excusable, because they must buy silver for the India market and they produce none; so it is to England's interest to make silver cheap. But in the United States there can be no rational reason except the object be to enhance the value of gold, and then refuse to receive silver in the banks, so the debtor class will have to pay their debts in a money more valuable than when they borrowed it.

In any event it is evident that the entire supply of silver in the United States is in use, while the entire amount of gold is not, and our silver mines show no conspicuous increase in production. Hence, from whence can come an oversupply of silver? I venture to quote again from Mr. Secretary Windom's report, made to the Congress of the

United States in December, 1889, where he shows the improbability and impossibility of the United States absorbing the silver produced beyond the limits of this country. The following is his official statement, showing (1) the annual product of silver coinage valued to be $142,000,000, and (2) he then shows where this silver goes to, namely:

Amount required by India	$35,000,000
Austria and Japan	10,000,000
Subsidiary coinages by Europe and South America	16,000,000
Amount annually exported to China, Asia, and Africa (other than India coinages)	10,000,000
Annual coinages of Mexican dollars not melted	5,000,000
Amount used in the arts	15,000,000
Surplus or balance	51,000,000
	142,000,000

The above is Mr. Windom's estimate, and we infer from what he says that we could absorb all this balance of the silver of the world (if represented by legal-tender paper) and not have too much of it. May I ask what would be the effect if this silver was represented by legal-tender coin as now; under any state of facts could the latter be more dangerous than the former; or if it is suggested we need and should have more silver money, either in its physical presence or by a piece of paper known as a silver certificate, as is the practice at this time, would the annual addition of Mexico's surplus and all the silver product of South America (admitting we absorbed it all, a thing impossible to do)—would this harm us, and in fact would it not be a blessing? But we would not absorb it. These people are going to keep house in the future as in the past; they will buy and sell and use money as usual; and, as before stated, they can not help but get more of our money than we will get of theirs. This may well be regretted, but this condition of things will continue, and, why? The South American Republics produce in most abundance what we must have and what we can not raise; we produce what they can get elsewhere, but what they can better get of us.

For instance, we must buy their coffee, their India rubber, their dye-stuffs. They need not buy our cotton goods,

our machinery, our furniture, our agricultural implements, or our kerosene. It may be better for them to buy of us, but they can get these articles elsewhese. We have no monopoly of their trade, but in one sense they have a monopoly of ours. Necessity makes the world go to China for tea; the same necessity makes the United States go to South America for coffee. It is true they are as much benefited by our trade as we are by theirs, and in some respects they are more benefited; but whether more or less, of one thing I am sure—the interest is mutual.

Thus far in the discussion of the subject before us I have argued in favor of the adoption of an American silver coin uniform in weight and fineness, and receivable at par in all commercial transactions between the citizens of all the American States, and I have endeavored to show that this step can be safely taken by all of these countries, and that it would be financial wisdom for all the American Republics to do so. The report submitted by me to the Conference contains in a more or less elaborate form specific directions for the carrying into full force and effect this view of the subject, and to that end I have ventured to recommend among other things the creation of an American Monetary Union. These recommendations are before you and have doubtless been considered by you.

But in view of the fact that the commercial value of gold and silver at this time is so widely apart, and desiring to err, if err I must, on the side of conservatism, and also bearing in mind that however clear the future of this question may seem to me, yet that in this, as in many other things, the unexpected may happen, and further, that this is an experiment in American finance; and having, I trust, but one aim in view, namely, that of serving the three Americas represented in this Conference, I venture to recommend the limitation of the interchangeable character of this coin in countries other than the ones issuing it to the sum of $50 for each transaction until the relative value of gold and silver shall reach within 5 per cent. of sixteen to one.

My sole object in limiting the legal-tender character of

this coin at this time is to avoid the effect of speculators buying up for gold and at a discount the coin of some of the American Republics and then passing that same coin on another of the American Republics at par. I confess I do not think it would be or could be done, because we must note that every European country has a large amount of so-called subsidiary coin which passes at par, and yet the metal of which it is composed is not worth more than 73 cents on a dollar. And still that coin has never yet been concentrated in the hands of speculators, and it never can be so long as it passes at par in the country issuing it. The amount of such coin is by my recommendation limited.

But as this is the first step taken in American international finance, I have thought it unwise to make that step too long, and by profiting by what was deemed an abundance of caution have endeavored to make that step a safe one instead of a long one, and which, I indulge the belief, if followed, will benefit all the American Republics and injure none of them.

I have also recommended the adoption of the American silver dollar of 412½ grains of silver 900 fine. This was done because there is more of this coin now in use than of any other American silver coin, and because in the United States it is a legal tender in all amounts and for all purposes, and is, as I am informed, held at a premium in some of the Central and South American Republics, and for the further reason that the United States, being much the strongest American nation financially, I thought it would tend to build up in public favor this international coin by adopting one that already had its support.

This proposed monetary union, while dealing with the American silver coin, and appointed for the single purpose of carrying into full effect the recommendations proposed, in the very nature of things, and by the authority vested in it, will keep a prudent watch over the silver currency of the American Republics, for it is prescribed that, by a vote of the nations coining two-thirds of the silver coin herein provided for, they may cease coining this money, or coin more or less of it, as to them seems wise, and thus

no nation can possibly suffer. But, let me repeat again, they can not coin more silver than is produced; and all the silver is coined, and nearly all of it is a legal tender, and passes at par, and yet no serious effect is observed. In conclusion, I recommend the adoption by this Conference of the following conclusions, which were heretofore submitted by me in my report officially presented to this Conference:

First. I recommend the creation of an American Monetary Union composed of all the nations represented in this Conference; that each nation shall select one delegate as its representative to said monetary union; that said delegates shall meet in joint session as often as once in each year, their first meeting to be in Washington, on or before the 1st day of January, 1891, or as soon thereafter as possible; that they shall appoint from among their own number three delegates, one from the United States of America, one from the Republics of Mexico, Central America, and Hayti, and one from the South American Republics; that said three delegates shall, under the direction of the whole body of delegates, have the exclusive control over the coining of the moneys hereinafter described; they shall regulate the amount to be coined by each of the nations represented in this Conference, according to the terms herein provided, and they shall see to it that every coin so made shall be of full weight, uniform in fineness and of the proper inscription, and bear the true date of coinage; no more than the amount of coin herein prescribed to be made shall be issued by the American nations or any one of them. From time to time they shall test the weight and fineness, and examine the inscription upon all international coins made pursuant to this union; they shall order all abraided coin, which shall be found to have lost 1 per cent. of its weight or value, to be recoined by the country issuing it. They shall refuse to permit any of said coin to be made or circulated which is not of full weight and standard fineness, and they shall perform all such other services as may from time to time be imposed upon them by the whole body of delegates representing the American Monetary Union, and of which they form a part.

Second. The nations represented in this Conference, or such number of said nations as shall agree hereto, shall have the power, and it is hereby made their duty, to coin an international silver coin of uniform weight and fineness; that the name of each nation coining any of said money shall appear upon every coin made by such nation; that such coin shall consist of 412½ grains of silver, 900 fine; shall bear a uniform inscription hereafter to be agreed upon, and that the United States of America shall coin not less than $2,000,000 of such coins nor more than $4,000,000 of such coins each month, and the Republics of Mexico, Central and South America, and Hayti shall coin in the aggregate of

said international coin not to exceed $4,000,000 each month, the amount of such coinage by each of said Republics of Mexico, Central and South America, and Hayti to be apportioned among said last-named Republics according to the population thereof. The said delegates to the said monetary union shall make such apportionment in accordance with the terms herein prescribed, and no larger amount of said international coin shall be coined by any one of said countries than is herein provided for.

Third. The international silver coin, made as hereinbefore prescribed, shall be a legal tender in all commercial transactions between all the citizens of the nation issuing it, and be receivable at par for all public dues by said nation, and the said silver coin shall also be legal tender in all commercial transactions between the citizens of all the other American Republics belonging to the said American monetary union, to the extent of $50 for each single payment in all commercial transactions, and to no greater or larger amount, except by the consent of the parties receiving said money:

Provided, however, That said coin shall be an unlimited legal tender in all of said countries when the discount on silver compared with the value of gold at 16 to 1 shall not exceed 5 per cent.

Fourth. The coinage of the continental silver coin herein provided for may be suspended from time to time, or the coinage thereof limited in amount or increased in amount by the affirmative action of those nations coining in the aggregate two-thirds of all the silver coin herein permitted to be coined each month by the several nations forming this monetary union.

Fifth. Upon the dissolution of said American monetary union, or of the suspension of the coinage of said international silver coin, the nation coining it shall receive the same at par for all public dues and in all commercial transactions, and the citizens of such nation shall continue to receive the same at par, and for that purpose it shall be a legal tender, notwithstanding such dissolution of said monetary union or of such suspension of coinage.

Sixth. The American monetary union which is herein created shall come into full force and effect on the 1st day of January, 1892, and it shall remain in full force and operation for the term of five years thereafter, and if one year before the expiration of said five years the nation or nations forming said monetary union and which shall actually coin one-half or more of said continental coin shall not have declared said American monetary union terminated by notice given to the other nations forming said union, then the same shall continue and be in full force and effect from year to year until such notice shall be given.

(The recommendations of the above report were also read in Spanish.)

Mr. MEXIA. I desire, Mr. President, to offer some

explanations made necessary by the brilliant discourse delivered by the representative of Costa Rica, as otherwise it might be thought that the committee had neglected one of the most important points presented in the discussion which has a political importance.

When the debate began in the committee, Mr. Coolidge presented a report and insisted, with so much energy that it be accepted, that the committee suspected that it was an expression of the opinion of the United States.

The committee considered this important point fully, and, impelled by the repeated intimations of Mr. Coolidge, it questioned the American delegates, who formed part of the committee, with the object of finding out whether they had received instructions from the Government to oppose the adoption of the report which had been presented, and which is based upon Article VI of the Act of Invitation.

These delegates seemed so undecided, at least one of them, that the committee was upon the point of dissolving, or rather it had determined to go back to the Conference, in view of this difficulty, and ask for instructions. Then the honorable American delegates requested time for consultation with their colleagues, and, as we supposed they intended also to consult their Government, it was determined to give them the time required. This having elapsed, the members returned to the committee saying that they had consulted their colleagues of the delegation, and one of these esteemed delegates further stated that, not only had he consulted the Secretary of State but the President himself, and that that high functionary had said that they should act according to their own con-

sciences, accepting what they thought best, leaving them entire liberty of action as if they had received no instructions whatever.

The bill presented to the House of Representatives of this country by Mr. Windom seriously affected the committee; but when it heard these explanations it believed that it might continue its labors without taking that fact into consideration, as it was simply a plan which might or might not affect the decision of the Conference, but it was not an accomplished fact and, as on the other hand, this assembly could not be subordinate to the action of any legislative body, it continued its work.

The proposition of Mr. Coolidge was carefully studied, and as there was a desire to know the extent of his opposition to this matter in regard to silver money, I had several conferences with him, in one of which I proposed that we should accept Mr. Windom's bill; that is to say, that each nation might issue its own certificates of deposit, having in its treasury sufficient bullion to cover them, and the gentleman stafed that this was not his desire, but that silver metal, bullion, or "silver bars," as they are termed at the United States Treasury, should be brought to the United States Treasury and that certificates should be issued therefor. The committee could not accept such a thing; it could not insult, in such manner, the nations here represented by asking them to surrender the sovereign right to coin their own money, and demanding that they bring their bullion here to this city and deposit the same in the United States Treasury.

Mr. Aragon (Costa Rica). I very much regret that

the expressions used by the delegation from Costa Rica have caused my esteemed friend, the honorable delegate from Mexico, General Mexia, to make explanations upon this subject. I suppose he will do me the justice to believe that in the words used by the delegation from Costa Rica there was involved no reproach to the committee who have so ably drawn up the report upon this subject.

I was the first to express my admiration for the report, and even said that I would give it my support, as it was satisfactory to me. Afterward I went still farther than what the committee had proposed, inasmuch as I suggested that although all the nations could not enter into this arrangement, we would leave it open for such States as had declared that they had no objection to the plan. I will, therefore, repeat that, if there was in my expressions anything which might be taken as indicating a reproof to the com mittee, it was simply in the expression and not in the idea. It is entirely clear to me, from the able manner in which the subject is treated, that the committee have very thoroughly studied the question and carefully drawn the report submitted to the Conference.

The speech just made by the honorable delegate from Mexico is of great value, because it has laid bare to the assembly many of the inner workings of the committee in the discussion of this report. This is a very important matter, for these inner workings were necessary, and it is well for the Conference to know of them and to take note of them; that is, that the American delegation in this matter is not acting under instructions; that their delegates are authorized to act according to their private opinions, and as there

are in that delegation two opinions, we are unable to discover the real opinion held by the American Government.

On the other hand, I think that the committee deserve praise, and for my part I gladly accord them the same, for the most satisfactory words in which Mr. Mexia concluded his speech; that is, that he considered as offensive in itself the proposal that all the nations here represented should send their bullion to the United States in order that this nation should issue to them Treasury certificates. The manner and tone in which he expressed himself clearly show how thoroughly deserved are the deference and profound respect with which the Conference has regarded him and the other members of the committee.

Mr. ALFONSO. I ask the floor.

The PRESIDENT. Mr. Alfonso has the floor.

Mr. ALFONSO. And I ask it, Mr. President, to make a point of order. I believe, from what has been developed in the debate, and as far as I am personally concerned, without understanding, except imperfectly, what has been said by the honorable delegates, Mr. Coolidge and Mr. Estee, it is indispensable that this business should be suspended. I do not know whether I shall make any remarks, because I do not understand what has been said and I do not know what to say in reply. We can not fail to follow the same course as that followed in the debate upon the report of Customs Union. We found it impossible to understand each other perfectly, and it is, therefore, necessary that translations should be made in both Spanish and English. I therefore move that this be done.

Mr. ARAGON. I have no objection to this matter

being laid over; the more it is discussed the more will be the light thrown upon the subject. It is, of itself, important enough to demand the most calm and prudent deliberation in order to arrive at the desired solution; but I take the liberty of saying to the honorable delegate from Chili that up to the present the question has not changed in a single point from what he knows it. The speeches which have been made have only been illustrations of the opinions of those delegates. Up to the present, I repeat, nothing has been said which substantially changes the form of the reports of the majority and of the minority.

In what he said yesterday Mr. Coolidge limited himself to showing that all questions upon Monetary Union should be suspended until it was seen what would result from the efforts of the United States to reach bimetallism; and the conclusions of the speech made by Mr. Estee are the same as those read at his suggestion. Of course it is very important to know all the arguments which have been presented as to this matter; but I suppose that it is no more than a repetition of what the delegates have heard from the lips of the reporting member and what happened in the meetings of the committee.

It must not be supposed from this that I have found any objections or that I am in any way opposed to the suggestion made, but I do wish to convince the honorable delegate from Chili that the substance of this matter has not changed one iota. The brilliant discourse of Mr. Estee is full of quotations, but he himself has come to the same conclusions which by his suggestion were read by the Secretary; and Mr. Coolidge maintains his ideas.

Mr. Alfonso. I will only say two words, thanking the honorable delegate from Costa Rica for the explanation which he has just made; but, as he is not opposed to the motion offered by me, this is still before the Conference in the understanding, and I may almost say the certainty, that I, giving credit, as I certainly do, to his words, shall not have the honor to take part in the debate; but, under all circumstances, for the satisfaction and tranquillity of the delegates from Chili, it is indispensable to know in detail all that has been said in order to appreciate the subject.

Mr. Bolet Peraza. I think that the discussion of this matter, though prolonged as requested by my honorable colleague from Chili, will carry us to no practical result, other than that of giving us information upon this question (which to me is very interesting), as it is a point upon which not only ourselves and the United States delegation are divided, but the world in general has discussed without coming to any conclusion thereon.

Economists differ; there are various principles; the subject is still being discussed in the whole universe; what will we, then, gain in a discussion of this matter?

The delegation of the United States presents two reports; it would be impossible, as we have seen, for either of the promoters of the respective ideas presented, to retract; and, as regards the rest of the delegation, their opinions differ, though they are all alike based on the unanimous belief in the convenience of a uniform coin for use in the commerce between the Republics here represented. What should

this money be? What should the system be? How shall this idea be realized? These are the points upon which we differ, and I think we will continue to differ upon them for a long time. The sessions of this Conference will end and we will never reach an agreement.

The majority report of the committee, in my opinion, wisely foresaw this case, and provided the means to prevent this idea being lost in the digressions of the debate, and for this reason it presented a motion which suspends the decision upon this subject, submitting the same to a special commission composed of the proper persons to study deeply into the matter and settle upon some basis, which is all we can hope to do as regards the realization of this idea.

There are various persons in this Conference, various delegates, and I count myself amongst the first of these, as I am about to declare myself the most incompetent of them all—various delegates, I repeat, who have not cultivated this branch of political economy, who are ready to vote solely from sympathy, and for reasons which have been here adduced, but which, in reality, may not be the most advantageous to the nations here represented.

All the nations which have united for the purpose of creating a uniform coin have done so in special conferences; the persons best fitted for the purpose have been appointed by the respective Governments. For example, as regards the speaker, I would vote in sympathy with the plan of the honorable Mr. Estee. His idea has captivated me; I find it simple and practicable; a uniform coin for all the American nations, worth as much in the United States as in Mex-

ico, Chili, and the Argentine Republic, is the desideratum in the premises; a limitation as to the quantity of this money, so that there shall be issued only so much as is indispensable for the commercial purposes of the various markets in which it circulates, is a very prudent measure, because any excess of the circulating medium would injure the commercial interests and produce financial uneasiness; but farther than this I am unable to express an opinion.

In the intricacies of this labyrinth of difficulties and embarassments, which present themselves, not only here, but throughout the world, it would be impossible to reach any result which did not indorse the wise report presented by the committee, and which report it is now suggested should be left to a special conference to be named by the respective Governments and composed of persons versed in the subject, who would not discuss arbitration, nor port dues, nor customs regulations, but only the money question; persons who are specialists and who understand the subject, because this is a subject for specialists.

I make these remarks in the first place because of my regret not to be able to vote with Mr. Estee, though his project is seductive, and in the second place because of my support of the report of the committee.

Mr. QUINTANA. Mr. President, our delegation will never oppose the putting off of the consideration of a subject in order that each delegate should study the subject conscientiously; therefore, if the time should come to vote upon the motion of the honorable delegate from Chili, the delegation will give its

consent; but it understands, Mr. President, that at this moment the question before the Conference, and which can not be set aside, is one of the most important which have arisen in the proceedings of the Conference.

The chairman and members of the reporting Committee of Monetary Union, has declared in this assembly that the delegation of the United States lacks official instructions from its Government upon this most important subject, which is one of those which the Conference was expressly invited by this Government to discuss. The remarks by the honorable delegate from Mexico do not, assuredly, need confirmation either for us or for any one else; but the silence maintained by the United States delegates confirm them fully.

But, on the other hand, Mr. President, there is a fact which gives still further confirmation than this silence. A delegation only represents one nation; a nation has but one vote, and in the presence of these facts I ask myself: How can a single delegation advance two opinions, two ideas, two plans so entirely distinct that they contradict each other openly?

The honorable Mr. Coolidge finally proposes, since he withdraws his previous proposition, to suspend action upon this subject. On his part the honorable delegate, Mr. Estee, whose plan does not fascinate me as much as it does my distinguished colleague from Venezuela, proposes the creation of an international coin which would be legal tender only to a very limited amount, and which for this reason would be ill adapted to perform its functions.

I understand by international money something

which could circulate freely in all parts of America and be legal tender not only for the payment of dues but for all commercial payments, without other limitation than as to the quantity of money coined. But this project, Mr. President, which would thus change the character or restrict the scope of the scheme proposed by the United States, is in open contradiction to the project lately submitted by Mr. Coolidge, because that, at base, draws our attention to the subject and determines the decision thereof in a given sense.

The question, Mr. President, which arises from these facts is inevitable. The sun can not be obscured by placing your hand over your eyes. Is this a Conference of private individuals speaking for themselves and discussing all the questions which a government, which an academy might have submitted for their consideration; or, is it, on the contrary, a diplomatic Conference in which all have an official character and in which the words each delegate utters are understood, and should be understood, as representing the ideas of his Government?

The question being put in this manner, Mr. President, the result is this: This Conference owes its birth to a law of the Congress of the United States, to an invitation from the Government to the other countries, and to the acceptance of all of these who officially nominated its delegates.

The delegates have presented their respective powers; these powers have been ratified in the bosom of this assembly; but the delegate who speaks in his own name speaks without full power; and I say further, if he is not even able to interpret his powers, he he has no right to a voice in this assembly; he has

no right to present his private opinions to representatives of foreign Governments. The persons who have a diplomatic character and who deal with these matters can not take into consideration private opinions, they do not speak in their own names but take into consideration propositions made by their Governments through the medium of their delegates, and reply to such in the same character.

For this reason, Mr. President, I remarked that, before deciding upon the motion made by the honorable delegate from Chili, there was a previous question to be decided. If the motion which demands the translation of these discourses so that the discussion shall be continued upon this basis is accepted, it is tantamount to admitting their official character; an official character which is lacking from the moment that each delegate follows his own inspirations and has no instructions from his Government.

This being the case, the question to be determined is as follows: Can these opinions be expressed? Can they be translated? Can they serve as a subject for the deliberation of this Congress? The Argentine delegation, in consequence of the ideas expressed by it from the very first day, insists that it can not take these into consideration nor continue negotiating upon this basis. It will have the greatest pleasure to remain here to the close and to treat of and decide upon all subjects for which the Conference was convened; but these must be treated officially, as representatives of its Government, and with those who hold an official character and speak in the name of their respective Governments.

Mr. ESTEE. Mr. President, I find that article ten of the rules provides that—

> Each delegate may offer to the Conference his written opinion upon the matter or point in debate, reading it or having it read by one of the secretaries, and ask to have it inserted in the minutes of the session in which he shall offer it.

It was in accordance with that view that we expressed our opinions. Of course I knew that the American delegates differed upon this question, because we have a large number of members in our delegation. I knew my opinions were not indorsed, but we expressed our individual views, as we understood we had a right to do under the rules of this Conference. We can not separate our individual opinions from our national opinions. The above rule is intended to allow any gentleman to express those opinions. As for the Government of the United States, it never has instructed us upon any subject of which I have had any knowledge. On the contrary, I know personally that, so far as some of the Department officers are concerned, they refuse to instruct us, leaving the matters to us to do the best we can. I mention that fact so that our friends will know that we did not intend to thrust our opinions on this Conference; but they were opinions which, while representing our own personal views, also represented lines of policy which affect our own country. So I expressed my opinions and my colleagues expressed their opinions.

Mr. COOLIDGE. I only wish to say a few words. I agree entirely with my colleague, that the reports of the various delegates from the United States are

merely expressions of their private opinion, and that we consider that we have a right, according to Rule 10, to express those opinions and request that they be annexed to the minutes of the Conference. We do not desire that they be translated if the other gentlemen do not want them. But in answer to the distinguished gentleman from the Argentine Republic, I wish to call his attention to the fact that the United States is an independent government, and that it has a right to instruct its delegates as it sees fit. If it chooses not to give specific instructions, but to say to those delegates that it will approve of what a majority of them decide to be right, it does not exceed the authority of an independent nation in so doing. I wish further to state that if the honorable delegate from the Argentine Republic wants the official opinion of the Government of the United States, all he has to do is to call for a vote, and the vote of that delegation will be the official opinion of the United States Government.

Mr. Aragon. I very much regret not seeing the honorable delegate of the Republic of Venezuela in his seat, because my remarks will have reference to what he has said in regard to his way of looking at the point now under discussion. If it were not because this subject may be postponed, in virtue of the request made by the honorable delegate from Chili, I would not now occupy the attention of the Conference, but wait until the delegate from Venezuela shall be present to hear the remarks which I have to make in regard to his opinion.

But as we are endeavoring to throw upon this subject all the light possible, and without flattering my-

self that I am able to furnish this, it seems to me worth while to know from what point of view each one considers this question, keeping in mind its grave importance to every one.

I believe that the subject which occupies our attention to-day is far from having the grave importance attributed to it by the honorable delegate from Venezuela. From my stand-point it treats of the adoption of a common money coined according to agreement with the Governments and having an international circulation and a legal currency in all the countries which will subscribe to the contract. This is precisely the subject of our discussion, and up to this point our power reaches; after that come the difficulties, if we wish to proceed to draw up the formula heretofore so difficult of ascertainment, the adoption of which would keep a given number of grains of silver equal in value to a given number of grains of gold. That is the really difficult problem; but it is far beyond our reach, and although, indirectly, it falls within the scope of our investigation, it is not exactly the object of our mission, nor is this the time to determine the subject.

It might be asked, then, how is this money to be made legal tender, since the legal tender quality consists in the acceptance by the Governments of such money in payment of customs dues, or is made obligatory by reason of the development of commercial transactions? The debate reaches this point.

What constitutes money legal tender? The circumstance that it can not be refused in payment; that I could not refuse the money of this country which is authorized and accepted by virtue of treaties.

This is legal tender; but between this and insisting that 25 grains of silver $\frac{900}{1000}$ fine shall be equivalent to a given quantity of gold, there is a vast difference; and it is probably upon this point that no agreement can be reached, because the laws of political economy and of commerce are above any direction which a government might desire to exercise. These laws exist in the very nature of things, and will always prevail, as the sun always rises, though there may be some who hope that it will not shine.

It must be borne in mind that all the world knows, as well as we, who are discussing the question, how many have been the forecasts made as to the result of this Conference; it has been said that it is a complete fiasco; that nothing will come of the agreements made here; but under all circumstances we are morally interested in accomplishing the work of this Conference, otherwise we would present the spectacle of being called together to consider a project which is impracticable.

I think we have all assumed a certain responsibility and therefore we should endeavor to conduct the matters with which the Conference has been occupied, to some practical result that will be of positive advantage to all the countries represented, justifying at the same time our labors and the object of the convocation, which in its fundamental point is of great importance, and it seems to me that the Conference must be weary of hearing me say so.

For this reason I remarked, yesterday, that I believed the very end we are seeking might be reached without conflicting with existing interests and the laws of political economy.

I desired that the delegate from Venezuela should hear these observations although he agrees with me in supporting the report and ideas of the majority of the committee. Nevertheless, I desire to go a step farther, that is to say, though the United States, for special reasons, can not form this union or accept the plan with the same enthusiasm it at first manifested, at least the idea is defined and it will not be a dead letter for those nations who are not in the same situation as the United States.

The question is simply the adoption of a common coin to be legal tender in all the countries which shall subscribe an agreement and we will leave, as I have said before, the business of determining the equivalents of gold and silver for a later time, if indeed the problem is soluble. This will be a great step in advance and will have fulfilled the object embraced in the act of invitation.

Mr. Saenz Peña. I should regret, Mr. President, to have the honorable delegate from the United States, Mr. Estee, misunderstand the remarks made by my colleague in the name of the Argentine delegation. Our delegation heard, with pleasure, the fine discourse delivered by our distinguished friend, Mr. Estee, and the speaker, especially, has taken the occasion to compliment him sincerely upon the speech delivered by him in another session.

It is not his position, then, that has caused the attitude and the vote of the Argentine delegation; it is the disagreement existing in the United States delegation which places the assembly in a truly difficult situation, as we do not know, up to the present moment, what will be the vote of that delegation.

The honorable delegate, Mr. Coolidge, remarked that the United States, in virtue of its independence, reserved the right of giving no instructions to its delegates; but the gentlemen should recollect that all the delegations represent Governments equally independent, and that all of these have proceeded otherwise and given to their delegations, together with their powers, the proper instructions.

This is of great significance in diplomatic law, because acts, ratified by a representative under instructions from his Government, are acts which are morally binding; when the instructions are exceeded the acts have no value for the nation represented by that delegate. We have, then, delegations which bind their respective Governments and others which bind no one, and this in virtue of an independence which is common to all nations as well as to the United States.

The honorable delegate, Mr. Estee, has referred to an article in the regulations in order to justify the division in the United States delegation, which gives authority to each delegate to present his vote and ask that it be entered upon the minutes; but that article does not authorize nor does it refer to a case of a division in the membership of the same delegation, and in order to prove this it is sufficient to observe that the only case presented in the Conference of a division in a delegation is the present one existing in the United States delegation. There has been no other example; if in any other delegation composed of two members there have been differences of opinion the delegation has withheld its vote, but it

has never presented two reports which destroy each other.

As the Governments here represented hold opinions at variance with that of the United States, the question of instructions, Mr. President, is a very grave one, because it affects the power exercised, and, I repeat, it is necessary that all and each of the nations here represented should be furnished with identical power. The Argentine delegates bring with them instructions which govern all and each of our acts. The Conference may be sure that where the signatures of the Argentine delegates appear there also exists the moral obligation of their Government to fulfill these compacts.

It is for this reason that the Argentine delegation—which proceeds with that gravity which gives importance to all of its resolutions—can not accept a legal condition which is different with other delegates with which it is associated.

I respect the resolution of the United States Cabinet and the latitude of action with which the delegates who represent it in this Conference are favored, but I also respect the gravity of our actions and the proceedings we should follow in the discharge of our mission.

For my part, if this vote is confirmed by my honorable colleague, Dr. Quintana, I will not vacillate in saying that if the delegation of the United States does not hold the opinion of its Government the Argentine delegation will not give its opinion upon this subject.

Mr. QUINTANA. Not only do I confirm the declaration just made by my honorable colleague, Dr. Saenz

Peña, but I had already so expressed myself in the name of the delegation. It is understood that when a Government does not give instructions to its delegation it places the responsibility upon its representative, and these representatives can not say that they may treat with their colleagues without binding their Government.

Mr. VELARDE. Even though the honorable chairman of the Committee on Monetary Union has made some explanation with regard to the exceptional and delicate situation which the committee occupied while treating of this subject, I will take the liberty of adding to these explanations with regard to the incident quoted.

It is true that the committee found itself in a very difficult position in the presence of two contrary opinions held by the United States delegation, and it inquired: Can any report be made upon this subject when the delegation of the Government who extended the invitation hold diverse opinions, and do not bring to the committee the opinion of its Government.

The first thought was to desist from carrying out the plan and to bring the subject before the Conference for its consideration, but upon maturer study of the matter it was recollected that this assembly had met here by virtue of a law of the United States and by invitation of that Government extended to each Government of America, and informing them of the subjects which were to be treated. In said act of invitation Article 6 sets forth that the Conference shall study the subject of a common silver coin as a legal tender for all the nations. These were the two

points submitted to the consideration of the Governments of America.

The majority of the committee was in accord with this idea, as is shown in the report presented to the Conference. Ought the committee to have remained silent and declined to give its opinion upon this matter? It believed that it was complying with its duty by expressing its opinion upon the subject, the more so when it had the conviction that in the course of the debate upon this question, the American delegation would have an opportunity to come to an agreement upon the subject, to consult its Government and to bring the vote of the Government to bear upon the matter. This seemed the more feasible when the honorable Mr. Coolidge declared that if it was desired to know the vote of the United States, that vote would be given at the proper time.

But another question now arises, should the Conference accept the vote of those delegates who have received no instructions from their Government? This is a new point and a very delicate one which undoubtedly deserves to be taken into consideration; but before we arrive at the taking of the vote it would be well to elucidate the question and reserve the right to give or withhold our vote when the result of the discussion shall have been finally reached, and it is shown that some delegation, like that of the United States, is not furnished with instructions from its Government. But I understand that this large delegation has full powers, for they have exhibited such, and in virtue of these full powers they have been working from the opening day of the Conference and, should this delegation come to an agree-

ment, their vote would undoubtedly be understood as the voice of their Government.

But we can not hope that the majority of the committee will concur in this vote. We noticed that from the first there were two opposite opinions; that of Mr. Coolidge, which suggests the idea that no more silver shall be issued, but that there shall be forwarded to the Treasury "silver bars" or bullion for the value of which, in proportion to gold, certificates will be issued by the Government of this country.

This idea which was at once rejected by the committee, was contrary to the idea of the other honorable delegate, Mr. Estee, who pleaded for a silver coin as a limited legal tender. The disagreement which existed in the majority of the committee and the vote of Mr. Estee was only as to the limitation of the legal tender.

Mr. Estee believed that a legal tender should not be accepted, as such, for any sum over fifty dollars; a sum so small as that would be useless; it would take away all the merit of an international compact that might arise from this Conference and it would destroy completely its obligations.

The majority of the committee believe firmly that it is to the interest of America to have a common silver coin of uniform weight and value; and that this should be received in all the transactions carried on between the citizens and the Government.

What should be the weight, value, form, and proportion of this money in relation to gold? The committee did not feel authorized to express an opinion upon this point, as it did not consider itself sufficiently informed in regard to it, and it thought, as suggested

by Mr. Estee, that that point should be referred for decision to a special committee to meet in Washington at a given time. If the Governments of South America should accept the plan, as well as the United States, to have a common silver money with equal value and weight, then all the Governments would send special delegates to discuss the question fully, and to determine the weight, purity, and form of this money and its ratio to gold, for, as we are aware, this is one of the factors to be taken into consideration in issuing money. Bimetallism, which we favor, needs to take into careful consideration the price of gold and silver. The Latin Monetary Convention fixed the relative values of these, but these values have changed with the changes of the price of gold and silver. Then, this delicate point, as well as other points, will be determined by this Monetary Convention if it meets with perfect concurrence of all the Governments concerned; but not in any sense the point whether or not this silver money would be advantageous and whether it should be a legal tender; and I believe, as does the committee, that the Conference may study this point and invite upon the subject the vote of the United States delegation, which I have no doubt will be frankly given, since that delegation is bound to represent the opinion of the Government which convened us under a law of Congress.

Mr. Martinez Silva. As 6 o'clock is about to strike, and as I suppose the resolution offered by the Honorable Mr. Alfonso to suspend the debate upon this subject until the speeches delivered by Messrs. Estee and Coolidge shall have been translated, will

be first voted upon, I take the liberty of observing that, in my opinion, the subject under debate should be dealt with slowly in order that each one of the delegates may take part in the discussion. As the point is a delicate and important one we should collect the greatest possible amount of light and information. Therefore the discussion may still go on and we would thus be gaining time whilst the translations desired by the honorable Mr. Alfonso, and which he has a perfect right to demand, are being made.

I would, for this reason, ask him not to insist upon a vote on his resolution to-day, but let a few days transpire in which this debate may be continued.

Mr. ALFONSO. I am in perfect accord with the gentleman and therefore I will not insist to-day that a vote be taken upon my resolution.

Mr. ROMERO. Then, Mr. President, will the discussion be continued in this manner to-morrow?

The PRESIDENT. The Chair is obliged to inquire of the honorable delegate from Chili, before replying to the delegate from Mexico, whether or not he withdraws his resolution.

Mr. ALFONSO. No, sir, I do not withdraw it; and besides, the motion of the honorable delegate from the Argentine is before the Conference; the discussion of which will be taken up to-morrow, as it is now quite late.

The PRESIDENT. The Chair has no objection to the suspension of the session, since the regular hour has struck; but in order to avoid a long debate it is necessary that the point under discussion be clearly determined. I would ask the honorable delegate from the Argentine Republic to be good enough to

state whether he has any motion before the Conference and what it is.

Mr. QUINTANA. I was just about to ask the floor. The Argentine delegation has not really made any motion. It has presented to the Conference the actual condition of things in virtue of the statements which have been made. The delegation has expressed its opinion to the effect that no propositions or opinions can be taken into consideration unless such are presented by the delegation in the name of the Government which it represents. When we say delegate, we infer a representative and from the moment an opinion is expressed personally the representative character is suppressed. As this has occurred to-day, in the Conference, the Argentine delegation has declared that it will abstain from voting unless the United States delegation states that it speaks and votes in the name of its Government. This declaration was not made before because it was not understood and could not be supposed that the United States delegation spoke and acted in their own names; but now that this has been expressed the Argentine delegation repeats, in the name of its Government, that it can not treat with delegations who do not express the voice of their Governments.

This is the rule of conduct in the Argentine delegation.

Mr. ESTEE. Mr. President, let me say to the Argentine representatives on this floor that all the instructions we have ever received are those contained in the law that called us together. We have never been instructed by our Government so far as I know and beyond any question we never will be. There are

ten delegates from the United States and they express their private opinions whenever they wish to, but when they vote they express the opinions of their Government.

Mr. QUINTANA. I beg the Conference to give me its attention for a minute.

The FIRST VICE-PRESIDENT. If there is no objection, the honorable delegate from the Argentine Republic having asked for the floor, the session will be continued beyond the accustomed hour in order that he may offer an explanation.

There was no objection.

Mr. QUINTANA. I duly thank the Conference for the implied concession and I will not abuse its kindness. I will only avail myself of the privilege in order to define clearly and exactly the position of the Argentine delegates. This can be done in two words. The Argentine delegation does not exact from any other an expression of its instructions, but it does exact of all the delegations what it itself does, that is to say—that they speak and vote in the name of their Government. If a Government gives no instructions to a representative it means that it has accorded him a vote of confidence and it is a question between the representative and the Government; but this representative can not come here and say, whilst treating with foreign powers, "I speak in my own name; I treat in my own name." Much less should it say: "I speak, discuss, and vote against the instructions of my Government." Such a representative might be answered with thanks for his statements, but officially and in the name of my Government I could only consider this admission as closing the debate.

This is the principle of conduct pursued by the Argentine delegation and this the declaration it makes that it will neither discuss nor vote upon this subject.

Mr. ESTEE. Mr. President, one word. We do not represent our individual positions on this floor. We are delegates representing the United States of America. The committee of this Conference has passed upon our right to sit here. We represent our Government, even if not instructed by it. Our voices heard in discussing questions are individual, but our final acts are national. The members of the Argentine delegation may consider a subject in their own way and they may discuss all sides of that question, but their vote represents their Government. Our final voice represents the opinion of our Government. What more can we ask of the Argentine, and what more can they ask of us? We are officials here, occupying exactly the same positions as the honorable delegates from the Argentine. There are ten delegates representing the United States, and those ten delegates as a whole necessarily represent the whole country. But each of those delegates has his own opinions upon the various subjects before this Conference, and until those opinions are crystallized into a vote the voice of the delegation is not heard in the discussions. We may differ widely before reaching the result, but the result is the vote of our country. I have no right to ask the Argentine delegation whether it is instructed, and they have no right to ask us. I do not know what the instructions of the Argentine delegation are, and I do not think that I have the right to ask what they are. But we represent sovereign nations, and when we take our seats

here we are equals and entitled to a vote, but the manner in which we approach that vote can not be attacked by any member. We have a right to use any argument that is in the power of man to produce, but when our voice is finally heard by a vote then our country passes upon it and we are held by it. Until that moment arrives we are not. It is like asserting that because there are ten of us it would require nine to represent our country. I confess the question is so new, so unexpected, and may I not say with very great respect, so unusual, that I am very much surprised, because our acts, whatever they be, are intended to represent honest convictions; and the result of our acts will voice the wishes of our country.

The FIRST VICE-PRESIDENT. It being so late, and the questions raised by the motion of the honorable delegate from Chili being of such importance, I think it worth while to suspend the session so as to continue the discussion of this subject to-morrow. I am afraid that it being so late to-day not one of the delegates will have the chance of giving to his ideas the development that he would himself desire. I simply submit this idea to the Conference. If there be no objection the session will be adjourned. The Chair hears none.

SESSION OF MARCH 27, 1890.

The PRESIDENT. The order of the day is the continuation of the discussion of the report of the Committee on Monetary Convention, on which Mr. Silva, of Colombia, has the floor.

REMARKS OF MR. SILVA.

Mr. SILVA. Mr. President, I stated yesterday that it is most desirable that the matter we now have in hand should be discussed deliberately, not with the hope of arriving at an immediate solution, but with that of obtaining the greatest possible collection of data, and in consequence it would be very useful for each of the delegates to state the position of his Government on this question and the advisability or non-advisability of accepting the measures proposed. To this end, that is, briefly to explain the position of Colombia on this point, I have asked the floor, but before going ahead I should first make a statement: The Colombian delegation has not on this subject, nor on the greater part of those submitted to this Conference, clear and exact instructions from its Government. The Colombian Government understood that it had been invited to a Conference, and not to a diplomatic Congress to sign treaties; that the purpose was to exchange and collect opinions, thus to prepare the way to future decisions. For that reason it did not give its delegates detailed and exact instructions, but told them: "Go, study the subjects, form your judgment, formulate the conclusions, accept them if you believe them advisable for the interests of the country, for the Government reserves the right to approve or disapprove, and act or not pursuant to the decisions of that body." Wherefore we do not bind our Government; we can not say here, as was stated yesterday by the honorable delegate of the Argentine Republic, that we have clear and full instructions, that what we may say and sign is understood as being said and signed by the Government of Colombia.

This said, I shall briefly explain the economic situation in Colombia regarding the question of money.

In the first place, I should state that in Colombia we are under the régime of paper money which has already had some years of circulation and we do not yet know when we can dispense with it; perhaps it may be the work of several years more, and it can very well be seen that, under this régime, we can not think of accepting definite measures

respecting another money; for it is well known that paper money begins by displacing first gold and then silver; that is, first the coin of superior fineness and then that of inferior, and if the paper is depreciated even the poorest coins are driven away. This is the fact.

In Colombia we have neither gold nor silver, but simply paper money, wholly dependent upon credit. Colombia has always been a silver monometallist country, for even though our laws have established the double basis of gold and silver and has even fixed their relation, it has not been effective in practice. Gold has been considered as a commodity, and there have been occasions when it has suffered a discount in relation to silver and other occasions when it has gone up considerably without ever taking into account the fixed relation.

Colombia is a silver-producing country, but gold it produces in greater quantity. Therefore this latter production is the principal and next comes that of silver, so that as far as the industries are concerned, or the industrial interests, we have not any special interest. The circumstance that the paper money régime exists in Colombia demands of us that this question be suspended at least for a short time, so as to give it form, I do not say to refuse to enter into any agreement, but to carry it into due effect in practice.

Our interest, then, lies in preventing silver from undergoing too sudden fluctuations, which cause a considerable effect upon international exchange and greatly injures commerce. If we could fix the rate of exchange trade would undoubtedly gain a great benefit, and that is our personal aspiration. We have not pretended, nor could we, to equalize gold coin with silver coin, because we understand that that can not be done by artificial means. Gold is always a metal superior to silver as money; this is an indisputable fact. Gold is a metal which most lends itself to commercial transactions, above all in rich countries having an active commerce and great industrial movement. Silver is, so to speak, the democratic metal; silver is the money of the poor, gold is the metal of the rich, but as in every place there are rich and poor, in

every place gold and silver are needed. To put them at a par is to try to do an impossibility, something akin to rashness, for as I have said, gold has conditions which make it better fitted for money than silver; and as in a country with an active commercial movement the railroad is preferred to the cart, the cart to the mule, the mule to the ox, and the ox to the human back, so also is gold preferred to silver, for gold is a vehicle swifter and easier as a means of communication, and under similar circumstances a nation prefers having gold to having silver. But since the two metals are to exist as money, it would be very desirable to reach a relation between them as far as possible fixed and permanent. This is the ideal, that is the aspiration, and this has been the principal point to which the committee has directed its study. So that when the committee has proposed the adoption of a dollar which shall be legal tender, it has not intended, at least I have so understood, that this legal-tender dollar should be on a par with the gold dollar, for it is clearly stated in the conclusions of the report that that conference which it is proposed to call together later shall fix the relation between gold and silver.

Neither have we wished an unlimited quantity of silver to be coined, because that would be a matter of grave danger. There are not wanting those who really propose it, nor are there those wanting who propose that the gold and silver dollar be put on a par; but as can be seen, if this should come about the immediate result would be that all the gold would flee from America to Europe, where it is desired, and America would become an exclusively silver monometallist, and Europe a gold monometallist, causing for commerce a situation at once difficult and strained, a situation at which I do not believe we can or ought to arrive. Countries like the United States which have gold need to preserve that gold and I understand that the Argentine, Chili, Brazil, and Mexico, which have an active commerce, are in like circumstances. We, the poorer countries, content ourselves with silver, even though it be silver only for redemption purposes, but we would wish that

silver should have more value and should not be subject to so many fluctuations.

All these problems were considered by the committee, and for that reason it believed it more advisable to recommend the subject to a council or committee of experts to meet here, in case the Government of the United States approves the idea, to resolve all these technical questions; and I think that is the only thing we can arrive at, since we can not solve the problem for the reason that we have not the necessary data and since, even if we should reach a definite conclusion, no practical results would be forthcoming, if the United States do not previously settle this question as far as possible with Europe; for its commerce with Europe must be taken into account as a factor of that problem, since the United States can not resign themselves to lose their gold and become reduced to silver monometallists.

Some have thought to see a change in the policy of the United States by the introduction of the Windom bill in Congress, and it appears that this is something in contradiction to the text of the act calling the Conference together.

In my humble judgment, that bill is not a change but rather a corroboration of the continuance of the plan. What is the dominating idea in the financial policy of the United States? Well, it is to raise the value of silver; this has been the trend of all the laws passed of late years, but as it has been seen that they are not sufficiently effective, a new bill has been introduced which it is thought will bring about the result. That it will bring it about, we know not; this is a trial and nothing more; there may be an error in the calculation, but it can not be judged *a priori*. And if the result is attained what will it be? Undoubtedly to raise the price of silver, and having raised the price of silver, we shall have the solution of the definite problem sufficiently advanced. Therefore, what appears to be an accidental deviation may be, perhaps, the step leading to a definite solution.

For all these reasons I believe that the question can not be hurried; at least a year should be allowed to pass, and

perhaps it would not be too much to say two or three, to see what course the financial policy will take, and, above all, respecting everything referring to silver, so that the nations of America which are under the régime of paper money—and there are several, for if I am not incorrectly informed Brazil is under this régime, as well as the Argentine and Chili, I do not know if any other Spanish-American countries, but we have already three or four nations of some importance—may prepare themselves, because they could not at this time enter into an immediate conversion of their paper money.

For all these reasons I have supported and support the conclusions of the committee's report. Perhaps there is some point to which I do not agree fully, for it appears to me that the period of one year, which is the term fixed upon to pass before the meeting of the Conference, is too short, because in that time the matters which are to bring about the solution of this problem can not be developed.

The physical and economic situation of Colombia, as well as our personal position and our understanding of this question explained, I deem it unnecessary to continue occupying the attention of the Conference.

REMARKS OF MR. HURTADO.

Mr. HURTADO. Mr. President, I rise, in the first place, to say that the delegation from Colombia would like to reserve to itself the right of putting on record its opinion on the subject. I would state more or less what those opinions are at present, but after we have been enlightened by the discussion of this subject by the different delegates here present those opinions will probably be modified. The Government of Colombia has understood that the invitation to this Conference was not to negotiate but to exchange ideas, to ascertain the sense of each country on the different questions included in the programme of invitation, and to see how far they agree and to what extent it may be possible to make their interests harmonious. This, with the exception of the question of arbitration, was the purpose for which the Conference was convened. With reference to all other subjects we are called together

only to take them into consideration. Consequently, as my colleague has already stated, we do not consider that it is indispensable that each delegate should give on the subject the precise idea of his Government to the extent contained in their instructions, for in that case it was almost useless calling us together if those ideas existed beforehand. We come here to exchange ideas and to ascertain, as I have said before, how far they harmonize, and in what we disagree. With reference to the question under consideration, we believe it is premature, because a large number of the South American nations are unfortunately under a paper currency, and, what is worse, a depreciated paper currency. Now, it seems to me that the first thing to be done by nations in that situation is to place their paper on a par with the silver dollar, and when that object is attained then it will be time to attempt to bring the silver on a par with gold. Perhaps it may be said that the two are independent of each other, and that you might let the paper take care of itself and to make such provisions only as would bring the silver on a par with gold. I think that such reasoning is erroneous, for this reason: The chief factor in bringing silver on a par with gold is credit. Therefore it is indispensable that Governments should first establish their credit.

Now, as to the carrying out of the idea of a common silver coin which should be coined in the different countries and which should be a legal tender all over this continent. It seems to me under the present condition of things, and even supposing that everywhere the paper money were on a par with silver, that it would be a very disadvantageous arrangement for the United States, for the simple reason that it would cost but 75 cents in gold to coin a silver dollar anywhere in America. And if they were worth 100 cents in the United States then all those silver dollars would come to the United States to be sold for a hundred cents. We have nothing that will give so large a profit. By investing 75 cents we could get, immediately upon the arrival of the coin here, 100 cents for it, and if the quantity were sufficiently large it seems to me that it would go to the treasury. If that gold were all for exportation it

would be the means by which South America would pay debts to Europe. Therefore I say that if this Conference recommend that the proposition submitted by the programme—that is to say, the adoption of a silver coin that should be legal tender all over this continent—be adopted, the United States would naturally take the stand that they would be ready to do so provided the other nations placed themselves in the same condition that the United States would be placed in; that is, provided the Southern Republics had the same facility of redeeming the silver dollar with gold. But for the United States to maintain the position that they give the Southern Republics the right of coining silver dollars and bringing them here to exchange for gold would be much the same as giving these Republics the privilege of printing bank notes to be redeemed at the treasury of the United States. I look upon the silver dollar in the same light as I do upon the one dollar note. The difference is only this: that the one is printed on paper, and the other is stamped on metal. They are both promises to pay of the Government of the United States, whose credit being unlimited, these promises to pay are good whether or not they have the intrinsic value. If the Government of the United States, instead of stamping the promise to pay on a silver dollar, stamped it on a small sheet of tin, it would be worth a gold dollar just the same as a silver dollar is worth a gold dollar to-day. But what would you think of the proposal that since the sheet of tin is worth one dollar—supposing it to weigh one ounce—we are going to raise the price of tin to $16 per pound? It would be practically impossible. I believe the first notes printed, were printed by China, on leather. But what is the idea of making it $16 per pound, supposing the dollar to weigh an ounce? It is alone demand and supply that can recommend that. If the chief nations of the world agreed to coin silver and gold in a certain relation, as say 16 to 1, and to accept them in that proportion as equivalent, necessarily the value of gold, provided the Governments took all that was offered to them to coin. But as soon as there was a surplus, that would not and could not be so employed or sold for industrial purposes at the rate of 16

to 1, that surplus being in the hands of merchants, and the merchants not being able to hold the stock, the proportion would fall. That is the way demand and supply runs. Supposing the Government pays 47 cents on the silver dollar. "Well," the merchants would say, "the Government wants no more and I will offer it at 46 cents; I can not hold stock." Therefore it would fall to that price. The only question is whether, if silver were coined everywhere by the chief nations of earth in larger amounts, it would exhaust the yearly supply. If the consumption is not equal to the supply, silver must necessarily fall. Silver is kept up here, as I said before, merely by the credit of the United States. The Government says it will receive the silver dollar for all dues, and therefore the price is maintained. It seems to me, Mr. President, that we could not consistently propose this idea, for the United States would see through it. They would see the consequences, and naturally say, "We will not do it unless you undertake to redeem those silver dollars, as we do here, in gold, and then there will be no danger of our coin falling."

We do not consider that the programme which accompanied the invitation other than an invitation or request to exchange ideas upon certain subjects of common interest, with the exception of the arbitration question, which is put entirely under a different light. And while the programme was stated in a very comprehensive manner, perhaps in a most perfect state, naturally the Government of the United States reserves to itself the right not to accept those recommendations.

In conclusion, Mr. President, Colombia believes that with regard to a great many countries the problem is premature. We are not ready to take it up. I regret to say that Colombia is one of those countries with a depreciated paper currency, and until we pay our obligations already contracted we can not expect much credit. There is a proposition before us to recommend to the different nations that they name delegates to a Monetary Convention. There is no objection to that, but I fear that there are only a few Governments in South America who could possibly entertain and carry out any plan that might be advised for the adoption of a common silver coin.

The PRESIDENT. What further order will the Conference take? Is the Conference ready for the question?

REMARKS OF MR. ROMERO.

Mr. ROMERO. I beg the Conference to allow me to make some remarks before this debate is closed which will be complementary to those made by my colleague, the chairman of the committee, in regard to the condition of Mexico with reference to this matter.

As the Conference is aware, Mexico has been the largest producer of silver in the world. Two-thirds of all the silver now existing has been produced by my country, and although in the last few years the annual production of that metal in the United States has exceeded that of Mexico, I have the conviction that when the production of Mexican mines attains its full development, which I believe will take place before long in view of the rapid manner in which railroads are being constructed there, our annual production of silver will exceed that of the United States. The production here has attained its largest development, while with us it is now only commencing to be developed. When our production is fully developed we will occupy again, as we did for many years previously, the first rank in the world in the production of silver.

Notwithstanding its mining wealth, and very likely on account of it, Mexico has not suffered as much as might be expected from the depreciation in the value of silver. The Mexican monetary system is based upon silver coin; the wages, salaries, house rent, and the value of all services and productions in Mexico have not been subject to the fluctuations caused by the depreciation of silver. Foreign merchandise only has been affected by that. As Mexican mines are generally rich, the depreciation in the value of silver has reduced their profits more or less; but this is hardly perceptible in a business subject to so many contingencies as mining, and I have no information that a single Mexican mine has been abandoned on account of the low price of its productions caused by the depreciation in the value of silver.

For a Mexican who has never left his country, or who is not aware of what takes place in the monetary centers of the world, silver has now the same value as it had twenty years ago; and if he could detect any difference at all it would only be in the price of foreign merchandise, which has almost been compensated with the price that they now command in comparison with what they had twenty years ago. The Mexican Government is the greatest sufferer on account of the payment of the interest of the Mexican foreign debt; but the elements of wealth of my country are so large that that difference is hardly perceptible, and to us it is equivalent to a higher rate of interest.

So far as Mexico is concerned there is no special interest, therefore, and much less an urgent one, which might induce it to take extreme measures to obtain an increase in the value of silver, although it is apparent that any increase in that value would be advantageous to us. The depreciation of silver has produced in Mexico a result which seems almost paradoxical, and notwithstanding it is a real one. It has established a bounty equal to the amount of depreciation in the value of silver, which is now about 33 per cent. in favor of the exportation of other Mexican products, and this cause has increased considerably the production and exportation of such products.

For many years, and principally on account of the great expense of transportation on the Mexican roads, as a consequence of the uneven ground, and on account of our lack of large lakes and navigable rivers, the only Mexican products that could pay the expense of transportation were precious metals, because in small volume and weight they possess a greater value than other articles; and the Mexican exportations, before the railroads were built, consisted only of gold and silver. This condition of things prevented the development of the other sources of wealth of the country, in whatever was not absolutely necessary for the local consumption, which was in itself quite small.

Before the depreciation of silver, which coincided with the beginning of the construction of railroads in Mexico, the exportation of Mexican products, besides precious met-

als, was really insignificant. That depreciation coincided —as it was natural, for the reasons stated—with the increase in the production of other articles for export, because these articles had a heavy bounty, equivalent to the amount of the depreciation in silver. If a Mexican merchant has to send $1,000, for instance, to New York or London, he has to use 1,333 Mexican dollars in silver; while, if he sends coffee, vanilla, or any other articles of national production, as this is sold by gold in New York or London, he saves that loss. If the price, for instance, of coffee in New York or London is $20 per 100 pounds, its price in Mexican national coin would be $26.66, less freight, insurance, commission, and other small expenses. With this view, it is therefore clear that the depreciation of silver has produced, in a great degree, a decided benefit for Mexico, because it has encouraged the production of other articles of as much value as the precious metals, and for the production of which Mexico has great elements of wealth, and very favorable conditions with which nature has bountifully supplied her.

This plain explanation of the actual condition of things in Mexico will show the Conference that, so far as my country is concerned, there is not any great necessity, and much less an urgent one, to propose or adopt any extraordinary measures with the view to restoring the value of silver, and that we can wait as long as it may be necessary for the restoration of the old ratio of one to fifteen and one-half; and this, in my judgment, will take place before long.

The adoption of an international silver coin will have for us another very serious disadvantage. As the Conference is aware, the Mexican silver dollar has higher fineness and weight than any other in the world, and for this reason, since we have been coining it, our dollar has circulated as national money and for its nominal value almost everywhere, and especially in China and other Oriental countries. The coinage of the trade dollar by the United States Government, with a view to competing in the Oriental markets with the Mexican dollar, did not produce the result expected, and had to be abandoned.

It would be difficult for the American nations to agree that the international silver dollar should have the same fineness and weight as the Mexican dollar, because in that case they would create a coin of more value than their own. And this would necessarily have to be depreciated if they should accept the same fineness and weight as that of the dollar of the United States of America, which is substantially the same as that of several other of the American States. Then we should have in Mexico two silver coins; the international one, with the weight and fineness which should be agreed upon, and the Mexican one with higher weight and fineness. This difference in weight and fineness in two coins of the same nominal value, coined in the same country, could not but cause serious embarrassments. Notwithstanding all this, Mexico, wishing to contribute as far as it is in her power, and even at the expense of any reasonable effort, to the unification of institutions and interests with all the other American Republics, has been disposed to accept the coinage of an international silver coin, without undervaluing the fact that any step towards increasing the value of silver will finally be advantageous to us.

I have thought it convenient to make these remarks to show the Conference that notwithstanding that Mexico is the largest producer of silver she has no especial interest to accept extreme measures for the purpose of changing the actual condition of things, because this condition is much less injurious to her than might be believed, and because, taking into consideration all the facts in the case, it is highly favorable in many respects.

Before I finish my remarks I ask to be allowed to refer very briefly to the minority reports presented by the two honorable delegates from the United States of America.

Mr. Coolidge proposes to postpone the consideration of this matter until the United States shall have succeeded in establishing bimetallism. Nobody can deny that should the United States and England, which are the principal commercial nations in the world, agree upon establishing a given ratio between the value of gold and silver we should come back to the condition of things which ex-

isted twenty years ago; that is, the proportion of one to fifteen and one-half. But taking into consideration the difficulties which so far have existed in arriving at an agreement I have the conviction that if all the American nations, including, of course, the United States, should accept a common silver coin, which would be a legal tender among themselves, this fact by itself should in all probability be enough to decide the British Government, which, according to the opinion of a special commission appointed by the Crown to study this matter, feels already inclined to accept bimetallism to do this, and in that case the object which we desire would without any difficulty be accomplished at once. For this reason I believe that the adoption of an international silver coin by the American nations would contribute in a very effective manner to the purpose of the honorable delegate, Mr. Coolidge.

This gentleman fears that if an international silver dollar should be coined by all the American nations, that coin would come to the United States to be exchanged for gold, and that in that way all the gold now in the Treasury should be lost and the United States be obliged to give up their gold standard and become monometallist. In my opinion this fear is ungrounded, because the United States buys from the American nations to the amount of several millions of dollars in raw materials, and the difference between the amount bought and the American goods exported to those countries, which is paid by them in cash, could be paid in international silver coin which they might receive. Besides, we could agree, as the Latin Monetary Union did, that each American nation should be bound to redeem in gold the international silver dollar that each might coin. If the basis for coinage should be as the minimum one dollar per each inhabitant in each country, there should be a demand at once for 120,000,000 ounces of silver, which would necessarily increase the value of this metal and have a very great moral influence in the solution of this problem by the other commercial nations of the world.

I have heard with great satisfaction the very eloquent speech of the honorable delegate, Mr. Estee, and I am en-

tirely in accord with all the ideas expressed in the same, which, I think, with only one exception, are exactly the same as the report of the majority of the committee. I cannot understand, therefore, why he did not sign that report, which only expresses his own views although in a more concise manner. The only point in which Mr. Estee's report differs from that of the majority of the committee is about the amount of international silver coin which would be a legal tender in all payments, which according to him should not exceed $50. The majority report does not fix any amount, but leaves that point as well as others relating to the coinage of the dollar, to the decision of a special conference to be appointed hereafter. There is, therefore, no disagreement between the report of the majority of the committee and the minority report of Mr. Estee; and, as I said, I cannot understand why he did not sign the majority report, even stating, if he thought it necessary, the only case in which he might not agree with his colleagues.

I do not intend to give any explanation in behalf of the United States, as the numerous and very able delegates representing this country in the conference are amply able to perform that task, in case they should think it necessary to make any explanations. But the knowledge which I have of this country, as a result of my residence in the same for many years, prompts me to clear some doubts which have appeared in the minds of some of our colleagues, and which are of some interest in this discussion.

Public opinion is deeply divided in the United States on the question of silver. The best proof that can be had of this fact are the different opinions of the delegates representing the United States in this Conference. I can assure the Conference that both of these gentlemen presenting minority reports are only the faithful exponents of the respective sides of the public opinion in their country, except that Mr. Estee's opinion does not go quite so far as the prevailing opinion of the silver men in the United States.

Bankers, merchants, bond-holders, and, as a general rule, all men who receive rents, interest, or payments, are of the

opinion expressed by Mr. Coolidge, and they believe that the country would go to ruin if the amount of silver coined every year should be increased. They look with very great distrust upon the coining of even two millions a month, which is now done in accordance with the Bland law. On the contrary, the agricultural classes, the small merchants, the rural population, and almost everybody else not belonging to the other classes before mentioned, are in favor of the unlimited coinage of silver; and they earnestly believe that if silver had been coined in that way, the value of that metal would not be depreciated so much and would be in the same proportion as twenty years ago.

Both of these opinions are almost equally represented in the Congress of the United States, and this circumstance and the difficulty of passing any law on account of the rules of the House of Representatives, which protect the minority—and there is always a very large minority against any measure proposed—have resulted in keeping the *status quo*, notwithstanding the effort each side makes to change it in favor of their respective opinions. The gold men introduce in every Congress a bill for the suspension of coinage of silver, while the silver men introduce a bill for the unlimited coinage of that metal. But each one has a very large opposition, which prevents the passage of the same. During the last Congress, and under another administration which was of a different political party, representing different economic views, a law was approved under which this Conference met. The present administration had nothing to do with the formation of that law, and for this reason the Secretary of the Treasury, who shares the opinions of the entire nation, made in his last annual report to Congress the recommendations read to us by the delegate from Costa Rica; but this recommendation did not have then the sanction of the President, as in his annual message sent to Congress at the same time as the Secretary of the Treasury made his report the President expressly stated that he had not had the time to examine carefully the ideas of the Secretary upon this subject, and therefore he could not recommend them.

Perhaps it might have been more courteous to this Con-

ference to abstain from giving any opinion upon this subject intrusted to our consideration while we were examining it; but when we take into consideration the earnestness of public opinion on this subject, and the great concern of the question to the public of this country, and that the duty of the Secretary of the Treasury is to make to Congress such recommendations as he thinks are calculated to promote the welfare of his country, I do not think that in making his recommendations about the silver certificates he had the slightest intention to do any act which might be considered discourteous to this Conference.

The PRESIDENT. What further order will the Conference take?

Mr. ARAGON. I rise, Mr. President, merely to make an explanation, because it might be inferred, did I remain silent, that I approved the statement of the honorable delegate from Colombia, to the effect that the Governments of the Spanish-American nations find themselves with a paper money which is depreciated.

I must state that this is not the situation in my country. It is true it has paper money, but that is redeemed immediately upon presentation, therefore, although paper money exists there, it is not depreciated.

This does not imply an attack upon the laws of Colombia, but rather a protest which the interests of Costa Rica make necessary.

Mr. ALFONSO. I will not enter into the debate. I have reserved my right pursuant to motion which is pending, and I shall only take the liberty to make a statement concerning a point touched upon by the honorable delegate from Colombia.

The Hon. Mr. Hurtado has stated that the countries

under the régime of paper money, and where this is depreciated, are countries without credit. I think this is the expression made use of by the honorable delegate. I wish he would correct me in case I am not exactly right.

Mr. HURTADO. I have not wished to make any offensive imputations concerning any country, but it is a fact that where obligations contracted by the issue of paper money are not met by the redemption of this with silver money, it affects the credit of the country.

Mr. ALFONSO. Very well. Even looking at the statement of the delegate in this light, I must make the following declarations: That Chili is now under the régime of paper money, that she is preparing to call it all in, through measures she has adopted gradually. This matter of paper money introduced in a country is not one of those harms which can be easily set aside, but even in the sense just expressed by Mr. Hurtado, I can assure him that Chili is one of the countries having the best credit in the world, and that it has seen its credit increased under the régime of paper money.

I ask that this declaration be spread upon the minutes.

The PRESIDENT. What further order will the Conference take?

(The President here left the chair, calling Mr. Zegarra, First Vice-President, to occupy it.)

Mr. ROMERO. Before taking up another subject, I desire to make some suggestions to the majority of the Committee on Monetary Union that may be considered when this question is discussed anew.

The first is that it appears to me that in the third article of its report no reference is made to the fineness of the international coin to be issued, as it simply says:

> That to give full effect to this recommendation, there shall meet in Washington a commission composed of one delegate from each nation, which shall determine the quantity, value, and proportion of the international coin and its relation to gold.

I do not see that anything is said of the fineness this money is to have, and the fineness is an essential point.

The second suggestion is that if, as it appears probable, the United States delegation will not vote in favor of this report because the two delegates from this country, members of the committee, have not approved it, I do not think the Convention of which the report speaks should meet in such case in Washington, because that would be holding it in a country which is not a party to it. Therefore, it would be advisable, to my mind, to amend this article in the sense of saying that it shall meet in Washington, provided the United States accept this convention.

I make these suggestions in order that they may be referred to the committee to the end that it may be pleased to consider them for what they may be worth.

SESSION OF MARCH 29, 1890.

The First Vice-President. The debate upon the Monetary Union report will continue.

Mr. Henderson. I now offer as an amendment to the report of the Committee on Monetary Conven-

tion the paper which I have sent to the Secretary. I state that I offer it as the action of the United States delegation.

The FIRST VICE-PRESIDENT. I would ask the Hon. Mr. Henderson to be good enough to sign the amendment, asking his pardon for requesting the carrying out of this slight formality.

It having been signed, the Secretary read the amendment as follows:

The International American Conference recommends to the nations represented in it:

1. That an International Monetary Union be established.

2. That as a basis for this union an international silver coin may be issued, which shall be uniform in weight and fineness for use in all the countries represented in this Conference.

3. That to give full effect to this recommendation there shall meet in Washington a commission composed of one delegate from each nation represented in this Conference, which shall consider the quantity, the kind of currency, the uses it shall have, and the value and proportion of the international coin and its relations to gold.

4. That this commission meet in Washington in a year's time, or less, after the final adjournment of this Conference.

J. B. HENDERSON,
Chairman.

WASHINGTON, *March* 29, 1890.

The FIRST VICE-PRESIDENT. This amendment will be printed and distributed to the honorable delegates as requested by Mr. Henderson.

Mr. ALFONSO. I accept, sir, this plan, but I accept it without enthusiasm; it does not satisfy me. I have been anxious, and have so expressed myself in the committee, to adopt a plan in which should be es-

tablished the bases of a Monetary Union, but it has not been possible to reach that result. Therefore, I repeat, I accept as a necessity the amendment offered by the American delegation. This does not mean that I abandon my profound conviction that no practical result will be reached in this matter unless this money be a full legal tender in all America; this not existing it will only be something written on paper, but which will have absolutely no value in practice. However, now that this subject is left to be decided within a year, what I desire is that the commission support the idea I entertain at this time, that is to say, that the Monetary Union be accepted, but with the clear and indispensable proviso that the money which is issued shall be full legal tender in all the American Republics.

Now that I have the floor, I shall make a few hurried observations suggested by remarks made by several honorable delegates.

It has been said here that money is a commodity; that this commodity is subject in the markets to the same economic rules as all other products, and that, consequently, it has to be governed by the effects of demand and supply.

I do not agree with this; I think it is erroneous, and is not according to the nature of things.

Money, as the medium of exchange, if it be called a product or commodity, is a product or commodity of a very special kind. It represents something more than any other product, and for this reason is subject to laws very different from the former. Money representing an obligation of the country issuing it, in this point of view differs essentially and absolutely

from all other commodities, and the proof of this is to be found in the actual fact, which all can verify. The actual silver coin of the United States represents an intrinsic value of 72 per cent., yet notwithstanding it pays for what is worth one dollar in gold, and everybody receives it. How could this phenomenon be explained if money were subject to the same laws as other products? By virtue of what do seventy-two cents of silver, which the coin of the United States has, have the purchasing power of one hundred cents in gold? This is due to the fact that this coin is guarantied by a Government—a Government as responsible as the United States—which gives it a nominal value.

But could the Government of the United States do this same thing with coffee, with wool, or with any other product? Could it say, such product is worth so much and shall be received for the amount the Government wishes? It could not.

For this reason I differ from the opinion of the honorable delegates from Costa Rica and Colombia, that gold and silver should be considered as commodities, and I support this doctrine because I am an advocate of bimetallism, and as such I maintain that it is easy to establish a relation between gold and silver as current coins.

The honorable delegates to whom I have referred believed that this could not be done, because, as the value of the metals vary, it is impossible to be changing the value of the money.

From the beginning of the century to the year seventy and something, gold and silver served as money with equal value, not having in reality the

same value in the markets. The proportion between the two values was fifteen and a half to one and yet the value of gold, owing to the considerable production of Australia and California, decreased, and there have been fluctuations which reached, if I mistake not, from two to three pence.

These changes have not prevented, in all that length of time, gold and silver from having served as current coin with the same value and with a fixed relation; and this springs from the fact I stated a moment since, that silver and gold are not subject, as coin, to the general rules governing commodities.

I must consider another remark made by the honorable delegate from Colombia; the remark, namely, that to bring about the establishment of a coin to be legal tender in all America, it is necessary for the nations now under the régime of paper money to return to that of silver.

This statement may, to a certain extent be true, but it is not entirely correct. It might be that this would come about in those cases where the governments can not possibly be able to return to the metallic régime; but Chili, for example, for the purpose of giving stability to all business, has already taken steps in the direction of re-establishing the bi-metallic régime. Therefore, the effect that the American Monetary Union would have in Chili would be to facilitate the return to this régime. In consequence of which, on this point, the Government of Chili, as well as the others, far from having any objection to accepting the Monetary Union, will have on the contrary, by means of this plan, the immediate

advantage of returning to the bi-metallic régime much sooner than it could have hoped.

Lastly, Mr. President, taking up also another remark made by the honorable delegate from Colombia, I should say to the Conference that I do not consider, that the Hon. Mr. Coolidge, a delegate from the United States, in presenting to the committee a plan analogous to that of the Secretary of the Treasury of this country, to replace the silver coin by certificates of deposit of this metal, conformed to the intent, spirit, or even the very letter of the inviting act of this Conference.

To me between one plan and the other there is an enormous, an immeasurable distance. The act of the Congress of the United States establishes clearly and distinctly that the Conference has been called together to deliberate upon a plan for the adoption of a silver coin in all America. What similarity is there between the adoption of a coin of that species and certificates of deposit? Absolutely none. In one case we have a coin or circulating medium, in the other mere certificates which may serve as circulating mediums, but which are not *money*. Even if it be true that a certificate of this character can serve to give stability to silver, that has not been the object of the Conference. The Conference accepts the silver coin and undoubtedly seeks to maintain its value; but that this result be reached by any other means whatever, by coining silver as well as by issuing certificates, I do not agree in this with the honorable delegate from the United States, and I so have the honor to state to the Conference.

Mr. HURTADO. Mr. President, I arise to reply to the

remarks which the honorable delegate from Chili has been pleased to make in criticism of those made by me in the previous session.

If the honorable gentleman will permit me, I shall address him a question so as to glean information. There are in Chili, I believe, ten-dollar gold pieces; am I correct?

Mr. ALFONSO. Yes; there were, but when paper money became legal tender they took their flight.

Mr. HURTADO. But there are also silver dollars?

Mr. ALFONSO. Yes, sir; there are silver dollars.

Mr. HURTADO. And if the honorable gentleman made up his mind to seek in Santiago or Valparaiso four or five of those coins there used to be, and which have flown, undoubtedly because they did not clip their wings, what would they cost? How much would he have to give to-day in Chili for a gold piece, paying for it in silver?

Mr. ALFONSO. I cannot at the present moment give the honorable gentleman the exact price.

Mr. HURTADO. Well, I can assure him that what he would have to pay for each ten-dollar gold piece, or its equivalent in paper, would not be less than $12 or $13.

I did not say precisely that money was a commodity. I did say that silver and gold were commodities in everything comparable to the other articles known to commerce, but even had I said that money was a commodity, which it certainly is to a certain extent, I do not think the assertion would be contradicted by the argument made by the honorable delegate from Chili.

To prove the want of foundation for my argument

the honorable gentleman gave the example of the United States dollar, which is intrinsically worth 72 cents, passing as of equal value to the gold dollar, and he asked: To what is this due? It is due he told us, to the fact that it bears the seal of a Government.

It was not my intention to make use of this argument; but now that it has been brought up I must state that, notwithstanding the Chilian money carrying the seal of a Government as responsible as any which has a credit among the highest and best founded, (and I here take the opportunity to state it, because, perhaps, some words I uttered may have been misinterpreted, when in no wise have I wished to allude in deprecatory terms to one of the principal Governments of South America),—I repeat, that notwithstanding this Chilian money bearing the seal of the Government, it is not up to the standard level of fifteen-and-a-half to one, but at the rate of twenty to one. In the United States the value which the current silver dollar has is due to the fact that the Government of this country has passed a law or framed economic provisions whereby it is provided that the silver dollars by it issued shall be received in payment of all Government charges, as equivalent to the gold dollar, and the honorable delegate from Chili cannot ignore that the greater part of the duties in the United States, at least in the custom-houses, were formerly paid exclusively in gold. Therefore it is that the difference between the intrinsic and the nominal value is due to the Government making itself responsible for that difference at all times and in all places, and not to the mere fact of being coined and bearing the seal of a Government is value given to silver.

The same thing is the case with the notes coined or printed by the Government; they have no intrinsic value, but it is known that the Government receives them on a par with gold. The intrinsic value has nothing to do with their value as money, and this is the case with silver.

Does the honorable delegate from Chili think that the adoption of a silver coin that shall be legal tender in all America can be brought about? While this difference exists; while in one place, as is the case in the United States, silver money is worth what it represents, that money will have two values, one intrinsic and the other additional or currency value, I ask how is it possible to bring about that dollar which is lacking in the additional value shall have the same value and can be exchanged like that which has it? I ask the honorable gentleman, supposing he hands me $100 in silver and $50 in a written obligation, what does this represent? Why, it represents a value of $150, and if some one were to say to me: "Give me both for $100," could not I reply saying that they had a value of $150, because that paper had a credit value like silver?

Well, this is the case with the money of this country. Here the Government is responsible for this difference between the intrinsic and the credit value; it has a dollar inferior to that which can be coined elsewhere, but the day Chili coins a silver money and becomes responsible for the difference that may exist between gold and silver, that day it would have the right to come and exchange her dollar for that of this country, but for the present I do not think it possible.

As regards the other statement to which the hon-

orable gentleman referred, although it is not of much importance, I will reply to it in a few words.

I do not consider it impossible for a country as rich and powerful as Chili, having paper money in existence, to make provisions to equalize silver with gold. What I said was that, upon perfecting a monetary system, the first obligation of any Government undertaking it was to redeem and comply with pending obligations before assuming new ones. A Government having issued paper money to be redeemed in silver, and which allows the time within which the redemption should be made, is a government debtor under an accrued obligation, and before assuming other monetary obligations, it is most natural that it should lift pending obligations.

I do not know but I have failed to reply to some of the remarks made by the honorable delegate from Chili, but at this moment I do not recall any.

Mr. ARAGON. Sir, the reply of the honorable delegate from Colombia to the remarks of the honorable delegate from Chili respecting an expression of mine made concerning the monetary question, in which I supported, more or less, with honor to myself, the same opinion as the Hon. Mr. Hurtado touching money being a commodity, has, to my mind, been so opportune and so much to the point, that I think myself excused from replying to this argument. Repeating the arguments made would only tire the Conference. To go further into this discussion would be to enter the field of political economy, which, at the present moment, is to be found far from us. To know actually what are the true functions of money in the ordinary transactions of trade; to know what func-

tions it has and what opinions as to money are erroneous, is, I say, beyond our reach and is not timely. This would be a discussion which I should have no objection to enter upon with the Hon. Mr. Alfonso, although my efforts be weak, if it could mutually enlighten us, and although my opinion might not prevail, for I assure him that if I do not succeed in convincing him with the ideas I entertain, still I think I should gain much by knowing the thoughts and ideas of a person as enlightened and advanced as he is. However, I should not drop the subject without stating that setting aside applications or arguments of application to such or such place, as the honorable delegate from Colombia irrefutably expressed it, the value of money does not rest exactly in the intrinsic quantity of metal it contains, but in other accessory conditions, such as the responsibility of the Governments and their financial ability to meet their obligations. This is as true as that the same amount of silver in one place has a different value than it has in another, although nominally it be equal in both.

This simple mention will be sufficient to demonstrate to the honorable delegate from Chili that one being just as much money as the other, each have, notwithstanding, different functions; therefore it is not in this circumstance that it is money, but in something higher than this.

Entering now, although very rapidly, upon the ground which has served as the foundation for my opinion, I must say that, to my mind, money is nothing but the form in which values are paid; but I am far from believing that it is the measure of the value. I believe that the value of things is given

them by supply and demand. Let us take, for example, wheat. A bushel of wheat has different prices, that is to say, it is paid for by different quantities of money, according to whether it is plentiful or not in the market, and, consequently, if we take wheat as money we should have to say that wheat always has the same value, which is not so, and in such case the commodity given in exchange for wheat would have to increase, for its ratio of scarcity is what increases its price, and when there is an abundance the contrary phenomenon is brought about. For this very reason money can not be aught but a commodity which is subject to these fluctuations, and silver is just now brilliantly demonstrating this conclusion. Silver in Mexico, in Colombia, in Costa Rica, in Chili, has a different value from that it has in the United States, notwithstanding that it contains the same number of grains. Why, then, does it vary in value? Because of the different conditions under which it exists Moreover, and without its being believed that this is a retraction, I should recall that when I spoke those words, I did not say absolutely that money was a commodity, but I stated that in the greater number of cases it could be considered as such, for I know that it has higher functions and the illustration is to be found in the United States.

As I have said, I think the honorable delegate from Colombia has replied so conclusively to the remarks of the honorable delegate from Chili, that it is not worth while to dwell on this question, and to prolong it is to enter upon matters not pertinent to our discussion.

The first time I took the floor on this question I

alluded, and said it was not in the way of criticism, to the opinions on this point which had divided the American delegation, and I stated also that I thought I noticed a change of views respecting the idea first had in mind when calling together this Conference.

I have heard some explanations through an authorized channel, and I should state that, although they are not satisfactory to me, I accept them, however, because it is a fact that the judgment of this country on this question is not yet formed, and there is reason for it, for the same is the case in the entire world.

I refer to this point only to announce the advantage which the idea which previously obtained offered us to reach a measure of such importance as I consider the adoption of a common coin to be. Now, I am extremely glad to see that the division in the United States delegation has disappeared and that it joins with the majority of the committee; and as before I was sorry for the division, to-day I can not do less than manifest my pleasure on seeing that it no longer exists.

Mr. MEXIA. The Committee on Monetary Union accepts in every particular the amendments offered by the American delegation. It adopts the new report with those corrections and withdraws the old report.

The FIRST VICE-PRESIDENT. The former report of the committee is withdrawn, with the permission of the Conference; that is, if there be no objection.

SESSION OF MARCH 31, 1890.

The PRESIDENT. The next subject in the order of the day is the report of the Committee on Monetary

Convention. The revised conclusions of the committee will be read.

(The report as amended was read.)

Mr. QUINTANA (Argentine Republic). Mr. President: At the last session I had the honor to attend, I made known my intention to reply to some of the observations of the Hon. Mr. Estee as to the reasons for the attitude which the Argentine delegation had announced it would assume in this matter. It is no longer necessary for me to carry out this unpleasant part of my task, for later developments which have come to my knowledge through friendly channels, have made plain the reason for the attitude assumed by the Argentine delegation. Why discuss the contradictory and altered plans of Messrs. Coolidge and Estee, if they represented nothing more than their individual ideas, and must in the end be replaced, as they have been, by a plan proposed by the United States delegation, which I must suppose is the faithful expression of the ideas of its Government, since I understand that no reservations have been expressed in this particular.

At the stage now reached by the question, that incident is completely at an end, and nothing remains but to ascertain the committee's reasons for withdrawing its report and adopting the one presented by the United States delegation, and determine what action the Conference should take in the premises.

I know, Mr. President, that the inviting act has called us here to consider whether a monetary union is practicable between the several nations of the continent upon the basis of a silver dollar; but I also know that the committee, as well as every one of the delegations seated in this Conference, has a perfect right

to think that this proposition is acceptable, that it is not acceptable, or that it ought to be replaced by a different one.

I understand, Mr. President, that all the nations represented here would agree, and do actually agree, to the adoption of a coin that would serve as a fixed basis for commercial transactions in all the countries of the continent; but from this it does not necessarily and inevitably follow that this coin must be a silver one, to the complete exclusion of gold coin.

It would show but scant respect to the enlightenment of my distinguished colleagues for me to enter at this time into the fundamental principles of this subject to demonstrate the unquestionable superiority of gold over silver coin, because of the difference between these metals. One has a fixed value, while the value of the other is variable. This does not imply, Mr. President, that I repudiate silver coin; nor does it imply, Mr. President, that a combination of the two coins would not be preferable. It merely means that while it is proposed to establish a monetary union upon the basis of a continental coin, there is no intention to protect the production of silver, and that consequently it would be preferable to adopt the superior metal for the common coinage, or at least to combine the two metals, as is done in the greater number of civilized nations.

Not having been able to attend the previous meetings, I do not know whether this point was discussed in the committee. I only know that the report of the committee maintains profound silence upon the point; wherefore I deem it my duty to ask the committee, or the author of the plan which the committee has

adopted, the reasons for proposing to the conference the silver standard to the exclusion of that of gold.

In the judgment of the Argentine delegation, Mr. President, to facilitate the international exchanges of the continent, the making of a common coin is not absolutely indispensable. On the contrary, it would be sufficient for a monetary convention, especially called to this end, to fix the relative values of the several coins which the several American nations issue, in proportion to the quantity and quality of fine metal they contain. In this way, without abandoning the national stamp, which is also a symbol of the nation's individuality, we can reach the desideratum—a coin having a determinate value in all the countries of the continent, even though it may have been issued by one of them only. This course would have, moreover, another indisputable advantage over that proposed by the committee, and it is that it would be by no means necessary either to destroy the stamps the several nations have, or to abolish the money now current therein to recoin it with the new stamp which might be adopted.

When the object is to develop commercial relations in such ways as to secure reciprocal advantages for all, this consideration is not one to be ignored, for when one deals with commerce one deals with interests, and when one deals with interests it is advisable to avoid heavy expenses which are not absolutely inevitable, and the expenses involved in demonetizing the coins now in circulation, for the purpose of recoining in the form now proposed, would be heavy indeed.

But I repeat that the Argentine delegation does not

in any way oppose the idea of establishing a continental coin; what the Argentine delegation wishes to know is why, when the purpose is not to afford more or less protection but to adopt a common coin, silver is chosen to the exclusion of gold.

When I shall have heard the reasons of the committee, I shall conclude what I have to say to the Conference.

Mr. ALFONSO. I shall briefly consider the observations of the Hon. Mr. Quintana in so far as they refer to the question.

The honorable delegate has asked in the first place on what grounds the committee has withdrawn its report and accepted the substitute proposed by the American delegation.

By way of reply I need only state to the Conference that the committee thought it of great importance that all its members should agree, as unanimity meant much to it, and it could well afford to secure that by substituting for its first report one differing from it only in postponing the question, because in reality the difference between its report and the amendment proposed consists only in that the legal-tender coin is not to be adopted now, but by a commission to meet in Washington within a year.

In the second place the Hon. Mr. Quintana has inquired for what reason the committee has confined itself to a silver coin to the exclusion of gold.

As to this I should state, in the first place, that the scheme of Congress, upon which the Conference had to act, definitively formulated the question as to the adoption of a common silver coin. Consequently the committee was restricted to this course. It was to say

whether or not it accepted the measure suggested in the law, and it has expressed itself affirmatively, saying that it thinks it advisable to adopt a common silver coin. But the honorable delegate to whom I am replying asked why gold coin was excluded. The committee does not absolutely exclude gold, and so true is this that the very plan just read says, in the final part, that the commission which is to meet in Washington within a year shall, among other things, determine the relative values of gold and silver.

Consequently the committee has proceeded on the theory that by adopting the silver coin it adopts bimetallism. So that the adoption of the plan would gratify the wishes of the honorable delegate. There will be, in the countries that can have them, two coins, one silver and the other gold, of a specified relative value. I think these are the points to which the honorable delegate has referred, and these I answer as you have heard.

Mr. QUINTANA. I have to thank the honorable Delegate from Chili for the explanations he has been pleased to make pursuant to my previous questions; but at the same time I have to inform him that I in nowise agree to them, and as much out of respect for the Conference as for him, I find myself under the necessity of discussing them a few moments longer to state why.

Although very hastily I have compared the report of the committee with that of the United States delegation, and differing in this connection from the opinion of the honorable delegate, I must assure the Conference that those plans do not differ on a question of form; they differ in that one decides and the other

does not decide the fundamental question of a silver coin.

The plan of the committee stated categorically in the second article—

> That as a basis for this union an international silver coin be issued, which shall be a legal tender in all the countries of the continent.

In this way the committee determined the substantial point of the question, which is that that money shall be a legal tender in all the countries of the continent.

What does the plan presented by the United States delegation do?

The plan submitted by the United States delegation overturns this recommendatory part of the old report of the committee, leaving it to the judgment of the new commission, which is to meet in Washington; that is to say, it leaves undecided exactly what the first plan proposed. Can they be identical?

The honorable delegate from Chili told us that the new commission will make this money legal tender. But the fact is that the plan submitted for approval, that the plan supported by the committee imposes no such duty upon the commission which is to meet. In its third article it says, on the contrary, that to give full effect to this recommendation there shall meet in Washington a commission, composed of one delegate from each nation, which shall consider the quantity of the international money to be issued, *whether or not it is to be legal tender,* and its value and proportion in relation to gold. As may thus be seen, the proposed money may be legal tender; it may be this on a large scale, or only on a restricted one. This plan

does not bind that commission to anything; it is left in the most perfect liberty, and, in consequence, I am right in saying that what the plan previously decided is now left entirely to the discretion of the new commission. These are not differences of form, but of substance, and I know not if I err, but to my mind this is of capital importance, for it leaves in doubt what it was wished to decide.

If this coin is not to be legal tender, why create it? If it is to be legal tender in limited amounts, as proposed before in Mr. Estee's plan, why occupy with such a scheme the attention of the Conference, whose aim is to create a continental coinage that may serve for the trade of the American nations?

The honorable delegate from Chili stated that the reason which had led the committee to adopt the silver dollar standard was because that was the one mentioned in the inviting act.

I had already considered on another occasion, Mr. President, and had then stated that this Conference is not by any means bound by the terms of the inviting act. Its duty is to consider the subjects included in the inviting act, but by no means is it bound to decide them in the way indicated in the law. Were this not so, it would have been enough to accept the law and have communicated it to the nations of America. From this to the denial of all discretion to the Conference I think there is not one step.

The honorable delegate added: We do not exclude gold, since it is provided that the new Commission upon meeting shall establish the relation of silver to gold. Very well. The Conference and all America would be absolutely powerless to suppress the circu-

lation of gold; to prevent gold from being money. What I have said is that the continental coin to be established is to be a silver coin, and from the moment that a continental gold coin is not created also, the committee has given a preference to silver over that metal—a preference which up to the present I have not heard justified by any reason. If what is desired is the facilitating of trade, why choose the poorer of these metals to be the basis of this trade? Why not make the gold dollar the basis of circulation? And if it is not desired to establish the gold dollar, and if it is not desired to exclude silver from circulation, why not make a common gold and a silver dollar for all America, and not limit ourselves to establishing the relation of the gold dollar to the silver dollar?

The privileged status which in this way is created for silver imparts to the plan a character it should not have, the character of a system of protection to the producer of silver, as against and to the prejudice of him who is not. If it is desired to facilitate exchanges by creating common coins, let it be determined that such coins shall be gold and silver, and in that way commercial relations will be facilitated and can be better developed.

Therefore, Mr. President, entering fully into the fundamental idea of this plan, which is that of having a common coin, I believe it should not be restricted to silver but gold should also be included.

Consequently, the arguments I have already adduced, led me to believe, as I still believe, that the objects of the law would be amply met and carried out, if in place of establishing one silver coin the

Commission should meet to fix the relation of values between the money which each country has coined or may coin in the future, considering only the quantity and quality of the metal it contains. I shall vote in favor of this plan as a whole without prejudice instead of voting against some of its particular clauses, or supporting some other plans which have been shown me by several of the honorable delegates here present.

(At this point the President left the chair, which was then occupied by Mr. F. C. C. Zegarra, of Peru, the First Vice-President of the Conference.

Mr. ALFONSO. I find it necessary again to engage the attention of the Conference for some moments, and I am compelled to do this by what has just been said by the honorable delegate from the Argentine Republic.

I do not know whether I have expressed myself poorly or the honorable delegate has not understood correctly, but the fact is that he has set up differences with me on several points, and some ideas which are by no means those which I presented to the Conference.

I am, in the first place, of one mind with the honorable delegate in maintaining that the plan of the committee and that lately adopted by it, by amendment of the North American delegation are not alike. There is a substantial difference between them, which difference, as has been well said by the honorable delegate, refers to the question of legal tender. The plan of the committee provided that the coin to be adopted should be legal tender, and the amended plan separates this question and leaves it subject to the de-

cision of a commission to meet later. So that the honorable delegate is perfectly right in stating that this question is still pending.

Mr. QUINTANA. Will the honorable delegate permit me to interrupt him?

Mr. ALFONSO. Yes, sir; with great pleasure.

Mr. QUINTANA. Without doubt I have misunderstood him, and I am much pleased that we agree. The question is left undecided, and it is so understood by the committee, which has surrendered this point in order to secure some other object.

Mr. ALFONSO. Continuing these observations, I should add that I have never maintained nor could I maintain, that because of the fact that the inviting act formulates a question the Conference should be bound to vote affirmatively upon it. Such have certainly never been my opinion or my words. What I said was, that the Conference by the inviting act had before it, among other matters, the question of a coin; that this was a matter submitted to its consideration, and that the committee upon considering the point could as well have said that it did not accept it as that it did, just as the Conference can say what it deems advisable. The inviting act binds neither the Conference nor the committee; but the latter, upon reporting on the question, has twice decided to adopt the silver coin, and in this regard I must insist, as I said a few moments since, on maintaining that it is neither the letter of the plan under discussion nor the intention of the committee to exclude gold coin. Since it is expressly stated that a relation be established, it is understood, and it needs no separate article to set it forth, that gold is a legal tender, otherwise that relation

would be improbable and absurd. Therefore it should be understood that under the plan proposed by the committee a bimetallic legal-tender coinage would be adopted for all America.

Mr. Estee. Mr. President and gentlemen of Conference: I took occasion the other day, as a member of this committee, to address this Conference on the subject which is before it to-day. At that time I was the author of a minority report, which in common with the report of the majority and also in common with the report of my distinguished colleague, Mr. Coolidge, was before this Conference for consideration. My distinguished friend from the Argentine then took occasion to tell us that he did not think it was right for the United States delegation to be divided upon this question; that we did not represent anybody in our individual capacity; that this Conference was composed of the representatives of sovereign nations, and that a minority of the delegation could not in any respect represent a nation in the councils of this Conference. I think that is a fair statement of the position of the distinguished gentleman from the Argentine Republic.

I confess that while I did not then agree with him so far as any argument a delegate desired to make to express his individual views was concerned, and I do not agree with him now, yet I recognize his right and the right of any gentleman representing a sovereign nation here to make that objection; and I rec ognize the further fact that each nation should be heard as a unit, at least in its final vote, because each nation has but one vote.

Now, sir, hoping that we might meet the objections

made, although believing that those objections were incorrectly made so far as the submission of the report was concerned, my distinguished colleague, Mr. Coolidge, and myself, at the instance of the chairman of the American delegation, were called together to consider this subject. We took the majority report submitted to the Conference—and that majority report was signed by every delegate from countries south of us who was on the committee—and after a full consideration of the subject the American delegation told us they could not and would not indorse either the report of my distinguished colleague or my report, but they would substantially adopt the majority report; substantially, I say, with one or two amendments which I shall call to your attention.

After the delegation from the United States had consulted upon the matter, and had come to this conclusion, both my colleague and myself consented to surrender our private views to the larger and more weighty views of the entire American delegation.

Their report was submitted to the Committee on Monetary Union, and after certain amendments it was submitted by the chairman of our delegation for the consideration of this Conference. And permit me to say, Mr. President, with very great respect to the gentleman from the Argentine, that report voiced the wishes of the United States delegation, and was then accepted by and, as I believe, voiced the wishes of the entire Committee on Monetary Convention.

Now, these are the facts: To-day the question comes up again. When it was being considered the other day the distinguished gentleman from the Argentine opposed the report that was presented, in-

directly it may be, but opposed it. To-day my distinguished friend arises in his place and opposes this report as amended. And may I not ask, Mr. President, while he is opposing both reports, why he makes no better or other proposition? He presents no scheme of his own for the consideration of this Conference which might be an improvement upon the one presented. He inquires of us why we did not make this money a legal tender. I will tell him why, Mr. President. The United States to-day possesses more than two-thirds of all the coin on the American continent. It may not be any better for possessing it, but it does possess it. America to-day produces more than nine-tenths of all the silver produced in the world. The adoption of an American monetary union and creating a new coin which was to be a legal tender among all the peoples of America, was something new in American finance. It came before this Conference for the first time in the history of financial legislation, and it was thought by the more conservative members of this Conference from my own country, and from some of the South American countries, that it would be wise to have a commission of experts meet here within twelve months to formulate a financial plan that would fully voice the sentiments of the American nations. The United States, sir, tried to advance the proposition. Notwithstanding its overwhelming financial position on this continent we have one voice out of the eighteen in this Conference, and may I not ask my distinguished friend from the Argentine if that Conference, so overwhelmingly greater than the United States, cannot carry out its views, and thus secure what the other Republics

most want? We believe it is better to take a short step in the right direction than a long step in the wrong direction. Sir, while I am in favor of making this coin a legal tender, yet I am alone in our delegation, and after a careful consideration I am overcome by the arguments advanced by my colleagues, and I am compelled to believe that a wise conservatism may be better than an unwise and erratic and too rapid advance even in the right direction.

Now, sir, permit me to say that on this question of American finance, and in response to the proposition before us, the United States do not propose to back down from the position that was taken. The law itself says that we shall *consider* the question of the adoption of a common silver coin. In the first part of the act of Congress calling us together it provides:

> And for considering questions relating to the improvement of business intercourse and means of direct communication between said countries, and to encourage such reciprocal commercial relations as will be beneficial to all and secure more extensive markets for the products of each of said countries.

And then it goes on to say:

> That in forwarding the invitations to the said Governments the President of the United States shall set forth that the Conference is called to *consider* * * *
>
> Sixth. The adoption of a common silver coin, to be issued by each Government, etc.

Now, sir, we have been considering that question, and while it is true that some of us have to give up something to reach a harmonious agreement, yet let us see what we shall have accomplished if this report be adopted.

First. An international monetary union shall be established in America. If that stood alone, Mr. President, it would be enough to place this Conference conspicuous among the civilized nations of the world as having made the longest step ever taken by so many nations on the question of international finance. If that stood alone, without any other qualifications, it would place before the Conference the right to mark out a line that would turn a new course in American trade, and start up new industries and warmer friendships among the people of all the Americas. Therefore, let me say to my distinguished friend from the Argentine, that the report is one that should be most favorably received by every representative of every one of the sovereign nations represented here.

Second. "That as a basis for this union an international silver coin may be issued, which shall be uniform in weight and fineness, for use in all the countries represented in this Conference."

Now, sir, it provides for a coin uniform in weight and fineness. Why, I recollect the other day when this Conference adopted a uniform system of weights and measures, several leading journals of our country said it was going a long way, and would tend to harmonize American interests and build up trade by every one of us doing the same thing in the same way. And by having a uniform coin, the same thing will be done, and more effectively. This will not hinder a country from coining the money which it is now coining; it will make each nation acquainted with the other nations; it will open new means of exchange. And permit me to say that the very fact

that it is a common coin will tend to a union of interests and a common trade which nothing else could so efficiently promote.

Third. "That to give full effect to this recommendation there shall meet in Washington a commission composed of one delegate from each nation represented in this Conference, which shall consider the quantity, the kind of currency, the uses it shall have, and the value and proportion of the international coin, and its relations to gold." In other words, sir, it will give to this commission, composed I suppose and believe of the most distinguished financiers of every one of the American nations, an opportunity of more clearly and fully marking out the financial course which this American Monetary Union shall travel than we could possibly do in the short time allotted to us. And in view of our limited experience—I will not say yours—but certainly ours, we are not prepared to give to such great questions, questions affecting the financial integrity of seventeen or eighteen nations, that consideration which a commission formed directly for that purpose might be able to give to it. Therefore my own delegation convinced me—and I am prepared to say that they were right, and in that sense that I was wrong—so far as this commission is concerned. And I believe it is quite as necessary to the other American nations as to the United States that this subject should be studied calmly, deliberately, and intelligently.

While it might be true, sir, that we could have added that it should be a legal tender for all purposes, yet it would not get that coin a day sooner into the market and would not add a solitary word

to the sense of that report. This proposed commission has power to do that. It is to be appointed for that purpose, and will bring a financial wisdom to the subject which the gravity of the question will demand. Let us look at the fourth proposition. "That this commission meet in Washington in a year's time, or less, after the final adjournment of this Conference."

That fixes the time, so that this is not a meaningless make-shift. It shows a sober, calm, deliberate, earnest intent on the part of the committee and on the part, I believe, of this Conference, to have a commission appointed, which will act and act right. It fixes the time of its meeting, and marks out the line of its duties. Then, is there anything in this report which we should not indorse? And so long as the distinguished gentleman from the Argentine has not been able to point out a better course for us to take, and so long as he has not been able, indeed, to point out any course, is it not infinitely better for us, in view of the facts, to take up this compromise measure, which may not represent to the full extent the wishes of the chairman of this committee or of Judge Alfonso, or of myself—but each giving up some of his personal views—is it not better to adopt this report as the average, and possibly the best, judgment of this Conference?

Mr. QUINTANA. Before replying to the honorable delegate, I would like to ask him a question. If, as has been said, he understands that the commission which is to meet is to decide what the dollar is to be made of, whether of silver or gold, for I can not suppose that he said that.

Mr. ESTEE. No, I did not refer to it; I did not men-

tion gold; at least, if I did, I do not recollect it. I did not refer to it at all.

Mr. QUINTANA. Mr. President, after this explanation I have little to say. I could not suppose that the honorable delegate from the Unites States would leave it to the Convention to decide what metal would be used for the dollar, since in the delegation's plan it says categorically that it shall be silver.

This being so, Mr. President, I shall limit myself to two words, which are merely a correction.

I did not oppose at the last session the report of the majority; the text of the minutes, which has undoubtedly been read, as well as the stenographic notes taken down at the time of speaking, will prove it conclusively. What I made was a point of order—less than a point of order—for I limited myself to declaring what the attitude of the Argentine delegation would be in case there were submitted to the decision of the Conference plans representing individual opinions. Far was I then, and far now from opposing it. I have stated, on the contrary, that in general I support the idea of a monetary union, but I do not mean to say that I agree fully with all the details which the committee believes necessary to carry this idea into practice.

The honorable delegate imputes a certain degree of barrenness to my opposition, saying that I do not submit anything as a substitute. Undoubtedly it was not interpreted to the honorable delegate, because it was not then thought to be of moment, that I stated that there existed another way which would more economically and better bring about the end in view. It was a convention for the establishing of

the relative values of all the moneys which the American nations now coin, to the end that they should be legal tender in all America according to the value assigned to them in view of the quantity and quality they contain.

It is of course quite possible that this is not a great idea. I can by no means harbor the hope that the honorable Mr. Estee will admire it; but, at any rate, it is an idea which demonstrates that my opposition was neither barren nor capricious.

I added further that another honorable delegate, and if he permits me now, I shall name him—the honorable Delegate Cruz, who represents Guatemala—had shown me a plan which he thought of offering as a substitute whenever the discussion by articles should be entered upon, because as a whole it agreed with that now under debate, and I indicated that I would support that plan and vote for it, as I shall do with that of the committee as a whole, reserving the right in the detailed discussion of each article, to oppose any one I believe to be unacceptable. But between this and a general opposition to the idea there is a great difference, and this demonstrates that it is absolutely necessary for the honorable delegate to take the trouble to make patent in this Conference the utility of adopting a common coin, to be current in all the American Continent, a point upon which we all agree.

The First Vice-President vacates the chair, which is occupied by the Second Vice-President.

Mr. QUINTANA. I ask that the plan to which I have referred be read to the end, that it may be known to the honorable delegates from the United States.

The plan was read as follows:

(1) That an international monetary union be established. (2) That to give full effect to the foregoing recommendation, a commission consisting of one delegate for each nation shall meet in Washington within one year, to be counted from the day of the final adjournment of this Conference, which shall decide what kind of coin is to be adopted as international, and the uses it will have. (3) That in case that no conclusion can be reached in regard to the foregoing articles, the commission shall determine the relative value to be given to the coin of each nation in all the other nations, its weight and fineness being taken into consideration.

MANUEL QUINTANA.
H. GUZMAN.
FERNANDO CRUZ.

Mr. VELARDE. As a member of the Committee on Monetary Union, I believe myself called upon to say a few words in explanation of the subject; but before this, in view of the new plan just submitted, I think it advisable for that plan to be referred to the committee for consideration and report, for I find a great difference between the two previous plans and this. The present plan speaks only of a monetary union, and it is provided that a commission shall meet for the purpose of deciding what kind of money shall be issued; that is, silver coin is completely ignored.

This point, as can be seen, is substantial, and it appears to me should be studied and considered by the committee.

Hoping this will be done, I go on to give the reasons the committee, and especially the speaker, had for signing the first plan which was submitted, and

why it has consented to withdraw it and support that lately introduced by the American delegation.

The plan submitted by the majority of the committee comprises two substantial points; first, it establishes a monetary union and the use of a common silver coin of uniform weight and fineness; and second, it establishes this coin as legal tender in all America for all official and private transactions.

The committee in presenting this scheme followed the original suggestion of the United States, by reason of which the Government of this country issued the invitations to the nations here represented.

Why did the committee believe it advisable to establish a monetary union and the use of a common silver coin? The reason is very simple. A common coin facilitates commercial transactions, brings the countries together, and promotes business; this is so obvious that it needs no demonstration. Why should this common coin be of silver and not of gold, or of both? The committee thought that silver money, being used in nearly all the countries of America, being coined in nearly all the Republics of the continent, and, above all, there being under discussion a most important question between bimetallism and monometallism, that by the adoption of a silver coinage, bimetallism was impliedly established, for gold is not in question; it has served and will go on serving for all transactions. Gold is coined in all the mints of Europe, in this country, and in some of the countries of the southern continent.

All the monetary laws of our countries establish and recognize gold coin, and in proportion thereto establish also a silver coin. Consequently, we are

not called upon to determine upon the use and the value of gold, since that use and general value is already accepted in all the world.

The question, then, was whether silver should serve as a circulating medium, or whether it should be finally excluded from transactions. In Europe this is a question which has been warmly discussed for many years. Germany and England have stopped the coinage of silver; legal value is there attributed only to gold. The Latin Union reverts to its former policy, and is preparing to take up bimetallism in the face of the powers which recognize gold as the only lawful money.

There was thus no occasion to consider this question of gold coinage, and the committee, under the supposition that each country would continue, as far as it could, coining this money which its law recognizes, and which sustains a known proportion to the gold coin of other countries, thought that it was advisable to establish a silver coin of uniform weight and fineness, because it was to be a common coin.

Why not continue the use of the present money? The reason is very obvious. As compared with the present currencies, a coin of uniform weight and fineness which can circulate freely, without hindrance, without being subject to combinations which always aid the premiums of the changers, is undoubtedly to be preferred. To continue as the only coins in circulation those now in existence, which differ in weight and fineness, would be to continue the existing system, for the relative proportion of our coins is determined by the merchant; the changer determines beforehand how many cents there are in the Mexican

dollar, the Peruvian *sol*, the Colombian, etc. In this way the relative values are determined. At this very time one need only apply to one of those brokers' offices to discover the number of cents in each dollar. What is desired is to possess with certainty a common coin which shall free the holder from the troublesome necessity of dealing with middlemen, and that this money may be delivered and received with all freedom. This is the reason why the committee thought that the idea of a common silver coin was acceptable. Very well, should this money be legal tender? Should its circulation be restricted to the country issuing it? The committee, replying to the question or suggestion of the Congress of the United States thought that it should be legal tender, and to this end every country should give its credit and contribute its resources to give this coin a uniform value. What would this value be? The committee did not believe itself competent to determine, since it lacked many data, and for this reason it referred this point to a special commission which should meet one year after the close of this Conference for the purpose of determining the weight and fineness of the coin and its relation to gold. If that commission establishes the relation between silver and gold, there will be no difficulty in that dollar being legal tender, because it would be an approximate value, almost equal to gold in relative proportion.

These were the views of the committee.

Why has the committee withdrawn its report and considered and adopted that offered by the American delegation? Without renouncing its views, for each of the delegates composing it maintains and upholds

his firm opinion that that coin should be legal tender, since only in this way would our object be fulfilled, the committee has thought it advisable to give way before the clear and full negative of the United States delegation so as to reach an agreement on this question of legal tender.

From the very beginning this was the cause of disagreement, and the majority of the committee not having been able to reach an agreement upon this essential point, and being obliged to choose between abandoning the project altogether and referring it to another commission, has not hesitated to yield upon this point, rather than insist upon the vote of two-thirds upon a scheme which could count only on the votes of the Spanish-American delegations or three-fourths or two-thirds of them, and would therefore fail of its object, inasmuch as the dissent of the United States would rob the resolution of the weight which unanimity would give to it. Besides, the policy is not finally abandoned, but is left to the consideration of the commission which is to convene here. This is the circumstance which led the committee to accept the plan introduced by the United States delegation. This in no wise implies any change of mind, for the committee stands by its former opinion.

I have thought it necessary to make this explanation, to express the views of the committee and especially the opinion of the speaker.

Mr. ZEGARRA: Mr. President, before making use of the floor I would ask the honorable delegates from the United States, so as to ascertain definitely the true scope of their plan. whether they would consent

to strike out the word *may*, in the second article of their plan?

Mr. HENDERSON. Mr. President, I will ask the honorable delegate to read the section again upon which he has made his comments and call my attention to the precise word.

Mr. ZEGARRA. "Section 2. That as a basis for this union an international silver coin may be issued, which shall be uniform," etc. I request the gentlemen to tell me if they would consent to strike out the word "may," so that the section may read:

That as a basis for this union an international silver coin be issued, etc.

Mr. HENDERSON. Mr. President, in answer to the interrogatory made, it is my duty to state that there has been much controversy in the United States delegation upon this very important subject; and while on the floor I may as well say that many of the difficulties presented by the distinguished gentleman from the Argentine Republic this morning received the full consideration of the United States delegation; and he will see, and my friend from Peru will see, at a glance, that in the monetary condition of the United States to-day this subject looms up into one of the very greatest importance to us. We have a very large coinage of silver dollars, that coinage being at a rate of 412½ grains to the dollar. That dollar, as compared with the gold dollar, is worth not exceeding 73 or 73½ cents to-day. Now, that silver dollar is a legal tender, not only in payment of dues to the Government, but it is made a legal tender between private individuals. Now, we are in a very delicate position. We have a larger quantity

of metal currency in gold than we have in silver, although the silver coinage is very large. We are not prepared in this country yet to break away from the standard of gold when we come to the basis of currency among ourselves. We should hesitate, before adopting a condition in this country which would bring about a difference between gold and silver; in other words, a condition which would put gold at a premium. That condition is now before us, a great many of us fear, unless our financial legislation is of a very careful and prudent character. Now, Mr. President, we desire, just as much as any delegate in this Conference, to bring about a uniform currency, not only a uniform silver currency—dollars, half dollars and quarters, or whatever they may be—but we would go further and say, with my very distinguished friend from the Argentine Republic, that we would make common our gold currency among the American Republics. It would be to our benefit and to the benefit of this Conference; but there are so many questions now immediately ahead of this, that we scarcely know what it is proper for us to do in this Conference because of the very difficulties presented by my distinguished friend from the Argentine. Now, shall we change the quantity of silver in the dollar or go on further in the course we are pursuing, making the dollar after it is coined receivable into the Treasury of the United States and issuing therefor certificates which, on presentation to the Treasury, are payable in gold? Now, it is a very important question. It was very significantly asked by my friend from the Argentine why we did not consider also the relative value of gold and silver. Now, Mr. Presi-

dent, the United States delegation thinks in perfect accord with my friend from the Argentine, and we wish this question of gold to be considered along with the question of silver; but we did not know, under the act of Congress, how far our friends from the southern Republics would go upon that subject. We were fearful to tread upon ground outside the act of Congress, and it gives us great pleasure indeed to hear the distinguished delegate from the Argentine say that he was willing to consider subjects outside the act of Congress if they are of a cognate character. That was my opinion from the beginning, and I think I would have the concurrence of my colleagues upon the delegation. We declare, in this report which we have agreed upon, that we are willing that this convention which is to be called take into consideration not only the question of the silver dollar, but its relation to the gold dollar. Now, I am glad that we have the intimation that we have from the Argentine delegation that that idea will not be unacceptable. Now, Mr. President, that involves the whole question. It is a question that we could not properly consider here, and for the very reasons given by the Argentine delegation. Every country in South America has its own coins, of different weights and fineness.

Now, we are nearing the conclusions of our labors, and would it be advisable for us to undertake to declare in this body that we will make a silver dollar a standard value between our people and fix the number of grains to be put into it? Because we ought not to declare for making the silver dollar a standard value without fixing the number of grains in the silver dollar and that it shall be a legal

tender between individuals. Now, that is going to a dangerous extent and that is the feeling of the United States delegation. Now, Mr. President, would it be advisable for us to undertake this work in the two weeks we remain here? Would it be advisable for us, in the short time remaining, to decide whether all the silver coin of Peru, of the Argentine, of Bolivia, or of Chili, shall be abolished and another substituted, that substitute being a new set of coins, or, if you please, a silver dollar? And if that silver dollar is to replace all those coins, what will be the real value of that silver dollar? Now, this question came to us with great force and importance, and we have considered every word in this report, and I do hope that upon reconsideration of the matter the honorable gentleman may agree with us. Of course, the honorable delegate from Peru will see why we used the word "may." This will be a very great work. Now, Mr. President, in fixing a silver coin this commission must determine the value of it—I mean the intrinsic value—because nations may put any value upon the coin. If the Government will stand back and say it will redeem the dollar in gold, why the credit of the Government will make it worth that. Now, Mr. President, this convention, when it assembles, will take into consideration a great many things. First, will they destroy all the coins in Peru that now exist—the silver coins? Will they destroy all the silver coins in the United States? And will they substitute another coin which shall be used in all the Republics of the Western Hemisphere? Now, that is a great question. Next, if they decide to leave all those in existence in the South and Central

American Republics, the question is whether they shall make a universal or common dollar, and if so, what will be its intrinsic value, etc.? Now, the next question is a very important one, if you are going to declare the silver dollar's value to gold. Now, we have the value of 16½ to 1; in France they have 15½ to 1. I am told by these gentlemen upon the Monetary Convention Committee that I am correct. Now, Mr. President, this new conference to follow us will, in many respects, be greater than ours, because they will come here as experts upon that subject. Many of us are lawyers, many of us belong to other professions. Our friend from Chili has given experience to the bench. I do not come here as an expert upon the silver question, and I should come with a great deal of hesitancy when called upon to act on such an important question as this one, which touches the pockets of all the people of all the Americas. Now, we can send experts here. We come here claiming the average ability and experience of men in this Western Hemisphere, but nevertheless we hope and believe that men abler than ourselves upon this subject will follow this Conference in the commission to come together. Now, my friend asked, "Why do you use this word 'may' here?"

2. That as a basis for this union an international silver coin *may* be issued, which shall be uniform in weight and fineness, for use in all the countries represented in this Conference.

Now, Mr. President, whether we mean *shall be issued* or not, depends upon a variety of circumstances. I have already indicated these circumstances. Will you abolish all your silver coin in these Republics?

How much silver coin have you? Have you paper money there? Is it at par with silver or with gold? Now all these questions will have to be considered. Whether it will be expedient at all to issue a common silver coin depends upon these points, and upon another point, and that is what shall be the relative value of that silver dollar and the gold dollar. Now, unless you can agree upon the relative value between gold and silver, the people of the United States, in my judgment, would not accept a common dollar of that sort, not only as between ourselves and you, but they would not accept it for themselves unless they should understand or know what is to be the relative value between gold and that dollar. They would not be willing to make it a legal tender amongst themselves. In other words, we believe that we have carried the coinage of the 73-cent silver dollar far enough, and we have come together to reconcile all differences of this body. I repeat that there is no reasonable concession that the United States delegation will not make. Whatever little feeling may be excited here, at the end, Mr. President, you will find that the delegates from the United States, representing the people of the United States, have come here determined to make all reasonable concessions consistent with their prosperity. We come here ready to make all reasonable concessions to carry out your expectations and the expectations of the people of the United States. But we ought not to say, in answer to my friend from Peru, for the Argentine, nor for Ecuador, nor for the Central American Republics, that this Commission called together shall provide for the issue of a silver dollar. I hope they will take the

whole broad question of currency into consideration, not only the silver but the gold; not only that they will take into consideration this question of paper money but the inadvisability of issuing paper money below par. Now, I do not reflect upon others when I say I know that a great many of these Republics have depreciated paper money. That was our condition. We emerged only a few years ago out of that condition. We saw gold selling in the market for $2 during our war and immediately afterwards; in fact up to 1879 it maintained a premium over paper. I was one of the individuals of this country who stood at all times in favor of an early arrival at the correct currency. I want a good solid currency, such as is recognized by the commercial countries of the world. Labor is better paid, the vocations of life are better encouraged, and every business prospers best when you have a strong, vigorous, substantial currency, upon a quality near the currency of the world; and in all those countries where you have depreciated paper or silver the true road to prosperity is to bring their paper and silver up to a gold standard. Now, sir, with these problems before us, my friend from the Argentine will see what difficulty we had, because the United States delegation was divided. We have studied these questions in our own delegation, but we have come here now with a report which brings together a Convention of experts upon this subject, who will bring, I hope, greater wisdom than we can bring to the subject in the few hours that remain of this Conference.

Mr. ZEGARRA. Mr. President, I am extremely grateful for the eloquent frankness with which the honor-

able delegate from the United States has replied to my question. After having heard him, with the greatest pleasure as he is well aware, I have little to do but to call the attention of the honorable Conference to what the honorable delegate (Mr. Henderson) has said.

The Spanish version of the plan introduced by the American delegation does not express with the proper exactness the idea expressed in the English version.

In the second article the Spanish text says that as a basis for the proposed monetary union an international silver coin shall be issued, whereas in the English it says *may be issued;* in other words, that according to the views of the United States delegation the commission of experts will have the right to decide whether or not this international coin shall be issued.

I shall certainly not enter upon a criticism of the reasons given by the honorable Mr. Henderson, who looks at the matter, as he has a right to do, from the stand-point of the individual interests of the special situation which with regard to this question exists in the United States; but it does occur to me to say that if these reasons are as weighty as he has stated, they not only manifest that it would be imprudent for the present to decide upon the issuing of a uniform international coin, but that it would be also an imprudence to decide upon the establishment, of the monetary union itself.

Those reasons will show, Mr. President, that the occasion is not yet ripe for measures of this character, and that the union, concord, mutual helpfulness of the American nations, if sought to be promoted upon

this basis, cannot be secured with advantage, nor, for the most part, secured at all.

This being so, it appears that the most logical thing would be to strike from the plan the first article, strike out the second, and I was almost going to say, Mr. President, strike out articles three and four, were I not animated by the firm purpose of contributing to the doing of something in some way by this Conference in the important matter of coinage, because the opinion of the honorable delegate from the United States is nothing other than that the monetary convention of experts meet, and that to it be left the absolute and final decision, as well upon substantial details as upon the non-substantial of the proposed union in the matter of coin.

Now, Mr. President, I will state frankly that the vote of the Peruvian delegation on this subject is entirely in favor of the first plan presented by the committee. The establishment of a coin uniform in weight and fineness, legal tender in all the American nations, I support, and I support that report for the double reason, Mr. President, that it contributes in a powerful way to the union of the American nations, the facilitating of business between them, and at the same time it is advantageous to the individual interests of my country.

For this double reason, Mr. President, my vote would be in favor of the report first presented by the majority of the committee; but from that report to the point we have reached there is a great distance. The legal tender character which the speaker approved because he approves uniformity in coin, as he accepts uniformity of the meter or any weight or

measure, has been left out. There was left out, I repeat, the legal-tender feature and even without that it was a step forward. Now, the unity of the coin is left out also, and it is proposed to leave this point to the decision of the commission which is to meet.

Therefore, and by way of compromise, the delegate from Peru, in company with the other delegations accepts this, but only by way of compromise; but I desire to say that his vote of sympathy goes to that which is, so to speak, more in harmony with the interests of his country—the first report of the majority of the Committee on Monetary Union.

Mr. HENDERSON. Mr. President, I hope that will be changed in the Spanish version, because we purposely and designedly said "may." We desire that word used for another reason which has been called to my attention by my colleague, Mr. Davis, and that is that we wish this convention of experts to have entire control of this matter and not be hampered.

Mr. MEXIA. I desire to make some explanations, and I am going to begin with the last.

The Spanish version as printed was not translated by the American delegation, and yet this is the one we adopted. In the hurry at the time I did not pay absolutely any attention to the English version, nor was there any necessity therefor, for the plan submitted to us, and which is in Spanish, was the one adopted by the committee, and not that which is in English.

I desire to make other explanations, and I beg the Conference to be indulgent with me for I am at present suffering with a high fever. Let us also, for the same reason, pardon the errors I may commit. The committee supported its report until the last; with

great reluctance, and against its will and opinion, it gave way in order to secure a compromise; it was necessary to compromise with the American delegation. This latter was so decided that it was impossible to reach an agreement. It is proper, then, to admit that we have ceded more than the American delegation has, and not only to compromise with it did the committee agree to give way, but because in the course of the debate which took place here several other delegations expressed the difficulties in the way of their supporting the report of the majority. All this was taken into account.

I do not wish to tire the Conference, but desire to make some further explanations.

The honorable delegate from the Argentine Republic has said that this appeared to be a protection to silver-producing countries. I do not know the scope of this opinion, but in so far as it refers to Mexico I think I shall soon convince the honorable delegate that this opinion has no *raison d'être.*

For Mexico this monetary union has not only little interest, but it injures her; the price of the Mexican silver coin is higher than any other; its exchanges are in good condition and it has now solved its difficulties by a direct commerce with Asia.

As to gold, Mexico produces a very respectable quantity; I do not wish to state in what proportion to the production of other countries, but, excepting the United States, Mexico occupies a very high position. The value of Mexican gold coin is higher than that of any other country, in the estimation, not of American brokers but of the Federal authorities. In the custom-houses the value at which the Argentine

Republic gold dollar is received is 96.5 cents, whereas that of Mexico is worth 98.3; so that the Mexican gold is not inferior to others.

But let us read the table of the exact value of the coins in all the countries: The price of the gold coin, as I have said, of the Argentine Republic is 96.5, let us say 97; Bolivia, its silver dollar has a value of 69 cents and a fraction, let us say 70; Brazil, 54, let us say 55; Chili 91, let us say 92; Ecuador 69, let us say 70; Guatemala 70; Hayti, which has a gold coin, 96.5, the same price as that of the Argentine; Honduras 69; Mexico 75.9, that is 76; Nicaragua 69; Peru 69; Colombia 69, and Venezuela, its Bolivar, 14.

Mexico, then, upon adopting a common silver coin would have to reduce its own, which is very difficult, as during three centuries it has been able to maintain it with a certain reputation which gives it a value comparatively higher than that of other nations. From the moment Mexico accepts this money lower than its own it must affect the value of its dollar, which will really cause material injury.

I have wished to make this explanation so that everybody would know what the coin of each nation is worth here. In Europe the Mexican dollar is worth more than that of the United States; it has a fraction, although small, in its favor. In Asia it is worth much more, and now our dollar does not pass through so many intermediate hands; in a certain way we have sought an even balance. But here, in fact, the individual well-being of no nation has been considered, but rather the general good.

As I have said in my report, silver is the money of the masses, not of great capitalists, for these latter

do not even use gold; they use letters of credit in the natural way; a bill of exchange of a mercantile house is worth more than gold.

Speaking now of paper money, I can say that this kind of Mexican money is not depreciated at all; as regards silver it is at par. I can say even more, that paper is superior to silver, for in the interior of the country it has a premium.

I have wished to give this slight illustration, not to influence the mind of any one, but to place the question we are discussing in its true light.

I shall say another thing relative to the compromise made with the American delegation.

On account of my knowledge of the English, I had several very interesting interviews with those delegates, and I saw that there was on their part a desire to conciliate as far as possible.

I considered the project completely lost if the American delegation voted against it. Frankly, I thought myself routed upon accepting what was proposed by the American delegation, but as all was lost before, except honor, I thought something was gained by compromising on the matter, the greater part of what we proposed having been accepted.

We were also led to decide upon giving way by the circumstance that, upon conversing with other honorable delegates, we noticed that they hesitated considerably; that they had no faith in the result of this question in the Conference, and this influenced our minds greatly. I repeat, we have thought ourselves defeated, but out of the defeat we have saved some fragments.

The PRESIDENT. The order of the day is the further consideration of the report of the Committee on Monetary Convention. What order will the Conference take?

Mr. ROMERO. From the remarks made yesterday by the honorable delegates who spoke upon the subject, and having carefully examined the plan presented by the United States delegation, which was accepted by the committee, I find that it contains less than the act of the United States Congress. For this reason it seems to me advisable to harmonize, as far as possible, the text presented by the United States delegation and the law which convened this Conference, by approving all the ideas expressed in the text presented by the United States delegation and to amend the text so that it shall be in accord with the act of the United States Congress which convened the Conference.

The report as it now stands appears to me very contradictory, because article 1 says that a Monetary Convention shall be held but it leaves in doubt whether or not any money shall be issued. If money is not to be issued it can hardly be said that a monetary union shall be formed. Besides, a great many unnecessary words and phrases are used to express the idea of the United States delegation, as I understand it, which is to suspend the settlement of this question and refer it to a new committee.

It seems to me that it would be more loyal, frank, and advantageous to accept the text of the law approved by the United States Congress on May 24,

1888, which conforms exactly with the ideas of the Conference, and draw up the plan as follows:

The International American Conference recommends to the nations therein represented:

The appointment of delegates from each of the American nations, each nation having a vote, who shall meet in Washington on the 1st of November of the present year, for the purpose of considering the adoption of a common silver coin to be issued by each Government, the same to be legal tender in all commercial transactions between the citizens of all the American States.

In the first place, I would recommend that the convention meet between October 1 and December 31, supposing that the Conference could transact its business promptly. The season must be taken into consideration, as during warm weather residence in this city is disagreeable; but this is a minor detail, and may be amended or omitted.

In the second place, I recommend that the Monetary Convention should be composed of delegates from each one of the American nations, as I see no reason why the countries should be deprived of the privilege of appointing two or more delegates, although each nation should have only one vote.

I suppose that the honorable United States delegates can have no objections to my proposition, because it is no more than a repetition of the law approved by Congress, in virtue of which we have here met together.

Mr. ESTEE. Mr. President, I would like, sir, to suggest to the distinguished gentleman from Mexico that it would be quite impossible for this Conference to consider his proposed new scheme without having it printed and read to this Conference so that we could

understand it. I ought to suggest, and I do it with very great respect, that the Republic of Mexico has the chairmanship of that committee, and one of the members of that delegation, I believe, consented to the report that was made. The report made here was the concensus of the best opinions of the committee in view of the facts. It does not voice the individual opinion of any one, but finally it was consented to after three or four months careful consideration. Now, sir, I must respectfully submit that it is necessary for us to know whether the committee on this monetary subject still wishes to have the report made and recommended by it adopted. If it does, then I suggest that if there shall be any amendments to it, let these amendments be proposed; but if a new scheme is offered, like that of the honorable delegate from Mexico, it ought to be printed, for we can not understand it in the manner presented to us. In fact, it is a surprise to me, for I supposed that the chairman of the committee voiced the sentiments of his country in that matter.

Mr. Romero. Mr. President, I beg to say to the gentleman from the United States that I am not proposing a scheme at all. What I have proposed is a revised wording of the amendment proposed by the delegation from the United States. Their wording is improper. My scheme, as the gentleman calls it, contains exactly the same ideas as are recommended in the report presented by the United States delegation and accepted by the committee. The only difference is in the wording of it. Now, I have no objection at all to this scheme or resolution being printed and passed to the committee and examined

thoroughly. I do not want to take anybody by surprise, and I have not asked for any dispensation of the rules. As this contains the same ideas, and only changes the form, the form being entirely different, I thought that the proper time to present it was before we arrived at a vote upon this subject. So far as the Government of Mexico is concerned, if the gentleman understood my colleague who spoke yesterday, he would have understood that he was not in favor of the resolution presented by the gentlemen of the United States delegation. Without their concurrence nothing could be done. He accepted it reluctantly, but of course felt ready to improve it in any way in which it could be improved. Perhaps I am not exactly correct in saying that it is identically the same as presented by the United States delegation. The report of the committee says:

2. That as a basis for this union an international silver dollar may be issued, which shall be uniform in weight and fineness, for use in all the countries represented in this Conference.

The chairman of the United States delegation stated yesterday, in his speech, that the United States did not like to be bound to issuing any silver dollar. Well, this scheme does not at all bind the United States to appoint a commission to fix the basis of issuing a dollar. I have fixed it here: "In case they come to an agreement." If they do not come to an agreement no action will be taken. In case they do come to an agreement they will recommend to their respective Governments the issuing of a common silver coin, copying exactly what the law under which we act here says on the subject. With all respect to

the gentlemen from the United States, I think it is in better shape than the scheme presented by the gentlemen from the United States; and I have no objection to their examining it carefully and seeing whether our action at all accords with the views of their country in this matter.

The PRESIDENT. Does the honorable delegate from Mexico wish it to be an amendment, in the nature of a substitute?

Mr. ROMERO. Yes.

Mr. ESTEE. Well, now, Mr. President, if it is, I say that it should be at least type-wrttten so that we can consider it to-morrow.

Secretary WHITEHOUSE. It is type-written.

The PRESIDENT. It will first be read by the secretary.

It was read as follows:

The International American Conference recommends to the nations therein represented: The appointment of delegates from each of the American nations, each nation having one vote, who shall meet in Washington on the 1st of November of the present year, for the purpose of considering and recommending to their respective Governments, in case they should arrive at an agreement, the adoption of a common silver coin to be issued by each Government, the same to be legal tender in all commercial transactions between the citizens of all the American States.

The PRESIDENT. The Chair will state the question. The first question in order is the vote on substituting the amendment of the honorable delegate from Mexico to the report of the committee.

Mr. HURTADO. Mr. President, I propose that we might utilize the time by going into Committee of the Whole. There are many points upon which I

think it would be necessary to render the opinion uniform upon this question, and I think some of them might be reached by a few minutes of conversation among ourselves.

The PRESIDENT. The honorable delegate from Colombia moves that the Conference resolve itself into Committee of the Whole for the purpose of considering this amendment. The vote will be taken by States.

Mr. ALFONSO. In the previous session there was presented an amendment by the honorable delegate from Guatemala, and one of the members of the reporting committee, the honorable delegate from Bolivia, asked that it be referred to the committee for consideration. This matter was left pending.

Now the honorable delegate from Mexico presents a new amendment which naturally still further complicates the study of the subject, and makes it still more necessary for the committee to study it. Therefore I will amplify the suggestion made by the honorable delegate from Bolivia that not only the amendment of the honorable delegate from Guatemala be referred to the committee, but also that offered by the delegate from Mexico, so that the committee, studying the subject anew, may determine what is best with regard to it. At this time, more than ever, this proceeding is necessary as the business is complicated by two new projects.

The PRESIDENT. The motion of the honorable delegate from Colombia is that the Conference now resolve itself into Committee of the Whole. That motion is not debatable.

Mr. ALFONSO. I regret to be obliged to object to the

ruling made by the Chair. The pending resolution is that the recommendation of the honorable delegate from Guatemala as well as that of Mr. Romero, should be referred to the committee. How can this be determined by a Committee of the Whole if this Conference does not first decide whether these resolutions shall or shall not be referred to the committee?

The PRESIDENT. The motion to go into Committee of the Whole is not in conflict with the preceding motion. It is only to give more freedom to the debate. The motion is not debatable, and must be primarily decided.

(The motion being put, it was decided by the Conference to go into Committee of the Whole.)

The FIRST VICE-PRESIDENT. The session is reopened.

Mr. HURTADO spoke in Spanish and interpreted his remarks as follows: I have just stated in Spanish that there was one point upon which I believe every delegate held the same opinion; namely, that great advantages would accrue to the commerce between the nations on this continent by the use of a coin that would be current in all the nations of America at a fixed and determined value. I have embodied that idea in the shape of a resolution which I have offered.

It says:

The International American Conference is of opinion that great advantage would accrue to the commerce between nations of this continent by the use of a coin or coins that would be current at the same value in all the countries represented in this Conference. With a view to reaching this result it is recommended that an international monetary conference, composed of delegates from each Government, assemble in Washington within one year from

this date, to prepare and propose for adoption, if found practicable, a plan for the establishment of an international monetary union among the countries represented in this Conference.

There appear to be two essential differences between what is proposed and what has been proposed on this subject. Mention is made here of the use of a coin or coins, evidently in the plural sense. It does not mean two coins of the same metal. There would be no object in having two silver pieces, the one a multiple of the other. This is understood as referring to coins of both silver and gold. It was suggested here by the honorable delegate from the Argentine Republic, yesterday, that perhaps it would be easier to arrive at an understanding on this subject if the coin to be used by all the nations in common were gold instead of silver. Subsequently, as will be seen, it is proposed that a Conference meet in Washington for the consideration of this subject, that will be composed of men better able to treat of this matter than the generality of the members of this Conference, and who will have more time to give to the consideration of the subject. They will decide and consider whether it would be preferable to have one metal only or both metals. I thought, however, that latitude ought to be given to them in order to take the matter into consideration in its most ample scope. Then, I do not use the word or idea that the coins were to be made legal tender. That is a very delicate subject. It is a subject that involves legislation, and not only legislation but provisions by each Government for keeping up the coin. That is declared to be legal tender at the standard at which it is issued.

All that we want is that the coin shall be current. I have seen it proposed that all the coins of these different nations be made legal tender, one with another, a plan which I think would bring confusion instead of advantages; and still I do not think it could be carried out. I think the people, especially of this country, would refuse to take it as legal tender. What took place on the Pacific slope when greenbacks were declared to be legal tender? They refused to have anything to do with them and refused to have anything but gold. Well, fancy what we would do with different coins here in different countries. Transactions, instead of becoming facilitated, would become more difficult. I have presented this proposition, which I read to the chair, to be taken into consideration.

Mr. CAAMANO. We are all interested in the termination of this subject, and such a disposition was shown, and measures leading thereto were taken by the committee of the whole in general conference. But the difficulty has been increased by two other plans, with the special circumstance that the committee accepted the plan of the North American delegation as interpreted into Spanish, whilst the North American delegation sustain the original or English version of the project.

With all these differences I think that, taking into account that the matter should be quickly determined, it would be well to return all these plans to the committee, which could quickly make a report that would resolve all the difficulties, and present to us a definite plan. I think that we could not do better than to

support the motion offered by the delegate from Bolivia, which solves the difficulty.

The PRESIDENT. The motion of the honorable delegate from Bolivia, which has been seconded by the honorable delegate from Ecuador, provides that the subject, with all the plans, amendments, modifications, etc., which have arisen in the course of the debate, be returned to the committee.

Mr. ESTEE. The committee made a report, and immediately there were three propositions by three different delegates. If it will do any good to refer that to the committee I hope it will be done. If it is the wish of the Conference to refer it to the committee, as one of the committee I will be very glad to meet with them, but if the report is not deemed of any value when it comes here, I do not see what use it is to have that report.

Mr. VELARDE. In parliamentary practice, when a subject which has been submitted to discussion, is amended and a motion is made to return all the plans introduced to the committee, it is so ruled, because it is the committee that has studied the point and knows all the antecedents and can appreciate properly all the opinions and amendments introduced. But I take the liberty of adding, in order to avoid exciting the susceptibilities of any one, that, since it is understood that the committee desire that this subject be returned to it for its study, that the authors of the new plans refer such to the committee in order that the definite plan shall be fully discussed.

I think this the only way of reaching an agreement. because if we are to discuss separately the four or

five plans now upon the table it will be difficult to come to an understanding.

It seem to me that this is the best manner of proceeding.

Mr. CRUZ. It was suggested yesterday, Mr. President, that it was indispensable that these resolutions should be referred to a committee.

On another occasion I took the opportunity to remark that this procedure was not in accordance with the rules. The rules declare that when a proposition is offered or amendments made to a report, these, as well as the resolutions, should be referred to the committee. This is natural. A new plan must be studied by the committee as well as the amendments offered thereto. But it is not the same when we treat of a subject which had already been before the committee and has been studied and reported upon. If amendments are offered to such a report they are the expressions of different opinions. They constitute the real discussion of the report, and if they should be returned to the committee it would be an interminable proceeding, as happens in the present case.

The committee has presented its report. It has offered various propositions, and if these are referred to the committee, this, in the next three days, will present a new report, and if then any other delegate should offer an amendment, that would have to be referred to the Committee, and I don't know when this business would end.

The mode of procedure in deliberative bodies is, I think, that the propositions should be referred to a committee before any debate has been had upon the matter; but when a proposition is being discussed all

that is said *pro* or *contra* are in the nature of amendments, which do not and can not be subjected to examination by the committee, as they form part of the actual debate.

I remarked this in a general way with regard to the propositions, for, I repeat, I am not in accord with the mode of procedure suggested; but upon this particular subject, and noticing that there are various propositions and that some of the members who comprise the committee believe that it would be more expeditious to proceed in this way, I will make no opposition. But I deemed it my duty to make this explanation, so that when the time arrives for taking the vote I will not be considered contradictory if I vote for this resolution, having expressed myself otherwise upon this subject on another occasion.

Mr. ALFONSO. It is necessary, Mr. President, that the conference should weigh the subject of a monetary convention which is now before it.

The situation is somewhat singular and unlike any other presented to this assembly. In the first place, the committee submitted a report recommending a monetary union for the purpose of issuing silver money which should be a legal tender, and then, in a later article, it decides that a convention shall be held in Washington, which shall determine certain points. In this state of affairs the American delegation presents an amendment in which there is substantially introduced a modification to suppress the legal currency clause, leaving the rest of the business to the will of the new committee. This very day I learn that the English and Spanish texts of the amendment offered by the American delegation do not agree. As for my-

self, I have read only the Spanish text, for, not knowing English, I could not compare them.

After all this, Mr. Cruz, together with the delegates from the Argentine Republic and Nicaragua, presents a third amendment, which the conference has heard. But matters do not rest here. The honorable delegate from Mexico presents a fourth amendment. The Conference having gone into committee of the whole, a fifth amendment is offered by the honorable delegate from Colombia, and, if I am not mistaken, the honorable delegate from Salvador intends to present a sixth amendment. I confess, Mr. President, that these numerous amendments and modifications have made me lose the thread of what is going on in this matter.

I do not know what the parliamentary regulations of other countries are in this respect. All I know is that, to make this subject clear, the best way is not to treat all these amendments in public debate before the conference.

For this reason I insist upon the suggestion made by the honorable delegate from Bolivia, which was seconded by the delegate from Ecuador, and which I also supported and amplified by requesting that all these amendments should be referred to the consideration of the committee.

Mr. Romero. As the resolution which I offered was not a substitute for that presented by the United States delegation, but had for its object the making of the same clear, and as, on the other hand, the United States delegation is not willing to accept it in the terms in which it was framed by the inviting act, I think it unnecessary that it should be referred to

the committee, and, with the permission of the Conference, I will withdraw it.

The First Vice-President. If there be no objection the amendment or substitute presented by the honorable delegate from Mexico will be withdrawn.

Mr. Estee. Mr. President, before there is any reference I think we ought to frankly and calmly consider one proposition, or rather *the* proposition. First, I think we are all in favor of an international coin. Second, we are all in favor of a monetary union, or a commission, whatever you may call it. Third, the United States delegation are in favor of leaving all questions as to the size of that coin, the amount of coin, its relation to gold, and its legal relation to the various coins—that is, whether it shall be a legal tender—to the commission or monetary union that is to meet. Some of our friends think differently. They think we ought to pass upon that proposition, and I think I am called upon to voice, as a member of the committee and as a member of the United States delegation, their views upon that single point. They are in favor of leaving that question to the monetary union or commission which shall meet. And I do not suppose, for they have had many consultations about it, that they will consent, willingly, to the taking of that question from this commission, which is supposed to be wiser than we are, and in that sense I agree with the gentleman from Colombia. Although I am in favor of an international coin, and in favor of making it a legal tender, still I feel that the question—I am speaking personally—is of such gravity that there will have to be legislation in every one of

our countries. There will have to be a financial arrangement made by each country. There will have to be new lines of policy drawn by every one of our countries, and these questions of such overshadowing importance ought to be considered by these distinguished men who are supposed to be more familiar with finance than we are. Therefore the United States delegation is in favor of leaving these questions to that commission, and if I go to that committee I will be compelled to voice the opinions of my delegation. They have expressed themselves, and it would amount to instructions to me, and I could not do anything else. I am saying this to you, so that when you refer it to the committee you will know exactly the line of duty which I will have to follow.

The FIRST VICE-PRESIDENT. If no honorable delegate claims the floor, the vote will be taken upon the motion of the honorable delegate from Bolivia that the matter be re-referred to the committee.

The roll-call resulted in the matter being re-referred to the committee by a vote of 11 to 4.

Those voting affirmatively were:

Perú,	Honduras,	Chili,
Guatemala,	Mexico,	Salvador,
Colombia,	Bolivia,	Ecuador.
Argentine,	Venezuela,	

Those voting negatively were:

Hayti,	Costa Rica,	United States.
Nicaragua,		

Mr. CRUZ, delegate from Guatemala, in voting affirmatively remarked, as he had said previously during the debate, that because of the peculiar condition of this matter he thought that the amendments made to a report after it had been submitted to the

Conference, formed part of the discussion and could not properly be again referred to the committee.

The PRESIDENT. Of the fifteen delegations which have voted, eleven were in favor of the subject being returned to the committee and four were against it.

Mr. MEXIA. In the name of the committee I ask the honorable delegates to be kind enough to present all the amendments to be made at once, so that at the last moments, of the discussion we shall not be surprised by a volley at close quarters, as has already happened.

SESSION OF APRIL 2 1890.

The PRESIDENT. In the order of the day, the first thing in order is the report of the Committee on Monetary Convention, in the nature of a substitute to the present report.

By direction of the Chair the report was read as follows:

The Committee on Monetary Convention having considered the various amendments presented to the Conference, submits the following report:

The International American Conference is of opinion that great advantages would accrue to the commerce between the nations of this continent by the use of a coin, or coins, that would be current, at the same value, in all the countries represented in this Conference, and therefore recommends:

1. That an International American Monetary Union be established.

2. That, as a basis for this Union, an international coin or coins be issued, which shall be uniform in weight and fineness, and which may be issued in all the countries represented in this Conference.

3. That, to give full effect to this recommendation, there

shall meet in Washington a commission composed of one delegate from each nation represented in this Conference, which shall consider the quantity, the kind of currency, the uses it shall have, and the value and proportion of the international coin or coins, and their relations to gold.

4. That this commission meet in Washington in a year's time, or less, after the final adjournment of this Conference.

E. A. MEXIA.
MORRIS M. ESTEE.
JOSÉ ALFONSO.
JERONIMO ZELAYA.
JUAN FRANCO VELARDE.
CARLOS MARTINEZ SILVA.

WASHINGTON, April 2, 1890.

The PRESIDENT. The pending question is the substitution of this amendment for the report of the Committee on Monetary Convention. Is the Conference ready for the question?

Mr. MEXIA. The Committee on Monetary Convention has to report to the Conference the result of its labors.

The committee met this morning after having invited, as the Conference will recollect, all of the delegates who desired to attend. Some did join us and assisted us, with their opinions, to draw up the report which we present to-day. In that meeting we took the amendments submitted into consideration, and after mature study the committee decided that the best means to conciliate all the difficulties was to present the report in the terms just heard by the Conference.

The PRESIDENT. If the Conference is ready for the question, the roll of States will be called. The question is upon substituting this amendment for the

original report. The vote merely states this as a substitute, and another vote will be required to adopt it.

The report was accepted as a substitute by a vote of 15 to 1.

Those voting affirmatively were:

Hayti,	Paraguay,	United States,
Nicaragua,	Brazil,	Venezuela,
Peru,	Honduras,	Chili,
Colombia,	Mexico,	Salvador,
Argentine,	Bolivia,	Ecuador.

Guatemala voted negatively.

Before casting his vote, Mr. Cruz, a delegate from Guatemala, stated that in order not to occupy the time of the Conference at present, he would present later, in writing, the reasons which had induced him to vote negatively on the whole subject.

The PRESIDENT. The substitute is adopted. The question now recurs upon adopting that which takes the place of the original report. Is the Conference ready for the question?

Mr. ROMERO. As I suppose that the articles will be voted upon, one by one, I must remark that the introductory phrase of the report, "coin or coins," does not seem to me sufficiently clear. I do not know whether it means fractions of the same money or different moneys to be coined. Speaking of the dollar, for instance, it should state whether fractions thereof are intended; or if it means money of different metals, it should be so expressed. I therefore respectfully submit to the committee this idea, so that, if it considers it acceptable, it may explain or amend the report.

Mr. MARTINEZ SILVA. The remarks made by the honorable delegate from Mexico are well based. I

noticed this ambiguity this morning when we were making the translation as literal as possible from the English text so that the honorable delegate should see it. The English text says *coin* or *coins*, and so does the translation. What is said by the honorable delegate from Mexico is very true, but I understand that the idea which prevailed here yesterday was that these moneys should be of different metals, as we do not wish to confine the monetary union to silver. Therefore I desire that the text be amended in these respects so that it will be clearer, if, as I believe, I have not misunderstood the idea of the committee.

The PRESIDENT. The Chair desires to suggest that this paragraph is in the nature of a preamble and should be last considered. This will be suspended for the time. The first article will be read.

(In accordance with the direction of the Chair the first article was read.)

If the Conference is ready for the question the roll will be called.

The Chair stated that the report would now be voted upon, article by article.

Article I having been put to the vote, resulted in its adoption by a majority of 15 to 1.

Those voting affirmatively were:

Hayti.	Paraguay.	United States.
Brazil.	Nicaragua.	Venezuela.
Chili.	Honduras.	Peru.
Colombia.	Salvador.	Mexico.
Bolivia.	Argentine.	Ecuador

Guatemala voted negatively.

Article II having been read, was approved by the same majority, the same delegations voting and in the same sense.

Article III was read.

Mr. QUINTANA. After the explanations exchanged in the session of to-day, and in accordance with what was set forth in previous sessions, it seems unquestionable that the words of this report which relate to coining some international coin or coins, which shall be of uniform weight and fineness, do not determine in any way whatever, either explicit or implied, that this money shall be coined solely of silver. I understand that the object of the latter part of this section is simply to fix the relation of this metal in case the commission should resolve to have silver money.

If this be correct, and the committee should accept this understanding of the words, I have no objection to vote for Article III; but if this is not the case, I will propose an amendment to make the article clearer.

Mr. MEXIA. The committee has the same conception of the article as has the gentleman.

Mr. ZEGARRA. When this question was discussed in one of the previous sessions, the speaker had the honor to explain his vote and to add, also, that in order to facilitate matters he would follow his colleagues as far as possible. Complying with this remark I have voted, or I am voting, in favor of the project agreed to by the committee. But now that Article III is being discussed the speaker considers it his duty to make an express reservation that the Government of Peru should be left at liberty to adopt, in part or whole, or to reject in part or whole, the conclusions at which the monetary commission might arrive, according as the interests of his country might require.

Mr. ZELAYA. The committee has no objection what-

ever to accept the amendment offered yesterday by Mr. Romero, and which has been to-day seconded by the delegate from Hayti.

Mr. ALFONSO. I am of the same opinion as the honorable delegate, Mr. Zelaya, in regard to the slight importance of this question. Nevertheless it was considered by the committee, and between leaving the Governments in perfect liberty to nominate the delegates they pleased, or to assign only one, this last extreme was preferred, for the reason that, as only one subject was to be discussed, a great concourse of persons was not needed. A single individual versed in the subject, with instructions from his Government, is sufficient to discuss this matter advisedly and intelligently, while if each delegation was composed of various persons, there might arise discord of opinion which would obstruct the prompt proceeding of the busibuness of the Conference.

These are the reasons why the committee believed that it would be better to draw up the article in the terms in which it has been heard.

The PRESIDENT. There is general consent that the words "one or more delegates" be inserted. The chair hears no objection, and the resolution is so modified. Is the Conference ready for the question upon the third article? If so, the roll will be called.

(The roll-call resulted as upon the previous articles, the same delegations voting in the same sense.)

The PRESIDENT. The third article is adopted. The secretary will read the fourth article.

(The fourth article was accordingly read.)

Mr. ZEGARRA. At the last session the honorable delegate from Mexico offered an amendment to the

Conference which I consider worthy of consideration. It related to the time for the meeting and closing of the sessions of the convention referred to in the report.

One year from the date of the closing of this Conference falls precisely in the worst season of the year for a convention to engage in work of this kind, on account of the climate and the customs of this city. Therefore, now that the committee has concluded that the assembling of the monetary convention should take place within the year, I would suggest the propriety of fixing on a time of the year which is in accord with the business custom of this city, when the government is assembled, and when all persons who are to discuss this matter have all the avenues open for investigation and all the facilities necessary. For example, in December of this year or in January of the next. I submit this idea to the committee, not as an amendment to the report, but as a simple suggestion.

Mr. GUZMAN. Agreeing with all that has just been said by the honorable delegate from Peru, I would suggest as the date, the first of the coming year.

Mr. ALFONSO. I consider the remarks just made to be of very little importance, because, in fact, it may be considered that they are provided for in the article under discussion. This article provides that the committee shall assemble within one year counting from the close of this Conference. Thus complete liberty of action is left to select the time most convenient, and this will depend upon the inviting government. The meeting is to take place in Washington. This Government gives the invitation, and though it may

not be convenient for this reunion to occur on January 1, this inconvenience may not exist on December 1, or on February 1. Why deprive the Government of this liberty of action? It seems to me that, in order that matters should be conducted with the greatest propriety, the article should remain as it now is, or if it is decided that this meeting shall take place within one year or less, it will be clearly understood by that it is left to the inviting government to fix the time time for the meeting.

Mr. GUZMAN. I do not understand by the language that it is the Government of the United States that gives the invitation. The resolution throughout expresses the idea, but it would be well to state that such is the intention, and that the United States Government should be the one to convene the assembly.

As regards the date, I do not insist that it shall be the 1st of January, nor have I fixed any date during the twenty-four hours of the day. It was never my intention to do so. Any other date may be fixed, as I have no objection whatever that the meeting shall take place at the end of this or the beginning of next year.

Mr. SILVA. It should be clearly established that the committee in fixing this date has counted upon the invitation of the Government of the United States, because it would be a lack of courtesy on our part to issue an invitation to another's house without consulting the wishes of the owner. It should be entered upon the minutes that the committee understood that the invitation would be issued by the United States.

Mr. ESTEE. After the adoption of this, Mr. President,

it will be proper to pass such a resolution, and I presume the United States would perform that, if so requested by this Conference.

Mr. ZEGARRA. Mr. President: From the words spoken here upon this subject it seems that there is a general agreement as to the idea. Therefore, by drawing up the article more or less in this manner, "That the new commission shall assemble in Washington upon the date fixed by the President of the United States, which shall be within one year," the resolution would express that the Government of the United States invited us.

I offer this idea to the Conference at the suggestion of the honorable delegate from Nicaragua.

Mr. MEXIA. The committee accepts the amendment made by the delegate from Peru.

The PRESIDENT. The Secretary will read the article as it will appear if amended.

The Secretary read as follows:

ARTICLE 4. That this commission meet in Washington at such time, within a year, as may be designated by the President of the United States.

Mr. HENDERSON. Mr. President, if the amendment is put in at the close of article 4 it will express what the honorable delegate wants:

That this commission meet in Washington after the final adjournment of this conference, at such time as the President of the United States may designate.

Mr. QUINTANA. May I ask the President for permission to propose a simple wording of the article? I suggest that the article read as follows:

That the Government of the United States shall invite

the commission to meet in Washington within a year, to be counted from the date of the adjournment of this conference.

The PRESIDENT. Is there objection to the modification? The Chair hears none and it is so amended. The question then recurs on the adoption of this article as amended.

(The roll-call resulted in the adoption of the amended article by the same majority as before, the same delegations voting as before.)

The PRESIDENT. This article is adopted. The preamble is now in order.

Mr. ROMERO spoke in Spanish, and interpreted his remarks as follows: I said, Mr. President, that I have suggested to the committee that the agreements or resolutions to which this commission shall arrive at, shall not be binding upon the respective nations unless they are ratified by the respective Governments. It is not stated in the articles that any Government accepting the recommendations contained in this report was bound to stand by any position adopted by the Monetary Union; and as that is not in the report of the committee and as the matter could not be binding except through the ratification of the Governments, I would like to have it appear in the minutes that the ratification of the Governments is necessary.

The PRESIDENT. Our action is necessarily *ad referendum* only.

Mr. ALFONSO. As far as the committee is concerned there is no objection to entering upon the minutes the idea of the honorable delegate from Mexico; but I must say that the committee has no doubt that this business was only a recommendation that was not

obligatory upon any Government as appears in the preamble of the report. But for the better comprehension of the subject there is no objection that it so appear in the minutes.

Mr. ZEGARRA. If this exception had been made at first I would have had no reason to make the reservation which I did.

The PRESIDENT. It is impossible that a commission or convention of this kind should have the power of legislation for their respective Governments. That would involve an amendment to the constitution of the several Republics to communicate such power.

Mr. ZEGARRA. Mr. President, I desire to leave a clear idea of the meaning of my remarks. My reservation is that the Government of Peru should look upon the agreements of the Monetary Commission not as treaties, protocols, or plans of treaties, but as simple recommendations.

The PRESIDENT. It will be entered upon the minutes.

The question is on the preamble.

(By direction of the Chair, the preamble was read.)

Is there objection to the preamble. The roll will be called.

(The roll-call resulted in the adoption of the pre amble by the same majority of 15 to 1, the same delegations voting as before.)

The preamble is agreed to. The question is now finished upon the Monetary Convention.

SESSION OF APRIL 7, 1890.

The FIRST VICE-PRESIDENT. The honorable delegate from Guatemala has sent to the chair his written vote upon the monetary question, which will be attached to the minutes. It will be read.

The paper was read as follows:

REMARKS OF MR. CRUZ, A DELEGATE FOR GUATEMALA, IN EXPLANATION OF HIS VOTE ON THE SUBJECT OF MONETARY CONVENTION.

In the session of Wednesday, the 2d instant, with the object of not claiming the attention of the Conference with long explanations concerning the resolution that day submitted by the Committee on Monetary Union, which was approved by a large majority, and which it was decided should be considered and voted on at once, notwithstanding the fact that it had not been made known or distributed until that moment, I had the honor to state that I reserved the right to explain the meaning of the negative vote on the motion to substitute that report for the previous one and its amendments, and of the negative vote also, which, as a consequence of this, I gave against the four articles of the report.

Considering the various reasons advanced in the course of the debate, and more especially what was manifested by the United States delegation, it appeared to me that the most advisable thing to do was to leave the entire question, without making any previous declaration, to the decision of a commission, which should meet in Washington on a date to be designated by the President of the United States, to consider the establishment of a monetary union; and in case of finding it feasible, to determine the basis upon which it could be founded and decide upon the necessary details. Furthermore, there was the circumstance that it appears from the report, as presented, that the international coin shall be of silver, inasmuch as it stated that the commission which was to meet should determine its relation to gold. And if it be true that at the conclusion of the debate explanations were made which demonstrated that the coin might be either of silver or gold, still the spirit of the whole report is undoubtedly that it should be of silver, that is, that it be essayed to increase the value of this metal.

The higher value of gold over silver is not harmful to agricultural countries like that I have the honor to repre-

sent, because its exportable articles, which are the principal sources of its wealth, may be considered as gold, seeing that they are sold for gold in foreign markets, while the wages, which represent the principal expense incident to the production of these articles, are paid in silver. I find, also, a grave objection to that part of the report which refers to the amount of the international money which each State shall coin, because this either limits the right of a nation, touching a point upon which it alone can decide and which depends upon variable circumstance, or it supposes that there should be two kinds of money in each State, of different fineness and weight, the international and that which is not international.

From this double money there can not but arise serious inconveniences, and all the real advantages are entirely obliterated; this would consist in that the money used in each State would be admissible in all the others, and in that if the coinage of one coin of the same weight and fineness were not realized there would be established at least the relative value at which the coin of one State would be admitted in the others. Neither can it be said that for this last an agreement is unnecessary when there are already in the United States, offices where any one may be informed of the relative value of each money, because the United States are not the only ones interested, and because, aside from that, the report made by the proper office does not make these coins current funds.

At any rate, in a matter of such importance, which may compromise so many economic interests, the Guatemalan delegation desires to leave its Government entire liberty of action in order that it may not consider itself morally bound by the recommendation authorized by its delegate.

My negative vote, then, more than a vote against the report, is a vote which reserves for the Government of Guatemala the decision upon the point. I do not wish to say, by any means, that the Government, studying the recommendation proposed calmly and for a sufficient time, can not accept it. If this should happen, that is to say, if it accepts it, it would gladly take part, through its dele-

gate, when it shall be invited to the Commission which is to meet in this capital pursuant to the recommendation.

My principal object is that it be clearly recorded that the Guatemalan Government is neither bound by the vote of its delegate to accept the conclusions last proposed nor is it prevented from accepting them or manifesting its acceptance in time if it believe, after a study thereof, it can overcome in any way the difficulties which present themselves, or that the advantages of its adoption are greater than the inconveniences.

FERNANDO CRUZ.

WASHINGTON, *April 7*, 1890.

THE RECOMMENDATIONS AS ADOPTED.

The International American Conference is of opinion that great advantages would accrue to the commerce between the nations of this continent by the use of a coin, or coins, that would be current, at the same value, in all the countries represented in this Conference, and therefore recommends:

(1) That an International American Monetary Union be established.

(2) That as a basis for this union an international coin or coins be issued which shall be uniform in weight and fineness, and which may be used in all the countries represented in this Conference.

(3) That to give full effect to this recommendation there shall meet in Washington a commission composed of one delegate or more from each nation represented in this Conference, which shall consider the quantity, the kind of currency, the uses it shall have, and the value and proportion of the international silver coin or coins, and their relations to gold.

(4) That the Government of the United States shall invite the commission to meet in Washington within a year, to be counted from the date of the adjournment of this Conference.

INTERNATIONAL AMERICAN BANK.

REPORT OF THE MAJORITY OF THE COMMITTEE ON BANKING.

[As submitted to the Conference April 8, 1890.]

Pursuant to resolution passed at the meeting of the Conference on December 7, 1889, your committee was appointed to consider and report upon the methods of improving and extending the banking and credit systems between the several countries represented in this Conference, and now has the honor to submit as the result of its deliberations the following report:

Your committee believes that there is no field of inquiry falling within the province of this Conference for the extension of Inter-American commerce more fundamentally important than that of international American banking, and that, in fact, the future of the commercial relations between North, South, and Central America will depend as largely upon the complete and prompt development of international banking facilities as upon any other single condition whatever.

In the opinion of your committee the question of the mechanism of exchange is secondary, if at all, only to the question of the mechanism of transportation. Even after better means of transportation than those which exist shall have been established, it will be impossible for the commerce between American nations to be greatly enlarged unless there be supplied to their merchants means for conducting the banking business which shall in some measure liberate them from the practical monopoly of credit which is now held by the bankers of London and the European Continent.

If there be an enlargement of the means of transportation, unaccompanied by an equal extension of financial

facilities, only partial benefits will be derived from the former as compared with the benefits which might be derived were the two improvements to progress together.

Your committee is of the opinion that the commerce between the American countries might be greatly extended if proper means could be found for facilitating direct exchanges between the money markets of the several countries represented in this Conference, even if there were no improvements in transportation.

The first effect would be to afford a more direct "clearance-in-account" of goods exported against goods imported.

The large amount of commissions now paid to the European bankers could not only be decreased, but such commissions would be paid to American bankers or merchants themselves, and in this way a share of the profits which now go almost solidly to the European money markets could be kept in the financial centers of this continent.

There does not exist to-day among the countries represented in this Conference any organized system of bankers' exchanges or credits; for instance, drafts upon the United States are not obtainable at all in many of the markets of South America, and in most of them are only salable at a discount below the sterling equivalent. In like manner drafts upon South and Central America are practically unknown in the money markets of New York, Philadelphia, Baltimore, New Orleans, Chicago, and Boston.

The point has been made that to extend business between our States *long credits must be given.* How is it possible for manufactures and merchants at distant points to form relations of such a character as to justify *the granting of long credits?* At present such relations are chiefly formed through the intervention of European banks and bankers, which are not interested in the extension of trade between the different countries represented in this Conference except in a secondary and subordinate sense. The extension of trade between Europe and the Americas, not between the Americas themselves, is their first care. By the establish-

ment of a well-organized system of international American banking our merchants and manufacturers would be able to establish improved credit relations, and those administering the system in the several money markets of the Americas would immediately become interested in fostering such relations and facilitating such business to the utmost extent.

The merchants of the United States now importing goods from the countries of South and Central America make such importations, as the investigations of your committee show, almost without exception, through the use of English bankers' credits.

The total foreign commerce of the West Indies, Mexico, South and Central America amounted last year to about $1,200,000,000 United States gold. The committee have not been able to ascertain the amount of the commerce among the Latin American States. The total exchange of commodities between the United States and countries to the South during the year ending June 30, 1888, aggregated $282,902,408, of which the imports of the United States amounted to $181,058,966 of merchandise and $21,236,791 of specie and bullion, and exports from the United States $71,938,181 of merchandise and $8,668,470 of specie and bullion. Of the $181,000,000 of merchandise brought into the markets of the United States the greater part was paid for by remittance to London or the Continent, to cover drafts drawn in the exporting markets against European letters of credit.

For the use of these credits on Europe a commission of three-quarters of one per cent. is customarily paid, and the foreign banks reap this great profit at a minimum risk, inasmuch as the drafts drawn against these credits are secured not only by the goods represented by the shipping documents against which the bills of exchange are drawn, but also by the responsibility of the party (generally the consignee) for whose account the letters of credit are issued, and without any outlay of cash, as the American merchant places the cash with the European bankers to meet such drafts at or before maturity.

This system results in the loss to America of interest

and differences in exchange as well as of commissions, all of which could be saved to our countries if international American banking were so developed and systematized as to afford a market for drafts drawn against letters of credit issued in America, such as now exists for drafts drawn against European letters of credit.

At present, therefore, the situation is such that the merchants of this continent are virtually dependent upon European bankers so far as financial exchanges are concerned, notwithstanding the fact that there are ample capital and responsibility in the countries here represented, and it is the opinion of competent persons that such capital would be ready to avail itself of the opportunity of transacting this business directly between the financial centers of our respective countries without the intervention of London if the laws were such as to permit the conduct of the business of international banking under as favorable provisions as are now enjoyed by the European bankers. The prime difference would be that these transactions would be carried on by American instead of European capital, and that the profit would remain here instead of going abroad. This, however, is impossible of realization at present, in view of the fact that the banking houses of the United States doing foreign business are usually controlled by London principals, and that it is impossible, without some change *in the legislation of the United States to secure a sufficient aggregation of capital in corporate form*, and so free from the burdensome restraints and taxes now imposed upon moneyed corporations as to permit competition on equal terms with the European bankers.

Many different plans have been discussed concerning the best means of facilitating direct banking business between our countries. Your committee has considered, and dismissed, a number of propositions relative to the establishment of banks by means of which the national governments themselves should afford financial facilities for inter-American banking. Such action, in your committee's judgment, does not fall within the proper sphere of government. There is no reason, however, why the Govern-

ments represented in this Conference should not severally charter banking corporations to carry on business of the class which is now generally done by the great banking corporations of London, that is, not in the issuing of circulating bank notes, but for the purchase and sale of bills of exchange, coin, bullion, advancing on commodities generally, and for the issuing of bankers' letters of credit to aid merchants in the transaction of their business.

In the United States, where capital exists in particularly large volume, and would lend itself most readily to business of this class, and consequently to the *facilitating of international commerce, the laws are not such as to encourage the aggregation of capital for such purposes.* So far as your committee has been able to discover after careful investigation there is no general statute of the United States nor of any of the States of the United States under which a banking company can be organized with ample capital, which would have the power of issuing such letters of credit and transacting such business as is done by the leading banking companies of London, which virtually occupy the field. In the United States it will be necessary, in order to secure the proper facilities and the proper corporate existence, that there should be legislation granting a charter, and in most of the States such legislation is expressly prohibited by the terms of their constitution. Furthermore, the laws of the several States are such as to impose the severest restrictions upon moneyed corporations, and to subject them to taxation so heavy that it would render it impossible to carry on the business of international banking in successful competition with the English, French, and German bankers.

Your committee believes that the best means for facilitating the development of banking business, and, generally, of financial relations between the markets of North, South, and Central America, as well as for improving the mechanism of exchange without calling on any Government whatever to exceed its proper functions, would be the passage of a law by the United States incorporating an international American bank, with ample capital, with the privilege on the part of the citizens of the several

countries in the Conference to take shares in such bank pro rata to their foreign commerce; which bank should have no power to emit circulating bank notes, but which should have all other powers now enjoyed by the national banks of the United States as to deposit and discount, as well as all such powers as are now possessed by firms of private bankers in the matter of issuing letters of credit, and making loans upon all classes of commodity, buying and selling bills of exchange, coin, bullion; and with power to indorse or guaranty against proper security, and generally to do whatever can already be done by the great banking firms who are carrying on their business without the aid of corporate charters under the laws of a general partnership. Your committee believes, upon well-founded information, that the capital to such a bank would be promptly subscribed.

The United States Government might and should reserve the largest visitorial powers. The business of such bank could be conducted with perfect safety, and with profit to its shareholders, and the greatest benefit to our international commerce. Branches or agencies of such a bank could be established in all of the principal financial centers of America, with the formal recognition of the Governments of the several States in which such agencies are established. Or arrangements might be entered into with existing banking institutions of the other countries for transacting the business, thus at once affording markets throughout the two continents for the purchase and sale of bills of exchange, facilitating and improving credit conditions generally, and at once effecting a complete mechanism of exchange, such as already exists between our respective countries and the European money markets, but which has as yet no existence between the money markets of North, South, and Central America for the reason already stated.

One of the direct benefits to be derived by all of the governments represented in the International American Conference from the establishment of such a bank would be, that the investors in the several countries in different classes of American securities would have better means

than any which now exist for making such investments. For example, a South or Central American State about to float a foreign loan would feel itself less dependent upon a single combination or syndicate of European bankers than at present. There would be open to such borrowing State two markets to which to apply for national loans, as against a single market to the mercy of which said borrowing government is now virtually exposed. The same holds good as to all classes of State and municipal securities whatever. Latin American investors would find means more readily at command for the investment in and investigation of all classes of North American securities, and the investors of the United States would also find means for the investigation of and investment in all classes of securities issued by the States, municipalities, or corporations of Latin America.

Your committee recognize the fact that London has for many years derived the largest possible benefits through its banking facilities with our several States, in taking all classes of American loans which have generally proved themselves to be of a most stable and desirable character, but, nevertheless, upon terms which have yielded the London bankers abnormally large profits simply because the element of competition does not exist by reason of the absence of proper banking relations between the several American countries. The institution of such a bank as proposed would at once afford relief against this state of affairs, and would be of benefit, not only to the merchants in the manner described, but to all classes of investors generally and without distinction.

In recommending the organization of an internationa American bank, the recommendation is based upon the present condition of trade. The establishment of better means of transportation and the promotion of trade in other ways will enlarge the demand for the class of facilities of a banking character which has already been referred to. The rapidly increasing wealth of North and South America also enhances the need for a complete system of inter-American exchange, and insures the subscriptions for an adequate capitalization to an international

American bank to meet such needs. As an evidence of this increase the valuation of the property of the United States in 1870 was estimated at thirty billions; in 1880, forty-three billions six hundred millions, being somewhat larger than the estimated value of the property of Great Britain at that time. The capital and business of the Americans is now much larger than when European facilities for banking between Europe and the Americas were established.

Banks of the character described, having agencies in the financial centers of the countries here represented, would materially promote the establishment and immediate use of a common standard for calculating values whenever such a standard shall be determined upon by the countries in interest.

While the sentiments of the independent nations of this continent are favorable to the settlement of all disputes by arbitration as expressed by resolutions introduced in this Conference, thus rendering war highly improbable if not impossible among them, there exists no such guaranty that war may not take place in Europe. In such event, as long as we remain solely dependent for our financial facilities upon European money centers, a complete demoralization of our credit facilities and our money markets would necessarily follow and cause financial disaster and distress, which would be considerably lessened, if not altogether avoided, were there a well organized system of inter-American exchange.

It may be asked why can not the object sought for in this memorial be attained through the agency of a private bank. The answer is, that in the extension of inter-American trade it would be difficult, we might well say impossible, to impart either prestige or credit to a private bank. The establishment of an international bank by authority of Congress would promptly command from the other American Governments concurrent legislation which would provide the amplest and most trustworthy form of international co-operation. As neither the bank in the United States nor the branches that may be established elsewhere can have the power to issue circulating notes the

most complete evidence is afforded in that fact that the bank is to be devoted solely to the commercial interests of the two continents, and must rely for its profits upon the increase of the volume of business from which alone it can secure its profits.

After careful consideration, your committee advises the adoption of the following resolution:

Resolved, That the Conference recommends to the governments here represented the granting of liberal concessions to facilitate inter-American banking, and especially such as may be necessary for the establishment of an international American bank, with branches or agencies in the several countries represented in this Conference.

J. M. HURTADO.
CHAS. R. FLINT.
SALVADOR DE MENDONÇA.

MINORITY REPORT OF MR. EMILIO C. VARAS, DELEGATE FROM CHILI.

According to the information received by the committee, banking institutions established in accordance with the bases of the modern credit systems, designed to aid and facilitate commercial transactions, are found in the countries represented in the Conference.

The limitations and restrictions established by the laws of some countries, which abridge the liberty of their operations and prevent the greatest extension of credits, appear to be partly founded upon ancient practices, the necessity of abandoning which begins to be felt by the growing needs of commerce; and partly upon considerations of a local character, which it has been thought necessary to consult. Not deeming it practicable to attempt at this moment, taking into consideration these particuler conditions, the enactment of uniform legislation for the institutions of credit existing in the nations of America, the undersigned delegate believes that the promotion of the commercial relations between the different countries represented in the Conference and the natural demands of more

direct and active transactions will cause the necessity of abandoning such restrictions and limitations to be practically felt, and will stimulate the legislator to their removal.

Consequently, and reserving to himself the right to amplify these considerations in discussion, if necessary, the undersigned is of opinion:

That the governments represented in the Conference should be recommended to encourage the exchange of products between their respective countries, to give to trade every facility tending to this end, and to remove the difficulties which embarass the operations of the institutions of credit intended to aid it.

E. C. VARAS.

WASHINGTON, D. C., *April* 8, 1890.

DISCUSSION.

SESSION OF APRIL 11, 1890.

The PRESIDENT. Passing to the order of the day, the report of the Committee on Banking is open to discussion.

Mr. HURTADO. The report, in its expository part, is so full and complete—I may say this, inasmuch as it was drawn by another member of the committee—that I can hardly believe it necessary to offer explanations as to the conclusions flowing therefrom and which have been submitted as recommendations.

I will say but one word, which is, that while on its face the proposal seems to provide only for the establishment of banks in the United States, it will be seen that branches throughout the rest of America are contemplated.

The trade between the American nations may be said to consist almost exclusively of that between the United States and the other Republics as producers of

raw materials or articles, on the one hand, while on the other, they being communities which have not yet attained to any great industrial development, the trade among the Republics to the south of this country is relatively small. Banking establishments among them are hardly needed. Those which already exist are perhaps sufficient for the limited transactions which they carry on. But the extension of credit and banking facilities means simply that more capital is wanted for this sort of operations, and it is in this country, evidently, that capital most abounds. Therefore it is recommended that a bank be established in the United States, with branches in the other countries of America.

SESSION OF APRIL 12, 1890.

The PRESIDENT. The order of the day is the continuation of the discussion upon the majority and minority reports of the Committee on Banking.

REMARKS OF MR. VARAS.

Mr. VARAS. The fact, sir, that I have made an individual report upon this question of banking makes it incumbent upon me (as I think) to express, as briefly as I may be able, the principal considerations which compelled me to dissent from the report presented by the majority of the committee.

This is not the time, Mr. President, to make long speeches, and, moreover, matters having precedence in the Conference have prevented me entering into a detailed examination of the long and exhaustive report of the majority of the committee. I shall limit myself, therefore, simply to pointing out the principal reasons which have urged me to non-concurrence in the conclusions arrived at by the majority of the Committee on Banking.

The object for which the honorable Conference appointed

this committee, as expressed in one of its journals, was to consider and propose measures to extend the system of existing credits, as was natural, in the several nations represented in this Conference, and measures, also, should it be necessary, tending to secure for the several American nations banking facilities, or those conveniences arising from the existing systems of credit.

The honorable delegates may have noticed that the majority report of the committee limits itself principally, if not solely, to the consideration of the banking legislation of the United States, and to providing convenient facilities for the systems of credit of the United States. It proposes to this end that the honorable Conference agree upon recommendations to the United States delegation in this body, in order that this delegation may secure from the National Congress, through the President of the Republic, such amendments in legislation as the honorable majority of the committee thinks proper and convenient to submit to the Conference as the means and the end of attaining the object of that committee.

For my part I believe, I know not if mistakenly, that this is not precisely the object of the committee, and that the conclusion at which it arrives departs somewhat from the sphere of action of the Conference and the international matters which it should principally consider. Useful, profitable, and even necessary is the study of the banking legislation of the several countries. But from this study the deduction appears to have been drawn that the spirit of the Conference and the object of the committee was to seek the linking together of several institutions, taking into consideration the operations of all, to reach a general result. This general result, the majority committee thinks to find in the establishment of a great bank in the United States by a corporate society.

For my part, Mr. President, I think the course indicated by the committee, with all due respect to the arguments which have led them to it, and which, in their judgment justify this conclusion, that this course is not the one best calculated to lead to the general result which is sought and which we all desire.

It is said in this connection that the banks, facilitating credits, doing business through branches, would, as a necessary consequence, bring about and concentrate trade between the North and South American nations. And to prove this the fact is cited, as a weighty precedent, that banking operations being carried on in London—they being generally restricted to that place—the result or consequence thereof is that the commerce of that country has grown. I think that in this case the terms of the proposition have been reversed. I think, on the contrary, Mr. President, that it is the concentration of commercial operations with Europe, with England, that has brought about that result—the growth and development of the banking operations. And I based this on the fact that the bank is merely the agent, the servant of commercial transactions and operations. And I think it can be undeniably established that where no transactions exist, where there are no commercial operations, the existence of a bank is useless, ineffectual, and illusory, since the bank, I repeat, is merely the agent through whom the merchant carries on the operations of his business. It is nothing more than the servant of the individual who finds it necessary to carry out some transaction. Consequently, where no operations are carried on, no transactions made, the agent, the servant, has no reason to exist.

Very well; this leads to still another important conclusion, as to which, let us suppose established, here in the United States, the bank which is desired. Would the imports from the South American countries into the United States increase because of this fact? Would the exports from the United States to the South American Republics be greater than they now are because of this circumstance?

Yes, it is said, because then the payments of credits incident to these transactions would be made in the United States.

To my mind there is in this a clear delusion. If the commerce of the South American countries continues to maintain its present proportions with England, if from this there must result, as there now does, that the imports of the United States are less than the exports thereof, and

the inverse of the exportations from Europe to America, the settlement of those operations will inevitably have to be made in Europe. The committee itself in its report furnishes a statistical statement in corroboration of this. It says that—

> The total exchange of commodities between the United States and countries to the south during [the year ending June 30, 1888, aggregated $282,902,408, of which the imports into the United States amounted to $181,058,966 of merchandise and $21,236,791 of specie and bullion, and exports from the United States $71,938,181 of merchandise and $8,668,470 of specie and bullion. Of the $181,000,000 of merchandise brought into the markets of the United States the greater part was paid for by remittance to London or the Continent, to cover drafts drawn in the exporting markets against European letters of credit.

Would these operations cease if the bank in question were already established and doing business in the United States? Evidently they would continue, for this balance of $181,000,000 against the United States, it is natural and logical to suppose, would not remain here. The merchant, chant, the importer, in whose favor this balance is, would need to place it where he has an indebtedness to lift, and consequently these payments would always have to be made in those markets.

This situation is not changed in the least by the fact of a bank existing. A change can only come from commercial interchange, from the industrial current, from the concentration of business interests. And if this is not so, how can we explain, for instance, that Scotland, being one of the best-equipped countries in Europe as regards its banking system, where banking institutions enjoy a liberty comparable only to that enjoyed by these institutions in the United States, these commercial operations are not carried on, whereas they are consummated in London to a remarkable degree? The reason is very simple; because the industrial current is wanting there, because commercial transactions are lacking, and the bank is poorly able to produce commercial activity. We must therefore seek this in commerce itself, in the operations and transactions carried on, and by no means simply and exclusively in the intermediary. This would be the same as saying that because mercantile brokers exist trade springs spontaneously from

their hands, but this is by no means true. The broker is the consequence of commerce. He is the agent. He is nothing more than the product of the primary and principal cause from which he springs and which he has to serve. Let a change occur in the commercial situation which now exists between the States of South America and the United States and between Europe and our countries, and then those operations to which attention has been called, which are carried on in London, will come naturally and necessarily to the United States.

The economic laws governing this matter can not be overlooked, nor much less broken, by these services, or by these means, which are very useful and most efficacious, once imbuing with life, once giving strength, and once establishing the current. But the sole source of their existence, maintenance, and that which develops and expands them is the commercial current.

But, it is said, there is another circumstance to be considered, and it is that relating to branches.

Mr. President, this subject would have great weight, even laying aside the remarks that I took the liberty to hurriedly make, in case no institutions of credit existed in our countries and there were no banks with which to make exchanges of interest and to establish credit relations with the banks established in the United States and those existing in our countries. I can state right here what the situation is in my country, which, naturally, I know more about. Well, in that country, Mr. President, we have twenty-eight institutions of credit, of which eighteen are banks of issue, to accommodate a population of 3,000,000. And up to date there has not been the slightest difficulty in our country, nor the smallest inconvenience in carrying on the commercial relations and transactions with foreign nations. So that those institutions not only can, but they do, amply fill this secondary requirement of the service which is desired, and which, to make it even more marked, it is said by the committeee that in this respect the situation of the American banks is in every way different from that of the English, and to this fact is due the phenomenon which is observed.

The difference is not so great, and were it not for the arguments used by me at the beginning, I would recall to the mind of the Conference the history of the banking system existing in England. It is not the most liberal. It can and should be qualified as both privileged and restricted, yet notwithstanding, under this restrictive system are concentrated the greater part of the operations of the commerce of the world. Why? Because of branches? By no means. I repeat, this branch service, most useful and important, which I do not make a matter of comment, can be attended to and filled by the institutions of credit which, as in Chili, exist in Colombia, in the Argentine, in Brazil, or which, perhaps, by some exception are limited or circumscribed in other countries.

Then it is necessary, Mr. President, and I take the liberty to insist on this point, to seek the solution of this matter, considering the existence of our banking institutions, considering the existence of the systems of credit that are scattered all over America, elsewhere in the commercial current. Let the United States place their products in the condition to be accepted in those States where we accept the European. Let the United States place itself in a situation making it possible for products to come here with equal or greater facilities than those they have with Europe, and then those banking operations will not continue in London but will be carried into effect here, obeying that same economic law, that same commercial current which carries with it all the services dependent upon it, such as brokers, banks, etc., which are the necessary and indispensable equipment of this great train called commerce.

Very well, Mr. President, this institution recommended and desired by the majority of the committee, has existed in the United States, but, because of considerations, undoubtedly of an internal and domestic character, the authority to establish it no longer exists. The Congress of this country has found difficulties of such a nature that this system ceased to exist. As we all know, the United States has been the country where there have been all kinds of modern banking systems. It has been the

country where there has existed, nearly always, the greatest number of these institutions. Even in 1857 there were in the United States more than fourteen hundred banks, and in the development, in the spreading out of these systems and the various systems in Europe, only the country I before mentioned, only Scotland, could approach the United States. I take the liberty of citing this fact and mentioning this circumstance so as to emphasize still more that the remedy for the situation we are in is not to be found exactly in the existence of this or that institution. It is commercial facilities, it is the development of these transactions between our countries, it is the establishment of an exchange of commodities which can put us on the proper course. Yes, it would be undoubtedly beneficial and useful to be able to have on the two continents the same systems of credits, governed by the same laws, guarantied by the same conditions. It would be, without doubt, a desideratum, but one which at present it is impossible to realize, precisely because of the difference of legislations—some more liberal, others more restrictive.

How are we to overcome these restrictions, which are noticed, which exist in one of the countries? Only by means of the exigencies of trade, only by means of the irresistible force of activity in commercial transactions and operations. To these legislation is resistless, barriers powerless to stay, for the national interest, stimulated by individual interest, breaks them, destroys them, and opens the way. It is on this, then, that we should insist. Why? Because this is also for the general good of the countries we represent—to make our relations closer, facilitate the exchange of our products, making our trade easier, and constituting North and South America a great international market, where there shall be carried on the greater part of, if not all, the transactions that now take place in Europe, and which I most sincerely hope may be the case. But I believe that the course indicated is not that which will most quickly bring it about.

For this reason, Mr. President, I have not supported the plan formulated and presented by the majority of the committee. And permit me to refer to another lone circum-

stance before closing, which is, that there is still another considerable factor to stimulate and to consider, for the object which it is desired to see realized. This object, besides counting on commercial facilities, which to my mind are the fundamental basis of this result which it is desired to reach, is intimately connected with that of monetary unity. Once these transactions are carried on in our countries through the medium of the unity of the monetary system, this will undoubtedly be the powerful basis upon which to change the course of those operations, for it is known, Mr. President, how great is the loss suffered by the American nations at present in the banking exchanges with Europe in consequence of the depreciation of our silver coins. The expense is considerable, reaching at times sixty per cent. Due to what? Due to the existence of the single monetary standard which England has, and which it believes advisable for its interests, and which is most useful for its banking systems. It considers our money as a commodity simply, whereas with the system adopted by the committee for the unity of the monetary system we should have another factor to reach this result.

It is for this, Mr. President, and for many other considerations, which I do not enter upon for the reasons expressed at the beginning, that in my judgment the stimulant and solution of the problem proposed by the Conference should be sought in commercial facilities, stimulating at the same time the governments where restrictions exist—for in ours there are none—to do away with them in favor of commerce, and as a consequence, of the extension and development of the systems of credit.

Mr. ROMERO. I have asked the floor, Mr. President, to offer an amendment to the conclusion of the report, by which I believe the greater part of the objections of the honorable delegate from Chili would be met, many of which appear to me to be well founded. But as I suppose that the discussion upon the report will continue, when it shall be concluded I shall offer my amendment.

Therefore I give way to Mr. Aragón.

Mr. ARAGÓN. If, with the amendment the honorable delegate from Mexico desires to offer, the difficulties are met, it would be advisable for him to make it known.

Mr. ROMERO. In that case I shall at once offer my amendment.

I found the same objections to the majority report that the honorable delegate from Chili found, for, as a fact, it appeared as though it were a bank established merely by the Government of the United States, and should be, consequently, governed by the same laws that are in force in this country, this bank being called upon to exercise certain functions in the other countries represented in the Conference through branches or agencies. As regards this wording I agree with the honorable delegate from Chili; but I think these difficulties would be overcome by changing the form without changing the substance of the report. And to this end I have prepared this amendment, preserving, as far as possible, the phraseology of the report.

In view of the facts stated in this report, the committee recommend that the Governments represented in the Conference should grant concessions for the purpose of facilitating international matters of exchange, and especially for the establishment of an international American bank in the United States of America, with branches thereof in the other American nations, to be organized in accordance with acts of incorporation from the respective Governments.

The committee propose, therefore, that each delegate should forward this report to his respective Government, and recommend that the act of incorporation of said International American Bank and of its branches should be granted.

It is true that, according to this conclusion, the principal office of the bank would be in the United States, but I think that if there is to be an International American Bank the *locus* of the principal office must be in the nation having the largest commerce of all those represented in this Conference, and that is the case with the United States. That bank of course needs the sanction of the Government of the United States for its establishment, for, needing branches in the other nations, these could not be established without this sanction of this Government, as in each case of each Government of the countries where the branches are to be established. But at all events no Government is bound to accept the measure.

This may not be the most efficacious means to develop commerce, but as an institution of credit is always an advantage to the country having it, and as an International Bank is proposed, I see no objection in carrying this idea out, which may give practical results to the countries interested.

The objection raised was to the form in which this conclusion was put. I have shown the draft of my amendment to some of the members of the committee, and it appeared to them that there was a certain vagueness in the terms in which it was conceived. They thought that it might be taken as meaning that each Government had to review and approve this properly called incorporation act of the bank which is to be established in the United States.

I do not think that is the interpretation to be given to the words I have written; however, I would be disposed to word it so that it would be understood in

the sense that the International American Bank requiring to have its *locus* here naturally is subject to the jurisdiction of this country, but that the agencies or branches which should be established by acts passed by each Government will have to be subject to its jurisdiction. At any rate, the wording can be modified as follows:

In view of the facts stated in this report, the committee recommends that the Governments represented in the Conference grant concessions tending to facilitate international matters of exchange, and especially recommend the estabment of an International American Bank in the United States of America, with branches in the other American nations, which international bank shall be organized by the United States of America, and its branches or agencies by the other American nations.

In these terms the Conference may consider the amendment.

REMARKS OF MR. ARAGÓN.

Mr. ARAGÓN. Mr. President, although my signature does not appear on the report of the Committee on Banking, I am a member of it, and the conclusions reached by the majority meet my approval.

In this sense I take the floor to defend my personal opinion in this matter, not desiring to assume the ostentatious character of speaking in the name of the committee. Under these circumstances my remarks do not in anywise affect the other members of the committee, and therefore they may express their opinions.

The honorable Conference will understand that upon speaking of this country and exchanging views with our brethren of North America on the way of extending our mutual commercial relations, it was not because these relations did not actually exist among us, for they do. But the purpose is to extend them within the country, in a way destined to increase them, and in this view, although they

exist, we have not thought it useless to dedicate ourselves to the task of endeavoring to extend them among the countries represented in this Conference. The same thing is the case with the banking relations. All the other countries have them established, and not because they lack them have they come here to consider this question, but they have come to seek the manner of increasing them between the countries represented.

This point was the subject of much thought, and I appeal for corroboration to the honorable delegate from Chili, to whom I am sorry to have to reply at this time, and I say sorry because it is unpleasant to place against his robust ideas my poor opinion, but I feel called upon to undergo the trying ordeal.

My honorable colleague, the honorable delegate from Chili, will remember that this matter was the subject of considerable discussion and hesitation, as to how the manner of extending the banking system between the countries represented in this body could fall within the province of the Conference, and we were led to it by the following reasoning. I do not say that the others were led by the same reasoning, but I was.

I commenced by studying what were the functions of a bank and the mission it fulfilled in the place where established, and I find that they are two. The first is that they are machines for condensing capitals, that is to say, they collect capital from the capitalists under special arrangements, and they place it in their vaults to furnish it later to him who needs capital to start an industry. The second mission of banks is to aid commerce with the mediums of exchange, saving or economizing money.

Beyond these two functions it is not easy to find others which do not fall under this denomination and have the same meaning. What action can be taken by the Conference or what can be devised through the action of the Conference to induce the investment of capital needed for the enterprise? How can a Government do this when, as in all commercial matters, these are mere questions of *meum et tuum?* I confess that I can find no very favor-

able solution for this point; we will have to appeal, then, to the animating spirit of this Conference. This is to see the increase of commercial relations, and I go no further, as this is the principal desire of all the nations here represented. The committee would naturally think of the wishes of this country, as would any one else who reflected upon this movement which is to radiate from our countries. For example, take my own country, Costa Rica. What are the relations of Costa Rica to her neighbors? Very slight. Why? Because the products of Costa Rica are similar to those of her neighbors and therefore there are no exchanges. Costa Rica is not a manufacturing country, so that there is little motive for commercial relations; but commercial relations are undoubtedly in many places stimulated by banks, although I do not give to them the importance attributed by the Hon. Mr. Varas when he says that banking institutions are the results of commercial relations.

In some cases, as I will have occasion to show, they themselves stimulate and give rise to commercial relations by affording greater facilities.

Following this train of reasoning, I cast my eyes north and south, and I discover the condition to be identical, and know that it is to the United States that we must look for a market, as it is this nation that needs the raw materials which we produce, whilst we, on the contrary, consume the manufactures of this country. It was consequently natural to find that the principal relations of commerce and exchange would be closer between my country and the United States than with the other nations represented in this Conference. And without this having been expressly set forth in the majority report, which is not exclusively in favor of the United States, it must be confessed that this was the principal object in view. As I said before, it never entered my mind to believe that by virtue of this recommendation we might develop closer mercantile relations. It may be that this will be the case, and I give it due weight, because it is frequently the case, as I have noticed in my country, that when German, French, and English capitalists make advantageous offers of

greater facilities to the agriculturalists and merchants, these facilities establish closer relations between the country from whence the capital is derived and that in which it is invested.

Therefore, seeing it our duty to take into account these considerations in order to develop the commerce between the nations represented in this Conference, we observe that the offers of capital made by the United States, or, rather, the merchants of the United States, to the Latin-American countries, was an inducement to the establishment of current commercial relations which we are all trying to secure. But we meet with a difficulty, and here I appeal directly to my honorable friend, the delegate from the United States, who is a member of the committee, and with whom I often discussed this subject in detail. Pointing out to him the status of the question, I remarked that, in my opinion, there was no need for such incorporation in the United States. The capital could be raised to-morrow which was to be invested in the Latin-American countries.

Imagine, I told him, that I am owner of $10,000,000 which I desire to invest in the Latin-American countries; I do not know why I should ask any one's permission to make the investment, since the money is mine. To this the honorable Mr. Flint replied: Just so; I think you are right, but according to the laws of the United States no association is permitted to incorporate nor to extend its operations beyond the territory of the United States; there is no law here which authorizes the establishment of institutions of this class.

I confess that this reply astonished me, but I went no further, because such a condition of things seemed to have no right to exist. Still he assured me positively that it was impossible in the United States to collect a capital of from twenty to thirty millions for the establishment of this bank unless a special act was issued to permit its establishment.

This is why I subscribed to that part of the report, because I believed that undoubtedly if the United States desired to encourage commercial relations with our countries it would be necessary for it to offer us its capital, as has

been done by the other nations—Germany, England, and France. Capital affords facility, and facility, as a natural consequence, increases the commercial relations between countries. This being the case, and it being found impossible to attain the end and to raise so large a capital except by private subscription so as to form a company, which could not be incorporated except by special act, I signed that part of the report which advised and requested the United States delegation to forward this report to the United States Government, so that, if it considered it advisable, it might be sent to Congress for its sanction.

I have already said why I voted as I did upon this subject, and I will now incidentally consider what Mr. Varas has said.

In the first place I will compare the report presented by Mr. Varas with that of the majority, in order to note the discrepancies existing between the two; and I may confine myself to this point so as to avoid a long and tiresome discourse upon the subject. I suppose that the report presented by Mr. Varas is a defense of his opinions and I will endeavor to defend the conclusion of the majority.

Mr. Varas says as follows:

> That the Governments represented in the Conference should be recommended to encourage the exchange of products between their respective countries, to give to trade every facility tending to this end to remove the difficulties which embarass the operations of the institutions of credit intended to aid it.

This recommendation of Mr. Varas confines itself to recommending to the Governments here represented that all impediments be removed which are incompatible with the existence of banking houses.

What does the committee say?

> In view of the facts stated in this report, the committee recommends that the Governments represented at the Conference should grant concessions for the purpose of facilitating international matters of exchange.

Up to this point I imagine that there is no discrepancy between the report of the majority and that of the honor-

able Mr. Varas; the idea of the gentleman is embraced in the majority report, but henceforward they disagree:

> And especially for the establishment of an international American bank in the United States with branches or agencies in the other American countries here represented, to be organized in acccordance with acts of incorporation from the respective Governments.

Upon this subject it is necessary to explain why the international American bank is organized with branches. To-day, for instance, there are many banks in Chili and also the other countries, but amongst each other these banks have absolutely no relation, nor have they any knowledge of the operations of each other. There is no way of knowing, in the Argentine Republic, for instance, whether a draft drawn by the bank of Costa Rica is valid or not. The same thing happens in Mexico, a draft of the Bank of Mexico might have some difficulty in being accepted in Costa Rica because no one knows anything of its solvency.

An international bank with branches has the advantage of being able to draw upon any of its branches. If I need a draft on any of the Republics I buy from a bank that is in correspondence with and has knowledge of the best business men in each place. This is the advantage of an organization such as an international bank—an advantage which could not be obtained except through knowledge of the merchants or strong business men in each commercial center.

The reports stated that the international American bank should be organized by charter granted by the United States with agencies or branches because the movement was initiated here, and the capital for the establishment of the branches and the agencies in the other countries, is to be raised here also.

The rest of the report is of no great importance, because it is simply a recommendation to the American delegation to submit the report to the President of the United States.

The delegate from Mexico seems to agree, as he has shown, with the suggestion made by the honorable delegate from Chili. But what does the honorable delegate offer us as an amendment to the majority report? He

says, more or less, that what is expressed in both reports might be embraced in one as follows:

In view of the facts stated in this report, the committee recommends that the Governments represented at the Conference should grant concessions for the purpose of facilitating international matters of exchange. and especially recommends the establishment of an international American bank in the United States of America with branches in the other American nations.

Up to this point the honorable delegate from Mexico exactly follows the committee because, with slight changes, it is the same idea with, maybe, different words. But he adds:

* * * "to be organized in accordance with acts of incorporation from the respective Governments."

This is natural; the committee says the same thing, "that the incorporation of the bank must be made by the United States with branches and agencies in the various countries represented." The committee did not say that these branches should be established by each Government but that was understood. The gentleman concludes:

* * * Therefore, that each delegate should forward this report to his respective Government. * * *

This is the only difference as regards the recommendation. That each delegate should transmit the report to his respective Government; this duty is, in fact, understood as embraced in the report because it is proper for each delegate to give account of the subjects upon which he voted in this Assembly.

* * * and recommend that the act of incorporation of said international American bank and of its branches be granted.

This is the special difference which I find between the report of the committee and the proposed amendment. This is a point not clearly expressed in the majority report; yet I think that Mr. Varas's report is embraced in that of the majority. As regards the amendment offered by the delegate from Mexico, I have no objection, as a member of the committee, to adopt it, as it expresses the same idea.

The honorable Mr. Varas commenced by saying that the committee had set to work to study United States legislation. I have already said why it considered the point essential.

It isn't half an hour ago that the honorable delegate from Guatemala, under similar circumstances, said that when it was impossible to obtain a whole thing we should be satisfied with a part of it. In accord with this idea I say the same; if we can not find the means of increasing, through the proceedings of this Conference, international commercial relations and exchanges, then do what we can; try to obtain this object by the establishment of an international bank, and if the incorporation of such is the only difficulty in the way, we will try to remove it in order to secure the best terms we can.

If the object of the committee was not to look for the means and increase of commercial relations between all the countries of America, I do not know what it was; nor what other object could have induced us to convene here for the purpose of studying this subject, because, in reality, no other solution can be found. And if this already existed none of us could say: Through the action of the Conference commercial relations will be increased. I repeat it, no one has offered any other solution of the matter, not even Mr. Varas.

I have already said what, in my opinion, was the effect of banks; all that are established have for their object the collection of capital, borrowing it from the capitalists to apply to industries which give rise to new enterprises, and therefore the desire to have banks. Why? Because banks lend money upon collateral to be used in the development of new enterprises, and enterprises do not develop unless capital is near at hand.

The honorable Mr. Varas also says the commercial relations between these countries are increased by the establishment of banks.

I think so, too—perhaps not to any great extent, but I hope that they will augment—and I will cite a practical case:

I saw a friend of mine, who was here and transacted

business with a house in the United States, and, in a word, until the meeting of the Conference there was no great desire to push forward the business which had been offered on various occasions to the house. But since then that firm has said to my friend: "Take the money and transact the business." He did so, and brought back the amount in products of that country to the United States; and without the advance of this capital this could not have occurred. Mr. Flint knows all the details of this operation and can vouch for what I say.

Mr. Varas also said something in regard to the establishment of the Bank of England and of the restriction plan, or stipulations, which are different and more strict than those in force in the United States. He said that in spite of these stipulations, which were somewhat too strict, business transactions increased in England, so that this was not owing to commercial relations already established.

I make a difference between national and private banks. There are countries which hold that one bank is sufficient, whilst others favor a plurality. One thing has not been explained: The Bank of England is governed by a different legislation from that of any other; the Bank of England has never any direct transaction with the banks of other countries. The difference in these banks is that the Bank of England is the only one which can issue bank-notes, whilst private banks can not issue paper money because they are not authorized to do so by the State.

The transactions of all banks are determined by the supply and the demand; that is to say, by political economy. Therefore, the day that this international bank should offer capital, not upon equal, but more advantageous conditions, it will be given the preference.

Unfortunately, no other sentiments control commercial relations.

Speaking of monetary union, Mr. Varas remarked that it would facilitate commerce. Undoubtedly it would; and, indeed, I do not think that we could have discussed the question at all until we had reached some solution of the monetary union question. He added, besides, that the standard of English exchange had reached as high as

60 per cent. I do not know what force this argument might have in reference to the point under discussion. At present the rate of exchange is 60 per cent. because our money is only received for its actual silver value, and the merchants say: The Chilian dollar is worth just so much in this country as the number of grains of silver which it contains.

Beyond this, which is not the only factor, the supply and demand is what principally determines the value; because, according to my opinion, true exchanges are only effected by products.

REMARKS OF MR. HURTADO.

Mr. HURTADO. Mr. President, I will only make a few remarks, after what has been said by my honorable colleague from Costa Rica, in reply to those made by the honorable delegate from Chili. I will only speak as a merchant, not using the language of a political economist, but such as would be used by a merchant, plain and simple. I believe that is better for the purpose.

The committee was requested to study the subject of the extension of banking facilities and report upon what it considered the best methods. If a merchant had been asked what action he thought best to be taken in order to increase these facilities and extend banking operations, he would have answered simply: Invest more capital in banking business, because with this, as with any other business matter of a commercial character, it is the supply of funds which makes business operations more complete at lesser cost. The committee reached the conclusion that, in the first place, in order to fulfill its duties it should recommend the establishment of banks. But the establishment of banks, naturally, needed capital. In which of the American nations was it easiest to find capital? The reply was simple—in the United States. But it is necessary that the establishment of this bank should not be limited to the United States. Then establish a bank in this country, with branches in the others.

We reached this point, then naturally we asked ourselves if there was any necessity for such a bank. The honorable

delegate from Chili has declared with much reason that banks are the result of the existence of mercantile operations. We agree perfectly with the conclusions of the honorable delegate from Chili, and we find that the transactions between the United States and the other countries situated to the south of this nation amount more or less to $280,000,000 annually. If this amount is increased there will be ample field for banking operations. We then ask ourselves, how is it that in this condition of affairs no banks exist in this country which are especially engaged in commercial affairs between this country and those south of it? We find that under the laws of this country there are serious embarrassments in the way of the establishment of a bank which would devote its operations exclusively to foreign exchanges.

It is true, as has been stated by the honorable delegate from Chili, that in 1857, or before the war of the rebellion, as it is called in this country, there existed great latitude in banking legislation, but it was afterwards restricted to domestic operations. Why? Because the domestic trade represented 95 per cent. of the commerce of the world; the 5 per cent. was lost to view, although now it is said that it would be well to give attention to foreign trade, so organizing it as to increase and develop it.

The argument used by the delegate from Chili, that if the legislation, which had been ample at one time, had been restricted by Congress there were motives for such action, and that it would not wish to adopt afterwards what it had rejected, does not seem to me exactly correct. I think that the explanation for such action may be found in the remarks which I have made. But this argument is utterly worthless from the moment that Congress itself has invited us to take the subject of banking relations between the different countries of America into consideration.

According to the legislation of this country banks which can be legally established are of different kinds; there are state, national, and private banks, and, may be, others which at this moment I can not recall.

National banks can not engage in operations of foreign

exchange except under conditions which are entirely adverse to commerce, and therefore they are not exchange banks. The state banks are so oppressed with taxes and restrictions that they are unable to engage in such operations with advantage. Accordingly no banks exist in the United States which have foreign relations for the simple reason that the law forbids, or at least puts obstacles in the way.

The conclusion having been reached that it was necessary to establish a bank in the United States as the only means of facilitating trade, it became necessary to ask the Conference to recommend the American delegation to call the attention of the Government to this point, so as to remove the legal impediments in the way of the fulfillment of the idea contained in the report presented by the committee.

The honorable delegate from Chili has declared that the bank to be established in this country could not alter the regular commerce between Europe and the United States because this trade obeyed the laws of political economy, and not because other measures are suggested would it be easy to turn that trade towards this country.

This is true as regards the export and import trade of the United States; the importations are $120,000,000 annually, and the exports $80,000,000. With regard to the $120,000,000 it will naturally go to Europe, but with regard to exchange between our countries it is clear that it would come here, for there is no reason why the transactions between the United States and South America should be made through England.

A merchant, for instance, in Chili or in the Argentine Republic or Costa Rica wishes to send goods to this country; he desires to receive in return the value which places him in a position to continue his operations, and he has no other means of doing so except to ask the one to whom he has sent his goods, the consignee, to authorize him to draw upon some bank. The consignee, although belonging to this country, has to send him a letter of credit on London, because there is no bank here that could issue a draft, nor would the merchant know what to do with a

draft if he received it, as there are no banking institutions to which he could sell such bill of exchange. What is the consequence of this? The banker in London must be paid a commission of 1 per cent. upon the amount simply for placing his name upon the paper. If there was a banking establishment here in correspondence with all the countries of America, it is very evident that these exchange transactions and drafts upon the United States or upon any other point of the continent would circulate and could be sold.

Therefore there is no attempt to divert the current of trade which exists between the South American States and Europe, this must take its course; but with regard to the transactions carried on in this country they should be covered by drafts upon it.

I rose simply to add a few words to the remarks made by the honorable delegate from Costa Rica. I will now make an observation upon the amendment proposed by the honorable delegate from Mexico.

With regard to the first point I have nothing to say. I refer to the second part, which reads:

> The committee propose, therefore, that each delegation should forward this report to its respective Government, and recommend that the act of incorporation of said International American Bank and of its branches should be granted.

I would ask the honorable delegate from Mexico whether he means that besides the bank incorporated in the United States there should be banks incorporated also in Mexico, Bogota, and Buenos Ayres?

Mr. ROMERO. The branches, not the bank.

Mr. HURTADO. Then it was an error of wording.

Mr. ROMERO. If the delegate will have the kindness to read all of the amendment he will see that that idea is stated above.

Mr. HURTADO. Then I have nothing further to say.

The FIRST VICE-PRESIDENT. If no honorable delegate desires the floor the vote will be taken.

Mr. MENDONÇA. I will limit myself to making a little résumé of the remarks which I made in regard to the report. As a member of this committee, I was hoping that the chairman of the committee would make clear the point as to why we made only a recommendation that was characterized by our colleague from Chili in this way. The committee had nothing in view but simply the establishment of a United States international bank. It would seem, however, that we had another object. I said that studying the different legislations of the different countries we saw that, more or less, the banking law of each country except that of the United States, provides facilities for the establishment of such institutions like the one which we desire to have just now. And that is the reason why we limited ourselves to begging our friends from the United States to recommend to their Government the advisability of having such legislation as would allow the establishment of that special bank of the character desired. We did not think it proper to recommend to our Governments to do anything which was already done, as we had in our countries the necessary provisions to receive and approve the charter of the agents of such banks. Therefore, it was not necessary for us to recommend our Governments to effect any legislation which already prevailed. From that fact, then, arose the remark, or rather the idea, that our report seems to be tending to that and nothing else, but that was just the deficiency which the committee provided for. After that, I stated that I did not see why we should accept the amendment of Señor Romero if all that is contemplated in his amendment is already in our report, and our report

says that the different Governments should grant such charters or special privileges to the agents of the banks. When they would apply for any such grants or franchises in our country, we could grant them. So I do not see the need of transforming the general plan of our report, for that is unnecessary.

The committee certainly would not ask the United States Government to make such recommendations but the committee thought it proper to ask our colleagues from the United States to make such recommendations to their Government. In regard to the remarks of our colleague from Chili, Señor Varas, I am entirely in agreement with him in regard to the principle he established or that he brought forth. It is true that banks alone can not make trade or commerce between nations. It is almost always as a consequence of already established relations that such machinery appears. But in some cases these principles are not absolute, and this is one where the lack of such institutions is keeping back the commercial relations, at least between the United States and Brazil. This is a point which I know to be true. Covering a period of six or eight years I made comparison between the prices current of manufactures in the United States and in England, and every time I found that an article in the United States could be obtained at the same, or at a lower price than in Europe. I called the attention of the importing houses in Brazil to the fact. But I am very sorry to say that with very few exceptions the Brazilian merchants did not take advantage of the fact to trade with the United States. Considering that England, in her trade with us, does not produce enough for our consumption, and that

she has to purchase of the United States, France, and from other countries, and sell to us, it is evident that it would be better for us to trade directly with the United States ourselves. We have to pay the freight and insurance between the United States and England, and then over again between England and Brazil. I called the attention of the trade here and in Brazil to this and they told me that the difficulty was not because the product was not cheaper, but because they had not the means of buying in this country. They were buying on credit in Europe, as the most of our trade is done in that manner, and they could not get the same credit in this country. The manufacturer in Europe sells to us on nine months' credit, and then we sell the retail trade on six months' credit. The manufacturer is paid at the end of six months with interest of 4 per cent. to 6 per cent. during the time of credit. The manufacturers in Europe prefer to have this trade carried on as it is, rather than receive cash payment at the time of the sale, because they could not invest their money with such good results as they do in the importations to Brazil. But why does not the United States do the same thing? For one reason, it has not the machinery to do it. We need to have such institutions, because there is no connection to-day between the consumer and producer. We need just such institutions so that we can take a bill to the bank and open the necessary credit. The necessary machinery, in the way of these proposed institutions, is lacking, and, therefore, I give my vote to a report which fills a necessary element in our relations.

Secretary Whitehouse. The following amendment has been proposed:

The undersigned propose the following amendment to the amendment of the honorable delegate from Mexico: That the final words of the report be stricken out, beginning "to be organized" etc., and be substituted by the following:

The committee recommends the Governments here represented to grant the concessions which may tend to facilitate international transactions of exchange, and especially recommends the establishment of an International American Bank.

F. C. C. ZEGARRA.
H. GUZMAN.
FERNANDO CRUZ.

The FIRST VICE-PRESIDENT. Before proceeding the Chair would say that, owing to an oversight, both in this and in the other amendments, the permission of the Conference was not asked to dispense with the rules, and it is necessary that this should be expressed in the minutes.

Is there unanimous consent to take this amendment into consideration?

Mr. FLINT. I move that the recommendations be referred back to the Committee on Banking for their consideration, and that they be permitted to report on Monday.

Mr. DAVIS. My colleague proposes, then, to let this report go over until Monday?

Mr. FLINT. Yes; I move that the recommendations be referred to the committee. I move that the discussion be suspended and that the recommendations which have been presented be referred to the Committee on Banking.

Mr. DAVIS. I do not oppose my colleague's motion, but I would suggest to him that possibly we could pass upon this report this afternoon.

Mr. FLINT. For the committee to give the matter consideration it would be necessary to hold a meeting of the committee. It might be done by providing for an intermission for that purpose, but otherwise the matter would take its natural course, being referred to the committee.

Mr. DAVIS. My colleague is on the committee and it would be referred to him, but I should be glad to have it passed upon to-day if possible.

Mr. HURTADO. I should like to know whether this is a modification of the amendment offered by the honorable Mr. Romero?

The PRESIDENT. Yes, sir; it is a modification of the amendment offered by the honorable delegate from Mexico.

Mr. HURTADO. This is a substitute, and does not modify the amendment of Mr. Romero.

Mr. VELARDE. It appears that not only the majority and minority reports are under debate, but also an amendment offered by Mr. Romero, the delegate from Mexico. The Conference has not yet decided whether the majority report has been substituted by the amendment offered by Mr. Romero. Now that a new motion is made to take the matter into consideration it seems to me reasonable to refer these amendments for the study of the committee, so that on next Monday it may present its last report upon this subject. The regular hour for closing is about to strike, and for this reason I am of opinion that it is best to suspend the session and the debate upon this subject to Monday next.

The PRESIDENT. The honorable Mr. Flint moves

to refer the subject, and also the amendments offered, to the committee.

Mr. FLINT. Mr. President, by request of a member of the committee I will withdraw the motion.

Mr. VARAS. I make the same motion as the reporting member of the committee.

The FIRST VICE-PRESIDENT. The honorable delegate from Chili makes as his own the motion which has been withdrawn by Mr. Flint.

Mr. VARAS. I must add, Mr. President, in support of the motion that this procedure is according to precedent established in this Conference. A similar condition of affairs arose in regard to the first report presented on port dues. Various suggestions had been made, some as amendments to others, and in order to smooth matters for the Conference it was unanimously agreed to refer all these amendments to the committee, and the result of this, I believe, was satisfactory.

The FIRST VICE-PRESIDENT. Is there any objection to referring this subject to the committee as well as the amendments offered, so as it shall be reconsidered?

Mr. ARAGON. The difference between the two cases consists, in my opinion, in that in the first instance the committee, which reported unanimously, accepted this course; but I do not think that the committee now reporting is disposed to accept this proceeding. This whole question rests on the amendment proposed by the honorable delegate from Mexico, which was well discussed and which covered the ground and was so considered and accepted. To-day a new amendment proposes to retain the idea of forming an international American bank, but makes no suggestion as

to how this shall be accomplished. Consequently it is all resolved into whether or not the committee shall accept the last paragraph, and this can be determined at once.

The FIRST VICE-PRESIDENT. If the delegate thinks proper we will proceed to vote first upon the motion of the Hon. Mr. Varas. I believe this is in order.

The motion of the honorable delegate from Chili, Mr. Varas, is ready for the vote. Shall this subject be referred to the committee?

Mr. QUINTANA. I ask the privilege of the floor in order to inquire whether the majority of the committee accepts or not this idea, as my vote will be given in accordance with the position taken by the committee.

Mr. HURTADO. In reply to the question just asked by the honorable delegate from the Argentine Republic, I would say that the majority of the committee desires that these amendments should not be returned to the committee; and the reason is as follows:

The opinions which have been given and upon which the vote is to be taken are so perfectly clear that the committee could only do one of three things: sustain the report or adopt the so-called amendment of the honorable delegate from Mexico, which, in my opinion, is none other than the same resolution offered by the reporting committee; or else adopt what should properly be called a modification of the report, because it retains several lines of the report and rejects several others.

It seems to me that the assembly can easily determine whether it will adopt the report as drawn up and

presented by the committee, or amended by the honorable delegates from Peru, Nicaragua, and Guatemala; the idea of the committee as reframed by the honorable delegate from Mexico; or finally the minority, report, presented by the honorable Mr. Varas, which should also be taken into account, and which, in part, is embraced in the report presented by the minority, so that we might say that the most terse and prudent recommendation is that offered by the honorable delegate from Chili. Then follows that presented by the honorable delegates from Peru, Nicaragua, and Guatemala, which includes the minority report with a recommendation for the establishment of a bank; and finally the report of the majority, with the several recommendations contained in the amendment offered by the honorable delegate from Mexico. I will even say more; it might almost be voted in parts giving to each merited consideration. In the first place, the report of the honorable delegate from Chili, which the committee accepts but wishes to enlarge. In the second place, the part illustrated by the honorable delegates from Peru, Nicaragua, and Guatemala. And finally, the last part of the report presented by the committee.

I take the liberty of offering this suggestion, with permission of the Chair, as it will conduce to prompt conclusion of the subject. I do not consider it necessary that this matter should be returned to the committee, Mr. President, as it would report in the same terms.

The First Vice-President. The vote will be taken on the motion offered by the honorable Mr. Varas.

The vote was taken, with the following result:

Those who voted to refer the subject to the committee were:

AFFIRMATIVE, 4.

Honduras.	Bolivia.	Chili.
Mexico.		

NEGATIVE, 7.

Peru.	Colombia.	Argentine.
Costa Rica.	Brazil.	United States.
Venezuela.		

The First Vice-President. The Conference decides that the subject shall not be returned to the committee, by a vote of 7 to 4.

The debate will proceed on the majority report.

Mr. Varas. With the desire to simplify the labors of the Conference, and reconcile, as far as possible, all the varied opinions, as reporting member, I will accept, as a substitute for the conclusion of the report, the amendment offered by the honorable delegates from Peru, Nicaragua, and Guatemala. There remain, therefore, but two principal resolutions—that of the majority report, and that of the minority in the form proposed by the delegates whom I have mentioned.

The First Vice-President.—If no delegate desires the floor, the vote will proceed.

The Chair believes that in this case, and above all, since the declaration made by the honorable delegate from Chili, that it will be necessary to vote upon the two parts separately, as suggested, with such good reason, by the delegate from Colombia. To this end the attention of the gentlemen who offered the resolution is called to the fact that in the resolution signed

by some of the delegates the phrase "in view of the facts heretofore shown" has been suppressed, and the rosolution reads: "The committee recommends to the Governments," etc.

I would like to hear an expression of opinion from the delegates upon this subject.

Mr. HURTADO. Mr. President, the committee has its report.

Mr. ROMERO. I think that the report of the majority should be first voted upon, and, if that is rejected, then that of the minority.

Mr. QUINTANA. Mr. President, the subject of the vote is not the explanatory portion, but the resolutions or opinions offered, and, if such is the case, the Conference can not then be made to vote upon the phrase which reads "In view of the facts heretofore shown," because this would oblige the Conference to vote upon the explanatory part, and a delegate may agree with the ideas of the report as regards its conclusion, and yet not agree with the argument.

SESSION OF APRIL 14, 1890.

The PRESIDENT. The order of the day is the continuation of the debate on banking.

Mr. HURTADO. There is before the Chair the conclusions of the report of the committee on banking. The committee on banking met subsequent to the last session, and I have the honor to say, in the name of the committee, that they have duly considered all that had been said in the debate of the previous day, together with the amendments suggested by Messrs. Varas, Romero, Zegarra, Guzman, and

Cruz, and that the committee had succeeded in adopting an unanimous report. I therefore ask the Conference to allow the withdrawal of the former report and the substitution of the following conclusions:

After consideration, your committee advises the adoption of the following resolution:

Resolved, That the Conference recommends to the Governments here represented the granting of liberal concessions to facilitate inter-American banking, and especially such as may be necessary for the establishment of an international American Bank.

J. M. HURTADO.
E. C. VARAS.
CHAS. R. FLINT.
SALVADOR DE MENDONÇA.
MANUEL ARAGÓN.

Mr. QUINTANA. The Argentine delegation would have voted with pleasure for the report first presented by the majority not only as regards the principle, but also the form. The one now offered as a substitute is identical as to the fundamental idea and also as to the first part of the plan of the majority report, because it is simply a copy of the first.

I can understand the suppression which has been made of the special recommendations to the American delegations to present this report to the President of the United States, because it is the duty of the United States delegation to do so, and that delegation is so particular in the fulfillment of its duties that, without doubt, it does not need us to make the suggestion. But in the plan now submitted and which has been accepted by the committee, I notice that another matter has been suppressed which I suppose is not intentional.

I allude to the authority of this bank to establish branches or agencies in other parts of America. It would not be an international bank if it had not the right to establish branches or agencies, and, in consequence, I would propose that there be added to the plan just presented the following words, which have been copied from the majority report of the committee: "With power to establish branches or agencies in accordance with the laws in force in the several countries."

The PRESIDENT. The delegate from the Argentine Republic offers an amendment to the report.

Mr. QUINTANA. My motion, Mr. President, is to add to the resolution, after the words "International American Bank," the following: "With power to establish branches or agencies outside of the country in which the principal house is established."

Mr. HURTADO. Mr. President, I am authorized by my colleagues on the committee to state that there is no objection at all to the words suggested by the honorable delegate, and it is, therefore, accepted by the committee.

The PRESIDENT. The amendment offered by the delegate from the Argentine Republic and accepted by the committee consists in the addition to the report of the following words: "With the power to establish branches or agencies in the other countries represented in this Conference."

Mr. ZEGARRA. I will accept the fundamental idea of the proposed amendment, but I will take the liberty to offer a suggestion to the honorable delegate of the Argentine Republic in case he should desire to accept it, that it would be more concise to say after

the words "International American Bank," "with the respective branches or agencies."

In this way the resolution would be simpler and the idea be, perhaps, more clear.

The PRESIDENT. The Chair hears no objection to the amendment offered by the Honorable Mr. Quintana and accepted by the committee; the subject at present is whether the resolution, unanimously presented by the Committee, with the amendment offered by Mr. Quintana, will be approved.

Mr. VARAS. I will rise to accept once more in the name of the chairman and members of the committee, the idea expressed in the new report; and I take this opportunity to fulfill a duty by making an explanation.

The honorable chairman in referring to the agreement reached by the committee, after the late debate, had the kindness to say that the remarks made by the speaker had been taken into account by the committee in drawing its conclusions.

It is very agreeable to me, Mr. President, to comply with the duty of saying that such consideration on the part of the committee, was undoubtedly inspired by the noble desire which has animated it to harmonize and draw into cordial relations the varied interests of the several nations here represented. This is a noble motive, and I repeat that I take great pleasure in recognizing it before the Conference.

VOTE.

The PRESIDENT. The question is upon the resolution as amended. If the Conference is ready for the question, the roll will be called.

The roll-call resulted as follows:

AFFIRMATIVE, 14.

Nicaraugua,	Costa Rica,	Bolivia,
Peru,	Paraguay,	United States,
Guatemala,	Brazil,	Venezuela, and
Colombia.	Honduras,	Chili.
Argentine.	Mexico,	

In the negative, none.

The PRESIDENT. The resolution is unanimously agreed to.

THE RECOMMENDATION AS ADOPTED.

Resolved, That the Conference recommends to the Governments here represented the granting of liberal concessions to facilitate inter-American banking, and especially such as may be necessary for the establishment of an International American Bank, with branches, or agencies, in the several countries represented in this Conference.

PRIVATE INTERNATIONAL LAW.

FIRST REPORT OF THE COMMITTEE ON INTERNATIONAL LAW.

As submitted to the Conference February 21, 1890.

The Committee on International Law, whose duty it is to propose uniform rules of private international law concerning civil and commercial matters and the legalization of documents, has now the honor to submit for the consideration of the honorable Delegates the result of its studies and deliberations.

Though uniformity of rules in matters of private international law was not specifically and expressly named in the act of Congress convoking this Conference as one of the subjects to be treated in the latter, there is no doubt that it falls legitimately within the scope and nature of those subjects, since such uniformity would most directly tend to promote prosperity and stability in the mutual relations of the various States of America. If the difficulties of communication, the differences to be found in the organization and the rules of the respective custom-houses, and even the diversity of weights and measures, are obstacles to the attainment of the desired end—that is, the greatest practicable unification and harmonization of the people of these States—a no less important obstacle is that which arises out of conflicts of law upon matters of daily occurrence and constant application. To facilitate the movement among these communities it is not only expedient but indispensable to endeavor to remove such obstacles.

Private international law is that branch of law which has the most direct, immediate, and intimate bearing upon

the person, the family, and property; or, in other words, upon the three precious elements characterizing man in his social aspect. Vainly would we offer to any individual all the inducements of rapid, convenient, and cheap communication, or of similarly favorable conditions in matters of port dues, custom-houses, and money, if other subjects which are to him of the greatest moment, concerning either his personal rights, his authority and position in his family, or his powers and privileges in regard to his property, remain in doubt. Uniformity of rules in private international law would tend to remove this uncertainty, the consequences of which are the more to be feared as the union brought about by a more active and fruitful commercial intercourse grows closer and more intimate between the nations.

The ideal, no doubt, is an absolute and complete uniformity of legislation, at least upon those points on which conflicts may arise. But as this can not at present be hoped for, we must at least provide a definite and safer rule by which such conflicts may be settled as they arise. Inasmuch as every nation, whether great or small, is entirely free to adopt for itself such institutions and laws as it may deem best calculated to supply its needs or to meet the circumstances which surround it, it of course happens that the differences of legislation exhibited by them are sometimes striking.

By virtue of the sovereignty of those States each of them has the indisputable right to enforce its laws within the limits of its territory and with respect to its own citizens. But when the case is that of foreigners within its territory, or of the citizens of the State in foreign territory, then there has to be considered, beside the law of the State itself, the law of the foreigner's nation, or the law of the place in which the citizen finds himself. Supposing that these laws differ, as they may, in view of the diversity of conditions and circumstances of each sovereign State, the necessity will be felt, urgently and imperatively, of some established principle by which the matter should be set at rest. If the nations were to live in entire isolation, if they were neither to admit foreigners into their

territory nor to allow their citizens to enter foreign territory, if there were to be no commerce, navigation, or communication, or if the laws relating to civil and commercial life were everywhere the same, no difficulty whatever would be encountered. But, as already stated, the facts are that the laws are, and for a long time will continue to be, diverse; and furthermore, that nations do not live, nor ought nor wish to live, in isolation, and that, quite to the contrary, the independent States of America have gathered together here to discuss, through their lawful representatives, those measures which, in their opinion, may be the safest and most efficacious for promoting the closest and most intimate union which their independence and their true interests may possibly allow.

If, for instance, the law of North America fixes the age of twenty-one years as the full legal age, and in any of the Spanish-American republics it is the rule that full legal age is not reached until the age of twenty-five, it is necessary to have some standard for deciding whether a Spanish-American citizen is of full age here at twenty-one, or if a North-American there must wait to be twenty-five in order to be considered as of full age. If marriage is entered into here with certain solemnities, and there the form and the solemnities are different, it is necessary to decide whether parties entering into the contract of marriage in their territory according to the laws of their own nationality are or are not entitled to have such marriage treated as valid everywhere; and it is necessary also to decide whether a foreigner here, or a North-American out of the United States, must in his marriage observe the formalities of the law of his own country or the formalities of the place in which it is celebrated. If a marriage entered into in one republic may by the laws of the latter be dissolved and the parties to such marriage go to live in another republic whose laws declare the contract indissoluble, or *vice versa*, it is necessary to know how to decide whether the marriage in question may or may not be dissolved. If, according to the law of the place in which the marriage is celebrated, the wife has power to manage her property and freely administer it, and, according to the law of the

place to which the parties move and in which they live, the wife has not this power, but the husband is the legal administrator, it is urgent to determine what rule shall govern in case of controversy. If the order of succession is different; if in one place inheritance is a matter of right and in another the property may be freely disposed of by will; if the effects of contracts are different; if the methods of entering into partnerships or other commercial relations are not the same, or if the consequences thereof are different; if the form and effects of a bill of exchange or any other commercial paper are different; it is imperative that some rule should exist for settling such questions as may arise.

These ordinary instances, which might be indefinitely multiplied in every branch of civil and commercial law, and further complicated by questions as to what law applies to property found in one territory, when the owner is a foreigner, plainly demonstrate the necessity of certain rules for the determination of such controversies. These differences are due, as before said, to the sovereignty of the different States manifesting itself in diversities of legislation; but they ought, nevertheless, to be made to disappear by the harmonious action of the sovereignties themselves, in pursuance of their laudable desire to avoid all occasion of troubles or disputes among them.

Down to the present time all these conflicts have been decided according to doctrines held by writers on private international law, based on a philosophic study of the nature and bearing of the laws affecting the mutual relations of nations. But, although the progress already achieved in this branch is unquestionably great, and although the writings of Foelix, Fiore, Calvo, Riquelms, Wheaton, Story, Wharton in his work on the Conflict of Laws, Dudley Field in the draft of a Code of International Law, and very many others, whose mention would involve too great prolixity, have thrown considerable light upon all these subjects, their opinions, however, do not always agree upon important points, nor possess the binding force or the solemn authority which only can be imparted by the voluntary, express, and concerted recognition which a treaty

gives. To secure this recognition would certainly be a very great step towards obtaining union, and the committee feels that it is its duty to set forth what are the reasons why, in spite of these considerations, it has been restrained from attempting, definitively and at once, anything in that direction, as it would very strongly have desired to do.

As all matters of private international law are intimately and necessarily connected with points of municipal law and technical jurisprudence, and as the present Conference was not intended to be a congress of jurists, the committee has feared that some of the honorable members of the Conference would not feel authorized or disposed to enter upon discussions of law and undertake the study of the numerous provisions which would necessarily form part of any complete code of private international law on civil and commercial matters. Nor could the committee content itself, especially since elsewhere, as in Lima and Montevideo, such elaborate and accurate conclusions have been reached, with submitting for the approval of the Conference some five or six general and more or less indefinite principles, such as ordinarily form the basis and foundation of the doctrines and conclusions of the writers of treatises, because this would have had no practical effect or consequence, and would have left the subject in the same condition of vagueness and uncertainty that it was before. For these reasons the committee has had recourse to a plan which, in its judgment, not only avoids difficulties, but affords the best guaranties of certainty and the greatest probability of our securing safe and useful practical results.

The formulation of a code of private international law on civil and commercial matters would certainly require more time and attention than can now be given to it, inasmuch as this is not the only subject with which the Conference has to deal, there being, in addition, many others of importance. Its discussion, furthermore, would be the work of many months, and this, too, without there being any certainty that the end aimed at would be reached, because, owing to the complexity of the subject and

to the number and closeness of its relations to the internal legislation of each country, it would not be easy to form off-hand an accurate conception of what the common interests demand. Fortunately, the committee has found ready to its hand as distinguished and complete a presentation of the subject as could be desired. That presentation is embodied in the Treaties of Civil and Commercial Law sanctioned by the South American Congress of Private International Law at Montevideo, which opened on the 25th of August, 1888, and closed on the 18th of February, 1889. The amplitude of the discussions in that Congress, the minute and careful study of every point and detail involved, the intelligent consultation and laborious study which the reports and discussions show to have been bestowed upon the works of the most distinguished European and American writers, the just appreciation with which it has met, and, above all, the circumstance—so clearly entitled to great weight—that it has already secured the adhesion of seven of the American nations, have powerfully influenced the judgment of the committee in favor of embodying the work in question as the substance of what is to be recommended.

Had it not been for the reasons above indicated, in view of the wide scope of the said treaties, which the honorable members of the Conference already know—comprising, as they do, all matters of civil and commercial law—and had it not been, furthermore, for certain special obstacles which would prevent the delegation of the United States of America from adopting the suggestion, the committee would have simply suggested a recommendation to be made to the Governments represented in this Conference to adopt the treaties in question. But (the committee repeats) in view of them, and in view especially of the probability that some of the honorable Delegates might feel bound, before indorsing such a recommendation, to go through a detailed personal study of the said treaties, and, perhaps, an examination and discussion of every one of the articles thereof, which would occupy the attention of the Conference for many months, it has decided not to go so far in the resolution to be submitted. That resolution ac-

cordingly embodies only the suggestion that the Conference recommend to the various Governments represented therein which have not already adopted the Treaties of Civil and Commercial Law formulated by the Congress of Private International Law at Montevideo that they examine the said treaties in such manner as they may deem most convenient, and, within one year from the closing of this Conference, announce whether they accept the same, and if they do, whether such acceptance is absolute or with restrictions or modifications.

The committee believe that by this plan undue haste is avoided in taking final action upon matters so delicate and important; and that, while in this way a sufficient time is afforded to each Government for making, in such manner as it shall deem best, an examination of the said treaties and for deciding as to the expediency of adopting them, or as to the necessity for modifications thereof, there is, also, presented a safe and definite foundation in a work already accomplished, and which, to the other sanctions which it presents, joins that of its being already the law of a considerable number of American nations.

It is possible—nay, probable and almost certain—that on a separate examination of some of the provisions of those treaties there may be found a formula which, in respect of expression or even of substance, would constitute an improvement upon those provisions; but the work ought to be considered as a whole, without losing sight of the fact that in these matters what is to be hoped for is not perfection in all the details, but the best result upon which the majority can unite without serious inconvenience to any. In this is found another reason for leaving to the Governments the examination of these treaties taken together, inasmuch as they would feel more at liberty to exercise their full authority in passing upon this or that point which here might give occasion now and then to the most serious scruples. They alone, furthermore, could, after thorough and adequate study, accurately estimate the importance, scope, and consequences of the changes which would have to be made in internal legislation and the greater or less practicability of those changes.

The committee believes thus that the resolution which it submits, while it may prove productive of very beneficial results, can not be said unduly to compromise the responsibility of the honorable Delegates. It has this, furthermore, in its favor, that even in the improbable contingency that one or more of the Governments represented shall fail to adopt the treaties in question, this would not prevent their adoption by the others; so that though it would not then constitute the private international law of all America, it might at least constitute that of a great many of the American nations. And it has this further advantage, beside, that it does not leave the subject to await the assembling of another conference, but leaves it to each Government to announce, in the way specified and independently of the others, its own adoption of the said treaties. The committee thinks, too, that it does not transcend its proper functions in suggesting that the recommendation be made to embrace the treaty concerning judicial procedure, it being a necessary complement of the others and the solemn expression of the form in which are to be made available those lawful actions open to each individual in civil and commercial matters.

With respect to the legalization of documents, the committee believes that the simplest and most philosophical principle is that adopted by the same Congress—to leave the formalities to the law of the country in which the document originates, and require only authentication by the diplomatic or consular agent accredited to the country or place of execution by the Government within whose territory the paper is to have effect.

In view of all of which the committee submits to the Conference the following resolutions:

RECOMMENDATIONS OF THE COMMITTEE.

Resolved, That the Governments represented in this Conference which as yet have not accepted the treaties of private international law, civil law, commercial law, and law of proceedings adopted at the Congress which met at Montevideo on the 25th of August, 1888, be and they are hereby recommended to cause said treaties to be

studied, so as to render themselves able, within the year, to be counted from the date of the termination of the labors of this Conference, to declare whether they do or do not accept the said treaties, and whether their acceptance of the same is absolute or qualified by some amendments or restrictions.

Resolved further, That the Governments represented in this Conference be, as they are, recommended to adopt in the matter of legalization of documents the principle that a document is to be considered duly legalized, when legalized in accordance with the laws of the country wherein it was made or executed, and authenticated by the diplomatic or consular agent accredited in the nation or locality, where the document is executed, by the Government of the nation in which the document is to be used.

FERNANDO CRUZ.
MANUEL QUINTANA.
J. M. P. CAAMAÑO.
WM. HENRY TRESCOT.

Except as to the treaty of civil law.

J. ALFONSO.

APPENDIX No. 1.

TREATY ON INTERNATIONAL CIVIL LAW.

[As approved by the South American Congress at Montevideo on February 1, 1889.]

TITLE I.—*Of persons.*

ARTICLE 1.

The legal capacity of persons shall be governed by the laws of their domicile.

ARTICLE 2.

Change of domicile shall not disturb the legal capacity acquired by emancipation, majority, or judicial authorization.

ARTICLE 3.

The State as a corporate body is competent to acquire rights and to contract obligations within the territory of another State, subject to the laws of the latter.

ARTICLE 4.

The existence and legal capacity of private corporations shall be governed by the laws of the country granting their charter.

The powers with which they are invested gives them full authority to exercise, out of their place of incorporation, all such acts and rights as are incidental to them.

In the exercise of acts included in the special purpose of their incorporation, however, they shall be subject to the provisions established by the State within whose territory they intend to exercise said acts.

TITLE II.—*Of the domicile.*

ARTICLE 5.

The law of the place of residence of a person shall determine the requirements necessary to constitute a domicile of said residence.

ARTICLE 6.

Parents, guardians, and curators shall be considered as domiciled in the State whose laws govern the discharge of their duties.

ARTICLE 7.

The domicile of persons who labor under legal disabilities shall be that of their legal representatives.

ARTICLE 8.

The domicile of husband and wife shall be that which the couple have adopted, and in default of such adoption, their domicile shall be that of the husband.

The domicile of the wife lawfully separated shall be that of the husband until she shall adopt another.

ARTICLE 9.

Persons without speified domicile shall have the same in their place of residence.

TITLE III.—*Of absence.*

ARTICLE 10.

The legal effects of a judgment of absence, as regards the property of the absentee, shall be determinedby the law of the place wherein the property is situated.

The other legal relations of the absentee shall continue to be subject to the law which previously governed them.

TITLE IV.—*Of marriage.*

ARTICLE 11.

The capacity of persons to contract marriage, the formalities, the continuance, and the validity thereof shall be governed by the law of place where the contract is entered into.

The contracting States, however, shall not be bound to recognize a marriage celebrated in one of them, should any of the following impediments exist:

(*a*) *Want of age* on the part of the contracting parties, it being required that the man be fully fourteen years and the woman twelve years of age.

(*b*) *Relationship* in direct line by consanguinity or by affinity, either legitimate or illegitimate.

(*c*) *Relationship* between legitimate or illegitimate brothers and sisters.

(*d*) Killing by any one, either as principal or accomplice, of one of the married parties for the purpose of marrying the survivor.

(*e*) Former marriage not lawfully dissolved.

ARTICLE 12.

The rights and duties of married parties in everything concerning their personal relations shall be governed by the laws of the matrimonial domicile.

Should the married parties change their domicile, the said rights and duties shall be governed by the law of their new domicile.

ARTICLE 13.

The law of the matrimonial domicile shall govern: (*a*) Legal separation of the parties. (*b*) Dissolution of the marriage tie; provided that the grounds alleged be sufficient under the law of the place where the marriage took place.

TITLE V.—*Of the paternal power.*

ARTICLE 14.

The paternal power in so far as it refers to personal rights and duties shall be governed by the law of the place where it is exercised.

ARTICLE 15.

Rights acquired by virtue of the paternal power by fathers over their children's property, as well as the alienation thereof and other acts affecting it, shall be governed by the law of the State wherein the said property is located.

TITLE VI.—*Of filiation.*

ARTICLE 16.

The law governing the marriage contract shall determine the legitimate filiation and the legitimation by subsequent marriage.

ARTICLE 17.

Questions concerning the legitimacy of the filiation which do not refer to the validity or nullity of the marriage shall be governed by the law of the conjugal domicile at the time of the child's birth.

ARTICLE 18.

The rights and duties incident to illegitimate filiation shall be governed by the law of the State wherein they must be exercised.

TITLE VII.—*Of guardianship and curatorship.*

ARTICLE 19.

The appointment to a guardianship and curatorship shall be governed by the law of the place of domicile of the persons who are legally incompetent.

ARTICLE 20.

A person appointed as guardian or curator in one of the contracting States shall be recognized as such in all the others.

ARTICLE 21.

Guardianship and curatorship shall be governed by the law of the place of appointment, as regards the rights and duties incident to the office.

ARTICLE 22.

The authority of guardians and curators over the property of persons legally incompetent, located elsewhere than their place of domicile, shall be exercised according to the law of the place where said property is located.

ARTICLE 23.

Legal hypothecation that may be allowed by law to persons legally incompetent shall have effect only when the law of the State wherein the duties of guardian or curator are discharged is in accord with the law of that State wherein the property affected is located.

TITLE VIII.—*Provisions applicable to Titles IV, V, and VII.*

ARTICLE 24.

Pressing measures concerning the personal relations between husband and wife, the exercise of paternal powers, and guardianship and curatorship, shall be governed by the law of the place of residence of the married parties, parents, and guardians and curators.

ARTICLE 25.

The remuneration allowed by law to fathers, guardians, and curators, and the conditions thereof, shall be governed and determined by the law of the State of appointment.

TITLE IX.—*Of property.*

ARTICLE 26.

Property of whatever nature shall be exclusively governed by the law of the place of location in so far as regards its nature, possession, absolute or relative alienability, and generally in respect of all the legal incidents of its character as a thing (as distinguished from a person).

ARTICLE 27.

Vessels in non-territorial waters shall be considered as situated at the place of register.

ARTICLE 28.

The cargo of vessels in non-territorial waters shall be considered as being at the port of destination of the goods.

ARTICLE 29.

For jurisdictional purposes creditors' claims shall be considered as having their *locus* in the place where the contract must be executed.

ARTICLE 30.

The removal of personal property shall not affect the rights acquired according to the law of the place where it existed at the time of their acquisition.

The parties interested are obliged, however, to comply with all the requirements, both of substance and form, required by the law of the place whence taken, to acquire or preserve the said rights.

ARTICLE 31.

The rights acquired by third parties over the same property according to the law of the place whence removed after the removal and before complying with the said requirements, shall take precedence of the rights of the party having first acquired.

TITLE X.—*Of legal acts.*

ARTICLE 32.

The law of the place where contracts are to be executed shall determine whether they should be in writing and the character of the proper document.

ARTICLE 33.

The same law shall govern: (*a*) Their duration; (*b*) their nature; (*c*) their validity; (*d*) their objects; (*e*) their consequences; (*f*) their performance; (*g*) and finally everything relating to contracts in any respect whatsoever.

ARTICLE 34.

Consequently, contracts made concerning things certain and definite shall be governed by the law of the place of their location at the time of execution.

Those concerning things determined by their nature shall be governed by the law of the place of domicile of the debtor at the time of execution.

Those relating to things fungible shall be governed by the law of the domicile of the debtor at the time of their execution.

Those providing for the rendering of personal services: (*a*) If they relate to things, shall be governed by the law of the place where these existed at the time of execution. (*b*) If to services that are to be rendered in any specified place, they shall be governed by the law of the place where they are to be rendered. (*c*) In all other cases not herein specified, they shall be governed by the law of the place of domicile of the debtor at the time of execution.

ARTICLE 35.

A contract for barter or exchange of things located in different places under conflicting laws shall be governed by the law of the domicile of the contracting parties, if it be the same, at the time of the barter or exchange, or by the law of the place where the barter or exchange took place, if the domicile be separate.

ARTICLE 36.

Subsidiary contracts shall be subject to the law governing the principal obligation to which they refer.

ARTICLE 37.

The execution of the contract entered into through correspondence or by proxy shall be governed by the law of the place where the offer originated.

ARTICLE 38.

Obligations not arising out of contract shall be governed by the law of the place where the act, legal or illegal, whence they originated was performed.

ARTICLE 39.

The form of public documents shall be governed by the law of the place where they are executed.

Private documents shall be governed by the law of the place of performance of the contract in question.

TITLE XI.—*Of marriage settlements.*

ARTICLE 40.

Marriage settlements shall govern the relation between husband and wife respecting the property they had at the time of making the contract and that which is afterwards acquired in everything that is not prohibited by the law of the place of its location.

ARTICLE 41.

In the absence of special stipulations and as to all matters not provided for therein, if any there be, and as to everything not prohibited by the law of the place where the property is located, the relations of the parties married to said property shall be governed by the law of the conjugal domicile that may have been selected, by mutual agreement, prior to entering into the marriage.

ARTICLE 42.

If no conjugal domicile shall have been selected beforehand, the aforesaid relations shall be governed by the law of the husband's domicile at the time the marriage is entered into.

ARTICLE 43.

A change of domicile does not affect the relations of husband and wife to the property, be it acquired before or after the change.

TITLE XII.—*Of estates.*

ARTICLE 44.

The form of a will shall be governed by the law of the place of location of the inheritable property at the time of the death of the decedent.

Nevertheless, a will registered in due form in any one of the contracting States shall be deemed valid in each of the others.

ARTICLE 45.

The *lex loci* shall govern: (*a*) Testamentary capacity; (*b*) that of an heir or legatee to inherit; (*c*) the validity and effects of the will; (*d*) the inheritable titles and rights of relatives and the survivor of the marriage bond; (*e*) as to whether any portion of an estate must, under the law, go to the heirs, and if so, the proportion thereof; (*f*) as to whether any, and if so, what portion, of the estate may be reserved; (*g*) finally, everything relating to legal or testamentary succession.

ARTICLE 46.

Debts payable in one of the contracting States shall be first liens upon the assets therein situated at the time of the death of the decedent.

ARTICLE 47.

Should said assets be insufficient for the liquidation of the aforesaid debts, the creditors shall share *pro rata* in the assets located in other places, without prejudice to the preferred right of local creditors.

ARTICLE 48.

When the debts must be liquidated in any locality where the decedent has left no assets the creditors shall exact *pro rata* payment from the assets located elsewhere, subject, however, to the same limitation established in the preceding article.

ARTICLE 49.

Bequests couched in generic terms and not designating the locality of satisfaction or payment shall be governed by the law of the place of domicile of the testator at the time of his death; they shall be realized from the property that he may have left in said domicile, and in default thereof, or its insufficiency, they shall be satisfied or paid *pro rata* out of all the other property of the decedent.

ARTICLE 50.

The duty of accounting shall be subject to the law governing the estate respecting which it is demanded.

Should the accounting concern real or personal property (other than money) it shall be limited to the estate of which said property is a part.

When it is with respect to a sum of money the amount shall be apportioned among the several estates in which the accounting heir is interested, in proportion to his share in each.

TITLE XIII.—*Of limitations.*

ARTICLE 51.

Absolute limitation of personal actions shall be governed by the law to which the obligations involved are subject.

ARTICLE 52.

Absolute limitations of real actions shall be governed by the law of the locality of the property subject to the lien.

ARTICLE 53.

If the property upon which the lien rests be movable and shall have changed location, the limitation shall be subject to the law of the locality in which the period of prescription shall have expired.

ARTICLE 54.

Prescriptions by the running of which title is acquired to movable and immovable property shall be subject to the law of the location of said property.

ARTICLE 55.

If the property be movable and shall have changed location, the limitation shall be subject to the law of the locality in which the period of prescription shall have expired.

TITLE XIV.—*Of jurisdiction.*

ARTICLE 56.

Personal actions should be brought before the courts of the locality by whose law the legal act, subject-matter of the preceedings, is governed.

They may also be brought before the courts of the defendant's domicile.

ARTICLE 57.

Petitions for judgments of absence should be addressed to the court of the alleged absentee's last domicile.

ARTICLE 58.

Proceedings respecting the capacity or incapacity of persons to exercise their civil rights should be conducted before the court of his domicile.

ARTICLE 59.

Actions, founded on the exercise of the paternal authority, and on that of guardians or curators over minors and persons suffering under disability and of the latter against the former, shall be heard in every thing affecting them personally before the courts of the country where the parents, guardians, or curators are domiciled.

ARTICLE 60.

Actions touching the property, its alienation, or actions affecting the property of persons suffering under disability, should be heard before the courts of the place where the property is located.

ARTICLE 61.

The courts of the place of appointment of guardians or curators are competent to take cognizance of accountings by said guardians or curators.

ARTICLE 62.

Proceedings for nullity of marriage, limited and absolute divorce, and in general all questions affecting the personal relations of husband and wife, shall be instituted before the courts of the marital domicile.

ARTICLE 63.

All questions arising between husband and wife concerning alienation, or any other acts affecting the matrimonial possessions, the courts of the place where the property is located shall be competent to determine.

ARTICLE 64.

The courts of the place of residence of the parties shall be competent to take cognizance of the provisions of article 24.

ARTICLE 65.

Proceedings concerning the existence and dissolution of a partnership should be brought before the courts of the place of its domicile.

ARTICLE 66.

Trials originating in an inheritance consequent upon death shall be brought before the courts of the place where the inheritable property is located.

ARTICLE 67.

Realty actions, and those known as mixed actions, should be instituted before the courts of the locality where the thing at issue is situated.

Should said actions cover things located in different places, the proceedings should be brought before the courts of the place where each may be located.

TITLE XV.—*General provisions.*

ARTICLE 68.

It is not indispensable to the enforcement of this treaty that it be ratified simultaneously by all the contracting nations. The nations approving it will communicate such approval to the Governments of the Argentine Republic and of the Republic of Uruguay, that they may notify the other contracting nations. This procedure shall take the place of diplomatic exchange.

ARTICLE 69.

The exchange once made in the form prescribed in the preceding article, this treaty shall remain in force, counting from such ratification. for an indefinite period.

ARTICLE 70.

Should any one of the contracting nations see fit to withdraw from this treaty or to introduce amendments therein, it shall notify the others; but said withdrawal shall not take effect until two years after notice thereof, a period within which efforts shall be made to arrive at a new agreement.

ARTICLE 71.

The provisions of article 68 are extended so as to include those nations, which, not having representation in this Congress, may wish to accept the present treaty.

In witness whereof the Plenipotentiaries of the aforesaid nations sign and seal five copies hereof, at Montevideo, this —— day of the month of ———, of the year one thousand eight hundred and eighty-nine.

APPENDIX No. 2.

TREATY ON INTERNATIONAL COMMERCIAL LAW.

[As approved by the South American Congress at Montevideo on February 4, 1889.]

TITLE I.—*Of commercial acts and merchants.*

ARTICLE 1.

All lawful acts shall be considered as either civil or commercial according to the law of the country where they are performed.

ARTICLE 2.

What shall constitute parties merchants shall be determined according to the law of the country where their business is located.

ARTICLE 3.

Merchants and commercial clerks shall be subject to the commercial laws of the country wherein they ply their vocation.

TITLE II.—*Of partnerships.*

ARTICLE 4.

Partnership contracts shall be subject, as regards form and the legal relations between partners, and between the partnership and third parties, to the law of the country where the partnership has its business domicile.

ARTICLE 5.

Partnerships or associations having the character of a legal person shall be subject to the laws of the country where they are domiciled; they shall be recognized of right as such in the states, and empowered to exercise their civil rights therein and plead and be impleaded before the courts.

But in the exercise of functions incident to the purposes of the association they shall be subject to the provisions of the law in force in the state wherein they propose to carry them into effect.

ARTICLE 6.

Branch offices or agencies established in one state by a partnership having its domicile in another, shall be considered as domiciled in the place wherein their business is conducted, and be subject to the jurisdiction of the local authorities in everything concerning their business operations.

ARTICLE 7.

The courts of the country wherein the partnership has its legal domicile shall take cognizance of litigation arising between the partners or that may be brought by third parties against the partnership.

However, if a partnership domiciled in one state carry on operations in another, which operations should give rise to litigation, this may be initiated before the courts of the latter state.

TITLE III.—*Of land, maritime, and life insurance.*

ARTICLE 8.

Insurance contracts on land and on river or inland water transportation shall be subject to the law of the country wherein the property insured is situated at the time of the execution of the contract.

ARTICLE 9.

Maritime and life insurance shall be subject to the laws of the country where the insurance company, its branch offices or agencies are domiciled, as provided in article 6.

ARTICLE 10.

The courts of the country where the insurance companies have their legal domicile shall take cognizance of all causes instituted against said companies.

If said companies have branch offices in other states the provisions of article 6 shall govern in the premises.

TITLE IV.—*Of collisions, foulings, and shipwrecks.*

ARTICLE 11.

Collisions and foulings of vessels shall be subject to the law of the country within whose waters they happen, and they shall be subject to the jurisdiction of the courts of the same.

ARTICLE 12.

In case of collisions or foulings in non-jurisdictional waters the law of the country of register shall govern.

In case the vessels should be registered in different nations, the law of the country most favorable to the respondent shall prevail.

In the case set forth in the foregoing section the jurisdiction in the premises shall belong to the courts of the country first reached.

Should the vessels arrive at ports situated in different countries, the jurisdiction of the authorities first taking cognizance of the matter shall prevail.

ARTICLE 13.

In cases of shipwreck the authorities of the territorial waters in which the accident takes place shall have jurisdiction.

Should the shipwreck occur in non-jurisdictional waters, jurisdiction shall be assumed either by the courts of the country whose flag the vessel carries, or those of the respondent's domicile at the time of the institution of proceedings, at the election of the libellant.

TITLE V.—*Of chartering.*

ARTICLE 14.

Chartering contracts shall be subject to and governed by the laws and courts of the country where the shipping agency with which the chartering party has contracted is located. If the object of the chartering contract be the transportation of merchandise or passengers between ports of one state, it shall be governed by the laws of the same.

ARTICLE 15.

If there be no shipping agency established at the institution of proceedings the chartering party shall bring his action before the courts of the domicile of any of the parties interested in or representing the said agency.

If the shipping agency be the plaintiff it may institute proceedings before the courts of the state where the chartering party is domiciled.

TITLE VI.—*Of bottomry bonds.*

ARTICLE 16.

The contract of loans on bottomry bonds shall be governed by the law of the country where the loan is made.

ARTICLE 17.

The amounts raised on bottomry bonds, for the necessities of the last voyage, shall have preference in the order of payment over debts contracted for the construction or purchase of the vessel and money raised on bottomry bonds in a previous voyage.

Loans made during the voyage shall have preference over those made before the sailing of the vessel; and if there should be many during the course of the voyage, the preference shall be established in the inverse order of dates, that which follows having preference over that which precedes.

Loans made at ports entered in distress and during the stay therein shall be added together and paid *pro rata*.

ARTICLE 18.

Questions arising between the creditor and debtor shall be subject to the jurisdiction of the courts of the locality where the property upon which the loan has been made is situated.

In case the lender should be unable to make good the amount loaned out of the property subject to the payment, he may bring his action before the courts of the place where the contract was executed, or those of the debtor's domicile.

TITLE VII.—*Of seamen.*

ARTICLE 19.

Shipping articles shall be subject to the law of the country where the contract is executed.

ARTICLE 20.

All matters touching the government of the vessel and the obligations of officers and seamen shall be subject to the laws of the country of register.

TITLE VIII.—*Of damages.*

ARTICLE 21.

General or ordinary damages shall be subject to the law of the country of register of the vessel wherein they occurred.

Notwithstanding the provisions of the foregoing section, if these damages have been sustained in the jurisdictional waters of any one state they shall be subject to the laws thereof.

ARTICLE 22.

Particular damages shall be subject to the law regulating the freightage contract of the merchandise damaged.

ARTICLE 23.

The courts of the port of destination of the voyage shall take cognizance of actions for ordinary damages.

ARTICLE 24.

Actions for particular damages shall be brought before the courts of the country where the cargo is delivered.

ARTICLE 25.

If the voyage be abandoned before the sailing of the vessel, or, if after sailing it should be necessary to return to the port of loading, the

courts of the country wherein said port is situated shall take cognizance of actions for damages.

TITLE IX—*Of bills of exchange.*

ARTICLE 26.

The form of drawing, endorsing, accepting, and protesting of a bill of exchange shall be governed by the law of the localities where such acts are respectively executed.

ARTICLE 27.

The legal relations between the drawer and payee of a bill of exchange, resulting from the drawing thereof, shall be governed by the law of the locality where the bill is drawn; those resulting between the drawer and drawee shall be subject to the law of the domicile of the latter.

ARTICLE 28.

The obligations of the accepter with respect to the holder, and the pleas which he may set up, shall be regulated by the law of the place of acceptance.

ARTICLE 29.

The legal effects produced on the endorser and endorsee by the act of endorsement are governed by the law of the place of negotiation or endorsement.

ARTICLE 30.

The greater or less extent of the obligations of the respective endorsers shall in no wise impair the rights primarily acquired by the drawer and accepter.

ARTICLE 31.

The warranty bond (*aval*) shall be subject to the law applicable to the obligation guaranteed.

ARTICLE 32.

The legal effects of acceptance by intervention shall be governed by the law of the locality where the third party intervened.

ARTICLE 33.

The provisions of this title shall govern, in so far as they shall be applicable, commercial drafts, bills, and notes.

ARTICLE 34.

Questions arising between parties intervening in the negotiation of a bill of exchange shall be determined before the courts of the respondent's domicile at the date of the incurring of the obligation, or at the time of the bringing of the action.

TITLE X.—*Of bankruptcies.*

ARTICLE 35.

The courts of the domicile of a bankrupt shall take cognizance of suits in bankruptcy, even though the party adjudged bankrupt shall incidentally carry on business in another nation, or maintain there agencies or branch offices which do business on the account and on the responsibility of the principal house.

ARTICLE 36.

If the bankrupt shall have two or more independent business houses in different jurisdictions, the courts of the localities where the said houses are situated shall be competent to assume jurisdiction over the bankruptcy of each of them.

ARTICLE 37.

The bankruptcy having been adjudged in one country, in the event stated in the foregoing article, the precautionary measures taken in the case shall be made effective on the property of the bankrupt in other states, if any, without prejudice to the rights granted to local creditors by the following articles.

ARTICLE 38.

The precautionary measures once taken by means of letters rogatory, the judge to whom the letters are addressed shall publish, for the period of sixty days, advertisements in which he shall set forth the adjudication in bankruptcy and the precautionary measures that have been taken.

ARTICLE 39.

The local creditors may, within the time designated in the foregoing article, counted from the day following the first publication of the advertisement, institute new proceedings in bankruptcy against the bankrupt in another state, or institute against him such civil actions as may be proper under the law. In such case the several proceedings in bankruptcy shall follow independently, and each case shall be subject, respectively, to the laws of the country in which it is instituted.

ARTICLE 40.

Local creditors who have the right to be represented at the proceedings in a country shall be understood to mean those whose debts should be satisfied in said country.

ARTICLE 41.

In case there shall be several proceedings in bankruptcy instituted under the provisions of this title, the money balance which may result in favor of the bankrupt in one state shall be placed at the disposal of the creditors of the other; to this end the courts of each state shall take cognizance thereof.

ARTICLE 42.

In case one sale proceeding in bankruptcy is had according to the provisions of article 35, or because the local creditors have not exercised the rights granted them by article 39, all the creditors of the bankrupt shall present their claims and demand their rights before the judge or court which has made the adjudication in bankruptcy.

ARTICLE 43.

Even in the case of only one proceeding in bankruptcy the mortgagee creditors secured before the adjudication in bankruptcy may exercise their rights before the courts of the country in which the property mortgaged or pawned is situated.

ARTICLE 44.

The preference of local credits in the country where the bankruptcy occurred, and which were acquired previous to the adjudication in bankruptcy, shall be respected even in case the property subject to the said preference shall be transferred to another jurisdiction and there exist therein, against the said bankrupt, adjudications in bankruptcy.

ARTICLE 45.

The authority of the trustees or legal representatives of the creditors shall be recognized in all the states, if they be so recognized by the law of the country within whose jurisdiction the proceedings by the creditors they represent were instituted; they being authorized to exercise in all places the authority granted them by said law and this treaty.

ARTICLE 46.

In case several proceedings in bankruptcy have been instituted, the court in whose jurisdiction the bankrupt resides shall be competent to adjudge all measures of a civil character affecting him personally.

ARTICLE 47.

The discharge of the bankrupt shall take effect only when it shall have been granted in all the proceedings instituted against him.

ARTICLE 48.

The provisions of this treaty respecting proceedings in bankruptcy shall apply to joint stock companies whatever the form for liquidation that may be established for said companies by the contracting states in the case of suspension of payments.

TITLE XI.—*General provisions.*

ARTICLE 49.

It is not indispensable to the enforcement of this treaty that it be simultaneously ratified by all the nations signing. The nations approving it will communicate such approval to the Governments of the Argentine Republic and of the Republic of Uruguay, that they may notify the other contracting nations. This procedure shall take the place of formal diplomatic exchange.

ARTICLE 50.

The exchange once made in the manner provided in the preceding article, this treaty shall remain in force, counting from such ratification, for an indefinite period.

ARTICLE 51.

Should any one of the contracting nations see fit to withdraw from the treaty or to introduce amendments therein, it shall notify the others; but said withdrawal shall not take effect until two years after notice thereof, a period within which efforts shall be made to arrive at a new agreement.

ARTICLE 52.

The provisions of article 49 are extended so as to include those nations which, not having representation in this Congress, may wish to accept the present treaty.

APPENDIX No. 3.

TREATY ON THE LAW OF PROCEDURE.

[As approved by the South American Congress, at Montevideo, on January 4, 1889.]

TITLE I.—*General principles.*

ARTICLE 1.

Trials and their incidents, of whatever nature, shall be conducted in accordance with the law of procedure of the nation in whose territory they are held.

ARTICLE 2.

Evidence shall be admitted and weighed according to the law governing the subject-matter of the legal proceedings, excepting, however, that class of evidence which, because of its nature, is inadmissible by the law of the place of trial.

TITLE II.—*Of legalization.*

ARTICLE 3.

Judgments or homologated awards rendered in matters civil and commercial, registered instruments, and other authentic documents issued by the officials of one state, and letters requisitorial and rogatory shall have full effect in the other contracting nations, according to the stipulations of this treaty, whenever they shall be duly certified.

ARTICLE 4.

The certification shall be considered to be in due form whenever it conforms to the law of the country of issue, and is authenticated by the diplomatic or consular agent, who in said country or locality shall be accredited by the Government of the state within whose territory it is to be used.

TITLE III.—*Of the execution of requisitions, judgments, and awards.*

ARTICLE 5.

Judgments and the awards of arbitrators rendered in matters civil and commercial in one of the contracting states shall have, within the territory of the other states, the same force and effect as in the country rendering them, provided they comply with the following requirements:

(*a*) The judgment or award must be pronounced by a competent tribunal exercising international functions.

(*b*) It must have the character of a final judgment in the state wherein it was rendered.

(*c*) That the party against whom it is rendered shall have been legally summoned and appeared, or adjudged in default, according to the law of the country where the proceedings are had.

(*d*) It must not be in opposition to the police regulations of the country where executed.

ARTICLE 6.

The documents necessary to the execution of judgments or awards of arbitrators are the following:

(*a*) A full copy of the judgment or award;

(*b*) A copy of the papers showing that the parties have been summoned;

(*c*) An authentic copy of the decree showing that the judgment or award is in the nature of a final judgment and of the laws upon which said decree is founded.

ARTICLE 7.

The rules governing the execution of judgments or awards and the proceedings occasioned by such execution, shall be those prescribed by the law of procedure of the state where it is demanded.

ARTICLE 8.

Proceedings not in the nature of contested litigation, such as inventories, the opening of wills, valuations or other like acts, had in one state, shall have the same effect in the other states as if they had been had in their own jurisdiction, provided they comply with the requirements prescribed in the preceding articles.

ARTICLE 9.

Requisitions and letters rogatory requesting the issuing of notice, the taking of depositions, or the performing of any other judicial functions, shall be executed in the contracting states, provided said requisitions or letters rogatory comply with the conditions established in this treaty.

ARTICLE 10.

When the requisitions or letters rogatory relate to attachments, appraisements, inventories, or to any other preventive measures, the judge addressed shall order all the necessary steps regarding the appointment of experts, appraisers, receivers, and, in general, everything that may lead to the full execution of such letters or requisitions.

ARTICLE 11.

Requisitions and letters rogatory shall be issued in accordance with the laws of the country issuing the same.

ARTICLE 12.

Parties interested in the execution of requisitions or letters rogatory may appoint attorneys in fact, the expense occasioned by said attorneys and the writs being borne by said parties.

TITLE IV.—*General provisions.*

ARTICLE 13.

It is not indispensable to the enforcement of this treaty that it be simultaneously ratified by all the contracting nations. The nations approving it will communicate such approval to the Governments of the Argentine Republic and of the Republic of Uruguay that they may notify the other contracting nations. This procedure shall take the place of diplomatic exchange.

ARTICLE 14.

The exchange once made in the manner provided in the preceding article, this treaty shall remain in force counting from such ratification for an indefinite time.

ARTICLE 15.

Should any one of the contracting nations see fit to withdraw from this treaty or to introduce amendments therein, it shall notify the others; but said withdrawal shall not take effect until two years after notice thereof, a period within which efforts shall be made to reach a new agreement.

ARTICLE 16.

The provisions of article 13 are extended to those nations which, not having representation in this Congress, may wish to accept the present treaty.

In witness whereof, the plenipotentiaries of the aforesaid nations sign and seal —— copies here of at Montevideo this —— day of the month of January of the year one thousand and eight hundred and eighty-nine.

ADDITIONAL PROTOCOL.

The plenipotentiaries of the Governments of ———, convinced of the advisability of establishing general rules for the enforcement of the

laws of any of the contracting states in the jurisdictions of the others, in the cases determined by the treaties concluded on the several matters of private international law, have agreed as follows:

ARTICLE 1.

The laws of the contracting states shall be enforced in the cases that may arise, be the parties interested in the matter under consideration either native or foreign.

ARTICLE 2.

The enforcement thereof shall be made by the judge sitting in the case on his own motion, without prejudice to the parties alleging and proving the existence and provisions of the law cited.

ARTICLE 3.

All remedies allowed by the code of procedure of the place of judgment for cases decided under its own laws shall also be allowed for those cases decided under the laws of any of the other states.

ARTICLE 4.

The laws of the other states shall never be enforced as against the political institutions, police regulations, or customs of the place where the case is tried.

ARTICLE 5.

In con formity with the provisions of this protocol, the Government bind themselves to transmit to each other two authentic copies of the laws now in force, and which may be passed in the future in their respective countries.

ARTICLE 6.

The Governments of the signing states shall declare, upon approving the treaties concluded, whether they accept the adherence of the nations not invited to Congress. in the same manner as that of those who, having concurred in the purpose of the Congress, have not taken part in its deliberations.

ARTICLE 7.

The provisions of the foregoing articles shall be considered as an integral part of the treaties to which they refer, and their duration shall be the same as that of said treaties.

DISCUSSION.

SESSION OF MARCH 4, 1890.

Mr. ALFONSO, a Delegate from Chili, made the following statement:

As may be seen at the end of the report of the Committee on Private International Law, the Delegate from Chili has subscribed his name, excepting as to the draft of treaty upon civil law.

This exception calls for an explanation which should be spread upon the minutes of the session in which the report is discussed.

The Government of Chili, which was one of those represented in the Congress of Montevideo, did not accept the draught of a treaty upon civil law for reasons which it is not necessary to specify at this time. Suffice it to state that some of the provisions of that draught were in opposition to the principles of her civil legislation, which she did not deem it advisable to change.

Under these circumstances the Chilian Delegation should conform to the will of its Government manifested in an explicit manner, and not advise the recommending of a draught which is not acceptable to it.

Mr. MARTINEZ SILVA, a Delegate from Colombia, said the delegation of Colombia must, before giving its vote in this matter, explain the reasons why the vote should be qualified, that is to say, partly affirmative and partly negative. It will be affirmative as far as the major part of the treaties is concerned, and negative in regard to the project of a treaty for a civil code, because that project contains principles abso-

lutely unacceptable to us; as, for instance, the legal ability to contract marriage to be governed by the laws of the nationality of the contracting parties, and not by the laws of the country where the contract is made. We consider that marriage is the basis and foundation of the family, and that family, in its turn, is the basis and foundation of the State, and that if there is anything which directly affects the organization of a State it is what concerns marriage, and therefore the Government of Colombia can not recommend even the study of a project which involves such a principle.

The civil code also establishes the doctrine that the dissolution of marriage must be governed by the law of domicile, and not by the law of nationality, a provision which places marriage in a precarious position, because if there is anything which can be easily changed it is domicile. Therefore, marriage which is indissoluble in Colombia, might become dissoluble by the change of domicile, and we should have cases of legal bigamy. For these reasons, which affect a fundamental principle, the vote of the Delegation of Colombia will be against the treaty on civil legislation and favorable to the other treaties. I make these remarks, not for the purpose of raising discussion on the subject, but simply, as I have said before, to explain the vote of the Delegation of Colombia. I desire that my words be recorded in the minutes.

Mr. QUINTANA, a Delegate from the Argentine Republic, said the Argentine Delegation is not by any means opposed to the recording in the minutes of the words spoken by the Delegate from Colombia, still less does it pretend to influence the vote of the Dele-

gate from Colombia; but it deems it to be its duty to answer the last remarks of the gentleman. With regard to marriage, the dissolution thereof is not exclusively governed by the law of domicile, as the Delegate from Colombia seems to have understood. The treaty of Montevideo does not lend itself in any way to legal bigamy; it demands explicitly that the reason alleged should be admissible, not only under the law of the domicile, but also under the law of the place where the marriage was performed.

Mr. MARTINEZ SILVA: Also under the law of the place where the marriage was performed?

Mr. QUINTANA. Yes, sir; also under that law; and if any practical conclusion is to be derived from this answer which I now have the honor to make to the honorable gentleman from Colombia, it certainly is, that it is advisable to carefully study these treaties, which in substance are the recommendations made by the report of the committee.

Mr. MARTINEZ SILVA said: I am much obliged for the explanation which my honorable colleague, the Delegate from the Argentine Republc, has been pleased to make, although it in no way affects the reasons for my vote; because although it is true, as he says, that the treaty provides that the law of the place where the marriage was performed must also be considered, there is always present the same difficulty, because the treaty does not admit as a law of marriage the law of the domicile of origin or nationality, but that of the place where the marriage was performed, as I will show by an example.

Suppose that a citizen of Colombia, where marriage is indissoluble, accidentally resides in Prussia, where

divorce can be obtained on several grounds. He marries there not according to Colombian law, but to Prussian law; and later he comes and lives in the United States. This marriage performed in Prussia may also be divorced here, as the grounds for divorce in Prussia also exist here. This Colombian citizen may afterwards again marry and return with a new family to the territory of Colombia. This would show that my difficulty has not been removed; and although the case may not properly be one of legal bigamy, it is nevertheless the fact that such a delicate matter as marriage is, is left out of the law of the country of the individual, and this is the principle which we can not admit.

Mr. TRESCOT, a Delegate from the United States, said: Mr. President, I have only to say that, from the remarks made, I think there is some misunderstanding about the purpose and scope of this report. As I understand it, and as I think a majority of the committee understand it, there was a recommendation and expression of opinion that if there were a common law prevailing on the two continents by reason of legislation with regard to matrimony and succession it would be a great advantage, which nobody will dispute. And then they proposed that the committee discuss whether it were possible, by any legislation, that such an effect could be reached. Upon consultation they found that it was almost impossible to make a proper report upon such a subject on account of the various interests, conditions, and different habits of the people. They then submitted to us the Montevidean treaty, by which it had been attempted to do something by a meeting of the inhabitants of Spanish America.

Those countries had come to a certain conclusion which was adopted by five or six of the States, and they recommended that as a specimen of what could be done. After a good deal of discussion, they came to a conclusion that it would not be possible to agree upon anything, but they considered that it would be well to submit the question of the Montevideo report to all the nations which had not signed it for their consideration, to discuss whether that was the practicable way of doing it, or whether it could be done at all. It was simply intended as a recommendation upon a subject of general interest, and should be committed to the various States for their consideration; and after proper examination they could, a year hence, report upon the matter and determine to continue such a negotiation or abandon it. That, it seems to me, is the substance of the report, and that is the understanding certainly on which I voted for it.

Mr. CRUZ, a Delegate from Guatemala, said: I believe it is my duty to explain the reasons why the committee made the recommendation it did to the different Governments represented in this Conference. We were aware in the committee that difficulties would present themselves such as those now indicated, because if we enter on the discussion of the various articles of the treaties of the Congress of Montevideo, or if we recommend the acceptance of one of them, it might be that one of the Governments, by reason of its own laws or for any other reason, would not deem it advisable to accept any part or article of said treaties. The delegation of the United States had already stated the difficulties which it found on account of the peculiarity of its institutions, as explained

by the United States Delegate who was a member of the committee. For this reason, and as the committee desired to secure unanimity, we all agreed to confine the recommendation merely to the study of the treaties, as we supposed that there would be no difficulty on the part of any Government to do so, even on the part of those who had already expressed their refusal of the treaties, because it was said that they would express their opinion within a certain time, and in case the opinion were favorable, what modification, if any, could be made.

Whatever the opinions of the Governments might have been on these subjects, whether they were parties to the treaties or not, the simple study thereof did not bind them to anything beyond making such study and stating within a year whether they accept or not, and if they do accept, whether they do so conditionally or not, or if they desire to make modifications. If Colombia, for instance, finds some difficulty in regard to marriage, she will say that she will accept here provided that everything relative to marriage as stated in the treaties should be altered, and the other Governments might do the same. In the opinion of the committee even the Delegate from Chili might have signed his name to the report without restrictions; but we respected the reasons that gentleman presented, and understood that no delegation could be compelled to think or vote contrary to its ideas. Nevertheless, the majority of the committee believes that there is no ground for his restriction, and believes there is no reason why the report of the committee should not be adopted as submitted, because it confines itself to recommending the study and not the acceptance of the Montevideo treaty.

Mr. Martinez Silva, a Delegate from Colombia, said: After the explanation given I believe that I can give my affirmative vote to all the conclusions of the report of the committee; but I desire that my views, as expressed, be recorded in the minutes, because I desire that my Government, when it begins to study this matter, should know what I have said and how I have voted on this matter. For this reason I have provoked this short discussion, and I beg the pardon of the Conference for the time I have occupied.

Mr. Alfonso, a Delegate from Chili, said: What the honorable gentleman from Guatemala has said compels me to make an explanation to the Conference. He has stated that, in his opinion, the delegation from Chili might have consented to the whole of the report, as the recommendation was merely to study the treaties. I agree with him as to the latter part; the report has no other purpose; but the Delegate from Guatemala must consider the position in which the delegation from Chili is placed.

The Government of my country took part in the Congress of Montevideo and studied the subject, and for this reason it formed its opinion on it, and said it did not accept the treaty. Could the Chilian Delegate here ask it to again study the subject? No. His Government would answer him, why should it be again offered for study when it has already been considered and finally rejected? It is evident that the delegation of Chili would place itself in a false position if it proposed to its Government a matter it can not accept. Consent to the whole of the report would have been equivalent to recommending to my Government to do what the latter has refused to do.

I think that no other delegation is in the same position, not even that of Colombia, which can study the treaties; but Chili has already passed opinion on them. Therefore, it was impossible for me to assent to the whole of the report, because otherwise I would have placed myself in a very false position with my Government, which I have not been willing to do. I have spoken.

Mr. ROMERO, a Delegate from Mexico, said that while the delegation from Mexico has been unable to vote on the report recommending the adoption of some of the treaties of Montevideo, in the present case it could do so, as the recommendation made was only to study some of these treaties, and the Government of Mexico is already engaged in that study. Under these circumstances the Mexican delegation has no objection to give its vote in favor of the report of the committee.

As it might appear inconsistent for the Mexican delegation to refrain from voting in regard to one treaty and to vote in the case of another similar treaty, we act in this way because in the present case the report only recommends the study of treaties which are now under consideration by the Mexican Government. Under these circumstances, as the Mexican Government had commenced to study these treaties before the recommendation of the committee, the Mexican Delegates have no objection to assent to the first resolution of the report. As to the second resolution, the delegation from Mexico thinks that it is a very proper one, as it only recommends what is now in practice and will therefore vote in favor of it

Mr. HENDERSON, a Delegate from the United States,

said: Mr. President, assuming from the expressions of opinion which I have heard that it is likely that the report will be adopted, I suggest an amendment, which I think will improve the report; and that is to strike out on page 7, on the second line, the words "or drawn up."

Mr. CRUZ, a Delegate from Guatemala, said: I think there is no difficulty in striking out these words in English, as they do not appear in the text in Spanish. Of course the Spanish version is identical in meaning with the English, but the motion has reference only to the English text.

There being no objection, Mr. Henderson's amendment was adopted.

Mr. HENDERSON then said: Mr. President, on the fifth line from the top of page 7, I move to strike out the words "drawn up or."

There being no objection, it was so decided.

Mr. ZEGARRA, a Delegate from Peru, said: In order to explain my vote, I should like to make an inquiry as to the meaning of the minority report presented by Mr. Alfonso. I understand that this honorable Delegate objects to the other nations of America studying that part of the treaties of Montevideo which refers to the civil code. If this is the meaning of his objection, it is the same as if there were two reports, one recommending the study of all the projects of the Congress of Montevideo, and another opposing the study of the treaty on the civil code. It seems, therefore, that the vote should be divided and taken separately on each report.

Mr. ALFONSO said: I do not see any necessity for dividing the vote, as suggested by the honorable Dele-

gate from Peru. In reality he makes a mistake. I have not submitted a minority report. What I read to-day was simply the explanation of my vote, because I desire that the minutes should contain the reasons why I qualify my assent to the report. What I ask is that Chili should not be recommended to study the civil code, and this I desire only for the reason that the Chilian Government has rejected it. I repeat, I have not made a minority report. I have only explained my vote.

The PRESIDENT asked if the Conference was ready to vote, and whether the vote should include both resolutions of the report, or if they should be divided and voted on separately.

Mr. CRUZ, a Delegate from Guatemala, said: I think, Mr. President, that it would be more convenient to divide them.

There being no objection, the President instructed the Secretaries to read the first resolution of the report, and this was done.

Mr. HENDERSON then said: Mr. President, I do not arise for the purpose of discussing the questions presented in the resolution, but simply to state that I shall vote for the resolution with the meaning attached to it by my colleague, Mr. Trescot. This resolution, if I understand it, covers a very broad field of international law, and one which in all probability should be very critically and carefully studied by the American statesmen, or by the statesmen of the United States. Our Government here is a dual one. The Government of the United States has only the powers conferred upon it by the Constitution of the United States. All other powers are expressly reserved to

the States respectively or to the people. Therefore, unless a power is expressly or impliedly—clearly impliedly—granted to the Government of the United States it can not be exercised.

Now, the forty-two States of the American Union have all of those questions discussed here by various gentlemen entirely under their own control. For instance, the question of marriage and divorce. The entire range of subjects which fall within the police regulations, the punishment of crimes, all the relations of social life, fall entirely within the jurisdiction of the States themselves. The Federal Government, to be sure, can punish crime or can regulate certain matters, but only the matters that are clearly and expressly delegated to it. And I desire to state that, in my judgment, from glancing at the Constitution of the United States, this subject would be almost forbidden by the Constitution for our consideration. Article 4, section 1, of the Constitution of the United States says that—

> Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State, and Congress may, by general laws, prescribe the manner in which such records and proceedings shall be proved, and the effect thereof.

Now this is a provision which, so far as the States themselves are concerned, the authentication of documents and the manner and mode thereof, is given to the Congress of the United States. Therefore, I do not see how the Congress of the United States could undertake to regulate subjects of that sort between the States of the Union and foreign powers. Upon the familiar principle known in the maxims of the

law, that the expression of one thing is the exclusion of all others, Congress is given the power here to go into this subject of the authentication and verification of records so far as the States of the Union are concerned; I mean the forty-two States. Now, it is exceedingly problematical in my mind whether the Congress of the United States, or power of the Government of the United States, can regulate or control this question, so far as the States are concerned, for the States themselves, the forty-two States of this Union. In other words, if a subject is exclusively within the jurisdiction of a State control and the State government, I fail to see how Congress, either through law or by treaty, can undertake to regulate that subject for the States themselves.

For instance, Congress might make a treaty with one of the Republics here, declaring that the certification of a judgment rendered in Bolivia or in the Argentine Republic should be in certain form; but suppose that the State courts should refuse to receive it as evidence of the facts therein stated. Suppose that it is the certificate of a judgment rendered between two citizens in the Argentine Republic, and those two citizens afterwards appear in the United States of America, and the plaintiff desires to obtain a new judgment and enforce it against the defendant in the United States. I fail to see how Congress, either through treaty or law, could compel the States in the State courts to receive a document of that sort. I allude to this question simply for the purpose of explaining my vote, and to exclude what might be a conclusion; that is, that by voting for this proposition it might seem that I believed in the power of the

United States to do this thing. I doubt exceedingly whether it can be done.

I desire to state, before I conclude, that there is another provision of our Constitution which bears upon this subject, and bears in a very important manner; and that is the second provision of Article 6, which says:

> This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.

Now, I am aware that it might be claimed, and is claimed in certain directions, that a treaty of the United States made in accordance with the Constitution will override State law. That is, of course, the claim made on the part of a great many persons, but it is not the usual construction of our Constitution nor the usual construction of treaties made thereunder; because if that were the proper construction of the Constitution of the United States all the powers of the States might be frittered away by the President and two-thirds of the Senate. It is not *the* construction of the Constitution, and I say that, lest I may be committed to a construction of this character.

Now, I take it, Mr. President, that the main purpose of this resolution is to get a uniformity of law upon the municipal customs and habits of the States, as far as is possible, in order that that uniformity may bring about a better state of feeling between the Republics themselves. I take rather the explanation made by my colleague, Mr. Trescot. If that be the

intention and design, of course I can recommend it. I could recommend it to the States, but as to recommending it to the United States Government as being obligatory upon the States themselves, so far as the States are sovereign and independent of the Federal Government, relating to police regulations and the Government of their own domestic affairs, I can not do it. With that explanation I see no special objection to voting for it, if it be nothing but a study of those propositions.

One other question, Mr. President. I entirely agree with the honorable Delegate from Colombia (Mr. Silva) that it would have been much better if we could have seen, in as narrow a space as possible, the recommendations of the Montevidean conference. I have a work, I believe, which contains all the proceedings of that conference, but it is in Spanish, and I do not think I could work out a complete and perfect translation to convey to my mind the entire meaning of the various provisions of that congress. Therefore, in order that I could properly understand it, it would be necessary for an experienced and skillful translator to prepare it in English. I would have much preferred that this could have been done, but I understand from some of the Delegates that it would have been an expensive work, and that adopting a mere recommendation that the proceedings of the conference be studied would be better. With that view, I have no objection whatever to voting for the resolution, but I desire that the explanation which I make should in some way be attached, either made a part of the proceedings of the day or otherwise, so that I may not appear to vote for that which may be construed against the views which I entertain.

Mr. CRUZ, a Delegate from Guatemala, said: I want to say only two words in regard to the remarks made by the Delegate of the United States. The study of the treaty is recommended, but not the study of any principles of legalization. And the recommendation is not made because it is a principle accepted everywhere, and the Conference can not make recommendations to the different States. The Government of the United States has convened this Conference, and to that Government the Conference must address its recommendations, in order that the Government may do what it deems fit in regard to the various legislatures of the States of the Union. The Delegate from the United States, who was a member of the committee, told us that there would be no difficulty in doing so, and precisely with the object of agreeing with him and avoiding difficulties the recommendation was made in that sense. There can be no difficulty in admitting the principle that the legalization of documents must be made as suggested by the committee, because this is the principle established in all parts, and the different States may arrange their laws so as to suit this principle.

Mr. QUINTANA said: It is not the purpose of this Conference to harmonize, nor consequently to modify, the internal legislation of any of the countries here met together; that is the province of the civil law of each country. If such were the purpose the remarks uttered by the honorable Delegate of the United States would be perfectly correct. The only thing to be considered here is to determine what should be the law to govern the person, his property, and his acts, when there are two foreign and inde-

pendent sovereignties disputing the jurisdiction of the case. These are questions which are fully within the domain of international law, and when we say international law, even if it be private, we mean that those questions are outside the domain of the internal legislation of such country.

The sovereignty of each country being limited to the extent of its territory, it has the right to demand that its laws shall be respected within its territory; but, for the same reason, it can not presume to extend that sovereignty so as to govern persons, acts, or property located or executed elsewhere. This would be the supremacy of one sovereignty over all the others; it would be the subjugation of all the sovereignties under the dominion of one, whichever it might be.

The question considered under this high aspect, and placed thus in its proper light, the remarks made by the Delegate from the United States fall to the ground.

The Argentine Republic is also a country organized under the federal system, as is the United States, and if it be true that the element of centralization has entered into the greater part of the meaning of the Argentine constitution, in keeping with the historical antecedents of the country, the necessities of the present and the exigencies of the future, it is no less certain that the true character of that constitution is also federal.

For this reason it is, Mr. President, that when we speak of the civil code, of the commercial code, of the mining and of the penal, it is not the states of the Argentine Republic which legislate upon these mat-

ters, but the National Congress which makes the general codes for all the Republic.

The constitution not having vested in the Congress of the Republic more than the power to make the codes, this raised the question wherein rested the power to amend them, whether in the nation or in the states. In the nation? But the constitution has not expressly stated that it possesses that faculty. In the states? But that would be putting an end to legislative unity, which that constitution has essayed to preserve as one of the symbols of the unity of the country; and then, a lofty interpretation, an interpretation which, after long discussion, has received the approval of all the legal authorities, decided that as the law can not be unmade except by the power that made it, the power that had the authority to make it, and as this was the Congress, the Congress alone and not the states should touch these codes.

But there was, Mr. President, a code which was beyond the reach of the legislative faculties of Congress, and that code was precisely that of procedure, to which the second of the propositions presented by the committee refers.

In the Argentine Republic, as in the United States, the power to formulate codes of procedure is vested in the states, absolutely free and independent of the federal power, and it is vested in the states for the very reason that it is one of those matters the consideration of which renders it necessary to weigh, and weigh carefully, the elements which are at hand to secure a prompt, convenient, good, easy, and cheap administration of justice.

Very well, Mr. President; the men of that country

who study with admiration the Constitution of the United States, who are not ignorant of its great commentators, and who are well versed in the fundamental principles of universal law, have not had the slightest objection to acknowledging that, notwithstanding the fact that the Constitution governs this matter, the Argentine Republic, enjoying the full constitutional capacity enjoyed by all sovereign and independent countries, could make treaties which would regulate the procedure in those cases in which there should be several sovereignties disputing or assuming the jurisdiction in the matter, and that they might determine for themselves and before themselves which are the fundamental principles involved in the legalization of documents, execution of judgments, etc.

If it were otherwise, Mr. President—and I seriously ask the attention of the Delegate of the United States, because these are seeds which are cast upon the field of discussion, and which may bear fruit later—if it were otherwise, I repeat, the United States would be a country under a *capitis diminutio*, with a constitutional capacity to treat inferior to that of all other countries of the world; something I can not, I ought not, and I wish not to admit.

Mr. President, mankind is divided into several independent nations, all of which are firmly bound together by the bonds of civilization and commerce; all these relations must link themselves and harmonize to reach a common end. There is no country which can say to the others: "I will not acknowledge the general rules which all humanity acknowledges, to determine what documents are to have validity before the courts and what rules are to govern the

execution of judgments;" such a doctrine would entail the dismemberment of the Christian countries.

And, Mr. President, in what power of the United States would there be vested the authority to determine the conditions under which documents executed in foreign countries should be valid in its territory? In what power is vested the right to determine the conditions which should govern the execution of judgments within the limits of its own territory?

It is claimed that it is not vested in the Congress of the United States. Would it be then in the States? Evidently not, because the States have no sovereignty recognizable by foreign countries, nor personality before foreign nations, and therefore I said if the States can not make these treaties, and if the Federal power can not, then the United States would be inferior in constitutional capacity with respect to treaties, to all the countries of the world." Is this admissible? For my own part, I shall always be happy to deny it. No; the right to govern relations with foreign powers can not and should not be vested in any other than the national federal power, wherein rests the sovereignty of the country. And consequently it is the Congress of the United States whose province it is to determine those rules, and it is for this reason that we have been able to and ought to advise the recommending to the Government of the United States the admission of documents upon the basis to which they should conform in all countries.

I repeat again, there is no intention to trespass upon the domestic legislation of a country; our purpose is simply to determine what laws and rules should govern conflicts which may arise between powers equally sovereign and equally independent.

Mr. HENDERSON said: Mr. President, I am sorry that I was misled by the report itself which was signed by the Delegate from the Argentine Republic. By looking at page 2 of the report, it would seem that the very questions are discussed which I brought in view in the few remarks which I made, and to which I made the objection, supposing the committee meant what it said in its accounting for the resolution. On page 2, near the bottom, it begins:

> If, for instance, the law of North America fixes the age of twenty-one years as the full legal age, and in any of the Spanish-American Republics it is the rule that full legal age is not reached until the age of twenty-five, it is necessary to have some standard for deciding whether a Spanish-American citizen is of full age here at twenty-one, or if a North American there must wait to be twenty-five in order to be considered as of full age.

The question of the majority of a young man is a question not settled by the Congress of the United States of America. It has always been settled in the State for itself. In many of the States the age of twenty-one has been adopted. In many of the States the age of eighteen has been adopted, and contracts can be made by the male citizens of those States Now, females can make contracts in a majority of the States, I believe, to-day at the age of eighteen. I simply arose for the purpose of indicating to my friend from the Argentine Republic, that if he had confined himself to the question that he has confined himself to in his speech I should not have found it necessary to say anything at all; but I will continue from page 2 of the report:

> If marriages entered into here with certain solemnities, and there the form and the solemnities are different, it is

necessary to decide whether parties entering into the contract of marriage in their territory according to the laws of their own nationality are or are not entitled to have such marriage treated as valid everywhere.

Now, it is my duty to inform my friend, who seems to construe with great ability the Constitution of the United States, and who is so kind as to intimate to me that I know very little about it, that I desire to state to him that no law has ever been passed by the American Congress upon the subject of marriage, and if a bill were introduced into the American Congress on that subject to-day it would startle people of this country from one end of it to the other. He is treating in his report on the subject of majority and on the subject of marriage. Those are the questions to which I directed my attention, supposing that the committee who wrote the report and presented it here intended exactly what it said in the report. I am very glad to find from the argument of my friend that they did not intend the things that I here assert.

Pursuing this report a little further, on page 3 the report says:

> If the order of succession is different; if in one place inheritance is a matter of right and in another the property may be freely disposed of by will; if the effects of contracts are different; if the methods of entering into partnership or other commercial business are not the same, or if the consequences thereof are different; if the form and effects of a bill of exchange or any other commercial paper are different, it is imperative that some rule should exist for settling the question.

Mr. President, did I make any mistake in the views I presented to this Conference? I merely presented them, as I stated before and now state, for the purpose of preventing an erroneous conclusion. I did

not wish to be limited to the purview of the report. If I am recommended to state these matters for the purpose of arranging between the South American States and the States of this Union a uniformity of law, I am perfectly willing to do so. As a member of the bar association of this country, I can state to the Conference that it has been our purpose for many years—that we have endeavored to get uniformity of laws between the States of the American Union on this subject; we are struggling for that now; but when the proposition is made in an International Congress or Conference, that we undertake to do it by the treaty-making power, I must rise and enter my protest. If the treaty-making power is so large as that, then the President of the United States and two-thirds of the Senate may make a treaty abolishing any one of the States of the Union, or they may go to the extent, in defiance of the language of the Constitution that the American Government shall guarantee to each State a republican form of government—they can by the treaty-making power go to the extent of taking every particle of authority from any one of the States of the Union.

Such is not the construction of our Constitution. If my friend from the Argentine Republic has so construed it, I must enter my protest against such construction, and I commend to him a more careful and prudent study of its provisions. Do I understand this report? He says in regard to the law of succession that he wants uniformity. Am I to recommend to the Government of the United States a uniform law on the subject of succession? Mr. President, has any law ever been passed by the American Congress

regulating the law of succession? Can the United States Congress pass such a law? Such a proposition would be received with startling effect all through the Union. Why, sir, it has never been undertaken in the hundred years of our existence. Each State is left to determine for itself the laws of succession. Has any law ever been passed regulating the terms of contracts of private individuals by the Federal Congress? I appeal to every American to know wherein such a bill has ever been offered by an American Congressman. Certainly not. These subjects belong to the States, and because they appear in this report previous to the recommendations and resolution I desire simply to exclude the conclusion that I was committing myself to the doctrine of the report.

If my friend of the Argentine Republic feels that the language of the report, which is the reasoning which led up to the resolution, is incorrect; if that language and that reasoning are incorrect, then, of course, I must insist that I was misled by the report itself, and whenever the report and the arguments of the report are withdrawn, then I can very well say that I recommend the resolutions themselves. I am aware, as my friend says, that I can recommend a great deal to the Congress of the United States. To be sure, in the Federal court an argument may be made to compel the reception of documents. If I appear in the circuit court of the United States with a document, certified according to a treaty between a foreign power and the United States, that is conclusive. The Federal judge will receive it, but, in my argument, before I submitted the fact that a State judge would not be bound to receive it; and I did not desire in my vote here—although

willing to indorse the propositions in their broad terms, willing to accept the resolutions—to indorse the reasoning upon which the resolutions were predicated. If I can go so far, the members of the committee ought certainly to be satisfied; but I do not wish the broad construction which the reasoning of the report would justify.

I am aware that in all Federal courts, in all the Departments of our Government, papers, documents, judgments, proceedings of foreign states might be compelled to be used by the treaties with any foreign power, but not so in any State court of the American Union. The States have reserved rights, and they, upon that subject, can do as they choose. I dislike very much to take up the time of this Conference. I simply rose for the purpose of negating, as far as I possibly can, the conclusion that may be left by my vote, by the arguments themselves in the report, and by the speech of my friend from the Argentine Republic.

The PRESIDENT then said:. Is the Conference ready for the question? Before the question is stated, the Chair will direct that, as several gentlemen who have spoken desire their remarks to be included in the minutes, the debate on this question shall be put in the minutes verbatim.

Mr. TRESCOT said: If that is the case I would like to make one suggestion, and that is, to call the attention of my friend on my right (Mr. Henderson) to the fact that, in replying to the argument of the honorable Delegate from the Argentine Republic, he is replying to that gentleman and not to the report.

The PRESIDENT then said: The Chair has made that direction in regard to printing because three or four

gentlemen asked the privilege, and the debate, if continuous, will make each one have its proper significance, and therefore it will be continuously printed.

Mr. Cruz said: I want to say two words, because the honorable Delegate from the United States has stated that there is contradiction between the report and the resolutions recommended; and in support of his assertion, he has referred to certain portions of the report. As there are differences in the laws of the United States and those of the South American States in regard to succession, marriage contracts, and the effects produced by the latter, it is indispensable to seek a general rule to determine what force shall be given to these acts in the United States if they have been performed in any other country of America, or what force shall be given to the same in the nations of South America if performed in the United States. This has led the honorable Delegate from the United States to the belief that the committee has suggested that the United States and all the Spanish-American nations shall have the same laws, and it has been explained before that this is not the purpose of the report.

All the Spanish-American nations and the United States have different laws, and for this very reason a general principle is sought, because if the laws were alike there would be no necessity for private international law. But the very fact that it is admitted that the United States and the States of the Union and the Spanish-American States have different laws, requires that a general principle shou ld be established The United States can not ask that the Spanish-American nations should modify their laws so as to agree with its own; nor can the Spanish-American

Republics ask that the contrary should take place. So there is no contradiction between the statements of the report and the conclusions.

VOTE.

The PRESIDENT said: If the Conference is ready for the question, the roll will be called.

By direction of the President, the vote was taken on each of the two resolutions separately, and resulted in the unanimous adoption of both resolutions of the report, as amended by Mr. Henderson.

Those voting were: The delegations of—

Nicaragua.	Costa Rica.	Bolivia.
Peru.	Paraguay.	United States.
Guatemala.	Brazil.	Chili.
Columbia.	Honduras.	Salvador.
Argentine.	Mexico.	Ecuador.

THE RECOMMENDATIONS AS ADOPTED.

Resolved, That the Governments represented in this Conference, which as yet have not acepted to the treaties of private international law, civil law, commercial law, and law of proceedings adopted at the Congress which met at Montevideo on the 25th of August, 1888, be, and they are hereby, recommended to cause said treaties to be studied, so as to render themselves able, within the year, to be counted from the date of the termination of the labors of this Conference, to declare whether they do or do not accept the said treaties, and whether their acceptance of the same is absolute or qualified by some amendments or restrictions.

Resolved further, That the Governments represented in this Conference be, as they are, recommended to adopt in the matter of legalization of documents the principle that a document is to be considered duly legalized when legalized in accordance with the laws of the country wherein it was made or executed; and authenticated by the diplomatic or consular agent, accredited in the nation or locality where the document is executed, by the government of the nation in which the document is to be used.

CLAIMS AND DIPLOMATIC INTERVENTION.

REPORT OF THE COMMITTEE ON INTERNATIONAL LAW.

As submitted to the Conference April 12, 1890.

One of the honorable delegates for the Republic of Venezuela has presented two resolutions, setting forth different declarations respecting certain cases in which claims against the Government of a country by foreigners residing therein should be considered as inadmissible. In case the aforesaid declarations should be considered in the form in which they have been presented, the committee charged with the preparation of a report thereon would submit to the consideration of their author, and to the decision of the Conference, some additions and amendments which, to its mind, it would be necessary to insert. It does not do so, however, because it believes that instead of entering into special matters of detail, what should be done is to discover and determine the true principle which should legally govern in the premises, and to recommend its adoption as the only key to a full and perfect solution of all the questions which may arise in this behalf.

The committee well understands that in those times when the idea was still dominant that the foreigner was an enemy against whom was enforced (according to the provisions of the Roman public law) continuous authority, certain doctrines should be established to protect him from the consequences of that feeling of manifest hostility. It can well understand that when the exercise of civil rights was limited to natives it should be necessary to introduce principles and proceedings by means of which the foreigner might be afforded some defense in the precarious position in which the then generally prevailing ideas placed him. And it can understand, in fine, that when intercourse between countries was less frequent, when civilization in America was

but little advanced, and a spirit of isolation, a feeling of distrust, and a sentiment of egotism dominated, all of which is contrary to the equal enjoyment of the guaranties and benefits of the law, the foreigner should be forced to remain with his gaze fixed upon the National Government, so as to neutralize the effects of the aversion and repugnance with which he was received. But it can not by any means understand, theories and sentiments, circumstances and principles of legislation respecting the rights of the foreigner having changed in every particular, that principles should have any weight which can only serve to create dirtrust, to foment estrangement, to prevent assimilation, and to protect the schemes of worthless people—a protection which is nearly always asked with the sole object of profiting thereby, and which keeps the Governments in a constant state of excitement which may occasion disagreeable incidents of even graver consequences.

The committee gladly recognizes that the Christian, liberal and humane principle is, that the foreigner should not be inferior to the native in the exercise and enjoyment of all and each of the civil rights, but it can not understand that the foreigner should enjoy considerations, prerogatives, or privileges denied to the native. It repels openly any restriction which places the foreigner in a condition inferior to that vouchsafed by the law to the native, but it likewise repels the pretension that the foreigner should be superior to the native; that he should be a perpetual menace to the territory whose protection he seeks and whose advantages he enjoys; that recourse to a foreign sovereignty which makes itself felt in an independent country should serve as a means of self-advancement whenever improper demands are not satisfied.

At the present, say, when our people receive the foreigner with open arms, when they deny him no right, and recognize that an intelligent, hard-working, and honorable immigration is the most potent element of civilization and greatness of prosperity and advancement, when we are far removed from barbarous times, and the foreigner is not the enemy but the brother to whom the doors of the most generous hospitality are opened wide, those doctrines,

founded upon bases wholly inadmissible, are a veritable and shameful anachronism.

Not one of the advancements of modern civilization is unknown to the Republics of America. Granting the foreigner the same rights, neither less nor more, that the native enjoys, the Republics do all they can and should do. And if these rights are not enough, and if they are not found to be sufficiently guarantied and to be placed beyond the pale of abuse, if there is danger that abuse will sometime be committed, as there is danger of earthquakes, of floods, of epidemics, of revolutions, and of other misfortunes, the foreigner should have considered it all before deciding to live in a country where he may run such risks. And on the other hand, supposing that some abuse is committed, that abuse is not without penalty and correction, as that committed against the native is not left remediless. It has attached to it other penalties more efficacious, that of moral reprobation, the judgment formed by other nations, the separation of all those who under other conditions would assist in making its elements of production fruitful, and, in consequence, isolation, poverty, and universal condemnation.

A nation does not with impunity deviate from the line of duty marked out by ethics, law, and civilization; and between the harm which may occasionally result from such deviation and the greater and innumerable harms caused by the other practice, the committee does not hesitate to choose. If it is wrong to once in a while commit abuses against the native or the foreigner, worse a thousand times is the example of scandalous claims concocted and sustained by the malignity and the ingratitude of a pernicious man, and the solution of which is made to depend on the judgment or the will of the stronger. For, as a final result, there is nothing but the uncalled-for intervention of the stronger, which, constituted into an impassioned defender of its citizens, imposes its will and ideas as law, and compels the weaker to do its bidding. And this unwarranted trespassing upon the sovereignty of the others, and this stimulant to a sentiment of native

aversion, undoubtedly produces far more lamentable consequences.

The foreigner, with all the rights of the native, with no right less, yet with no right more, is the principle which, to the mind of the committee, is the base upon which every theory in the premises should rest—the starting-point for practical conclusions in so interesting a matter. If the Government is responsible to its citizens for infractions of the Constitution or the laws, committed by agents of the public authority in the discharge of their duties, it will be equally responsible to foreigners, and *vice versa*. If the Government is not responsible to its citizens for damages caused by insurgents or rebels, neither will it be responsible to foreigners, and *vice versa*. If the natives have any protection against the decisions and procedure of the courts, the same right shall be granted foreigners. In a word, in everything touching the exercise of civil rights, natives and foreigners shall be on a perfectly equal footing—equal rights, equal obligations, equal access to the authorities, equal procedure, equal appeals. But in no case shall the foreigner be superior—an exasperating condition which may establish an indefensible and inexplicable duality of sovereignties and authorities. The foreigner should not appear like a spoiled child, always encircled by the arms of the Government of his nationality to prevent him from stumbling and injuring himself. He should himself judge and decide where it is advisable for him to go and where not, and try to live peaceably under the shelter of the laws of the country he may select as a place of residence, and the protection of civilization and morality. To enjoy all the privileges and all the considerations of natives and to be treated like them, is all to which the foreigner can aspire; and this is what is gladly conceded him.

RECOMMENDATIONS OF THE COMMITTEE.

As a result of these reflections, the committee propose the following resolutions, to wit:

The International American Conference recommends to the Governments of the countries therein represented the

adoption, as principles of American international law, of the following:

(1) Foreigners are entitled to enjoy all the civil rights enjoyed by natives; and they shall be accorded all the benefits of said rights in all that is essential as well as in the form or procedure, and the legal remedies incident thereto, absolutely in like manner as said natives.

(2) A nation has not, nor recognizes in favor of foreigners, any other obligations or responsibilities than those which in favor of the natives are established, in like cases, by the constitution and the laws.

FERNANDO CRUZ.
MANUEL QUINTANA.
J. M. P. CAAMAÑO.
JOSÉ ALFONSO.

MINORITY REPORT ON CLAIMS AND DIPLOMATIC INTERVENTION.

[From the Delegate from the United States.]

I can not concur in the majority report for the following reasons:

I object to the term "American International Law." There can no more be an American international law than there can be an English, a German, or a Prussian international law. International law has an old and settled meaning. It is the common law of the civilized world, and was in active recognized and continuous force long before any of the now established American nations had an independent existence. We accepted it as one of the conditions of our recognition, and we have no right to alter it without the consent of the nations who really founded it and who are and must be to-day, notwithstanding our increasing

power and consequence, large and equal factors in its maintenance.

I of course recognize the right of any one nation or combination of nations to suggest such amendments and improvements as the progress of civilization renders advisable; but to make such changes a part of international law requires the consent of the civilized world.

Nor do I deny the right of any two or more nations to adjust their general political relations according to principles of which they approve, but this obligation is simply a treaty obligation, is confined in its action to the contracting parties, and can not exempt them or either of them from the larger and older obligations of international law, should they ever conflict.

Even the four points of the Congress of Paris, which were adopted by all the great powers of Europe, do not claim to be international law and are admitted to be binding only upon and between those nations who were signatories of the treaty.

In the contention over the Alabama claims England and the United States did agree that the decision should be governed by the application of certain principles which it was admitted were not principles of existing international law, but to be accepted *quoad hoc* as the rule of judgment in the special case.

And it is very noticeable that, notwithstanding the declaration of such intent, no effort has been made in either case to widen these special transactions into alteration or amendment of international law. I assume, therefore, that the object of this reference is not to establish an American international law, in contrast or conflict with an European international law, but to suggest certain modifications as desirable, and to agree that, pending their incorporation into the international law of the world, we will, among ourselves, agree to be bound by the principles embodied in these resolutions.

Assuming this, the question is: Is it judicious for us to adopt these resolutions as the rule of action between ourselves and to make the necessary effort to have them in-

corporated into the international law of the world? For it is clear that they are either portions of existing international law, in which case we are already under their protection and bound by their obligations, or they are not existing international law, and then it is not in our power to make them so.

These recommendations cover two subjects:

(1) The subject of reclamation by foreigners against a government in which they reside or with which they have had transactions.

(2) The subject of the navigation of rivers running as boundaries between or running in different portions of their course through different territories.

I shall first consider the subject of reclamation.

My objection to the very earnest and eloquent report of the majority is not to its details, but to the irresistible conclusion of its logic, which I can not interpret in any other sense than the entire and absolute denial of the right of diplomatic reclamation between independent governments in vindication or protection of the rights of its citizens residing in foreign countries. It is possible that cases of direct violence or tort by the government itself may be excepted, but not clearly.

> The foreigner with all the rights of the native [says the report], with no right less, yet with no right more, is the principle which, to the mind of the committee, is the base upon which every theory in the premises should rest—the starting point for practical conclusions in so interesting a matter. If the Government is responsible to its citizens for infraction of the constitution or the laws, committed by agents of the public authority in the discharge of their duties, it will be equally responsible to foreigners, and *vice versa*. If the Government is not responsible to the citizen for damages caused by insurgents or rebels, neither will it be responsible to foreigners, and *vice versa*. If the natives have any protection against the decision and procedure of the courts, the same right shall be granted foreigners. In a word, in everything touching the exercises of civil rights natives and foreigners shall be on a perfect equal footing, equal rights, equal obligations, equal access to the authorities, equal procedure, equal appeals, but in no case shall the foreigner be superior; an exasperating position which may establish an indefensible duality of sovereignties and authorities.

The foreigner should not appear like a spoiled child, always encircled by the arms of the Government of his nationality to prevent him from stumbling and injuring himself.

Putting aside the supposed condition, existing in fact nowhere, in which "foreigners are entitled to enjoy all the civil rights enjoyed by natives," the above forcible and plausible statement can not be accepted without most important limitations. It may be admitted, but with serious reservations, that the resident foreigner in all contracts with private natives and in relation to violations of municipal law has no right to ask more protection than is given to the native citizen. But even here there is the underlying assumption that what is granted by native law and procedure, what is given to the native citizen, is substantial justice. If under any peculiar law, under any absolutism of procedure, under any habit or usage of traditional authority to which natives are accustomed and willing to submit, the native process or judgment does not afford this substantial justice, the right of the foreigner to such substantial justice would be nevertheless complete, and how can it be assured to them? But if this be so even in cases of private contention, how is it with the cases where the reclamation of the foreigner is against the Government itself?

Into what court will the Government allow the sovereignty of the nation to be called to answer its responsibility to the claimant and how is its judgment to be enforced? What, under such a theory, becomes of a native merchant in a belligerent country? What guaranty has the foreigner against the forced loan to which a native citizen may be bound patriotically to submit? Take the case of the foreign bondholder furnishing to the Government invaluable assistance at critical times where the debt is neither denied nor repudiated, but simply and persistently left unpaid. Has any Government hesitated to protect by diplomatic reclamation the interests of its subjects, which no foreigner can enforce in the courts of his debtor? Take the case where the persons and property of foreigners have not received the protection to which their relation with the na-

tive Government entitles them. Is it conceivable that so great a departure from ancient usage and recognized international law would be accepted?

It will be recollected that very recently the experiment has been tried. In 1888, only two years ago, the Ecuadoran Congress passed a law decreeing as follows:

ARTICLE I.

The nation is not responsible for losses and damages caused by the enemy either in civil or international war or by mobs, riots, mutinies, or for those which may be caused by the Government in its military operations or in the measures it may adopt for the restoration of public order. Neither natives nor foreigners shall have any right of indemnity in such cases.

ARTICLE II.

Neither is the nation responsible for losses or damages consequent upon measures adopted by the Government towards natives or foreigners involving their arrest, banishment, internation, or extradition whenever the exigencies of public order or a compliance with treaties with neighboring nations require such action.

ARTICLE III.

The payment of indemnities not excluded by the foregoing articles can not be made except in conformity with the law of public credit and after a previous judgment by a competent judicial office.

ARTICLE. IV.

Neither foreigner nor native shall have the right of presenting claims to the legislature which were previously rejected by a former Congress.

ARTICLE V.

Foreigners who may have filled positions or commissions which subjected them to the laws and authorities of Ecuador can make no reclation for payment or indemnity through a diplomatic channel.

The diplomatic corps at Quito protested against the act as contrary to the law of nations. On October 23, 1888, the State Department addressed the following instructions to the minister of the United States. After referring to the various articles of what it terms "the extraordinary law" it proceeds:

> It is unnecessary to quote further provisions of the statute to show that it is subversive of all the principles of international law. This is so plain that it does not require or admit of argument. By such a declaration of rules for the guidance of her conduct in international relations, Ecuador places herself outside of the pale of international intercourse. It can not be supposed that she will persevere in such a course, which would be destructive of her commerce and render amicable relations with her impossible.
>
> You are, therefore, instructed to say to the Ecuadorian Government that the provisions of the law in question have been read by this Department with regret, and that the United States could never acquiesce in any attempt on the part of that Government to use such a statute as an answer to a claim which this Government had presented.

Now, while the conclusions and argument of the report do not make specific reference to this legislation, it does seem to me that its provisions would be generally supported both by the language and resolution. The second resolution reads thus:

> A nation has not, nor recognizes in favor of foreigners any other obligations or responsibilities than those which, in favor of the natives are established by the constitution and the laws.

I can put but one interpretation upon this language, and that is, that whatever be the complaint of a resident foreigner against the Government under whose jurisdiction he is residing, he has no right in protection of his interests other than such as the Government may have provided in the way of judicial trial or executive appeal to its own citizens, and this principle once admitted, of course there follows the absolute exclusion of diplomatic reclamation; for the report says:

None of the advancements of modern civilization is unknown to the Republics of America; granting the foreigner the same rights, neither less nor more, than the native enjoys, they do all they can and should do, and if their rights are not enough, and if they are not found to be sufficiently guarantied, and to be placed beyond the pale of abuse; if there is danger that abuse will sometimes be committed, as there is danger of earthquakes, of floods, of epidemics, of revolutions, and other misfortunes, the foreigner should have considered it all before deciding to live in a country where he runs such risks.

I am willing to admit that there are cases in which this appeal of a foreigner to have the protection of his own country has been abused—that there may be cases in which the lapse of time, the loss of records, the insufficiency of evidence, the confused and revolutionary character of the circumstances under which the claims may be alleged to have arisen, all combine to diminish the equities of a diplomatic reclamation. But these are rare and are always subject to the scrutiny of the reclaiming Government, and if there is a subject upon which nations are proverbially cautious it is the risk of involving national interests and incurring risks of provoking international difficulties in vindication of the violation of the rights of private individuals. And I can say confidently, with no inconsiderable knowledge of the diplomatic reclamations made by the Government of the United States, that the large majority of the claims which it has become the duty of the United States Government to press upon foreign nations has been in behalf of such claimants as the report describes, well founded in equity, reasonable in demand, and of singular temperance in tone.

Those claims have represented the courage and enterprise and capital of a shrewd, venturesome, but singularly intelligent and broad class of men. They have ventured much, not it is true without hope of reward, but very much that did substantial work in building up large industries, in sustaining struggling Governments, and in aiding other nations in their efforts at independence. And every day, as the world comes closer together, this community of enterprise, this transfer of labor and capital to

do the work of other nations is spreading, and becoming not merely private and inconsiderable contracts, but large transactions, involving legislative action, Government intervention, and national responsibility.

The narrow technicality and the unavoidable prejudices of municipal law are growing too small for affairs of such magnitude.

And if there is a noticeable fact in the history of international claims, it is that the almost certain result of diplomatic reclamation is the arbitration of an impartial tribunal, in which all the equities are carefully scrutinized and by which almost every contention has been solved by a compromise which relieves national irritation and satisfies individual justice. I am satisfied that within the last fifty years surer foundations for the establishment of a real international law by diplomatic reclamation, thus terminating in arbitration, have been laid than by any influence at work in the history of the world.

This system has given us a series of special decisions covering a multiplicity of cases arising from the developing necessities of closer national relations, which will become, sooner or later, a code of decisions to which appeal may safely be made. The time has not yet come, but come it must, when all differences not between government and government—for that I deem impossible, but between the citizens of one country and the government of another—will find a common and legal tribunal to administer a recognized jurisdiction. But until that comes and as the surest and most efficient means to secure its coming is diplomatic reclamation seeking and finding arbitration.

I am unwilling to repeat the commonplace declaration, "*Romanus civus sum.*"

It has been distorted by the political declamation of that sort of passion which sometimes mistakes itself for patriotism; its truth has been abused by great and arrogant nations, and may be again. But human nature must be changed, and changed for the worse, before you can separate loyalty to the government and protection to the citizen. And that flag had better be furled under which a citizen does not feel that he is safe against injustice.

With these views I can not concur in any opinions which diminish the right or reduces the power of a nation by diplomatic reclamation, which is the manifestation of its moral strength and vitality, to protect the rights and interests of its citizens.

WILLIAM HENRY TRESCOT,
Delegate from the United States.

DISCUSSION.

SESSION OF APRIL 18, 1890.

The PRESIDENT. The next on the order of the day is the report of the Committee on International Law. What course will the Conference take? There is a majority report and a minority report.

By direction of the Chair the conclusions of the report were read.

The PRESIDENT. Is the Conference ready for the first section?

Mr. PRICE. I beg leave to be excused from voting.

The PRESIDENT. The honorable delegate from Hayti is excused from voting. If the Conference is ready the Chair will direct that the roll be called.

The PRESIDENT. If there be no objection the vote will be upon both resolutions at once.

The roll-call resulted in the approval of the resolutions by a vote of 15 to 1.

Those voting affirmatively were—

AFFIRMATIVE, 15.

Nicaragua.	Costa Rica.	Bolivia.
Peru.	Paraguay.	Venezuela.
Guatemala.	Brazil.	Chili
Colombia.	Honduras.	Salvador.
Argentine.	Mexico.	Ecuador.

The United States voted negatively, and Hayti abstained from voting.

RECOMMENDATIONS AS ADOPTED.

(1) Foreigners are entitled to enjoy all the civil rights enjoyed by natives, and they shall be accorded all the benefits of said rights in all that is essential as well as in the form or procedure, and the legal remedies incident thereto, absolutely in like manner as said natives.

(2) A nation has not, nor recognizes in favor of foreigners, any other obligations or responsibilities than those which in favor of the natives are established in like cases by the constitution and the laws.

NAVIGATION OF RIVERS.

REPORT OF THE COMMITTEE ON INTERNATIONAL LAW ON THE NAVIGATION OF RIVERS.

As submitted to the Conference April 12, 1890.

Some of the honorable delegates have proposed that the Conference make a recommendation to the several nations therein represented to adopt the principle that the navigation of rivers be free to all the nations whose territories their waters bathe, and that the sovereign States bordering on the headwaters of such rivers shall have free passage to the sea by means thereof.

The first point that has presented itself for the examination of the committee to whom the proposition alluded to was referred is whether it is within the province of this Conference to entertain matters which, like that mentioned, belong to public international law. The committee has no doubts upon the point. It believes that although it might be inopportune to enter indiscriminately upon all the subjects of the public law of nations, the right of this Conference to consider and discuss them and to decide upon the recommendation which it considers should be made can not'be questioned. Without going outside of the terms of the act of the Congress of the United States which authorized the calling together of this Conference, it may be plainly demonstrated that subjects like that under consideration are in nowise beyond its competency. The second section of the act to which the committee has just made reference, provides that the President of the United States, in forwarding the invitations to the several Governments of America, should set forth that the Conference is called to consider:

First. Measures that shall tend to preserve the peace and promote the prosperity of the several American States.

And—

Eighth. To consider such other subjects relating to the welfare of the several States represented as may be presentéd by any of said States which are hereby invited to participate in said Conference.

Any subject, then, which by any delegation may be submitted to the decision of the Conference, if it relates to the welfare of the nations therein represented, is fully within the programme of subjects which is the object of its deliberations. And if we consider, moreover, the character with which the majority of the delegates to this Conference are invested, there can not be the shadow of a doubt of their ample faculty to bring into the field of discussion subjects of this nature.

After this explanation, it behooves the committee to state that, in its judgment, no difficulty presents itself to its making a recommendation in the sense proposed by the signers of the resolution.

This free navigation appears to be a natural right; it is recognized by writers on international law of the highest repute in Europe as well as in the United States and Spanish America. And it accords with what is established in the decisions of noted European congresses and in the articles of different treaties touching the navigation of important rivers. This is the principle also which the Government of the United States has vigorously and victoriously sustained on more than one occasion. And, finally, the principle is in keeping with the fraternal relations which should exist between the several American nations that will not deny to their neighbors that which will benefit them and which is even indispensable and does not cause any injury or harm.

For these reasons, which have been fully set forth in the report of one of the delegates who presented the resolution, and which reasons the committee does not here reproduce because they are so well known to all, it proposes the following conclusion:

RECOMMENDATIONS OF THE COMMITTEE.

Whereas it is an admitted principle of international law, founded on reasons of justice and equity, and which the

general advantage demands, that the navigation of rivers shall be free to all nations whose territories border on them, and for those nations which have no other means of reaching the sea, the International American Conference

Resolves to recommend to the several governments of the nations represented in this Conference to adopt, declare, and recognize the following principles:

(1) That rivers which separate several States, or which bathe their territory, shall be open to the free navigation of the merchant marine or ships of war of the riparian nations.

(2) That this declaration shall not affect the jurisdiction nor the sovereignty of any of the riparian nations either in time of peace or war.

FERNANDO CRUZ.
MANUEL QUINTANA.
JOSÉ ALFONSO.

MINORITY REPORT.

NAVIGATION OF RIVERS.

With regard to this subject I have little to say. The majority report states, I think, with sufficient accuracy the general doctrine, although how far these rights of navigation belong to the world as against the riparian sovereignty has not perhaps been absolutely settled. And I would have to make some reservation as to the first declaration, "that rivers which separate several States or which bathe their territories shall be open to the free navigation of the merchant marine or ships of war of the riparian nations."

The old contention as to the limitation of the naval power of Russia in the Black Sea might well be revived on the course of a great continental river where the riparian owners were of very different degrees of strength. And in case of war questions might arise not easily answered; for I confess, with all my study of international law, I have not learned what, if any, outside of questions of pure humanity, are the limitations on the right of war, and history seems to me only to teach that law, as the skeptical

Frederick said of Providence, is always on the side of the stronger battalions.

I think that the appreciation of the principle, now so generally recognized as not to need confirmation, had better be left to the wisdom of the riparian owners, whose interests will more surely lead to sagacious and amicable settlement of questions which may arise than any appeal to general principles.

I do not object to the committee expressing its views upon the resolutions which I have referred to it, but I can not concur in any resolution declaring their principles to be principles of American international law.

WM. HENRY TRESCOT,
United States Delegate.

ARGUMENT OF THE DELEGATE FROM ECUADOR IN SUPPORT OF HIS RESOLUTION ON THE FREE NAVIGATION OF RIVERS FLOWING THROUGH THE TERRITORIES OF VARIOUS NATIONS.

It seems to me desirable to present briefly some reasons in support of the resolution submitted by me with reference to the free navigation of the rivers which flow through different countries, since the navigation of those rivers and the free access through them to the oceans and seas are matters of vital importance for our nations.

In the first place, and even independently of the provisions of international law, nature herself, by her spontaneous movements, appears to decree the freedom which should be enjoyed by traffic upon such rivers. The tranquil, yet unceasing, flow of their waters, which, in their course, bear the elements of fertility and irrigation, and distribute benefits to the provinces which they bathe on their way; the independence with which, from their sources, they proceed, without license first obtained, to mingle in some common center, in obedience to the irresistible laws of equilibrium and gravitation, teach us that every obstacle to the development of the riches which they promote, or which would impede the relations which they

facilitate, is contrary to the principles of natural law. From this source, the *mother* of most of the maxims which regulate the conduct of individuals and the laws of society, international law has likewise derived many doctrines which now have the sanction of national agreements, and have been adapted to the requirements of modern civilization, the spirit of which tends to minimize the difficulties in the way of the development of the common interests. Thus the boundaries of countries are fixed with the fullest possible reference to the lines marked out by the water-ways and mountain ranges. And the oceans, with their imposing immensity, have secured the recognition of their freedom.

I proceed now to quote certain passages from distinguished authors, who have written upon the subject.

Wheaton remarks as follows:

The right of navigating, for commercial purposes, a river which flows through the territories of the different States is common to all the nations inhabiting the different parts of its banks; but this right of innocent passage being what the text-writers call an imperfect right, its exercise is necessarily modified by the safety and convenience of the State affected by it, and can only be effectually secured by mutual convention regulating the mode of its exercise.

It seems that this right draws after it the incidental right of using all the means which are necessary to the secure enjoyment or the principal right itself. Thus the Roman law, which considered navigable rivers as a public or common property, declared that the right to the use of the shores was incident to that of the water, and that the right to navigate a river involved the right to moor vessels to its banks, to load and unload cargoes, etc.

Bello, citing Vattel, Kent, Phillimore, and Calvo, says:

A nation which owns the upper portion of a navigable river has the right (to demand) that the nation controlling the lower part shall not impede its navigation to the sea or molest it by regulations or burdens not necessary to its (such other nation's) security, or to compensate it for such inconvenience as the navigation may occasion.

The same author refers to the controversies respecting the Mississippi and the St. Lawrence, and adds:

The powers which participated in the Congress of Vienna, in 1815, adopted as a basis for the regulation of the navigation of the Rhine, the Necker, the Mein, the Moselle, the Meuse, and the Scheld, all of which divide or cross different countries, "that the navigation through

the whole course of these rivers from the point at which each of them begins to be navigable to its mouth should be entirely free, those navigating them being to conform to the ordinances which should be promulgated for their police, and which said regulations should be as nearly uniform among themselves and as favorable to the commerce of all the nations as might be possible."

A similar rule was adopted for the free navigation of the Elbe by the nations interested therein by a convention formulated at Dresden on the 12th day of December, 1821. The treaties of the 3d of May, 1815, between Austria, Russia, and Prussia, confirmed at the Congress of Vienna, established the same freedom of navigation for the Vistula and the other great rivers of ancient Poland. In another part it continues:

There seems to be, furthermore, sufficient reason for our hoping that the States of Paraguay, Bolivia, Buenos Ayres, and Brazil, acting upon similar principles, will open the Paraná River to the navigation of the world.

Such was the state of things in 1854, when Phillimore brought out the first volume of his important work. But it was not long before these hopes were realized as to the opening of the full-flowing St. Lawrence River, to which opening at last, and with great liberality, Great Britain consented, the whole world coming thus to share the benefits of this great channel of commerce. This was announced by Phillimore in the preface to his third volume (1857), and he recorded at the same time other notable changes. The free navigation of the Danube, assured by the treaty of Paris (1856), places this magnificent body of water under the same rule as that to which, by the treaty of Vienna (1815), the other principal rivers of Europe had been subjected; and by a convention between Austria, Parma, and Modena the navigation of the Pó was facilitated.

Mr. Gallaudet, in his Treatise on International Law, says:

If the freedom of the seas is a principle of justice definitely established by the law and recognized by the practice of nations, it seems logical and natural to apply it to the navigation of rivers, placing them on the same footing as seas, requiring that the particular regulations established by each country, respectively, in regard to their

navigation should not be of a restrictive nature, and demanding that the authority of law should only be brought forward to facilitate and formalize the rights of all and cause them to be respected.

Within the last hundred years these principles have prevailed more and more over the early restrictive policy, until we find at the present time all the great rivers of Europe and America open to commerce under the lightest possible restrictions.

Let us now hear Bluntschli:

When a river flows through the territory of several States on its way to the sea, it might happen that one of these States, if its sovereignty were unrestrained in this department, would close to the others all access to the sea and deprive them of all maritime commerce. This would rob the ports and rivers of their true character, prevent them from accomplishing their end, which is to bind the peoples to one another.

The development of international law demands accordingly the free navigation of the streams or rivers forming part of the public domain. This idea was first formulated by the treaty of Paris, in 1814, with respect to the navigation of the Rhine. Even then the application of this principle to all the streams of Europe was anticipated as probable.

Fiore, asserting that "the navigable rivers which flow into the sea, and cross or divide several States, are international rivers," and positing furthermore the principle that "international rivers should be governed by the principles of international law and not by the individual interests of any of the States upon their banks," announces the following doctrine:

In our opinion, the international character of river navigation follows necessarily, and in law, in the case stated, from the nature of things, that is, from the indivisibility of the river, the natural right to freedom, and the international character of commerce.

Every State possessing a small portion of a river has a right to demand that such river shall continue open to international commerce, or, what is the same thing, to demand that the States shall create no obstacle to the international navigation of the river, such as would impede it in any way on the section subject to its jurisdiction.

The international regulations governing the navigation of rivers should be under the collective guaranty of all the States, and ought to be binding even upon those of the bordering States which should not have adopted them.

There are still in our portion of the world great rivers which pass through the territories of various nations, but

the free navigation of which is not established in a clear and definite way. The navigation of the tributaries of the Amazon between Ecuador, Colombia, Brazil, and Peru is still subject to restrictions which hinder the free transportation of the treasures afforded by the inland forests of South America, and I am not sure that the existing treaties concerning the navigation of the rivers Orinoco, Paraná, Plata, and others afford all the the guaranties demanded by the amazing growth of commerce and agricultural enterprises. In any event, whether because, as I have said, there are rivers whose free navigation and free exit are not guarantied explicitly by and between the riparian States, or because such treaties as may be in existence are subject to be discontinued either at the will of the contracting parties, upon notice to that effect, or by expiration of the time stipulated in the same, it becomes incumbent upon us now, while inspired by a common and great desire to accomplish something for our respective countries, without limiting our action to the present time, to invoke principles which, once recognized, shall constitute a safe and stable basis for their security and development in the future.

J. M. P. CAAMAÑO.

WASHINGTON, *February* 12, 1890.

DISCUSSION.

SESSION OF APRIL 18, 1890.

The PRESIDENT. The report on the navigation of rivers is now in order.

By direction of the Chair, the preamble and resolutions on page 5 of the report were read.

Mr. CRUZ. I ought to explain that, though Mr. Caamaño, delegate from Ecuador, is a member of the committee, and approves the recommendations, he has not signed the report, because he is the author of the resolution which gave rise to it.

Mr. TRESCOT. Before the vote is taken I want to say only a word. The United States has taken no part in the general discussion of this matter. The subject-matter of these reports is a very important one, and in the committee there was a difference of opinion that could not be reconciled. We thought it best to put in the report the arguments on each side, and it is my duty to announce that the United States votes against these propositions and, therefore, can not be bound to consider them as any declaration of public law. In regard to the action of the gentlemen who adopted these resolutions we have no comments to make.

The PRESIDENT. The honorable delegate from Guatemala suggests that the vote be taken on both propositions.

Mr. PERAZA. I have not had sufficient time for studying this report, which I have only just now received. Consequently, the Venezuelan delegation regrets exceedingly that it can not vote at this time, it not being prepared, and, much against its will, it will abstain from voting.

Mr. CAAMAÑO. Though I am not the reporting member of the committee, I still belong to it, and desire to say two words, to the end that my views may be placed of record.

I feel that I must refute the report of the Hon. Mr. Trescot, a delegate from the United States, respecting the claims of foreigners, and also that which refers to the free navigation of rivers bounding or bathing in their course several nations.

With regard to the former, Mr. Trescot founds his objections, among other reasons, in that their being

general rules of international law he can not admit the doctrine of American international law. The able diplomat forgets that the Committee on General Welfare has studied the subject of extradition and has presented its report, the putting into practice of the recommendations of which will be nothing else than the application of an international penal system in America. And he forgets, also, that the plan of arbitration, the debate upon which has just terminated, which plan is signed first by General Henderson, who represents and is chairman of the United States delegation, says in the first article thereof that *the Republics of North, Central, and South America adopt arbitration as a principle of American international law.* And to-day, under the direction of the present Secretary of State, President of this Conference, has there not been formulated a *project* of recommendation relating to conquests which says that this shall be *abolished as a principle of American international law?* This implies not only a disagreement between the opinion of the United States Government and one of its delegates, but also a contradiction which may be considered as demonstrating that the establishment and adoption of rules of international law for our continent is by no means foreign to the Conference.

On the other hand, how have the maxims of the international law of the civilized world been generalized? When have all the nations met together to form codes upon the different branches it embraces? What country has the right to take the initiatory step towards reform in this particular? International law is the result of the deliberations which have been accumulating little by little in the course of

time. And these deliberations have been the outcome of the laws of necessity and the right of self-preservation, or of the agreements that the governments have entered into, meeting in greater or less number. Those laws, those rights, and those agreements, accepted afterwards expressly or impliedly by other governments, have gone on forming the catalogue which now serves as the standard; a catalogue that is far from being complete and much less invariable, since the new way nations have of looking at things makes many of the principles recognized and followed variable. Moreover the general progress and the spirit of forbearance with which the present civilization is viewing all human acts require that some practices be recognized which, up to the present, although admitted as good, have not obtained general sanction. But what nation, I repeat, should initiate this resolution? Should they be those which at Vienna, Geneva, Paris, or Berlin have established maxims of international law, which, accepted by the meeting powers, have been adopted by the others, or at least by the majority? For, if the international law formed at the instance of European nations has detailed the manner of making war upon each other, have not we Americans the right to initiate fraternal measures, by seconding the plan presented by the committee, which tends to prevent controversies and to our treating each other as members of a common family? I do not see why we do not exercise the faculties we have. Furthermore, if the nations of the other continents do not adopt our maxims, we shall apply them among ourselves, with the assurance that sooner or later they will acknowledge our correctness and will follow us. Do we, per-

chance, desire to make statutes for the world? If the honorable delegate is not pleased that the majority report be approved, he should attack it in its substance. Because we approve some points and do not others, we ought not to open one way for some and close it to others, thus falling into an inconsistency which has no reasonable foundation.

If we go into the fundamental reason adduced by the Hon. Mr. Trescot, we find it reduces itself to the duty of affording, and the right to ask, protection of the Governments for injuries that may be done a foreigner. Laying aside the fact that in the calculation of our Government estimates we always consider that a certain proportion thereof is employed in satisfying demands of the very parties who go to our countries to seek fortune and position, it being pertinent to recall the fact that it is to-day a new method of speculation to meddle in our local contentions, and at once profit by what, to the natives, is ruinous. This history is long and could fill volumes. I remember that by virtue of a vote of confidence given by Congress to the Executive of Ecuador, authorizing him to make administrative adjustment respecting claims, a foreigner was satisfied with $2,000 when he claimed $80,000. The time has now come when the decisions of our courts are a little more respected, and we do not concede, to the detriment of our honor, the right to revise and judge them in the light of interest by those who live out of our countries and who do not fully know the antecedents, the motives, and the true inwardness of the continuous claims which may lay in our treasures, that are called poor and only in this case are judged rich. Moreover, I ask, what is the

desideratum of treaties of friendship? Is it not true that it is stipulated as an advantage that foreigners should be treated as natives? Mr. Trescot knows this very well. What does the treaty between this Republic and that of Ecuador say in one of its last clauses? It establishes "that North Americans in Ecuador shall be treated as natives;" therefore, if we are now trying to establish as a maxim what to-day is aspired to as a privilege, why do we reject the idea? This great nation which has just set us the example of proposing arbitration, why does it not seal its work, leaving us liberty of action and trusting to the honor of our judiciary and governments?

The law of the Republic of Ecuador, now cited by the Hon. Mr. Trescot, is presented to me surrounded by an aureol of Americanism which it previously lacked. That law, perhaps stamped as a sample of anomalous provisions, is sufficiently praised by the recommendations of the Committee on International Law, on which, with the exception of myself, are notable statesmen, who, without knowledge of that law, have established identical bases. If they, as I hope, are approved by the other Republics of this grand group, I, who am an Ecuadorian, shall consider it as a precious document which honors my country. If the honorable Secretary of State signed a note refuting it, he followed the dictates of his principles. But that does not deprive us of the right to judge it in our turn, much more so now that the Conference, with its expressed aspirations, justifies the action of the legislature of Ecuador.

Respecting the *project* of the free navigation of rivers to which the recommendation refers, the honora-

ble delegate from the United States says that it is founded upon a generally recognized principle, but that the nations interested should be allowed to make the arrangements they may deem convenient in the premises.

If we accept this as a sufficient reason, why have we met here? Was it, perchance, to invent new systems of common administration or to discover the unknown in international law? We have been invited and have met to establish in the name of Columbus the principles that lie in our agreements of peace, which are already known and have met with approval more or less explicit, and which the opportunity now presents itself to declare as accepted by the countries we represent. Certain it is that physical force sometimes enervates the calm judgment of nations; but as everything is balanced in this world, the small republics increase their strength in the inverse ratio of their arsenals, and when weaker, the more they depend on reason and right which make way for themselves between squadrons and armies. Small countries, when they form the conscience of their acts, know the value of this, sustain their rights, envelop themselves in their flag, and accept the fate marked out for them.

I am grieved that the acquiescence of the great Republic is not the most valued complement of the *project* I presented, and I grieve because this nation justly weighs so much in the political balance that its opinion can not by any means be viewed with indifference. We greatly desire its approval. But in the end, as neither the Mississippi runs through Central or South America, nor the Amazon, father of riv-

ers, bathes the northern part of this hemisphere, we must content ourselves with the delegation of the United States maintaining the stand it has taken, while the other nations establish a principle which affects us directly, and which will produce great results.

The roll-call resulted affirmatively by a vote of 14 to 2.

Those voting affirmatively were—

AFFIRMATIVE, 14.

Hayti.	Costa Rica.	Bolivia.
Peru.	Paraguay.	Chili.
Guatemala.	Brazil.	Salvador.
Colombia.	Honduras.	Ecuador.
Argentine.	Mexico.	

The United States and Nicaragua voted negatively, and Venezuela abstained from voting.

RECOMMENDATIONS AS ADOPTED.

(1) That rivers which separate several States, or which bathe their territory, shall be open to the free navigation of the merchant marine or ships of war of riparian nations.

(2) That this declaration shall not affect the jurisdiction nor the sovereignty of any of the riparian nations either in time of peace or war.

PLAN OF ARBITRATION.

REPORT OF THE COMMITTEE ON GENERAL WELFARE.

As submitted to the Conference April 9, 1890.

The delegates from North, Central, and South America in Conference assembled:

Believing that war is the most costly, the most cruel, the most fruitless, and the most dangerous expedient for the settlement of international differences;

Believing that the growth of moral principle in the world has awakened a public opinion in favor of the amicable adjustment of all questions of international interest by the intervention of impartial counsel;

Animated by a realization of the great moral and material benefits that peace offers to mankind, and that the existing conditions of the several nations is especially propitious for the adoption of arbitration as a substitute for armed struggles;

Believing that the American Republics, sharing alike the principles, the obligations, and the responsibilities of popular constitutional government, and bound together by vast and increasing mutual interests, may, within their own circle, do much to establish peace on earth and good will to men;

And considering it their duty to declare their assent to the high principles which tradition has authorized, public reason supports, and the whole of mankind proclaims, in protection of the weak States, in honor of the strong, and to the benefit of all;

Do solemnly recommend all the Governments by which they are accredited to celebrate a uniform treaty of arbitration in the articles following, namely:

ARTICLE I.

The Republics of North, Central, and South America hereby adopt arbitration as a principle of American international law for the settlement of all differences, disputes, or controversies that may arise between them.

ARTICLE II.

Arbitration shall be obligatory in all controversies concerning diplomatic rights and privileges, boundaries, territories, indemnities, the right of navigation, and the validity, construction, and enforcement of treaties.

ARTICLE III.

Arbitration shall be equally obligatory in all cases, other than those mentioned in the foregoing article, whatever may be their origin, nature, or occasion; with the single exception mentioned in the next following article.

ARTICLE IV.

Such exception shall be when, in the judgment of any nation involved in the controversy, its independence might be endangered by the result of arbitration; for such nation, arbitration shall be optional, but it shall be obligatory upon the adversary power.

ARTICLE V.

All controversies or differences, with the exception stated in Article IV, whether pending or hereafter arising, shall be submitted to arbitration, even though they may have originated in occurrences antedating the present treaty.

ARTICLE VI.

No question shall be revived by virtue of this treaty concerning which a definite agreement shall already have been reached. In such cases arbitration shall be resorted to only for the settlement of questions concerning the validity, interpretation, or enforcement of such agreement.

ARTICLE VII.

Any government may serve in the capacity of arbitrator which maintains friendly relations with the nation opposed to the one selecting it. The office of arbitrator may also be intrusted to tribunals of justice, to scientific bodies, to public officials, or to private individuals, whether citizens or not of the States selecting them.

ARTICLE VIII.

The court of arbitration may consist of one or more persons. If of one person, the arbitrator shall be selected jointly by the nations concerned. If of several persons, their selection may be jointly made by the nations concerned. Should no choice be made, each nation claiming a distinct interest in the question at issue shall have the right to appoint one arbitrator on its own behalf.

ARTICLE IX.

Whenever the court shall consist of an even number of arbitrators, the nations concerned shall appoint an umpire, who shall decide all questions upon which the arbitrators may disagree. If the nations interested fail to agree in the selection of an umpire, such umpire shall be selected by the arbitrators already appointed.

ARTICLE X.

The appointment of an umpire, and his acceptance, shall take place before the arbitrators enter upon the hearing of the questions in dispute.

ARTICLE XI.

The umpire shall not act as a member of the court, but his duties and powers shall be limited to the decision of questions upon which the arbitrators shall be unable to agree.

ARTICLE XII.

Should an arbitrator, or an umpire, be prevented from serving by reason of death, resignation, or other cause,

such arbitrator or umpire shall be replaced by a substitute, to be selected in the same manner in which the original arbitrator or umpire shall have been chosen.

ARTICLE XIII.

The court shall hold its sessions at such place as the parties in interest may agree upon, and in case of disagreement or failure to name a place the court itself may determine the location.

ARTICLE XIV.

When the court shall consist of several arbitrators, a majority of the whole number may act, notwithstanding the absence or withdrawal of the minority. In such case the majority shall continue in the performance of their duties until they shall have reached a final determination of the questions submitted for their consideration.

ARTICLE XV.

The decision of a majority of the whole number of arbitrators shall be final both on the main and incidental issues, unless in the agreement to arbitrate it shall have been expressly provided that unanimity is essential.

ARTICLE XVI.

The general expenses of arbitration proceedings shall be paid in equal proportions by the governments that are parties thereto; but the expenses incurred by either party in the preparation and prosecution of its case shall be defrayed by it individually.

ARTICLE XVII.

Whenever disputes arise the nations involved shall appoint courts of arbitration in accordance with the provisions of the preceding articles. Only by the mutual and free consent of all of such nations may those provisions be disregarded, and courts of arbitration appointed under different arrangements.

ARTICLE XVIII.

The treaty shall remain in force for twenty years from the date of the exchange of ratifications. After the expiration of that period it shall continue in operation until one of the contracting parties shall have notified all the others of its desire to terminate it. In the event of such notice the treaty shall continue obligatory upon the party giving it for at least one year thereafter, but the withdrawal of one or more nations shall not invalidate the treaty with respect to the other nations concerned.

ARTICLE XIX.

This treaty shall be ratified by all the nations approving it, according to their respective constitutional methods; and the ratifications shall be exchanged in the city of Washington on or before the first day of May, A. D. 1891. Any other nation may accept this treaty and become a party thereto by signing a copy thereof and depositing the same with the Government of the United States; whereupon the said Government shall communicate this fact to the other contracting parties.

In testimony whereof the undersigned plenipotentiaries have hereunto affixed their signatures and seals.

Done in the city of Washington, in ——— copies in English, Spanish, and Portuguese, on this ——— day of the month of ———, one thousand eight hundred and ninety.

Respectfully submitted,

JOHN B. HENDERSON.
MANUEL QUINTANA.
JUAN FRANCISCO VELARDE.
N. BOLET PERAZA.
J. M. HURTADO.
J. G. DO AMARAL VALENTE.
FERNANDO CRUZ.

Committee on General Welfare.

DISCUSSION.

SESSION OF APRIL 14, 1890.

The report of the Committee on General Welfare on arbitration was read.

Mr. HENDERSON. I do not rise for the purpose of discussing it, but simply to perfect the report before argument is had upon it. In the preamble I see that the words "and the Republics of Hayti," in the beginning of the report, have been left out in translating from the Spanish, and I move that they be added. It was an error of translation, or in the print, I do not know which. The honorable delegate from Guatemala informs me that he prefers that this should not be substituted just at present; that it would be better, in all probability, to leave it out entirely in Article I. I will pass over that for the present. I desire that the word "conditions" be put in the singular, in the third clause, beginning with the words "Animated by a realization," etc.

The PRESIDENT. The correction will be made.

Mr. HENDERSON. In the sixth clause, commencing "And considering it their duty" to declare their assent to the high principles which tradition has authorized," I move that the words "has authorized" be stricken out, and that the word "authorizes" be inserted, so as to have it in the present tense.

The PRESIDENT. If there is no objection it will be so ordered. The Chair hears no objection.

Mr. HENDERSON. In Article II the punctuation should be corrected.

The PRESIDENT. The proper correction will be made.

Mr. HENDERSON. In Article VIII there is an error, as the word "selected" is left out.

THE PRESIDENT. The correction will be made.

Mr. HENDERSON. That is all until I have a further conference with the honorable delegate from Guatemala.

Mr. QUINTANA. Besides the errors in the translation and print mentioned by the honorable chairman of the Committee on General Welfare, there are other errors which make the English text differ from the Spanish. There is even a suppression of the first section of Article VII of the report as it appears in the Spanish text.

AFTERNOON SESSION.

The following letter from Mr. Castellanos, a delegate from Salvador, was read:

WASHINGTON, *April* 13, 1890.

Mr. SECRETARY: Kindly inform the honorable Conference that owing to unforeseen circumstances I am compelled to go to New York. I am very sorry not to be able to attend the meeting to-morrow, when the report on arbitration, as presented by the enlightened members of the Committee on General Welfare will be discussed, to which report I give my most enthusiastic approval beforehand.

I do not think I am mistaken when I allow myself to assert that all the Governments which we have the honor to represent will accept with pleasure, and without any reservations, the recommendations therein made; and as it is improbable that another opportunity such as the present will occur for the representatives of all the nations of this continent to meet, inspired by the most friendly feelings of fraternity and concord, I have the honor to propose to my distinguished friends and colleagues that we should carry out at once our aspirations and make a

treaty, "*ad referendum*," in which each and all of the proposed articles shall be included.

For my part I frankly acknowledge that I shall consider as the highest honor reached by me in the course of my life the act of affixing my signature to a document which shall call forth the plaudits of all humanity, and which, owing to its transcendent character, will in the future be considered as the most brilliant triumph of civilization ever attained in the course of centuries since the foundation of Christianity.

I am convinced that no Government will refuse to ratify the initiative step taken here by its representative, and that, on the contrary, our conduct will receive full approval.

If, as I think and hope, my honorable colleagues are of the same opinion, I venture to request them to approve this proposition, not according to the proceedings established by the rules, but by acclamation.

I am, yours, truly,

JACINTO CASTELLANOS.

The FIRST VICE-PRESIDENT. The general discussion of the subject of arbitration will continue. Mr. Quintana, a delegate from the Argentine Republic, has the floor.

Mr. QUINTANA. Mr. President, Honorable Delegates: The preamble of the plan of arbitration, now under discussion, eloquently condenses the high ideas and noble sentiments which have induced the Committee on General Welfare to submit it to the deliberations of this august assembly.

To the eye of international American law there are on the continent neither great nor small nations. All are equally sovereign and independent; all equally worthy of consideration and respect.

The arbitration proposed is not, in consequence, a compact of abdication, of vassalage, or of submission.

Before, as well as after its conclusion, all and each of the nations of America will preserve the exclusive direction of their political destinies, absolutely without interference by the others.

Neither does that plan create a council of Amphictyons, nor is it an American confederation compact, by virtue of which the majority of the nations adhering, assembled in continental Areopagus, can impose their judgments upon contending nations, nor even force them morally, and much less physically, to carry out the obligations contracted.

What that contract is, in reality, is the consecration of the friendship, confidence, and fraternity of the American nations, heartily determined to solve, by means of arbitration, all those questions not affecting their own independence; because the independence of one nation can never be submitted to the judgment of another, but should always continue to be guarded by national patriotism.

As a work of peace, of justice, and of concord it does not rest, then, upon the strength of numbers nor the force of arms. It rests solely upon the public faith of the nations accepting it, upon the sense of dignity of each of them, and upon the moral responsibility incurred by any one which shall threaten this great work of civilization and of law, of the American mind and heart—faith, sense, and responsibility more respectable, nobler, and more efficient than the material strength of any one nation, however great and powerful.

There has thus been formulated a system of arbitration which is generally obligatory but never compulsory through the action of any State not directly

and exclusively interested in the case. If, contrary to all anticipations, all desires, and all hopes, arbitration should be unduly declined in any case and war break out between dissenting nations, the only thing left to the other nations, great or small in fact, but all equal before the law, is the mournful necessity of deploring the downfall of the noblest human aspirations; and no nation may claim, by virtue of the plan under discussion, the right to take part in the contest, except in the cases and within the limits in which international law authorizes the mediation or the good offices of any State maintaining good relations with the contending parties.

Such, gentlemen, is the clear letter of the proposed treaty, and such is also the incontrovertible spirit of all its clauses. Such has been, moreover, the predominant idea of the committee, which has constantly eliminated all suggestions tending to attribute to its stipulations a compulsory character, even though it be purely moral, on the part of the other adhering nations, which are alien to the question raised. Such is, above all, the genuine and undeniable purpose in which the Argentine delegation has had the honor to sign it, and it will assume the duty of upholding it through me.

I need barely to add that were it otherwise the Argentine delegation would not hesitate to withdraw its support, no matter how it would deplore such a course. Happily it entertains the firm conviction that such an extremity will not be reached. It will also congratulate itself, however, for this explanation of its ideas respecting the general scope of the project of arbitration. Perhaps it will serve to prevent in

the future interpretations as unauthorized as they are repugnant to the sincerity of some, the dignity of others, and the cordiality of all.

Mr. SAENZ PENA. I desire to indorse in full the opinions expressed by my honorable colleague, Dr. Quintana.

Mr. ROMERO, a delegate from Mexico, spoke as follows:

REMARKS OF MR. ROMERO.

It is a source of great gratification to me to see that the delegates of seven American nations, represented in the Committee on General Welfare of this Conference, among which are the United States of America, have concluded to recommend an agreement which intends to abolish war and substitute therefor friendly and pacific means. As a man of peace and as a representative of a republic which is not aggressive, I can not but rejoice to see the use of force given up in the settlement of differences among American nations and replaced by means similar to those used by private persons in similar cases, although with such modifications as are required by the national independence of the republics represented in this Conference.

I lament that the instructions which the Mexican delegates in this Conference have received from their Government on this subject will not allow us to accept, in all its broadness, the principle contained in the report of the committee. But when a reform which affects in so transcendant a manner the present system of civilized nations, and which establishes such radical changes in what heretofore has been generally practiced, it is not strange that the Mexican Government should consider that the principles accepted in the report of the committee go too far, and that in a subject so delicate as the present one it is more prudent to go by short steps, which, if they are not so advanced as the report of the committee, would have the advantage perhaps of being safer, and which in any event, far from hindering future progress toward the desired end,

would be so many other steps taken safely towards the realization of that object.

With great diffidence, on our part, because, as we are not able to give our complete adhesion to the report of the committee, we have no right to expect that our views upon this important subject should be accepted, and rather with the object of explaining the views of our Government, the Mexican delegates will make a cursory review of the different articles of the report and give our opinion on each of them.

We must state beforehand that we have received precise instructions from our Government upon the main points of the report of the committee, as we sent home the several projects on arbitration of which we had had notice, and the Government of the United States of America submitted one directly to the Mexican Government; therefore our Government has had time enough to study this important subject and to send us its instructions on the same.

In our treaties with the United States of America we have agreed to the use of arbitration for the settlement of future difficulties between the two countries, and therefore the Mexican Government accepts arbitration as a principle of international American law with a view to settling differences among the nations of this continent, and therefore we will be glad to give our approval to the first article of the report.

All the delegations here present have felt that while arbitration is acceptable as a principle and in general terms, there are also cases in which it might not be proper to exercise it; and one of the principal difficulties which appears in considering this subject is to define the exceptions without nullifying the principle itself.

The arbitration project presented to this Conference on the 15th of January last by the delegations from the Argentine Republic and the United States of Brazil excepts in its Article I such questions as would affect *national sovereignty*. The project submitted by the United States Government to Mexico about the end of Feburary last excepted such questions as would affect the territorial *integrity*, and the report of the committee has as an exception such

questions as might affect the *independence* of the contracting nations. The Mexican Government believes that besides this last exception another ought to be agreed upon for such questions as affect in a direct way the *national honor and dignity* of one of the contracting nations, and therefore the Mexican delegates would not approve of Article II of the report of the committee without the addition just stated.

Examining the form of Article II of the report, we have to say that it seems to us unnecessary to enumerate the cases when arbitration is binding, since Article III provides that it should be so in all cases except those stated in the following Article IV, which are such as may endanger national independence. There appears besides, in our opinion, some contradiction between Articles II and IV, since Article II provides the arbitration as obligatory in all boundary and territorial questions, and it may happen very easily in some cases that such questions might endanger the independence of the country, and then arbitration would not be binding in conformity with the provisions of Article IV.

We do not wish to mention actual controversies, because this is always disagreeable, although they might show this very plainly. The independence of a country might be endangered either totally or partially. It is plain that independence might be endangered partially when, on account of territorial questions or questions of boundary, a country would be in danger of losing the greater or considerable protions of its territory. In compliance with Article II arbitration would be binding, while Article IV provides that it shall not be so if such questions would endanger national independence.

Article V of the report of the committee includes among the questions to be decided by arbitration such questions as are pending when the treaty is signed. In our opinion it would be preferable not to embrace such questions for many reasons which it seems unnecessary to state. Arbitration ought to be accepted as a philosophical, humanitarian, and progressive measure resting on principles of reason and public convenience, and it would be

more easily accepted if it is presented in an abstract way and without applying it to the decision of pending questions. From the moment that such questions have to be submitted to arbitration the bearing of this system changes radically, and therefore its probable solution changes likewise. Fortunately there are a few questions which are now pending and which would be exempted from binding arbitration if the provisions of Article IV should be changed.

But notwithstanding all this, as the Mexican Government is willing to accept such treaty of arbitration as might be approved by this conference, we would give up our objections against Article V, provided the exception which we have just stated—that is, that arbitration would not be binding in questions which would affect in a direct way the manner and dignity of one of the contracting nations—should be adopted.

Of course, if the provisions of Article V should be omitted, Article VI, which is merely explanatory of the other, ought to be also omitted. There is, besides, some contradiction between those two articles. The VIth provides that such questions as have been already decided by definite agreements or treaties should not be renewed, but it adds that the arbitration will take place concerning the questions of *validity*, *interpretation*, or *enforcement* of such agreements. In our opinion, this provision is equivalent to a renewal of all the questions already decided by definite agreements or treaties, notwithstanding the stipulation contained in the first sentence of Article VI, since if such questions as involve the *validity*, *interpretation*, and *fulfillment* of previous treaties are subject to arbitration, this is equivalent to reviving the questions which were settled by the means of the same treaties.

Article VII provides for the complete liberty of each of the contracting nations in the selection of arbitrators. While we accept this stipulation as a very convenient one, we believe at the same time that it could be stated in more concise words and without the need of mentioning, as that article does, who can act as arbitrators.

Article VIII points out how the arbitration court shall

be organized, and its first two sentences are entirely acceptable, to wit, that in case the court is composed of one, two, or more judges, all these shall be commonly selected by the nations concerned. The third sentence foresees the contingency of the concerned nations not agreeing upon the appointment of one or more judges, and gives each nation *claiming a distinct interest* in the question at issue the right to appoint one arbitrator upon its own behalf. The difficulty comes up at once that if the interested nations are even in number, which is the most frequent case, since as a general rule questions arise between two nations, no majority could be had in a court with an even number of judges when the opinion among them should be equally divided.

The same Article VIII presents, besides, a new question, which is, in our opinion, very grave and of very difficult solution. It is possible, although it may not be a frequent case, that differences may spring up upon the same question between more than two nations. If these differences should cause, before the arbitration is accepted, a war, whatever might be the number of the concerned nations, the question would be reduced to two sides only, and all the nations would have to join one or other of the belligerents, as I do not know any case of a war between more than two nations where each of them has been fighting all the others. Whatever might be the interest of the nations concerned, all those having similar interests go on one side as against the opposing interests of one or more nations. Under such circumstances, and once arbitration is accepted, a case may be presented in which each nation, claiming to represent a distinct interest in the question at issue, and appointing one judge in accordance with the provisions of Article VIII, the decision should be controlled by the number of interests affected and not on account of the importance of such interests, and of the rights affecting the same, since on one side there were two or more States and on the other side only one, each being represented by a judge in the arbitration court. A majority would be sure to be against the State which would appear alone.

This subject is so much more difficult to decide, since if it should be agreed that only two interests should be recognized in each question, whatever might be the number of nations affected, it might appear that two or more States would be represented by one judge—that is, would have equal representation to their opposing party, should this be a single State. I just mention these facts to make plain the difficulties of the case, which might be called a new one, since it was not embraced in any of the previous projects, and to the convenience of studying it very carefully before a proper solution is arrived at, which would be acceptable to all the interested nations.

Article IX provides that when the court of arbitration should have an even number of judges the interested nations should appoint an umpire, who shall decide all questions upon which the arbitrators may disagree; and if they could not agree upon the election of an umpire, such umpire shall be elected by the arbitrators already appointed. But the article does not state what shall be done when the arbitrators do not agree upon the appointment of the umpire, which case is also frequent, and would likely come up when one State is interested in postponing or delaying arbitration.

We have no remarks to make upon Article X, to which we will give our affirmative vote.

Article XI provides that the umpire shall not act as a member of the court, but his duties and powers shall be limited to the decision of questions upon which the arbitrators shall be unable to agree. The experience in courts of arbitration which have so far acted shows that it is preferable that the umpire should be a judge in the court of arbitration, as in that way he has an opportunity of informing himself carefully of all the details of the question that he is to decide. In the courts of arbitration or mixed international commissions in which the umpire has not acted with the commissioners it has appeared that he acts only upon the decision of the commissioners and such briefs and arguments as are presented in the trial, and his duties are limited to giving a decision in regard to the different opinions of the arbitrators; while, when the um-

pire forms a part of the court and acts with the other arbitrators, he has full knowledge of the question from its beginning. He then hears all the briefs and arguments and exceptions of the interested parties. He discusses the matter with the other judges, and it is likely therefore that his decision should be more correct. This system has, besides, the advantage that it simplifies the duties of the court of arbitration and reduces very much the time allotted for the fulfillment of its functions.

Articles XII, XIII, XIV, and XVI seem acceptable to us.

We think entirely unnecessary the stipulations of Article XVII, which declare that only by the mutual and free consent of all the nations may courts of arbitration be appointed under arrangements other than those proposed in the report; because we do not think there are any ways different from those contained in the report. International arbitration consists in the settlement of the questions or differences between two or more nations by the decision of a tribunal organized especially for that purpose. This court can be organized with one judge alone, or with several judges, and the report provides for both cases. The only case which is not provided for, and which might be affected by Article XVII, will be when one of the interested nations would not use its right to select an arbitrator, and would consent that the question be decided by the arbitrators selected or appointed by the other States. But in this case, as the interested nations would give up a right, there ought to be nothing else required for the validity of the decision in the case.

Although the draught submitted to the Mexican Government specifies ten years as the period during which the arbitration treaty is to continue in force, we would have no objection to accepting the twenty years proposed in Article XVIII of the report of the committee.

Article XIX regulates the exchange of ratifications of such treaty as may be agreed upon. This article provides in what way the ratifications shall be made, of course, after the treaty has been signed. This seems to be the opinion of the committee, as in the final paragraph of the

preamble to their report it recommends to all the Governments represented in this Conference to celebrate a uniform treaty of arbitration under the articles which appear in the report; and in such case there can be no objection to Article XIX. But if it is thought that the report itself, once approved by this Conference, is a treaty, we have to say that, in our opinion, as the act of Congress of the United States of America, of the 24th of May, 1888, which convened this Conference, only authorizes it to discuss all the subjects stated in the same, it is not possible that a treaty should be signed in this Conference. The report of the committee once approved by all the delegations which form this Conference, or by a majority of them, might be reduced to a treaty, but, in that case, such persons as would sign it would do so not as delegates, which is the position they have in this Conference, but as plenipotentiaries from their respective Governments. But this is a question of form only, as it is clear that if the American Governments accept the report of the committee as it has been presented, or with some modifications, they would have no objection to giving it at once the form of a treaty, so as to make it binding among themselves.

The second section of Article XIX points out the way in which other nations not represented in this Conference, or who if represented now will not accept it, can later accept the same. We think that this system is not quite the proper one, because the ratification of a treaty by such nations would not be done in the usual way, which is, namely, that each nation should give an authentic copy of the treaty to each of the other nations which are parties to the same, and should receive an authentic copy from said nations of such treaty, each containing the exact text of the treaty. If a copy of this is left only with the Government of the United States of America, the other signatory Governments would not have such copies in their possession, and if this were the case the exchange of ratfications, as it is proposed by the committee, would be deficient.

We should state to the Conference, before we end our remarks, that we regret very much that it was not possible

for the committee to present this report earlier than they did, because in that case we could have obtained special instructions from our Government on all the points embraced in said report. But notwithstanding this, and with the view not to throw obstacles on our part to the determination of this important matter, we would of course give our approval to all the articles of the report upon which we have special instructions of our Government to do so. We also shall give our approval to all such articles as in our opinion would be acceptable to our Government under the general instructions that we have from it, even in case such objections as we have made to the form of said articles should not be accepted by the Conference; and we would reserve our vote in regard to such other articles as may contain provisions which have not been embraced in the previous projects which we have submitted to our Government, and as to which, therefore, we have not received precise instructions. But we will express the opinion of the Mexican Government upon said subjects, before the final adjournment of this Conference if, as we expect, we should receive its instructions in time.

Mr. VARAS. The fact, Mr. President, that we are considering a subject which embraces the highest interests of the nations, and the duties and responsibilities imposed upon their representatives in this Conference, has made my colleague and myself consider it necessary to submit, in writing, our opinion and judgment upon this project, and therefore we have drawn up, by common accord, as to all its parts, the document which I am going to read to the Conference. I would ask our colleagues to pardon us for occupying their attention by reading a long document.

We, the undersigned delegates from Chili, have examined the report on arbitration submitted by the Committee of General Welfare with all the attention that a matter so grave and delicate requires.

The main purpose of this paper precludes us from entering into any particular discussion of the nineteen articles of the report; but the consideration of the fundamental idea established in it as the basis of the whole project, namely, that arbitration be recognized as obligatory, and be stipulated in a public treaty as the only means for settling conflicts, or contentions which may arise, or exist, among the American nations, irrespective of their causes, or circumstances, excepting only those questions which affect the national independence, has led us to the conviction that the conclusion of the treaty which the Committee of General Welfare recommends would produce, if carried into effect, more difficulties, and more pernicious results, than those which it proposes to obviate or avoid. And those results would indeed weaken, and in the end would destroy, the efficiency of the system the strengthening of which is desired, and whose efficiency and authority, when timely resorted to, all the nations are interested to preserve.

The method suggested by the committee for the preservation of perpetual peace and fraternal concord among the nations is not indeed a novelty. From immemorial times it has been the subject of study, and more or less successful combinations, by writers on public law; and to-day it continues to be one of the principal bases of the study of international law.

The Spanish-American nations, inspired by the lofty aim of securing the complete pacification of the continent, and settling by peaceful decisions conflicts which might assume another character, have attempted on six different occasions, since 1826, to give form and application to that generous aspiration which prevails in the civilized world; but their reiterated efforts, although formulated in terms less absolute or restrictive than those suggested by the Committee of General Welfare, have ended in complete failure, when subjected to the test of practice, and to the unexpected resistances of human passions and interests.

Nor is this the first time that that idea, which favors peace and protects civilization, has sprung up in the North American continent. As far back as 1838, a petition was

addressed to the Congress of the United States by the Peace Society of New York and other analogous institutions, asking the representatives of the nation to provide for and recommend to all the civilized nations the establishment of a high tribunal of arbitration, which should take cognizance of all international questions without any limitations whatever, and decide them in accordance with a code of rules obligatory for all, and affording all desirable guaranties.

Nevertheless, the United States Congress of 1838 deemed the idea of obligatory and unconditional arbitration, which is now reproduced before the Conference, to be impracticable, for the reasons, which still subsist at the present time and are worthy of study, set forth in the memorable report which the House of Representatives of those days unanimously adopted.

The remark may perhaps be made, upon this invocation of historical precedents of such a weight against the fundamental basis of the treaty recommended by the Committee of General Welfare, that the delegates from Chili reject arbitration as a means of settlement of international questions and of preservation of peace.

No. It is not so by any means.

It is in keeping with human nature, whether in civil society or individually, not to be exempted from controversies or disputes, whether because one party wishes to assert a right which the other party refuses to recognize, or because a claim is made which is deemed to be excessive, or which is rejected, although it may be founded on facts which constitute a wrong, or are deemed to be such, or for other reasons. And it is not uncommon to see discussions on these subjects become embittered, and aggravated by susceptibilities of *amour propre*, oftentimes complicated with questions of national honor—the result being that differences admitting of an easy arrangement suddenly assume the character of insuperable difficulties which can not be settled by peaceful means, and consequently bring about bloody conflicts.

Some other times these conflicts are due to unjustifiable aggressions which are to be resisted by force.

The spirit of modern civilization protests against such a state of things, in which force dictates the final decision, and earnestly endeavors to find out some means either of avoiding war or of making it less frequent.

In pursuance of this Christian and humane aspiration the act of Congress of May 24, 1888, authorized the President of the United States of North America to invite the several Governments of the Republics of Mexico, Central and South America, Hayti, San Domingo, and the Empire of Brazil to join the United States in a conference to be held at Washington, in the United States, at such time as he might deem proper, in the year eighteen hundred and eighty-nine, for the purpose of discussing and recommending for adoption to their respective Governments some plan of arbitration for the settlement of disagreements and disputes that may hereafter arise between them, and for considering questions relating to the improvement of business intercourse and means of direct communication between said countries, and to encourage such reciprocal commercial relations as will be beneficial to all and secure more extensive markets for the products of each of said countries.

The tendency which inspired such a praiseworthy statute arises out of a feeling which the Government of Chili shares and whose goodness it recognizes.

It is opportune to remember here, in this connection, that Chili, which owes to fatiguing and unceasing labor the cultivation of its soil, and the formation of an essentially industrious, energetic, and vigorous people, can not but consider all external conflicts as an injurious disturbance of its habits. It is easy to see, indeed, that men who owe their living and their welfare to the daily labor do not feel inclined to promote quarrels, the result of which, always lamentable, naturally bear most disastrously upon themselves.

Men and nations when placed under such circumstances necessarily constitute elements of order, of concord, of peace; and it may therefore be said as an established fact that when they are seen engaged in a war it is because they have been dragged into it against their will either through

acts or aggressions admitting of no remedy under peaceful methods.

The nation which we have the honor to represent being, as she is, thoroughly and earnestly engaged in the pursuits of energetic and profitable labor, has lived for more than thirty years in a condition of wholly undisturbed domestic peace. Under the shelter of that peace interests of considerable magnitude have been created which constantly develop themselves and increase, owing to the confidence which the preservation of order inspires in a society which has already accomplished no inconsiderable political progress and which constantly endeavors to render these interests safer and more extensive.

As a consequence of the spirit of its civilization, Chili entertains the most earnest desire to find always in peaceful methods the adequate settlement of the conflicts which might lead to the disastrous results of war. The Republic has constantly sought for her welfare, her progress, her prosperity, and the most substantial foundation of international harmony, in peace and in the methods which lead to it; and her Government, inspiring itself in these sentiments, and converting them into practical facts, has consecrated in her public treaties for very near the last forty years the principle of arbitration as a means of preventing armed conflicts.

Recent and eloquent proof of this is given by the tribunals of arbitration which sat at Santiago in 1883, and were created at the suggestion of the Chilian Government. The decisions of those courts have been religiously obeyed and executed.

In the treaty concluded with the Argentine Confederation, by which a long-debated question of limits between the nations was adjusted, arbitration was stipulated as the method to be resorted to for the settlement of whatever disagreements might arise during the actual survey of the boundary under the provisions of said treaty.

It is not within the scope of this paper to make a particular enumeration of the numerous cases in which the Government of Chili has practically shown its purpose of resorting to arbitration for the settlement of international

questions to which it has been a party, and therefore we shall confine ourselves to refer to the most recent. The particular enumeration above mentioned might be made easily and would show that our Government has not confined itself to agree to submit to arbitration certain specified cases, but has accepted it in many cases, which had not been foreseen, and has suggested it in others, although on some occasions it has seen with sincere regret that its aspirations were not seconded by the opposing power.

It is therefore our duty to enter here on record that adhesion to the political ideal which is the subject of the aspirations here felt has always been the invariable rule of conduct of the Government of Chili, and that its realization has baen sought for by it with open and decided favor.

Having thus hastily and in general terms set forth the precedents which have guided our Government in the settlement of its external questions, and its constant attachment to the principle of arbitration, it is now incumbent upon us to explain the standard with which we, the delegates from Chili, measure the plan of arbitration set forth in the report submitted to the Conference.

Arbitration being recognized, as it is, as a principle of international law, can not by any means become a guaranty of peace if its application does not correspond to its nature.

Its origin is the voluntary and free assent of the nations which find themselves in disagreement to trust to a third party the ascertainment and adjudication of their rights and interests; and its efficiency depends upon the respect, also voluntary, to be paid to its decisions, whatever be the obligations and sacrifices which it may impose. If arbitration is obligatory its own nature is thereby antagonized, and the moment it is forced upon the nations its decisions will lose their efficiency and the goodness of the principle itself will become discredited.

We, the delegates from Chili, do therefore declare that while we recognize as an absolute proposition the excellence of the principle of arbitration, we do not accept it as unconditional and obligatory. The Government of the

Republic will in the future, as it has done in the past, resort to arbitration for the settlement of international conflicts or difficulties in which it may be involved whenever in its judgment the controversy or question may admit of such settlement.

We, the delegates of Chili, are unwilling to entertain the illusion that any conflict which may directly affect the dignity or the honor of a nation shall ever be submitted to the decision of a third party. Judges will not be sought either in that case or in any other of analogous nature to decide whether a nation has the right to maintain her dignity or preserve her honor. For the defense of both all the elements of strength and resistance which may be counted upon will be called forth, and there is no temerity in asserting that a country ready to submit this class of questions to the decision of an arbitrator would lack its *raison d'etre.*

Moved by these considerations, the delegation from Chili thinks itself right in asserting that the principle of absolute arbitration, applicable to all cases which may occur, may, notwithstanding its good purposes, become of doubtful application in grave international crises.

We must insist on this affirmation. A nation whose dignity has been wounded, or whose honor has been injured, will never seek in arbitration the remedy for the offense.

The principle of absolute arbitration, no matter how congenial and sympathetic, when understood and applied in the way above stated, belongs, in our opinion, to the realm of illusions, and has against it the serious objection that it is inconsistent with the nature of things.

Said principle can not therefore be accepted without limitations.

This is our conviction, reached after attentive and mature consideration of the project.

Would it be advisable to enumerate those limitations? This is a question to which the answer to be given is difficult. It is not possible for any one to foresee, or determine with exactness, all the cases in which the nature of the question permits of arbitration. All enumerations would be deficient, if not casuistic. This is the reason why in

explaining the exceptions general and vague expressions are resorted to, they being the only ones which can in every contingency constitute a guaranty that the necessary liberty of action was preserved. It is not strange that exceptions, as the following, are formulated: The national sovereignty, the national dignity, and some others of similar import, which except from the obligation to submit to arbitration what can not be subject of arbitration.

The application of these principles has naturally to be left to the discretion and judgment of the nation which may have occasion to construe them, and which in each particular case will determine whether the case which has presented itself is or is not included among them. And it can not be otherwise, because if the decision is to be given by a third party the interested nation would sustain a detriment in its sovereignty, which can not be allowed. Otherwise the evil produced thereby would be undoubtedly still worse than the evil which it was attempted to correct.

The Government of Chili, in reserving its liberty to resort to arbitration in each particular case, does nothing else than to take shelter under one of these general provisions recently indicated, whose purpose is to formulate an exception to the principle of arbitration. To say that arbitration will be resorted to whenever the conflict does not involve a point, for instance, of national dignity, and to say that the interested government shall decide whether the pending difficulty is of such a nature as to admit of settlement by arbitration, is in substance to say the same identical thing, because in both cases freedom of action is secured. The words may be, and are indeed different. But the practical effect of their application will be identical. And what is said with regard to one of those general provisions is applicable to all others of the same character, it being self-evident that the general idea, embodied in all of them, is consistent with the most complete latitude of appreciation.

Passing now to look at this interesting matter under another stand-point, we must state that, in order that obligatory arbitration may become an efficient rule in the

international relations to which it is intended to be applied, it would be indispensable for it to secure a method of enforcement similar to that which is resorted to for the enforcement of awards of similar nature, rendered in cases of conflicts between individuals, that is to say, the constitution of an authority, superior to both contracting parties, and to which they both submit. An obligation whose enforcement depends only upon the will of the party which contracted it—an obligation which has no other sanction than a moral one—to what can it be reduced in the frequent changes of governments and administrations which take place in the States, and often imply not only changes of opinion, but also, and very frequently, oblivion of former engagements?

It seems to be evident that war is not to be declared against the nation which having agreed to submit to arbitration all its international questions, without exception, should act, none the less, as if no such agreement would have ever been made. It would be absurd and ridiculous that for the sake of securing permanent peace war should be undertaken.

Would it be possible to constitute an authority superior to the nations which accept the principle absolutely to which the enforcement of the decision should be intrusted?

This is a new difficulty, not less insuperable than the foregoing.

The delegation from Chili answers both questions negatively. At all events the doubt must be allowed that such an authority might ever be constituted, whether in the form of a permanent tribunal, or in any other form.

The reason of this impossibility is obvious. The constitution of that authority would create a danger for the sovereignty of the nations which accepted it, and would be at all times a kind of constant threat against that sovereignty.

The formation of a sovereign authority of this character, which by its own nature is incompatible with independence, provokes strong resistance among nations; and it is one of the gravest obstacles which has so far opposed the

adoption of arbitration as a universal and absolute means of settlement of the conflicts arising among them.

From the foregoing statements the conclusion to be drawn is that the preservation of peace and tranquillity among the nations of America, which so legitimately preoccupies the Conference, must be found rather in the seriousness of the Governments, in the correctness of their action, and in their subjection to principles of justice and equity, than in purely moral engagements entered into by them. The delegation of Chili believes itself authorized to state, in this respect, that it represents a nation and a Government which afford all necessary guaranty.

It would be superfluous to mention here the catalogue of written treaties which, although intended to prevent war, have ended in provoking it.

If the idea for accepting arbitration, in all cases, and without exception, as a means of settlement of the difficulties between the nations, should become an American international agreement, no one can guaranty that some time afterwards the treaty made to that effect would not run the same fate as other international compacts entered into and concluded under more favorable circumstances.

It being impossible for man to cause the struggle of conflicting interests, founded on the nature of things, on the conditions of humanity, to disappear from among nations any more than among individuals, one of the ideals of civilization would be, no doubt, to find out some manner of settlement satisfactory to all the contending parties.

The award of an arbitrator may be the last word in a controversy; but this will not destroy the germ which produced it. As a general rule, one of the contending parties generally deems itself to have been wronged; and it is not rash to state that the source of the disagreement remains latent.

It is a truth, which needs no demonstration, that a decision or award will never produce in the settlement of differences, of whatever kind they may be, the same beneficial results as are obtained from a voluntary agreement amicably concluded, especially if it is considered that that decision may very well not be, in some cases, in accordance

with the principles of justice, may even violate them on some occasions.

It may be said, however, and very rightly, that it is not easy to reach at all times a voluntary and friendly settlement.

In cases of this kind it will be useful to resort to some means which may facilitate the desired agreement, and cause the disagreeing nations to come close together, enter into new deliberations, or prolong the proceedings already taken. In the opinion of the delegation from Chili this method consists of mediation.

The mediation of a Government friendly to the parties, with no interest in the contention, animated by a feeling of strict impartiality, offers the invaluable advantage of giving time to reflect and allowing the business in dispute to be more calmly considered. Mediation can furthermore contribute, when no direct arrangement is made, to efficiently facilitate the reference to arbitration. In its own sphere of action it embraces all peaceful possible solutions.

For the reasons above stated the Government of Chili deems mediation, in the contentions just referred to, to be one of the best measures which can be suggested for the preservation of peace.

It is an arduous task to try to reach, at once, immediately, general and absolute arbitration. Experience teaches that serious and lasting works in the political sphere are always gradually and slowly accomplished. Passing rapidly, without transition, from one established system to another system essentially different, is to run the risk of soon coming back to the starting-point.

The recommendation of a system of limited arbitration would have been sufficient for the moment, according to our judgment, for securing the humanitarian purposes which the Conference desires to attain, and, as it is easy to understand at once, it would have afforded greater facilities for the execution of the project than the absolute plan which has been submitted to the deliberation of this assembly.

A particular analysis of the different provisions contained

in the project of arbitration submitted to this Conference suggests, on the other hand, serious consideration, both in regard to the form and in regard to the substance of its provisions; but we think that it is not necessary for us to insist upon them, as our purpose is to abstain from taking any part either in the discussion or the vote to which the project must be submitted. We beg, however, to be permitted to indicate two of the gravest objections which have determined us to abstain from entering into the scheme.

This grave subject of arbitration has come up before the Conference in a form which is unusual in our deliberations.

This assembly, conforming itself to the spirit of the act of Congress to which it owes its existence, has invariably recognized as the established rule of its action that its only and exclusive mission is to discuss principles and ideas whose acceptance it may agree to recommend to the Governments therein represented. All former agreements have been in this line.

Deviating from this course of action, which we had thus far deemed it to be essential, in our own Constitution, the Committee of General Welfare has not confined itself to recommending to us an idea or a principle whose adoption might be beneficial for our countries and their relations with each other. It has gone far beyond this, and recommends to us the adoption of a solemn treaty.

It would be unnecessary for us to enter into any argument for the purpose of proving that the Conference of which we form a part has not met here for that purpose.

No warrant can be found for the Committee of General Welfare giving the Conference the power to make treaties either in the antecedents which gave birth to the Conference, the acceptance of the invited Governments, or the spirit which constantly has guided it from the beginning of its labors.

We are therefore of the opinion that the negotiation of a solemn treaty, such as the one now before the Conference, does not fall under any circumstances within the faculties of the Conference, nor is it in accordance with its spirit, nor can it be harmonized with the principles established by it for its proceedings.

The Committee of General Welfare has gone still further. It does not only propose to our consideration a solemn treaty, but provides by it that arbitration shall be obligatory not only for the settlement of questions which may arise in the future, but those which may so arise out of accomplished facts, irrespective of their origin or date. Such a retroactive effect of the proposed compact is not only in opposition to the general principles of the public law, but contrary to the avowed purpose of the Congress of the United States which passed the law under which we have met:

> The President of the United States be, and he is hereby, requested and authorized to invite the several Governments of the Republics of Mexico, Central and South America, Hayti, San Domingo, and the Empire of Brazil to join the United States in a conference to be held at Washington, in the United States, at such time as he may deem proper, in the year eighteen hundred and eighty-nine, for the purpose of discussing and recommending for adoption to their respective Governments some plan of arbitration for the settlement of disagreements and disputes that *may* HEREAFTER ARISE between them.

The declarations made in the text of the above act of Congress were ratified and insisted upon by the Conference itself when the different committees were created, and a committee of seven was organized "to report some plan of arbitration for the settlement of disagreements that may *hereafter* arise between the several nations represented in this Conference."

It is therefore manifest that this time the committee has deviated from the rule by which it ought to be guided.

But even if this point would admit of doubt, or if neither the act of Congress nor the resolution passed by the Conference had ever existed, the fact is that meddling with existing facts, or attempting to modify the condition of things brought about in consequence of said facts, is neither opportune nor in keeping with the nature and character of a body like this. If the action of the Conference is to lack the elevation of views by which it ought to be inspired, it can not but lose a portion of its efficiency and prestige.

It is hard to understand how it can have escaped the penetration of the committee that, by attempting to

broaden the scope of its plan, it enfeebled it. The committee would have shown more foresight if it had simply recommended arbitration for the future. Such action would have been more in harmony with the mission of promoting American union intrusted to the Conference.

We must believe that some such sentiments inspired the Government of the United States when, through its Secretary of State, the Hon. James G. Blaine, President of this Conference, to whom the initiative of the same belongs, officially set forth in the circular of November 29, 1881, the following declarations, which he used as an inducement for the Governments of America to accept the invitation:

The President specially desires it to be understood that in extending this invitation the United States do not assume the position of an adviser, nor do they propose to suggest through the voice of said Congress any particular solution of the questions which at present may divide some of the States of America. These questions do not fall properly within the scope of that Congress. Its mission is higher. It looks specially to the future without pretending to deal with any individual differences of the present.

With the foregoing statements the delegates from Chili believe they have accomplished the following double purpose:

First. To have stated in a clear and precise manner, without disguise or reticence, what the views of their Government are in this delicate question of arbitration, what is the rule of action their Government has invariably followed in regard thereto, and what is the spirit which animates it to resort to said method whenever proper, with all freedom of action, which it expressly reserves.

Second. To explain to the Conference their own position in regard to this grave subject, and set forth as they have done in the preceding remarks the grounds of their action.

Therefore we, the undersigned delegates from Chili, do hereby declare that we abstain from discussing or voting this project, and ask that this paper should be appended

to the minutes, as provided by the rules and the practice of this Conference.

Washington, April 14, 1890.

E. C. VARAS.
J. ALFONSO.

THE PRESIDENT. The order of the day is the continuation of the debate on arbitration.

Mr. ZELAYA. Mr. President—Gentlemen: The subject under discussion to-day is one of great interest.

There is no plan of greater magnitude before the International American Conference than this, which is designed to save the Republics of this continent from the ravages of war and the shedding of blood, often spilled in fruitless struggles and for unjustifiable motives. It is necessary, gentlemen, to put an end to these cruel sacrifices, too often witnessed in the New World, to the shame and horror of humanity and civilization. Let Europe, if it so desires, and the rest of the world if such be the wish, continue to witness these scenes, protested against by honorable men; let the spectacle of ferocity and barbarity called *war* scandalize humanity, but, gentlemen, in our America let this fatal plague cease. Sweep away this scourge from our continent for the glory of our liberal institutions, and, by the liberty which we enjoy from one extreme of the continent to the other, add to these blessings the glory of peace which will augment its prestige, its prosperity, its credit and its honor.

So long as you fail to confer upon the peoples you represent this ineffable blessing by opposing this measure, just so long do you thwart their desires, betray their confidence and their dearest interests. Civilization, humanity, and Christianity cry out to us

for this remedy of arbitration for all conflicts which may arise in the future between American nations. We are implored to use calm and impartial reason instead of having recourse to violence and the sword. We are warned not to consume the wealth of the people in belicose armaments but to use it for the promotion of general welfare. We are begged to annihilate in our hemisphere the horrible monster of discord and savage war, and for a crown to such a noble work let us write over the ruins these holy words; Fraternity, Peace, Justice!

This, Mr. President and gentlemen of the Conference, is the desire and the vote which, in the name of my Government and of my country, in the matter under discussion, I offer to the International American Conference. Great will be the honor of this Conference, which will thus realize the most portentous and the most glorious of conquests if, when it closes its sessions to-day, its act shall close forever the period of armed revolutions and wars and leave America, free America, a single exception among political entities, reposing in the arms of perpetual peace, and offer to the universe the grandest, the happiest, and the most noble of examples.

Mr. Decoud. The delegation of Paraguay takes pleasure in stating that it gives its affirmative vote to the project of arbitration as formulated, leaving nevertheless to the decision of its Government the confirmation thereof, with such reservations as may be deemed proper.

This declaration requires a short explanation.

My Government sympathizes deeply with the principle of arbitration as it has proved more than once,

not only by submitting to arbitration its differences with other nations, but by endeavoring to obtain the acceptance thereof in treaties concluded with friendly countries. Such has been and will be the invariable conduct of my Government. I am sure it will lend its most careful attention to everything destined to secure in a permanent manner the peace and welfare of the sister Republics of the American continent, strengthening and binding closer and most lastingly the existing fraternal bonds. In making the reservation above mentioned, I only obey a sentiment of strict duty, having especially in mind that the general instructions given me could not foresee some of the important points set forth in the able project submitted to the consideration of the Conference, and to which the delegation of Paraguay is proud to express its general adhesion. In this I not only interpret the lofty sentiments of American fraternity which animate the Government which I have the honor to represent, but also pay respectful tribute to the eternal principles of right and justice, which are the only reasons to be invoked for the peaceful and amicable solution of the differences or conflicts which may arise between sister States, intimately connected in the past by glorious traditions, and united in the present and in the future by common aspirations of glory and prosperity under the tutelar shade of free institutions.

Mr. Cruz. Mr. President and Delegates: Believing that others better qualified than I would present to the Conference, together with the plan of arbitration, a report serving, it might be said, as an explanation of the reasons on which the various articles

which it contains are founded, I had abstained from offering anything which might answer that purpose. But as none has been as yet presented, perhaps because the chairman and the other learned and esteemed members of the committee expect to make all necessary explanations on this most interesting subject when called forth in the course of the debate, I have deemed it proper to submit, though succinctly and hurriedly, the grounds upon which the delegation of Guatemala rested in proposing the different articles of the project now under debate. I speak in my own name, and not in that of the committee to which I belong, because I do not feel authorized to express its opinions, and the main purpose that I have in view in making these remarks is to avoid, if possible, through a previous explanation of the spirit of each article, and of the reasons why it was adopted, unnecessary discussions and loss of the short and valuable time still left to us.

There is but little to be said upon Article I, which provides for the establishment of arbitration as a principle of American international law, for the settlement of all differences, disputes, and controversies between two or more of the Republics of the American continent. To replace cruel war by the civilizing and humane method of arbitration; to decide such disputes as may unhappily arise, not amid the flames and thunders of war, and through force and violence, but by the calm and impartial judgment of enlightened reason, after full consideration of the respective claims, is undoubtedly a long step in advance, which will do eternal honor to the nation which, for that purpose and for others also of importance, invited the nations

of America to come and meet in the city of Washington. Whatever may prove to be the practical results of this Conference, in respect to the other points of the programme upon which it was called to act, the fact that it has done something serious to cause arbitration to be adopted, and war, and with it all the disasters and calamities which follow in its train, to be abolished in America, will ever be sufficient by itself to challenge the gratitude of the continent, or, more properly speaking, of all mankind. For my part, I can imagine no spectacle more sublimely beautiful than the united peoples of America solemnly proclaiming that only enlightened reason, and not blind force, shall hereafter settle all the conflicts arising among them. To-morrow, when reaching our homes, and conveying to our countrymen the glad tidings of peace, we may promise to mothers, wives, sisters, and daughters, that war will never more snatch from their arms the objects of their affection, to be carried to its bloody fields to be sacrificed, leaving them clad in mourning, full of anguish, and a prey to misery and distress.

What matters of dispute should be submitted to arbitration was the subject of elaborate and interesting discussions in the committee. To take away the absolutely obligatory character of arbitration and make it dependent solely upon the will of the parties concerned, allowing them to resort to it or to set it aside according to their wishes, would have been tantamount to having accomplished nothing. Arbitration must be, as a rule, obligatory; if not, it will be nothing. When we say obligatory we do not mean that the recourse to it must be enforced by direct

compulsion, but simply that said recourse must not be left to the discretion of the parties concerned. The nation's sovereignty can not admit of any coercion, nor could it be exercised without producing at once either a war, with all the evils which it is desired to avoid, or a fatal injury to the national character.

Controversies between private parties are settled by tribunals which render decisions, and cause their decisions to be enforced, but nations in this respect are differently situated. This, in my judgment, does not in any way prove useless the obligatoriness of arbitration. Anything that a nation binds itself to do, or which it assumes, or recognizes to be its duty to accomplish, is and must be obligatory, solemnly obligatory, even if there be no other guaranty than its promise. As among gentlemen the pledged word is sacred, and has infinitely more force than fines or imprisonment; so among nations the signature of one of them affixed to a treaty supersedes all other guaranties.

The nation which has agreed to consider arbitration as obligatory for the settlement of all questions will certainly resort to it rather than to war, for the simple reason that she voluntarily bound herself to do so. She would naturally feel ashamed, and cause all other nations to be ashamed of her, if she attempted to violate an agreement freely entered into and solemnly recorded, for no other reason than her fancy, or because there is no means to compel her to keep her faith. He must have a poor opinion of the dignity of man, a poorer still of the dignity of nations, who believes that nothing can be obligatory except what can be enforced by actual compulsion. To such compul-

sion nations can not be subjected; but even if they could, no sanction can be found more efficient than the moral obligation contracted by a sacred engagement, nor can any be stronger and more painful than the reprobation with which all the other Republics would brand the forehead of the nation which should thus trample upon the sacredness of international compacts.

The nations of America have met here freely, and those which do not favor obligatory arbitration, whether absolutely or only in regard to certain subjects, can reject it freely; but those which freely accept it and bind themselves to consider it obligatory have certainly done so with the determination to comply with their promise. When a nation says: I will fulfill this promise, we have to take for granted that nothing is more binding than her word. If doubts are entertained about her sincerity, the best thing is to refrain from any dealings with her. When the signatures of the representatives of the nations of America are affixed to a paper, absolute security can be felt that the nations represented by them will respect the engagement, and that they will never attempt to evade the full compliance therewith under the pretext that there is no power or authority capable of compelling them to fulfill it. For this reason the committee has contented itself with setting forth the cases in which arbitration shall be obligatory, without recognizing or admitting its being carried into effect by compulsion.

The committee did not establish as an absolute principle that arbitration should be obligatory in all cases except those involving a nation's independence, because it feared that if the article read in that way,

a more or less scrupulous interpretation of its language might lead to the discovery that national independence was involved in every controversy, and thus render arbitration nugatory. It decided accordingly to make first of all an enumeration, as accurate as possible, of the questions subject to arbitration, which do not admit in any way whatever of the allegation that they involve the nation's independence; and upon this ground Article 3 reads that "arbitration shall be obligatory in all questions concerning diplomatic and consular privileges, boundaries, indemnities, territories, right of navigation, and the validity, construction, and enforcement of treaties." In this way, and finding that there is no standard to decide which controversies would and which would not imperil a nation's independence, nor any possibility of establishing it, because such constructions can be placed upon the word independence as to cause most serious and almost insoluble difficulties, the committee got over the difficulty by enumerating especiallly the cases in which no doubt at all in this respect can ever be entertained.

In all these cases mentioned in Article 3 arbitration shall always be obligatory, and the exception that national independence is imperiled in them shall never be admitted. The committee, while acknowledging that no controversy which imperils that independence is a proper subject for arbitration, because no nation can allow any one to sit in judgment on her national existence and autonomy, holds, however, that the cases set forth in the article above mentioned do not fall under the head of those in which national independence is imperiled. It really believes some-

thing has been done in describing a certain number of cases in which the exceptions referred to will never hold.

As I before stated, it was feared (as it is natural in matters of such importance) that the enumeration made in Article 2 might be incomplete, and on this account it was found necessary to explain that in addition to those cases a resort to arbitration should be also obligatory in all others not enumerated in said article, whatever their cause, nature, or object (Article 3) might be. But then the question may be asked, whether after a provision general and broad enough to cover all cases there was any use in making two articles, a particular one covering only certain cases, and another, of general character, applicable to all. The answer is this: In the cases enumerated in Article 2 no exception is to be allowed, but in the others not enumerated therein, but included in the general provision, there is a limitation, consisting in the circumstance that the question to be settled does not involve or imperil the nation's independence, and this is a point to be determined solely by the nation itself, which is the only legitimate judge for a question of such transcendant importance. In such a case a nation is entirely free of all obligation and engagement to submit the question to arbitration; and if she does submit it, it will be only because she wishes to do so.

The project exempts from arbitration only those cases in which the independence of the nation is involved, but it says nothing about cases affecting the national honor or dignity. To do otherwise would have been equivalent to erase with one hand what

the other hand had written. There is no question whatever which in some way or another does not affect the national honor and dignity, and to allow a recourse to war for those cases would be tantamount to having accomplished nothing. It might be that nations would judge of what affects their honor much in the same way as the duelists do, the most insignificant occurrence would be magnified into a *casus belli;* just as a brawling swordsman might see an impeachment of his honor in a mere omission to salute him with sufficient courtesy, or in a look which his sensitiveness chose to consider an insulting one, or in many other kindred circumstances.

So much, honorable delegates, as to the nature of the cases which are to be submitted to arbitration; and besides this point there is another, of no less importance, which refers to the time or date of their occurrence. This is an element of an entirely different character, and only those who overlook the essential distinction established by it can find some provision subsequently made in the project contradictory with the foregoing. If those provisions are examined in the light of that distinction, it will be easily seen that they are not inconsistent at all.

After having set forth and enumerated according to their nature the questions subject to arbitration the project takes them up with relation to time, and Article 5 provides that "all controversies now pending, or hereafter arising, shall be admitted to arbitration, even though they may have originated in occurrences antedating the treaty." As to future questions there can be no doubt. As to the pending ones I also think that there is none. The purpose of the plan of arbi-

tration is to establish as a living fact of real significance the sisterhood of the Republics of America, to cause war to disappear from the continent, and to cause the empire of peace to prevail. This purpose would be frustrated if arbitration were to be resorted to only in cases hereafter arising. To submit to arbitration only these cases, and reserve all others arising out of facts already accomplished to be settled by the cannon in bloody conflicts, would not give any evidence of real intention to preserve friendship, even if the agreement is sealed with fraternal embraces. If arbitration is humane, civilizing, and worthy of adoption, why limit it to future questions and not make it applicable to the pending ones? The principle that laws can not be given retroactive effect rests upon the ground that rights already acquired can not be allowed to be endangered; but who could complain with reason when questions are settled by arbitration and not by Gatling guns?

And here I beg leave to state that the committee framing the sixth article, which refers to this point, only repeated the words of the seventh clause of section 2 of the act of Congress of the United States approved May 24, 1888, which authorized the President to invite the nations of America to meet in this Conference. It says: "That in forwarding the invitations to the said Governments the President of the United States shall set forth that the Conference is called to consider—(7) An agreement and recommendation for adoption to their respective Governments of a definite plan of arbitration *of all questions, disputes, and differences that may now or hereafter exist between them*, to the end that all difficulties and dis-

putes between such nations may be peaceably settled and wars prevented." If this is a wise law, as I believe that one of the honorable delegates from the Republic of Chili very rightly said when he alluded to it in his eloquent speech of yesterday, the project whose fifth article is based upon the express text of one of its provisions has undoubtedly the best guaranty that it will be ratified.

But in making arbitration applicable to all questions, even the pending ones, it was not, nor could it be, the intention of the committee to re-open cases settled and terminated by final arrangements. Otherwise, instead of accomplishing the purpose of preserving peace, it would have caused conflicts now dead to be revived, and done injury to acquired rights resting on final arrangements. What was settled in that way must remain settled. But, as some question may arise in regard to the validity of the agreements made, or the construction properly to be placed upon them, or their execution, then arbitration is to be resorted to for its settlement. Nor could it be otherwise, since arbitration is applicable to all future questions, and no possibility exists of preventing the new controversy from arising. And if it actually does arise, shall it be decided by war? Is it not clear that it, like all other questions, must be decided by arbitration? If the agreement was valid, it will be so decided; and if there is any doubt as to its real meaning arbitration will determine which is the right construction to be placed upon it, and no injury will be done to any one.

Article 7 tends to secure perfect freedom in the election of the arbitrators, with only one restriction,

namely, that no nation which does not hold amicable relations with one of the contending parties can be named by its opponent. It is certainly a difficult thing to try to please all; and while for some an enumeration of all those who can be arbitrators might be deemed unnecessary, for others it might be deemed indispensable. Por my part, I shall say, that my only purpose was to secure the greatest possible clearness, and leave the smallest possible room for doubts. I understand that in a document of this nature this is the spirit which should prevail.

Article 8 refers to the election of one single arbitrator, if such be the agreement of both contending parties, or of two or more, as the case might be. In the latter event, the two parties can elect as they choose either the same persons or different ones to be arbitrators. And as it may happen that two or more nations are interested in a contention, the project, following the principal of Roman law transmitted to nearly all modern Latin codes, provides that each interested nation should name an arbitrator. If the arbitrators are to be impartial judges and not passionate counsel for the party which elected them, this arrangement can not be objected to.

When the tribunal of arbitrators consists of an even number of members, the difficulty may present itself that the vote be equally divided and no award obtained. To meet this emergency Article 9 requires an umpire to be appointed, who shall decide all cases of disagreement between the arbitrators; and in order to avoid that, for want of an agreement between the interested nations the proposed remedy should prove ineffectual, the same article reads that if the parties

themselves do not elect the umpire the arbitrators should do it. It is for the same purpose of removing difficulties in this respect that Article 10 provides that the appointment of the umpire and his acceptance of the position shall be made previously to the arbitrators beginning their work.

That the umpire is chosen, not to sit in the tribunal together with the arbitrators, but only to decide in case that they disagree, is the evident purpose of these provisions, and so it is established in Article 11. Article 12 provides for the case of death or resignation of one of the arbitrators or the umpire, and establishes, as is natural, that the vacant place be filled by new appointments made by the parties interested and in the same manner as before.

Article 13 refers to the place where the tribunal of arbitration shall sit; and this point is left to the discretion of the interested parties. If they do not select the place, or can not agree to it, the tribunal itself shall make the designation.

The provision of Article 14 is very important and necessary. In a tribunal consi ting of various members the action of the majority can not be allowed to be subject to the caprice of the minority, nor can the said minority be permitted to stop, at its will, by retiring or staying away, the action of the majority. The majority has a perfect right to go on with its work, and of deciding on the subject submitted to its consideration.

The case has already presented itself practically, of a dispute being raised about the validity of an award, on account of its having been made by a majority of votes and not unanimously. In order to

remove this obstacle, Article 15 provides that the decisions of the majority, both on the subject-matter and on all incidental questions, shall have the weight of a judgment, unless it has been provided in agreeing to the arbitration that the award should be unanimous.

In regard to the expenses of the arbitration, Article 16 provides that those which are general shall be paid pro rata by the interested nations, and those incurred by each party in the presentation of the case and its defense shall be paid exclusively by it.

The principle which pervades the whole project and which is to leave the greatest possible freedom to the nations which resort to arbitration is obeyed in Article 17, which provides that upon agreement said nations have the power to constitute the tribunal as they may deem fit, and impose as many conditions and requisites as they choose. But in default of this agreement the provisions of the project shall be complied with, because otherwise there is no guaranty that the differences will be settled by arbitration.

Article 18 provides that the treaty shall be in existence for twenty years. On the part of the delegation of Guatemala there is no objection to making this compact perpetual.

Before finishing, I must say that in a project which I presented to the subcommittee which studied this subject, and to which I had the honor to belong, I suggested some other articles which tended, in my opinion, to render arbitration still more effective by providing for the mediation of other nations, and by requiring notice to be given to them, not only of every dispute which might have arisen, but also of

the progress made in the steps preparatory to its set-settlement by arbitration.

My worthy colleagues of the committee deemed that it was better to confine the project to only those provisions which might be called of organic character, and leave all others for a new project to be presented afterwards, and which would embrace all matters of detail. I acceded with pleasure to their wishes, although in fact it has been impossible for the project submitted to the Conference to confine itself exclusively to provisions of organic character.

It is also my duty to declare that my powers on this subject are of the amplest nature, and that I am authorized by my Government to go in this matter as far as I reasonably can.

Now I have to make a further statement, which is also purely personal to my delegation—I am ready to sign at once a treaty containing the articles of the project presented to the Conference, such as may be adopted by it. And if I were to be permitted to express an ardent desire of my heart, I would suggest to all the delegates who are empowered to sign treaties to join me in concluding at once a convention to that effect, thus saving time and avoiding difficulties in a matter which is of vital interest to America and does great honor to her, to the United States, which called together the Latin-American Republics principally for that purpose, and to the Latin-American Republics themselves, which gladly accepted the invitation.

Our mission then will prove to have been truly beneficial to our countries and to the cause of civilization and humanity.

Mr. QUINTANA. As I understand it, Mr. President, it is necessary to vote first upon the plan as a whole, as prescribed by the rules and as is the practice in parliamentary bodies.

Thus understanding it, Mr. President, I desire, in the name of the Argentine delegation, to add a few words touching the explanation just made by the honorable delegate from Guatemala, and for which explanation I extend to him my sincerest congratulations.

The Argentine delegation has noted with great pleasure that that from Guatemala fully agrees with it in its view of the general scheme of the plan. The Argentine delegation adopts as its own the commentaries on those articles of the plan and the explanations of the honorable delegate from Guatemala, because they sum up fully, correctly, and clearly the fundamental ideas which have served as a guide to the committee in submitting to the Conference the plan in debate.

If the Argentine delegation limited itself at the last session to the making of declarations concerning the general character of the plan, it was because the member of that delegation who has the honor to form a part of the Committee on General Welfare did not have the honor to be chairman of that committee, and in consequence was not clothed with the character of reporting member thereof.

Considering the silence which the other honorable delegates have maintained up to this moment, when the vote is about to be taken on the plan as a whole, touching the declarations made in yesterday's session by the Argentine delegation, this latter gives its vote

in favor of the plan, in the understanding and under the condition that its declarations are accepted by the honorable delegates composing the committee who have not seen fit to take the floor on this question.

Mr. ZEGARRA. Mr. President, before the plan is put to the vote as a whole, and far from any desire to re-open the debate, but with a view of establishing the reasons for the vote of the Peruvian delegation upon this interesting subject, I take the liberty of asking the attention of my honorable colleagues.

It is well known by the honorable Conference that on the 15th of January of the present year the Argentine and Brazilian delegations submitted to the consideration of the Conference a plan of arbitration. This plan, Mr. President, from the very beginning, merited the approbation of the Peruvian delegation because it determined not only the essential conditions of arbitration, but it laid down certain important principles, the scope of which was not and could not be other than a mutual pledge of nations to nations in America that the determination to open up for our beautiful continent a new era of true cordiality and fraternity was serious, was well-founded, was substantial.

To the Peruvian delegation, the bond between these two parts of the project to which I refer was necessary, so much so, indeed, that although a positive dependence of one part upon the other could not be established, they were nevertheless complements, and together contributed to reciprocal solidity.

The honorable Committee on General Welfare, for motives which I respect, has seen fit, in treating this important project, to separate the two parts which

composed it. Thus a special report appears referring only to the more direct conditions of arbitration, while another complementary report takes into consideration the other articles proposed by the delegations mentioned.

Considering the high standard which from the beginning was given by the Peruvian delegation to the articles in which new principles of American law were laid down, all the details of this question are almost of secondary importance.

For this reason, Mr. President, the speaker will not follow the critical analysis made by the delegate from Mexico, since he is not convinced, as perhaps other delegates are not, that the work presented to us is absolutely without imperfections.

We have just heard the eloquent exposition of motives made by the delegate from Guatemala, a member of that committee. This saves me much time, and I am glad to be able to save that of the Conference. Nor can I follow the argument made by the honorable delegate from Chili, because of the courtesy due him, and because I have no right to drag him from the sheltering reserve in which he has ensconced himself by positively abstaining from participation in the debate, nor should I consider one or any of the objections he has made in his remarks in the premises. My object, Mr. President, is simply to declare, as I now do, that the recommendation which the delegation from Peru will make to its Government respecting this most important subject will be a welding of the two reports—that upon the plan of arbitration and that upon the condemnation of conquest—which are pending in this Conference, not considering

exactly as dependent the one upon the other, but as complementary and connected. The objection which has been made that the arbitration recommended is devoid of all sanction does not do away with this. If it does not find sanction, perhaps the best thing to be done is to approve the articles to which I have referred, which establish certain principles by virtue of which, in the estimation of all the Republics of America, acts consummated as against the fixed rules laid down for the exercise of arbitration shall be invalid and illegal, as these rules are set forth in the second, seventh, and eighth articles of the plan presented by the Argentine and Brazilian delegations.

I know, and undoubtedly my honorable colleagues also know, the story of arbitration in America. I am not blind to the fact, gentlemen, that sometimes it has been impossible to resort to arbitration when it was most needed. Neither do I ignore that it may have been inefficient to counteract the excesses of ambition or the spurs of envy, but this is not a reason for us to abandon finally principles so elevated and so full of hope for the future.

To the mind of the delegation from Peru, in addition to the principles referred to, the most positive sanction is national faith bound up in a solemn compact. I could give living proofs of the extreme to which my country carries its respect for its promises, and I have the honor, in the name of my Government, to believe that in all the sister Republics tribute is rendered to the sanctity of compacts.

The Peruvian delegation, therefore, accompanies its colleages with its signature, approving the plan for the peace of America in the terms designated. If

it should err in presenting its recommendation to the Government of its country it will ever have the just pride of having been associated with so numerous and honorable a company.

Mr. HURTADO. I do not wish, Mr. President, to prolong the discussion, but I wish to explain what the delegation from Colombia will do in the course of the debate. The delegation from Colombia accepts the plan of arbitration as proposed, but that plan does not wholly satisfy entirely the wishes which its Government entertains. Colombia would prefer a treaty having a wider scope, if possible. Consequently, if any amendment be proposed to the draft, it will be seconded by the Colombian delegation. As stated before, it is desirable that this discussion be conducted with as little delay as possible, and, therefore, the Colombian delegation would like to be allowed to present its views in writing to be recorded in the minutes.

The PRESIDENT. What further order will the Conference take? Is it ready to proceed to a vote upon the question? The first vote will be upon the whole. As the roll is called, those in favor of the project, as it stands, will vote in the affirmative, and those opposed in the negative. Subsequently the articles will be taken up *seriatim*.

Mr. ROMERO. Before the vote is taken I wish to give, in writing, the vote of the Mexican delegation in this case, which reads as follows:

The delegates from Mexico vote in the affirmative in this case, because they are in favor of arbitration as a principle and as a general rule; but their vote does not imply the acceptance of all the principles embraced in the several articles of the report.

M. ROMERO.

The PRESIDENT. The roll of States will be called if the Conference is ready therefor.

The roll-call resulted in the unanimous adoption of the report on arbitration as a whole, the States voting being:

AFFIRMATIVE 16.

Hayti.	Argentine.	Mexico.
Nicaragua.	Costa Rica.	Bolivia.
Peru.	Paraguay.	United States.
Guatemala.	Brazil.	Venezuela.
Colombia.	Honduras.	Salvador.
Ecuador.		

Chili abstained from voting.

Mexico voted as per written statement above.

Salvador voted as set forth in the letter accompanying the minutes of the previous day:

By direction of the Chair, the first article was read.

The PRESIDENT. This article is before the Conference. What order will the Conference take? Is the Conference ready for the vote upon the first article?

Mr. ROMERO. There is a difference between the English and Spanish texts. The English text says, "For the settlement of *all* differences," while the Spanish text says, "For the settlement of differences."

The PRESIDENT. The Chair is under the impression that the word "all" in the English is incorrect and should be stricken out. There being no objection, it will be stricken out and the meaning in English will remain practically the same.

The vote having been taken, the article was unanimously adopted, the same delegations voting as before.

The second article was read.

Mr. HURTADO. With the assent of the other mem-

bers of the Committee on Arbitration, an amendment is offered to Article 2, which consists only in amplifying the number or list of questions respecting which arbitration shall be obligatory.

The article as it appears in the plan says:

ART. 2. Arbitration shall be obligatory in all controversies concerning diplomatic rights and privileges, boundaries, territories, indemnities, the right of navigation, and the validity, construction, and enforcement of treaties.

The amendment consists in substituting the following after the last word of the second line:

And consular rights and prerogatives, boundaries, territories, and territorial rights, indemnities, the rights of navigation on seas and rivers, reparation for injuries, satisfaction for offenses, denial of justice, and the validity, construction, and enforcement of treaties, without any exceptions whatsoever.

The object of these words is to place questions arising upon the enumerated points, in contradistinction to the general rule prescribed in Article 4, which says it is not obligatory to submit to arbitration all questions compromising the independence of one of the countries interested.

Mr. ARAGON. Does not Mr. Hurtado believe that Article 3 fully covers what he has thought to see here?

Mr. HURTADO. Yes, sir; but it can be very easily alleged that independence is compromised.

Mr. ARAGON. No, because there is no exception other than the question of independence.

Mr. HURTADO. No, sir; for there may be other matters not included there, such, for example, as an insult to the flag, a question which I would not sub-

mit to arbitration, for the flag is the symbol, the emblem of the national honor.

The amendment offered by Mr. Hurtado was read by the secretaries.

Mr. QUINTANA. Mr. President, it is difficult and even dangerous to improvise modifications in a matter of such importance and of such transcendent gravity.

The confidence I have in the judgment of my distiuguished colleague, Mr. Hurtado, and the deference I am happy to pay him, induced me to reply in general to his remarks that for my own part there would be no difficulty in accepting the proposed alteration in the article. But I have reflected upon it, Mr. President, in the short time which has elapsed, and I find, for example, that in the proposed addition the words "satisfaction for offenses" might add precisely those words which most gravely, most directly, and most deeply wound or compromise the independence of a country.

This depends upon the nature of the satisfaction demanded, and which we can not now foresee, because it is a matter exclusively within the control of the nation demanding it.

Treating, for instance, of diplomatic rights, which phrase has been included in the English version, the question may also affect, in a very direct manner, national independence.

The right to send missions to foreign countries is included in diplomatic rights, it constitutes the essence of diplomatic rights, and if this faculty were questioned surely the national sovereignty, that is, the national independence of the country would be deeply affected.

I would not say the same regarding the other additions or modifications to which the amendment refers, such as, for example, consular rights. It is clear that the greater includes the less. What is said concerning territorial rights is a simple correction with changes in the wording. However, this could be accepted if it would lead us to unanimity, but in the interest of the debate and so as not to expose ourselves to errors I think they should be presented in a clearer manner than we can present them now.

Some other gentlemen, members of the committee, have been good enough to state that they do not agree to this amendment, and therefore I think it would be an act of prudence and deference on our part to suspend the discussion of this article, that it may be recommitted to the committee with the proposed amendment, and take up Article 3.

The PRESIDENT. The honorable delegate from the Argentine Republic suggests that this amendment be laid over and considered by the committee before tomorrow's session, and that the Conference proceed with the consideration of the remaining articles.

Mr. HURTADO. I have no objection to that. I second the motion because that will expedite the work.

The PRESIDENT. Is there objection to that arrangement?

Mr. HENDERSON. Mr. President, if I refrain from participation in the debate here it is not from any desire or anxiety as to the success of these articles, but simply to economize time. I had determined in my own mind that I would not take up the time of this Conference in explaining the articles, because it seems to me that they are sufficiently explanatory of

themselves; nor would I take up the time in resisting amendments that might be made. Now, I express no disapproval whatever of the proposed amendment offered by my honorable colleague from Colombia. Indeed, under other circumstances I should be prepared to approve it. But, as is very well stated by the honorable delegate from the Argentine Republic. We have spent many months in the Committee on General Welfare, and we are now near the conclusion of the Conference. It seems to me that the amendment, if my honorable colleague from Colombia will examine it for a moment, is absolutely unnecessary, for the reason that the third article, the one immediately following, includes the amendment which he offers. If I did not think so I would not resist it. If I thought that anything possibly was left out of the articles on arbitration except the one isolated question of the independence of a nation, I should yield to his amendment. But it occurs to me that by taking the two articles together no conceivable question of dispute or controversy can arise between two nations that will not necessarily be subjected to arbitration under these two articles, except the one isolated one of the independence of a nation. When a nation conceives that its very existence, or independence, or right to control its own internal affairs are in jeopardy, of course every conceivable question is drawn in. However meritorious the proposition may be itself, it occurs to me that it is unnecessary. Therefore I hope that the Conference will not yield to the suggestion of my friend from the Argentine, but that they will proceed in the regular order and dispose of these propositions.

The PRESIDENT. The honorable delegate from the United States, Mr. Henderson, demands that this shall be voted upon and not passed over. That will be first in order, unless the honorable delegate from the Argentine puts his suggestion in the shape of a motion.

Mr. QUINTANA. It appears to me that the honorable delegate from the United States has not grasped the true character and scope of the proposition submitted by the honorable delegate from Colombia.

The honorable delegate from Guatemala has already stated in the course of his exposition what object the committee had in view in dividing into three articles the subjects which should be submitted to arbitration, because of the nature of the subject itself.

The second article lays down expressly all those questions touching which arbitration is obligatory, and by implication it excludes from the scope of the principle all those questions which affect natural sovereignty or independence.

In the committee itself it was stated by several delegates, among whom I have the honor to be one that there would be no difficulty in combining this enunciation with other matters which, in their judgment, did not really affect the national independence. If, then, besides the matters especially indicated in this article there be some others which may be foreign or have no connection with national independence, they may and should be added to the list enumerated in the second article.

Such is, Mr. President, the real sense given to that article and the object to which it conforms. The

question consists solely in examining whether the additions proposed by the honorable delegate from Colombia are in fact such as affect or can affect national independence. If those subjects have no connection with national independence, they can and should, as I have said before, be included, but if they are connected they can not and should not be included in Article 2. They should be included in the general terms of Article 3. Why? Because Article 4, which makes exceptions by the nature of the questions, refers solely and exclusively to the third article and not to the second.

But in these questions, Mr. President, it is impossible to improvise when treating of that which may affect the existence or non-existence of nations when dealing with the possible compromising of its independence. An improvisation made in the midst of a heated discussion and under pressure of time would be dangerous because it might lead us to compromise the national sovereignty, and I do not think there would be either seriousness or prudence in adopting an unusual resolution in this regard.

What is it then, Mr. President, that prudence and reciprocal deference counsel? To accept in full the proposed additions? No; because we might compromise our sovereignty. Reject them? Not that, because we might trammel questions which do not come under this head. Then, Mr. President, I think the only thing we can do is to adopt the motion which is made to suspend the debate on this article for the purpose of recommitting it to the committee, and meanwhile continue the discussion of the plan,

improving the time, without fear of errors or misunderstandings which might compromise the independence of our countries.

There remains the question of order. The honorable President has been pleased to say that the motion to refer a matter to a committee for its examination is not in order. I do not know the parliamentary proceedings of the United States, but such are not the rules of the congress of my country. In my country, and I understand the same is the case in all Spanish-American congresses, the motion to defer the vote on a question and to recommit to a committee is in order, has preference, and is privileged. Nothing is compromised by such a motion, everything is subject to examination and deliberation, while without it the very interests it is desired to serve may be compromised. Therefore, with all the respect due to the parliamentary experience and the judgment of the honorable President, he will permit me to differ from his opinion, for I believe that a motion for a matter to go to a committee for examination is in order and has preference over all others.

The PRESIDENT. The motion of the honorable delegate from the Argentine is perfectly in order. The motion to postpone to a given time takes precedence in this case. Is there objection to this motion?

Mr. HENDERSON. We object.

The PRESIDENT. The United States objecting, the roll will be called. As many as are in favor of postponing the resolution until the session to-morrow will answer in the affirmative, those opposed in the negative.

Those in favor of suspending the discussion were—

AFFIRMATIVE, 12.

Hayti.	Argentine.	Mexico.
Peru.	Paraguay.	Bolivia.
Guatemala.	Brazil.	Venezuela.
Colombia.	Honduras.	Ecuador.

Those opposed to it were—

NEGATIVE, 3.

Nicaragua.	Costa Rica.	United States.

The PRESIDENT. The motion prevails and Article 2, in connection with the amendment offered by the honorable delegate from Colombia, is postponed until to-morrow's session.

By direction of the President, the Secretary read Article 3.

The PRESIDENT. Is the Conference ready for the vote on Article 3?

Mr. ROMERO. Article 3 can not be voted upon until we know what shall be in Article 2.

The PRESIDENT. The Chair does not see that point. Whatever is put in Article 2, this will be called Article 3.

Is the Conference ready for the vote on Article 3? If the Conference is ready, those in favor will vote in the affirmative, those opposed in the negative.

Article 3, having been voted on, was unanimously adopted, the same delegations voting as before, with the exception of Mexico, which abstained from voting, stating that their vote would depend on what the committee reported on Article 2.

Article 4 having been read,

Mr. QUINTANA. The English version of this article does not agree with the Spanish text, which is the one that served as a basis for the work of the committee.

The Spanish text says:

Se exceptúan unicamente de las disposiciones del artículo que precede aquellas cuestiones que, á juicio exclusivo de alguna de las naciones interesadas en la contienda, comprometan su propria independencia.

It refers, therefore, to the questions as antecedents or causes which may endanger the independence, and in the English translation they have added, "by the result of arbitration," which is the final award; so that according to the Spanish text arbitration is not to be resorted to and according to the English arbitration is imperative.

Yesterday in the committee these corrections were made and I do not know why they do not appear in this copy.

Mr. HENDERSON. Mr. President, it occurs to me that the wording in English should be as follows:

The questions which shall be excepted from arbitration shall be those which in the judgment of the nation involved may endanger its independence.

Mr. CRUZ. I move that the section be referred to the committee and reported back to-morrow.

The PRESIDENT. The honorable delegate from Guatemala moves that Article 4 be referred to the committee, be recommitted to the Committee on General Welfare, to be reported back to-morrow, and that in the meantime the other articles be proceeded with. The Chair hears no objection to that.

The Secretary read Article 5.

Mr. QUINTANA. At the meeting held yesterday by the committee to make the Spanish and English texts conform, it was agreed to strike out from the English text of the fifth article these words: "with the ex-

ception stated in Article 4," because these words do not appear in the Spanish text.

The reason for this was that Article 5 refers to a question of time, while the fourth refers to a question of nature. They are two things entirely distinct and unconnected, and which, in consequence, ought not to be confounded.

The PRESIDENT. The Chair takes the liberty of saying that it occurs to him that that destroys the provision in Article 4. In Article 4 there is an attempt to except anything involving independence. In Article 5, if the word is stricken out, there is no exception whatever. The question is on striking out those words.

Mr. HENDERSON. I beg to say that to inforce that view of the subject, Article 5 comes after Article 4, and in the usual construction of a law or an instrument, the subsequent part prevails over the antecedent part.

The PRESIDENT. The Conference will permit the Chair to remark, while the subject is in hand, that it is not wise to leave something to future construction when it can be made applicable at the present. But the question is on striking out those words.

Mr. QUINTANA. I have not proposed that those words be stricken out; I have stated that the committee to which Mr. Henderson belongs had decided to suppress them. But if it is desired to retain them, it is necessary to insert them in the Spanish text, since otherwise there would be no unity.

As to the rest, I again repeat, as I have before said, that, if I accept this, it is simply as an act of deference and not for the reason given, for the second, third, and

fourth articles treat of the question with regard to its nature, and the fifth article with regard to time.

Consequently, being two unconnected things, they can not be combined from the fact alone of following the order in which the articles come. Therefore I say once more, I have not proposed this, but the committee; but if it is wished to leave it in the English text, it is necessary to put it in the Spanish. There will be another palpable mistake, but at all events agreement between the texts will exist.

Mr. HENDERSON. I desire to say, in reference to one remark of the honorable delegate, that if any agreement was made to that effect, I was not aware of it, although I was present during the meeting a part of the time. If any agreement was made to that effect, it must have been made among the gentlemen who spoke Spanish, and I did not understand it. I have attempted at all times to keep up with the proceedings, but I surely did not understand any such proposition in the committee, and certainly I should have objected to it if I had known any such proposition was made in the committee.

Mr. CRUZ. I move that the Spanish text be put in agreement with the English text, and then I propose that the article have a vote of the Conference, having in the Spanish text the English "with the exception stated in Article 4," so that the one text will correspond with the other.

The PRESIDENT. The gentleman from Guatemala moves to amend the article in the Spanish text by inserting words equivalent to the English text, as stated by him.

Is there any objection?

The Chair hears no objection. The article is before the Conference.

Is the Conference ready for the vote?

Mr. ROMERO. The Mexican delegation intended to vote for Article 4 in case the addition was accepted. Article 4 has not been voted upon.

The PRESIDENT. That has been postponed by a vote. Is the Conference ready to vote on Article 5? If so, the roll will be called.

Article 5 was unanimously approved by the same delegations as before, those of Mexico and Chili abstaining from voting.

By direction of the President Article 6 was read.

Mr. ROMERO. I ask whether the Conference would consent to have Article 6 divided into two parts, because the Mexican delegation will vote in favor of the first sentence and against the second.

The PRESIDENT. Parliamentarily they are not divisible, because each part does not make a substantial proposition. They are logically joined together.

Mr. ROMERO. I do not make any motion for a division, but state we would vote affirmatively for the first part and negatively for the second part.

The PRESIDENT. It would be proper for the gentleman to move for a division if there were two propositions, but, in the opinion of the Chair, it does not make two propositions.

Article 6 was unanimously adopted, the same delegations voting as before. Mexico voted affirmatively for the first sentence of the article and negatively to the second.

Article 7 was read.

The seventh article was voted on and unanimously

adopted. The same delegations as before, including Mexico, voted.

Article 8 was read.

Mr. ROMERO. I wish to call the attention of the committee to a translation. The Spanish text says, at the end of the article, "each nation represented;" the English text, "each nation claiming." The two words are quite different.

The PRESIDENT. Is the Conference ready for the question on article 8? If so, the roll will be called.

Article 8 was adopted unanimously by the same delegations as before, with the exception of that of Mexico, which gave the following vote in writing:

The Mexican delegation votes affirmatively for the first sentences of article 8, and abstains from voting on the last sentence, which says, "should no choice, etc."

Chili abstained from voting.

The President vacates the chair, and the same is now occupied by the First Vice-President.

Articles 9 and 10 were read by the Secretary, and having been voted on separately, were unanimously adopted, the same delegations as before, Mexico included, voting.

Article 11 was read.

Mr. ROMERO. The Mexican delegation is of an opinion adverse to the provisions of this article, because in its judgment it is advisable that the umpire should act as a member of the court. But this being a minor question, it will not give a negative vote; therefore it will approve this article, expressing its opinion, and asking the chair to be good enough to have it recorded in the minutes that, in its judgment, it is preferable for the umpire to form a part of the court.

Mr. HURTADO. I am sorry to differ with the honorable delegate from Mexico.

It is very advisable, this court having to be composed of three arbitrators, that the third should keep aloof from the others. This method was observed in the convention of 1856 between England and the United States, and it gave excellent results. There have been many similar conventions, but when courts of this character are composed of three arbitrators, and when each disputed point is discussed by the three, it results from the heat of the discussion, for one reason or another, that the umpire through individual sympathies inclines more to one side than the other. A word, a motion, a remark considered offensive, may very easily change the mind of the umpire, who at the beginning hesitated between the other two. It is advisable, therefore, that the umpire should hold himself completely aloof in his position of judge and that he should decide only the disputed points arising between the other two arbitrators. I can say that my experience, although not very great, has shown me the advantages offered by this system. I followed closely the Anglo-American Commission in Peru. I have myself been commissioner and I could see the great advantages offered by the umpire not forming part of the court but remaining apart.

This does not prevent his attending all the sittings and hearing the debates, to the end of acquainting himself with the questions.

Mr. ROMERO. Mr. President, I have great respect for the opinions of the honorable delegate from Colombia, and I am aware that he filled, with great benefit to his country and honor to himself, the post

of commissioner in a mixed commission, probably twenty-five or thirty years ago. Since then, however, practice has changed, and I can assure the honorable delegate that all the commissions that have met since, and to which the Government of the United States has been a party, have been constituted in the manner I have indicated, that is, the umpire forming a part of the court.

We have in the body of the Conference a colleague, the honorable delegate from Venezuela, who is a member of the Mixed Commission of the United States and Venezuela, which is holding sessions in this city, and he can testify that in the convention it was agreed between the arbitrators that the umpire should form a part of the court. In effect, the reasons of the honorable delegate from Colombia, believing that the umpire should not be a part of the court, merit attention, but I think that those in favor of the other practice are still stronger.

The mere fact of causing the umpire to be of the court renders it possible for him to acquaint himself in a deliberate and careful manner with the pleadings and proofs made and adduced on one side as well as the other. Otherwise there would be nothing more than the pleadings, and many reams of manuscript, which it is practically impossible for a person to review in the discharge of such duty, a labor which is facilitated when it is done methodically. I have personal knowledge of this—although I have not figured as an arbitrator—of many cases in which it is almost impossible for the umpire to examine the proofs, being under the necessity of confiding this work to other persons who have not always the same abilities, in-

tegrity, and independence as characterize the umpire, the decision of grave questions being thus relegated to persons without authority and whom the parties had not thought of engaging.

But to continue treating this subject, as it is not proposed to offer an amendment to this article, would be to distract the attention of the Conference from the subject without any profit. All I wish is to make an explanation of the manner of thinking of the Mexican delegation, which will vote for the article.

Mr. ANDRADE. As the honorable delegate from Mexico has referred to me in this connection, I should state that in fact the commission to which I have the honor to belong is so organized that the umpire is not really an arbiter charged with deciding the differences arising between the other two commissioners. He forms a part of the commission and has a vote, however, and as the commission is composed of three members, two are a majority, and this decides.

I must confess that this is a novelty to me which I like because of the good results I have had the opportunity of noting, and I would wish that in the question under debate the Governments might be left at liberty to organize commissions in that way, making the umpire a member of the commission, taking part in the debates, and casting his vote, which will be the deciding one.

The vote was then taken on the eleventh article, and resulted in the unanimous approval thereof, the same delegations voting as before, including that of Mexico, which stated that, in their opinion, the umpire should act as a member of the court.

SESSION OF APRIL 16, 1890.

The FIRST VICE-PRESIDENT. Taking up the order of the day, the discussion is upon the XIIth Article of the Plan of Arbitration.

The Secretary read the XIIth Article, as follows:

ARTICLE XII.

Should an arbitrator, or an umpire, be prevented from serving by reason of death, resignation, or other cause, such arbitrator or umpire shall be replaced by a substitute, to be selected in the same manner in which the original arbitrator or umpire shall have been chosen.

Mr. QUINTANA. Would it not be better, Mr. President, to consider the articles which were referred back to the committee before taking up those which follow?

The FIRST VICE-PRESIDENT. The Chair has no objection in carrying out the desires expressed by the Conference.

Mr. ROMERO. I second the motion.

The FIRST VICE-PRESIDENT. The motion has been seconded by the honorable delegate from Mexico, Mr. Romero, that before proceeding with the discussion of this report the articles which were recommitted to the committee at the last session will now be taken up. Is there any objection? The Chair hears none. The motion is approved. Article 2 is before the Conference.

The Secretary read the article in Spanish.

Mr. QUINTANA. The article which is now reported by the committee is the same which I presented at first, with only the addition of the words "and consular." * * *

Mr. ROMERO. I ask that the article be read in English.

The Secretary read:

Arbitration shall be obligatory in all controversies concerning diplomatic and consular privileges, boundaries, territories, indemnities, the rights of navigation, and the validity, construction and enforcement of treaties.

Mr. ROMERO. I am sorry the Conference has not the time sufficient to examine and discuss this important subject exhaustively, and I do not intend to occupy its time any further than is absolutely necessary to present some suggestions which I deem essential, before this debate is closed.

I heard with pleasure the clear and lucid explanation, made yesterday by the reporting member of the Committee on Arbitration in support of its report, but I regret to state that they have not satisfied nor convinced me, inasmuch as they seem to me excessively optimistic. They appear as if offered by a person who lives not in this world and who, in consequence, is not acquainted with the passions which stir humanity and control many of its actions, and who believes that every one is governed by considerations of justice and equity. If this were so, there would be no need of arbitration, for, probably, no dispute or difference endangering the peace of nations would arise.

The haste with which this subject is being treated does not permit even the elimination of the contradictions which appear in the report. The chairman of the committee informed us yesterday that there is no contradiction between Articles II and IV, because the latter excepts from arbitration only those questions which compromise the independence of a nation,

while the former means that the questions therein enumerated, among which is that of the boundaries of a state, are considered as not compromising its independence, and consequently are proper subjects for arbitration. If this was the meaning of the committee I think it did not succeed in stating it with all clearness, for instead of saying that arbitration shall be obligatory in all questions enumerated in the article, it would be much freer from contradiction and much clearer and more concise if expressed in the terms into which I have condensed Articles II, III, and IV of the report, preserving the phraseology of the said articles:

> Arbitration shall be obligatory in all questions arising between the contracting nations, whatever their origin, nature, or occasion, excepting only such questions as in the exclusive judgment of any nation involved in the controversy shall endanger its independence; in which case arbitration shall be optional for such nation, but it shall be obligatory upon the adversary power. Controversies concerning diplomatic and consular privileges, territories, boundaries, indemnities, the rights of navigation, and the validity, construction, and enforcement of treaties do not endanger the independence of the contracting nations and shall therefore be submitted to arbitration.

If they retain their present form, those articles will surely be the cause of grave and serious difficulties in the future, for the contradiction in their terms is obvious.

I do not intend to offer any amendment, for the committee has made up its mind to accept none, and a motion in that direction would be fruitless, except in the way of uselessly occupying the valuable time of the Conference, which I do not propose to do.

My principal object is to explain the reasons upon which the negative vote of the Mexican delegation is founded.

Leaving aside the form of this article and taking up its substance, I will state that to the mind of the Mexican delegation the question of boundaries does endanger national independence. On another occasion I stated to the Conference that the independence of a country does not consist merely in preserving its capital with a more or less reduced territory, and that upon the pretext of a question of boundaries a nation may be deprived of the greater part of its territory. Nor is it possible to maintain that a question involving that result does not endanger the independence of a country.

Although in principle I agree to the adoption of a system of arbitration as a substitute for war, to solve the questions arising between nations, I can not but recognize that arbitration is still in its infancy, and will require some time to establish it so that all those interested may find in it a guaranty. I shall cite as an example of this fact a case of which I have personal knowledge. Mexico agreed with the United States to submit to the decision of a court of arbitration the claims of citizens of one country against the other. That court continued for a long time. There is not the slightest suspicion that there were fraudulent or other undue influences, but notwithstanding this, nearly one-half of the entire amount found to be due by Mexico turned out to be based upon two fraudulent and fictitious claims.

The falsity of the proofs presented by the claimants was not discovered until after the commission had ap-

proved them; but the Government of Mexico took care to present the evidence showing the fraudulent character of the claims. Notwithstanding this fact nearly fifteen years have elapsed since those proofs were presented (and they have been submitted to a scrupulous investigation), it has not been possible to get the Government of the United States, whose honor and good faith are deeply involved, to do justice to that of Mexico. A former administration concluded a treaty with us to review the claims, but it was not ratified by the United States Senate; and all that has been accomplished up to this time is that a part of the money paid by Mexico for those claims remains on deposit until the Congress of the United States decides what it thinks best in the premises. But the deposit of a considerable sum, which can easily be distributed between the fraudulent claimants, is a powerful incentive to prevent this question from having the settlement which the honor, the good faith, and the dignity of this country would appear to demand.

I will also state that desiring the adoption of a form which would meet the views of all the delegations in the Conference, and an agreement which would be signed by all the Republics represented, and guaranty the rights and interests of each of them, without opposing the general idea of arbitration, I drafted a plan which I do not propose to offer for reference to the committee, lest it should embarrass its work. My purpose was to offer it only in case it should merit the approbation of all the delegates, but I shall now read it simply to complete, as

far as possible, the history of this subject in the Conference.

The difficulty in this subject is to find a formula which shall bind the nations approving it to submit their controversies to arbitration; but which shall, at the same time, except those questions which in their opinion should not be so submitted.

The Government of Mexico has instructed its delegates to except from arbitration all questions directly affecting the honor and dignity of a country. To this exception the objection was raised that all questions between countries would be included in it.

To avoid this, to seek a peaceful means of settling controversies, and with the object of preventing the interested nation from deciding whether or not the question is one to be submitted to arbitration, I accepted in that plan an idea suggested by the delegates from Chili. It is that whenever a controversy arises between two States which can not be settled between them in a friendly way the intervention of a third power be solicited to aid in the settlement. The plan of the Chilian delegates stopped here. That is, that if the mediator did not succeed in settling the question between the contending nations, these might appeal to war to settle their difficulties. I have added to that plan a provision that if the mediation bear no result the mediator shall decide whether or not the controversy occasioning it should be submitted to arbitration.

In this way there are two steps to be taken before reaching hostilities: first, mediation, which in many cases will be sufficient to peacefully settle a difficulty; then, if that be ineffectual, arbitration remains, not

depending upon the interested nation, but upon a third power, which should be considered impartial. If this power should decide that the question should be settled by arbitration, its decision should be respected, and thus it will not be a nation, consulting only its own interests, that decides the question, but a third party with full liberty of action and animated by friendly feelings for both interested nations which repose in it their confidence.

In short, instead of opposing arbitration, the Mexican delegation desires it as much as the rest, but has wished to propose it in terms which shall not be a new source of difficulties in the future for the contracting nations, and which may be adopted also by all the States represented in this Conference. The plan I have drafted will be accepted by the Government of Mexico, and, although I am not authorized to say that the Government of Chili will also accept it, I have already stated that the first part of it really came from the Chilian delegates:

The plan is as follows:

ARTICLE I.

The Republics of North, South, and Central America hereby adopt arbitration as a principle of international American law, to be applied to the settlement of such questions as may arise among themselves after the final adoption of this treaty by the Republics which are parties to it.

ARTICLE II.

In the event of any nation declining to arbitrate a difference or dispute with one or more nations on the ground that such a mode of settlement endangers its national independence or is incompatible with national honor and

dignity, the nations concerned in the difference before taking further action shall ask the mediation of a common friend, whose good offices shall be employed to make a friendly settlement. Failing to secure an amicable adjustment, the mediator shall decide whether the difference is one which may be submitted to arbitration in accordance with the provisions of this treaty. The decision of the mediator shall be final.

ARTICLE III.

The Republics which are parties to any question at issue shall agree in each case whether said question shall be decided by one umpire or by three or more judges organized as a court of arbitration. The parties shall themselves agree upon the manner of electing the umpire or judges.

ARTICLE IV.

The umpire or court of arbitration shall sit in the country that may be agreed upon by the Republics interested in the difference, and shall act until the final award is announced.

ARTICLE V.

In the event of a court of three or more judges being chosen to hear and determine the case, the decision of the majority shall be final, unless the parties to the issue shall before trial have demanded unanimity in the verdict.

ARTICLE VI.

The expense of the arbitration shall be paid in equal parts by the two nations interested in the settlement of the question at issue.

ARTICLE VII.

This treaty shall remain in force for ten years from the date of exchange of its ratifications, and shall continue in force thereafter until one of the contracting parties shall give notice to all the others of a wish to terminate the same, and farther until the expiration of one year from

the date of said notification. But the withdrawal of one party from the treaty shall not have the effect to invalidate the treaty so far as the other parties are concerned.

ARTICLE VIII.

This treaty shall be ratified by all the nations who agree to it, in accordance with their respective constitutional procedure, and the ratifications shall be exchanged in the city of Washington as soon thereafter as possible. When it shall have been ratified by a majority of the contracting nations, the treaty shall be proclaimed at once, and accessions to the same may be received thereafter from other nations.

In witness whereof the undersigned Plenipotentiaries have hereunto set their hands and seals.

Done at the city of Washington, in eighteen copies in the English, Spanish, and Portuguese languages, this——of———A. D. 1890.

Mr. HURTADO. I am about to ask a question in order to secure an explanation of a point. Would the delegate from Mexico have the goodness to state the exceptions made to arbitration by the delegation from Mexico?

Mr. ROMERO. Questions which directly affect national honor and dignity.

Mr. HENDERSON. Mr. President, of course, we have no objection to the introduction and printing of the proposition of the honorable member, nor have we any objection to having it made a part of the minutes, if so desired, but does he offer it as an amendment or substitute for the project of the committee?

Mr. ROMERO. No, it is not so offered.

Mr. HENDERSON. Then, of course, I have no objections to offer. I desire to say, while upon the floor, that the committee has been in session for some time, and when we get our committee together to examine

amendments we find difficulties in changing the present project as we have it. When we came to examine the amendment offered by the honorable delegate from Colombia yesterday, we retained the words only "and consular." That is really the whole of the amendment. Any amendments that may be offered to this project will not be acceptable to the committee unless they be referred to the committee, and I am sorry, if any of my friends desire to offer amendments, that they did not do so yesterday; because it keeps the committee in constant session. I really think, and I believe I reflect the opinion of the committee, that any change in the wording of the articles will scarcely be admissible without driving off some members of the delegations and losing the moral effect of the treaty when finally passed; in other words, that we will lose some States in the end if we keep changing.

Mr. CRUZ. Being a member of the committee, I am not going to make objections to the article. But in order that there be no doubt, and that none shall hereafter arise, I wish that it be expressly recorded that this article is to be taken to mean that as regards the cases in it enumerated, it can not be alleged that national independence is compromised; that is to say, arbitration shall he obligatory at all times and under every circumstance, without any exception whatsoever.

Mr. HURTADO. There is, undoubtedly, a lack of lucidity in the terms of the article since the careful delegate from Mexico found it necessary to make an addition to the amendment which I proposed. I proposed that the words "without exception whatever"

should be inserted, with the object of placing these questions in contradistinction to the general rule laid down in Article IV, which does not make it obligatory to submit the cases enumerated in it to arbitration.

I think this would meet the situation, but as I have no wish to prolong this discussion, I will not insist upon it.

Mr. GUZMAN. The honorable delegate from Guatemala has just stated, as a member of the committee, that it is understood that in no case will the delegations voting for Article II bind their Governments to accept arbitration in all the cases enumerated in said article, without any exception. I think, in fact, that the article embraces all possible questions which may arise between two nations, but I desire to ask the committee what would be the case in which, in the exclusive judgment of a country, its independence can be compromised? I only desire this explanation in order to enlighten myself on this point. I repeat, I would like the committee to have the goodness to state a case not already provided for in Article II that would compromise national independence. I can not imagine that one nation would inform another that it was going to deprive it of its independence. I therefore ask that a member of the committee state such a case.

Mr. HENDERSON. Mr. President, I certainly have no objection to answering the question of the honorable delegate, but I have adopted the rule of not swimming a stream until I get to it. I think it is much more desirable to take that course—not to climb a fence until I find the fence. The difficulty does not

arise. It may arise when we come to the amendment which we have added to Article IV. When that is read, I think my distinguished friend will find himself answered. If not, I shall be perfectly willing to respond to his question and give information which may not be contained in the amendment to Article IV. Some of the committee will stand ready to answer any questions, but I really suggest to him that his question does not elucidate in any manner the question now before the Conference, and we had better confine ourselves to the difficulties presented to us. Every day has its own evils, and it is so with these articles, and it is enough to consider them as they come up. The fourth article will be read in the course of a few minutes, and I think his question will be answered.

Mr. GUZMAN. I have no objection to wait a few minutes for the discussion of Article IV. Days and years would I wait in order to learn something upon this question, especially from persons so eminently qualified as are those here assembled. I will, therefore, wait for my distinguished friend, Mr. Henderson, to enlighten me upon the subject.

The FIRST VICE-PRESIDENT. The vote will be taken upon Article II as presented by the committee.

The roll-call resulted as follows:

AFFIRMATIVE, 15.

Hayti.	Argentine.	Bolivia.
Nicaragua.	Costa Rica.	United States.
Peru.	Paraguay.	Venezuela.
Guatemala.	Brazil.	Salvador.
Colombia.	Honduras.	Ecuador.

NEGATIVE, 1.

Mexico.

Chili abstained from voting.

The First Vice-President. The second article is agreed to by 15 votes to 1. The fourth article will be taken up. The Secretary will read the article.

The article was read, as follows:

The sole questions excepted from the provisions of the preceding article are those which, in the judgment of any one of the nations involved in the controversy, may imperil its independence. In which case, for such nation, arbitration shall be optional; but it shall be obligatory upon the adversary power.

Mr. Guzman. As the fourth article is now up for discussion, I would like to thank Mr. Henderson for the offer he so kindly made me to clear up the doubts I had upon the subject. But my honorable colleague the delegate from Guatemala has just done so privately and I am satisfied. I have therefore nothing to add, and I withdraw my request.

Mr. Romero. In accordance with the instructions received by the delegates from Mexico with regard to this matter they can not, without the addition of the words previously proposed, approve the article; therefore the delegation will be obliged to vote in the negative. However, in order to avoid misunderstandings, I will say that the Mexican delegation will vote in the affirmative if after the words "its own independence" the following are added: "and those which directly affect the honor and dignity of any of the nations interested." If there is no objection to this amendment, the Mexican delegation will vote in the affirmative. Otherwise it will have to vote in the negative.

Mr Henderson. Mr. President, has the amendment been sent up to the desk?

The First Vice-President. The Chair is waiting for it.

Mr. Romero. It is not an amendment; it is only the expression of a vote. I said that the Mexican delegation had to do one of two things, either to say that we voted for this article or else we voted in the negative. If the Conference thinks that we can not vote in this manner, we will vote in the negative.

Mr. Henderson. I wish to say, Mr. President, before the vote is taken, that, in all sincerity, it occurs to me that the proper amendment would be to the first article of the project. It would read as follows: "The Republics of North, South, and Central America hereby adopt arbitration as a principle of international American law, to be applied to the settlement of such questions as may arise among themselves after the final adoption of this treaty by the Republics which are parties to it," adding thereafter "unless one of the nations involved may object to the law."

That will cover the entire question that my friend submits, for, if the words which he proposes should be adopted, they would remove everything from the field of arbitration.

Mr. Romero. I have politely and respectfully requested the Conference to allow the Mexican delegation to vote affirmatively with an explanation. If this is acceptable to the Conference, we will give our vote with that explanation. If it is not acceptable, we will vote negatively. We do not intend to change anything the committee has proposed. We come here respectfully—

Mr. Henderson (interrupting). Mr. President, the honorable member certainly has the right and privi-

lege under the rules to explain his vote and file any paper.

Mr. ROMERO. That is all I ask.

Mr. HURTADO. The honorable delegate from Mexico has a perfect right according to the rules to explain his vote in every case and make the remarks which he deems necessary. I do not think that there should be any question upon this point.

Mr. ROMERO. If there is any objection on the part of the delegations to the vote of Mexico being cast with an explanation, the Mexican Delegation will withdraw its request and vote in the negative.

Mr. HENDERSON. Mr. President, let me explain to the honorable delegate that the only objection I had to this proposed vote was simply this: If I understand his language, his proposition was that the Conference should give permission to the Mexican delegation to vote in favor of this article with the explanation they desire to give. Why, of course that was to allow that privilege to the Mexican delegation. If we admit of that of course we give a construction that not only do we except from arbitration anything that may involve the independence of a nation, but also anything that affects its honor and dignity. In that case you may as well treat it as an annulment, for if a nation may come in and say that anything which affects its dignity shall be excepted why you might as well not have arbitration at all. I simply do not want to give one nation here a greater latitude than that given every other nation by the report. I do not wish to be committed to a construction which I could not accept.

(At this point Mr. Blaine, the President of the Conference, arrived and took the chair.)

Mr. ROMERO. Mr. President, I am afraid we do not understand each other. The position of the delegation from Mexico is simply this: We accept the article as it is so far as it goes. The Mexican Government instructs us to add a clause, and we come here and say: "Gentlemen, we approve what you say, but we reserve, in any treaty which we make, the right to ask this permission." It does not interfere with or change in any way the meaning of the article. Otherwise we shall vote negatively, and we should dislike very much to be obliged to vote in the negative. If we vote affirmatively without any explanation, then each of the Governments represented in this Conference might say: "Why do you now want restrictions?" We want to explain our vote, and this explanation has nothing to do with the interpretation or construction of anything else in the report. We ask the Conference this question: Is the Mexican delegation allowed to explain its vote? If it is, we vote affirmatively. If it is not, then we vote negatively. If there is a single delegate who objects to our explaining our vote, then we will withdraw our explanation and vote negatively.

The PRESIDENT. Is the Conference ready for the question? The question is, shall the Conference agree to Article IV as amended? If the Conference is ready to vote the roll will be called.

Mr. QUINTANA. In this article the committee has not proposed any change whatever. All it has done is to make the English text conform to that of the

Spanish. Therefore no corrections can be voted upon because none exist.

As regards the qualifications of his vote made by the Delegate from Mexico he has a perfect right to state them.

The PRESIDENT. The Chair will put the question on the Article IV as revised. It certainly is a revision. The Chair again submits the question upon the adoption of Article IV as revised by the committee.

The roll-call was concluded and resulted in the adoption of the article.

AFFIRMATIVE, 15.

Hayti.	Argentine.	Bolivia.
Nicaragua.	Costa Rica.	United States.
Peru.	Paragua.	Venezuela.
Guatemala.	Brazil.	Salvador.
Colombia.	Honduras.	Ecuador.

NEGATIVE, 1.

Mexico.

Chili abstained from voting.

The PRESIDENT. Fifteen votes in the affirmative, and Article IV is agreed to. The next is Article XII.

Mr. QUINTANA. In the vote just announced by the Secretary the delegate from Colombia voted with an explanation, and I think it is necessary that that explanation should be spread upon the minutes, so that hereafter there may be no mistake as to its meaning, and I think it is necessary also that the vote should be recorded in the same manner as has been done by the Mexican delegation, in order to avoid in future all mistakes.

The PRESIDENT. The Chair has not been in the habit of interrupting gentlemen who qualify their

votes. The debate is not limited before the vote is taken, and there is really no cause for stopping the roll-call. The Chair has not felt disposed to stop that privilege which was taken. There is opportunity to say everything before the vote is taken. The honorable delegate from Colombia (Mr. Hurtado) will send to the Secretaries his qualification in writing.

Mr. QUINTANA. The question, in my opinion, is that when the gentleman voted he qualified his vote, but did not state of what the qualification consisted. It seems that the opinions of the Chairman are radical, and in this case if the vote can not be received it can not be qualified; but if the vote is received the qualification ought to be stated also.

The PRESIDENT. There is ample opportunity to make every explanation before the vote is taken, and in strict parliamentary rule no one has a right to make an explanation after the roll-call commences, and the Chair will hereafter hold the Conference to that rule.

Mr. QUINTANA. That is all right, Mr. President, but my remark was that when the delegate from Colombia gave his vote he stated that it was qualified. Now, then, are qualified votes received? I think, Mr. President, that they should not be received nor counted without the qualification.

Mr. PRESIDENT. The qualification which the honorable delegate from Colombia has made has nothing to do with the vote. He votes "Yes" and therefore it is an absolute vote in the affirmative, and the qualification has no parliamentary influence upon the vote.

Mr. QUINTANA. Then, Mr. President, I am right in my remarks upon the manner in which this vote has been counted.

The PRESIDENT. The Chair quite understands and upholds the point made by the honorable delegate from the Argentine Republic, but he goes further. It is not the right of a delegate after he has said all that he desires to say to interrupt the vote. The gentleman's point is well taken.

Mr. HURTADO. I very much regret that I have broken the rule of the Conference.

The PRESIDENT. The Chair has never before enforced it, because there has been no point of order made upon it.

Mr. HURTADO. I wish the Chair had enforced it before and I would have followed the rule. It has been the custom to give explanations, and where there are no rules there is no irregularity. I have no doubt that it is in perfect accord with parliamentary practice, but it has never been followed here. I very much regret that it has not been followed.

The PRESIDENT. Does the Chair understand that the honorable delegate from Colombia infers or designs that that qualification shall affect the real meaning of his vote?

Mr. HURTADO. I do not know. According to the rules of the Conference a vote may be qualified.

The PRESIDENT. What effect does the honorable delegate suppose that qualification shall have?

Mr. HURTADO. I should have to ask the gentleman who drafted the rules.

The PRESIDENT. It is scarcely supposable that thirty odd gentlemen voting in the affirmative do so from exactly the same views, but the vote is all of the same nature.

Articles XII and XIII were read, separately voted on, and were unanimously adopted.

Article XIV was read, voted on, and unanimously adopted, the same delegations voting, with the exception of Mexico, which abstained.

Articles XV, XVI, XVII, and XVIII were read, separately voted upon, and unanimously carried, the same delegations voting, Mexico included.

Article XIX was read.

The PRESIDENT. Is the Conference ready for the question, which is on the adoption of Article XIX?

Mr. CRUZ. Mr. President, I desire only to submit to the decision of the Chair a question. Will it be sufficient to have only one copy of the treaty deposited with the Government of the United States, or will it be proper to deposit such number of copies as there are nations interested in this treaty, so that the Government of the United States may send one copy of it to each of them?

The PRESIDENT. The Chair has contemplated that the same course would be followed that is followed in any convention. That each of the signatory powers will carry with it an original copy signed by all the delegations.

Mr. CRUZ. I had reference, Mr. President, to the nations which may join afterward. My doubt was this: Will it be sufficient that their signatures be deposited with the Government of the United States and notification made by this Government, or will it be more proper to have deposited as many copies as there are nations interested, so that the United States may send to each of them one copy?

The PRESIDENT. The Chair does not regard that as

a parliamentary question. It is one which should be referred to the decision of the Conference. The Chair will rule upon the wording of the article. It only seems to contemplate one copy. Naturally, from that, the United States would be under the obligation of forwarding a certified copy thereof to each of the nations.

Mr. QUINTANA. Either of the methods is perfectly acceptable. I do not think it is absolutely necessary that the nations which adhere to the treaty should sign as many copies as there are contracting parties When treaties are being negotiated between several nations it generally happens that those who desire to enter into the agreement notify the Government who has taken the initiative steps in the matter. In this case it is the United States which has taken the initiative steps for the Conference, and, therefore, in these treaties it seems the article conforms to precedents and accomplishes the object in view. It follows, also, the precedent of the South American congress. In that congress, in order to avoid a repetition of these unnecessary interchanges of ratifications, it was declared that the nations which desired to sign the treaties afterward should so inform the inviting nation, and that, in turn, should communicate the fact to the other nations.

On the other hand, I think that those nations which agree to this treaty would not be satisfied with a simple notification on the part of the United States, but would, in turn, solicit from the others, copies signed by each, and then the other nations would, in turn, be obliged to sign copies for all the nations which had adhered. It is not possible that a nation which

accepts a treaty should be required to furnish each of the others with a copy, and yet be satisfied to receive a single copy from the United States or from any other nation. I understand, Mr. President, that the article as it stands fully meets all diplomatic requirements and carries out the object in view.

Mr. CRUZ. Mr. President, as I stated before, it was not my intention to make any amendment, but only to suggest what occurred to my mind; but I am quite satisfied with the explanation.

The PRESIDENT. It is within the knowledge of the Chair that the mode just mentioned by the honorable delegate from the Argentine is now in use in European practice. If there be no objection, that mode will be adopted. The Chair desires to say a single word to the Conference. This proposition includes, of course, a copy of the treaty for each nation that agrees to it, and it is presumed that every delegate who accepts it would wish to sign it. It occurs to the Chair to give this notice lest some of the gentlemen, after adjournment, should leave town before signing the seventeen or eighteen copies of the treaty. They will be prepared as rapidly as possible, but the fact that there are no copies written may cause a delay of a few days to have that done.

The question is upon Article XIX. If the Conference is ready for Article XIX, the roll will be called.

The roll-call resulted in the adoption of Article XIX.

AFFIRMATIVE, 15.

Hayti.	Argentine.	Bolivia.
Nicaragua.	Costa Rica.	United States.
Peru.	Paraguay.	Venezuela.
Guatemala.	Brazil.	Salvador.
Colombia.	Honduras.	Ecuador.

Mexico and Chili abstained from voting.

Various questions were then raised, and discussed at some length, as to the form in which the recommendation of the proposed treaty should be authenticated.

In the course of the discussion, Mr. Castellanos, delegate from Salvador, offered the following resolution:

Resolved, That the delegates of the nations here represented proceed to sign a treaty *ad referendum*, embodying all the recommendations of the report of the Committee on General Welfare on International Arbitration which have been approved; said treaty to be subject, as the law provides, to the approval of the respective Governments.

By unanimous consent this resolution was referred to the Committee on General Welfare.

SESSION OF APRIL 17, 1890.

The PRESIDENT. What order will the Conference take?

Mr. HENDERSON. I present, in the name of the Committee on General Welfare, a resolution on the subject of arbitration. It is in the hands of the Secretary, and I ask that it be read.

It was read as follows:

Resolved, That each and all recommendations adopted by this Conference shall be engrossed and signed by the delegations approving them, and that a sufficient number of copies be prepared and signed to deliver one copy to each delegation for transmission to its Government, recommending that such action be taken thereon as may be deemed proper.

Mr. HENDERSON. I make this report because I was instructed to do it by a majority of the committee,

and I assented to it for the simple reason that I desired to get through with this question. I really do not deem it necessary to add anything whatever to the report. It has been thought proper and necessary by some of the delegates, in transmitting this paper to their respective Governments, to transmit it in an authoritative form. Some of the delegates do not think it would be sufficiently authentic to have it signed by the president of the Conference and by the Secretaries, but think that it should be signed by the entire Conference, in order to give it that authority and force and solemnity necessary in so important a treaty. Now, in order to do that, I thought the following words would accomplish it:

That there shall be attached to the plan of arbitration adopted by this Conference the following words, to wit:

> The foregoing articles contain the plan of arbitration adopted by the International American Conference, and as evidence thereof the members of said Conference approving the same affix hereto their signatures, and recommend that the same be approved by their respective Governments.
>
> *Resolved*, That the Secretaries shall furnish to the delegation of each State here represented a copy of the plan of arbitration adopted by this Conference, signed by all the delegates who approve said plan, and that such delegation shall transmit the same to its Government for such action as it may choose to take.

My idea was that in reporting from the Committee on General Welfare that we ought not to require the Secretaries of this body to make up seventeen or eighteen copies in writing of all the proceedings of this body to be signed by all and sent to the respect-

ive Governments. It seems to me that the proceedings as sent to the Governments ought to be contained, under the revision of the Executive Committee, in the books which we propose to publish. I do not know what effect this resolution will have. And I thought the Committee on General Welfare was not the committee to consider the entire proceedings in this respect, and that we should confine ourselves entirely to the question which was submitted to us. I hardly think that the resolution is responsive to the requirements of this body. They sent to us the question of arbitration. We have reported, in reply, a question that is as broad as the universe. It covers all the proceedings of this body, and what the effect may be I don't know. But I thought that it would get rid of the question. We have had many hands to help us, and I have labored so long to come to some conclusion that I am wearied, and if this is satisfactory to the Conference very well.

Mr. TRESCOT. I, for one, must confess that I am entirely dissatisfied with the recommendation of the committee. I do not think it a reply to the matters sent to them for consideration. In the first place, I agree entirely with the chairman of that committee that it is a work that few appear to realize, to prepare a volume of 400 or 500 pages which our acts will make in writing, and make 18 copies of the same to be signed by each delegation and sent to each Government. As I understand, we were called together to consider several subjects of large and general interest, and in the discussion of those subjects which has taken place it is the province of each delegation to report to its Government what has been done, and to ac-

company that report with whatever recommendations it pleases to make. I can understand, therefore, that when the discussions are published that each delegation will send a copy to its Government, and leave its Government to decide what action it will take. But, putting my opinion entirely aside upon the whole subject of arbitration, it seems to me that there is a universal consensus of opinion in this Conference that if there is one subject which commands their interest and attention more than any other it is that of arbitration, and that they wish to give special force to their recommendations upon that subject. It seems to me that under these circumstances it is proper to confine the action of the committee to this one subject, and to accept the report to this extent, and to this extent only—the subject of arbitration. I therefore move that the words "each and all" be stricken out, and that the amendment be confined to the report on arbitration.

Mr. ESTEE. I would like to have the Secretary read the resolution in English as proposed to be amended by my honorable colleague.

Secretary WHITEHOUSE read as follows:

Resolved, That the plan of arbitration as adopted by this Conference shall be engrossed and signed by the delegations approving it, and that a sufficient number of copies be prepared and signed and delivered, one copy to each delegation, for transmission to its Government, recommending that such action be taken thereon as may be deemed proper.

The PRESIDENT. It is the duty of the Chair to advise the Conference that up to this time the act contemplated by this resolution is out of order, because

the preamble has not been adopted nor even read to the Conference. It is the duty of the Chair to call the attention of the Conference to the preamble, and this will come afterwards in its proper course.

The Chair directs the Secretary to read the first paragraph of the preamble.

Mr. ZEGARRA. I take the liberty of reminding the honorable delegates that the Conference has passed a resolution providing that no preamble shall be subjected to a vote; therefore, if an objection has been made, I think the proper way would be to reconsider that resolution.

The PRESIDENT. The Chair will be gladly advised Does he understand the honorable delegate from Peru to say that the Conference has directed that no preamble should be put to a vote?

Mr. ZEGARRA. That is my understanding, sir, but I appeal to the honorable delegates.

Mr. PRESIDENT. That the Conference adopt whatever preamble is reported from the committee?

Mr. ZEGARRA. That is as I understand it.

The PRESIDENT. That is a very important resolution, and the Chair would like to have it pointed out.

Mr. CRUZ. I think it was adopted without objection. If you take the preamble of the report on monetary convention you will find it, I think.

The PRESIDENT. Of course, if the Conference has adopted a resolution of that kind the Chair will administer the rule.

Mr. CRUZ. I think what was adopted by the Conference was that when the Conference has adopted a resolution or a report it is understood that, by adopting that resolution, the explanations that have been

made do not go with it, because it may be that some of the members of the Conference would not agree with some of the explanations made by the committee. For instance, the Committee on International Law has presented a long report explaining the considerations that caused it to recommend what it did. The vote of the Conference is understood to be only upon the recommendations, and not upon its explanations or the reasons that the committee have stated.

The PRESIDENT. Do you refer now to the preamble?

Mr. CRUZ. I think they are different—the preamble and the report of the committee. So I think that the resolution referred to by the honorable delegate from Peru does not cover the point raised. I do not know as there is any resolution of the Conference forbidding the discussion of the preamble.

The PRESIDENT. The preamble, of course, is used for two purposes: to make plain the intent of the instrument to follow, and, also, to contain in brief some argument why the instrument should be adopted. And, therefore, parliamentary practice directs that the preamble shall be the last thing agreed to, for the very good reason that the debate upon the articles themselves may change so that the preamble may not fit. Now, the preamble may be dispensed with, and it can not be considered as agreed to, unless the Conference consents to it.

Mr. BOLET PERAZZA. I recollect, if my memory does not fail me at this time, that the resolution adopted by the Conference only referred to the reasonings of the reports and not to the whereases of the preamble. If that is the case, the subject to be discussed is not the report, but the whereases of the

resolution, and I think that this is comprised in the resolution ofthe Conference.

The PRESIDENT. The preamble must be voted upon or entirely thrown aside. It is usual to vote upon it by the divisions or paragraphs in which it is reported, so the chair will direct that the first paragraph be read.

Secretary WHITEHOUSE. It reads as follows:

The Delegates from North, Central, and South America in Conference assembled:

The PRESIDENT. That form of expression is considered as agreed to, if not criticised. Does the chair hear any objection to that form of expression? The chair hears none.

Mr. ALFONSO. It is understood, Mr. President, that the explanation which reads: "The delegations of North, Central, and South America," etc., does not include the republic of Chili.

Mr. PRICE. I think Hayti should be mentioned, as it is not a part of Central America. I beg to remark that I do not believe that Hayti is included in either North, Central, or South America, and I think it should be added. We are not a power in America; we are a power in the West Indies.

The PRESIDENT. Would the gentleman say Europe and England?

Mr. PRICE. No, sir.

The PRESIDENT. Then why does he add Hayti.

Mr. PRICE. It is not included in North, Central, or South America, but is included in the West Indies.

The PRESIDENT. Is the Conference ready for the question on the introductory clause? Two suggestions are made: The honorable delegate from Chili

desires to have it understood that South America made generally does not include Chili, and the honorable delegate from Hayti desires that Hayti be specially mentioned. There is no motion made in either case, and the chair has nothing to submit. The chair will consider the introductory clause as agreed to. The next paragraph will be read.

The Secretary read as follows:

Believing that war is the most cruel, the most fruitless, and the most dangerous expedient for the settlement of international differences;

The PRESIDENT. Is there any objection to the phrasing of that paragraph?

Mr. CRUZ. The English text says "Believing that war is the most cruel, the most fruitless," while the Spanish says in place of most fruitless "most uncertain."

The PRESIDENT. The honorable delegate from Guatemala points out a very serious difference in the phrasing of the first paragraph, as contained in the two versions.

Mr. PRICE. There is one word in the Spanish that is not in the English, and one in English that is not in the Spanish.

The PRESIDENT. They do not correspond. One reads "fruitless" and the other reads "uncertain." The chair will hold the honorable gentleman from Guatemala, who is an excellent English scholar, responsible for the text of this paragraph.

Shall the first paragraph be agreed to? The Chair hears no objection.

The second paragraph will be read.

The secretary read the second paragraph as printed in English, as follows:

Recognizing that the growth of the moral principles which govern political societies has created an earnest desire in favor of the amicable adjustment of such differences;

Mr. QUINTANA. The English text of this paragraph is still less in accord with the Spanish than the preceding one. In the committee both texts were revised and made to agree, but I do not know what has become of the corrected copy which should serve as the basis for the discussion in the Conference.

The PRESIDENT. The English ought to be read first.

Secretary WHITEHOUSE. The English translation of the third paragraph in Spanish now is:

Believing that the growth of moral principles which govern political societies has created a true aspiration in favor of the peaceful settlement of such differences;

The PRESIDENT. That would never be taken as an English composition in the world.

Mr. CRUZ. I move, Mr. President, that the preamble be stricken out, to avoid all the difficulties that may arise between the Spanish and English texts, as it is not essential to the provisions of the report that has been presented by the committee. It is not actually necessary, and it is not possible to arrive now at a good Spanish and English text, and as it will take the time of the Conference I move that the preamble be suppressed.

The PRESIDENT. The Secretary will read. The Chair desires to have it read as it will appear if the motion of the honorable gentleman from Guatemala shall prevail.

Secretary WHITEHOUSE. It will read thus:

The delegates from North, Central, and South America, in conference assembled, do solemnly recommend all the governments by which they are accredited to celebrate a uniform treaty of arbitration in the articles following.

Mr. CRUZ. That strikes out the five intervening paragraphs of very indifferent English that will appear there, if the translation is made as has been suggested.

The PRESIDENT. The motion of the honorable gentleman from Guatemala is to strike out the five intervening paragraphs. Is there objection?

Mr. QUINTANA. Another course is open to us, which is to return the preamble to the committtee, to again perform the work it had finished in the correction of the copy which can not be found. I will not oppose the suggestion, but will remark that it is tantamount to suppressing the preamble in printing the report. If this paragraph is not voted upon it can not appear.

The PRESIDENT. The motion is that five paragraphs between the introductory and the recommendation be stricken out. Is the Conference ready for that question? It is a very important one, and the Chair begs the special attention of all members. The Chair will direct the roll-call upon that question.

Mr. ZELAYA. I think that it would be better to suspend the session whilst these texts are being made to agree. It will take only about fifteen minutes, and this work might be entrusted to Mr. Cruz and some other delegate.

The PRESIDENT. The honorable gentleman from Honduras moves that there be a recess of fifteen min-

utes to enable the honorable gentleman from Guatemala to make the two texts of the preamble conform.

Mr. HENDERSON. I hope that the Conference will not adjourn, and I with equal sincerity hope that the proposition to strike this out will be adopted. To be sure I assented to them because they were insisted upon, but since a colleague of mine from Guatemala on the committee has made the motion which I would not have felt authorized to make I sincerely hope that it may be adopted. I see no use of the magnificent rhetoric that that preamble contains. The dignified way is merely to assert the proposition that we recommend the plan of arbitration. It seems to me that the rhetoric itself is wholly unnecessary if it were proper or if it truthfully stated the condition of things. But look, Mr. President, at the last clause. "Considering it their duty to declare their assent to the high principles which tradition authorizes."

What principles are those? I presume that it is the principle of morality and christianity; if so, I should have no objections to it, but in reality it says that tradition authorizes us to declare in this way. Tradition authorizes us to make no such conclusion. People from the beginning of this world down to the present day have been engaged in armed strife, and to-day the powers of Europe send arms against each other. All tradition says that war has been the occupation of mankind instead of peace. What we wish to declare is that morality and christianity enjoin upon us to abandon what tradition has justified and adopt and enforce a new era. "Public reasons support." Public reason does not support any such thing. Public reason is absolutely to the contrary. War has been waged

almost every year, and, possibly, in some sections, is now being waged. Therefore "Public reasons" do not proclaim any such thing and the whole of mankind proclaims no such thing. They do not proclaim so far as this question of war is concerned, they do not proclaim the principles of peace, and we are here for the purpose of proclaiming it contrary to what has been claimed heretofore. Therefore I sincerely hope that the whole of this rhetoric may be removed from the record.

Mr. QUINTANA. The Committee on General Welfare and the Conference present a somewhat singular spectacle in regard to this subject.

The Chairman of the Committee who was the reporting member of the plan presented by the Committee on Arbitration, thought it prudent to maintain silence whilst this subject was brought to the notice of the Conference.

A subject of this transcendental importance should not have been presented without some remarks, if only as a salute in honor of the standard of peace which we set up. And, to-day, Mr. President, when we are discussing the details and concluding this matter, the honorable member rises to ask that all these whereases be suppressed. But he cites only one, and that the only one which was taken from the plan which the Brazilian and Argentine delegations had the honor to present to this Assembly.

Why did the reporting member maintain so profound a silence upon the four preceding whereases? Why did he not begin with the first one? Why did he specify the last one? Could it be because that was the one presented by the Brazilian and Argentine

delegations, and therefore the honorable delegate was not in sympathy with it? Could it be because the Argentine delegation having drawn the general outline of this plan, and believing it proper to declare, what it now repeats, that these whereases express, most eloquently, the high sentiments and profound considerations which ought to influence the Conference to accept the plan of Arbitration?

But the honorable delegate, Mr. President, has stated that the principle of arbitration has no precedent in history. Does he believe, perchance, that he discovered it? Does the honorable delegate believe that arbitration is an invention of this age? It is only necessary for him to open the pages of history and glance over any of the treaties of international law to see that arbitration is an ancient institution. Because, during the dark ages, force was substituted for right, and violence reigned instead of peace, that is no reason why, Mr. President, we should not, in the matter of arbitration, follow antiquity as we follow it in the arts and sciences.

In the Grecian republics, the history of which is studied with great advantage, the examples of arbitration are frequent and most solemn. If the honorable delegate will open those books he will find their pages filled with questions between town and town, city and city, nation and nation, which were decided by means of arbitration. He will also find, after a deliberate and profound study of the case that the real constitution of the famous Council of the Amphyctyons, from which the Constitution of the United States was taken, was nothing more than a great Council of Arbitrators between the towns of Greece. So that

the delegates who have used this phrase knew what they were doing, and can invoke on their side the annals of history as against the remarks of the delegate.

The honorable delegate adds that humanity does not proclaim peace. What else are we doing here by signing this compact but expressing in the articles of a project of arbitration, the peaceful sentiments of the whole world?

In the Nineteenth Century no one can aspire to the honor of having invented arbitration. All that can be done in the few years that remain of the century is to endeavor to realize the humanitarian principles of arbitration and apply them by following the paths which antiquity has traced

Mr. President, I can not understand how anything so dignified, worthy, and proper as this, should be voted upon by this assembly, merely in the dry terms in which the honorable delegate recommends it, without one word of eulogium for the subject of arbitration. No, Mr. President, since these words have been uttered in the debate, I sustain, decidely, all and each of the ideas advanced for the establishment of the project of arbitration, and I therefore, second the motion made by the honorable delegate from Honduras.

Mr. Estee. Mr. President, I agree with the gentleman from the Argentine this far: I do not think that this Conference is inventing the proposition of arbitration. But I do believe, sir, that by criticising each other we will not approach the subject which we are trying to accomplish. I appeal to the distinguished gentleman from the Argentine and to our other friends

sitting around this table whether we are not better prepared to judge of what is good English and what represents the views of this Conference, so far as the English version is concerned, than they would be; and reversing it, they would probably be better judges of the Spanish. Now, sir, I venture to say to this Conference that certainly four of the propositions contained in the preamble are not the best English, and instead of voicing the sentiments of this Conference and placing this question ahead of any one before considered by us, it would, in its present form, go out heralded with a preamble, so far as the English is concerned, not in the best form.

The second resolution commences by saying:

> Believing that war is the most costly, the most cruel, etc.

That is all right. But the next says:

> Believing that the growth of moral principle in the world has awakened a public opinion in favor of the amicable adjustment of all questions of international interest by the intervention of impartial counsel.

That is all right, but a little transposition which the committee can make would doubtless make it a great deal better English.

Is there any objection to that transposition? Are we going to differ over the words of the preamble and forget the great principles of the context? Are we so jealous of our own private opinions that we are willing to forget the principles contained in this report? Why, I think it is unworthy the dignity of the eighteen independent nations to discuss these matters when the committee can fix it in a few minutes

if a change be necessary. It is the principles we are after, not the mere verbiage.

Therefore, I venture to suggest, Mr. Chairman, that the last paragraph of the preamble, which is a very clear and forcible expression, is sufficient:

> That we do solemnly recommend all the Governments by which we are accredited to celebrate a uniform treaty of arbitration in the articles following, namely:

That contains, in a mere sentence, the best judgment and best opinions of this Conference, and is it not enough? What more can you say? Can you find any words to better express your opinion? Do you not propose to do this? And do not the following resolutions tell what you are going to do? Why, I think it is quite ample, and it strikes me that if we should approach this subject without nursing any feelings of pride or any fear that we are not getting exactly what we ought to get, we could arrange this in a moment. We all want arbitration. This great Republic composed of sixty-five millions of people, wants arbitration. Do not your countries want it? Then why not declare that we will have arbitration, and that we do solemnly pledge our nations to arbitrate. Is not that enough? It is proposed that we adjourn. The more adjournments we have had lately the less we have advanced. It strikes me that the suggestion coming from Dr. Cruz and the distinguished chairman of this Conference would advance this matter. I do not think it is wise to retain words which may give a doubtful meaning to the report. I therefore oppose the motion for a recess because I think such recess would be useless. The subject is

greater than the preamble, and hence the preamble can add nothing to its force.

The PRESIDENT. The motion pending is that of the honorable delegate from Honduras to take a recess, in order that the English text of the preamble may be made to conform to the Spanish. This overrides the motion of the honorable delegate from Guatemala, whose motion is to strike out the five paragraphs. Is it the pleasure of the Conference to order a recess for the purpose indicated by the honorable gentleman from Honduras? Those in favor will answer in the affirmative, as their names are called; those opposed, in the negative.

Mr. Zelaya's motion for a recess having been voted upon, was carried by a vote of 10 to 5.

AFFIRMATIVE, 10.

Hayti.	Paraguay.	Salvador.
Peru.	Brazil.	Ecuador.
Argentine.	Honduras.	
Costa Rica.	Bolivia.	

NEGATIVE, 5.

Nicaragua.	Mexico.	Venezuela.
Colombia.	United States.	

Guatemala and Chili abstained from voting.

The PRESIDENT. The affirmative are 10, and the negative 5. The Conference will now take a recess.

Mr. HURTADO. For how long?

The PRESIDENT. Fifteen minutes; but the Chair is under the impression that it will take a longer time.

Mr. GUZMAN. The person to make the translation should be selected from the United States delegation. I think I know English as well as any of the foreign delegates present, and yet I do not consider myself

capable of translating this preamble. The person who translates this should be English, otherwise it will be such foreign English as will be worth nothing.

Mr. ZELAYA. I move that the President appoint the persons to make the two texts accord.

The PRESIDENT. In the opinion of the Chair, there should be two English scholars and one Spanish to guide. The Chair will indicate Dr. Cruz on the part of the Spanish, and Messrs. Henderson and Trescot on the part of the English. The Conference will take a recess until they have completed their work.

The Conference again being called to order, Mr. Cruz said: I have the honor to present the work of the committee, stating, at the same time, that the committee made some change in one of the paragraphs of the Spanish section. I have the honor to hand the corrected version to the Chair.

Secretary WHITEHOUSE. It reads as follows:

The delegates from North, Central, and South America in Congress assembled:

Believing that war is the most cruel, the most fruitless, and the most dangerous expedient for the settlement of international differences;

Recognizing that the growth of the moral principles which govern political societies has created an earnest desire in favor of the amicable adjustment of such differences;

Animated by a realization of the great moral and material benefits that peace offers to mankind, and trusting that the existing conditions of the respective nations are especially propitious for the adoption of arbitration as a substitute for armed struggles;

Convinced by reason of their friendly and cordial meeting in the present Conference that the American Republics, controlled alike by the principles, the duties, and responsibilities of popular government, and bound together

by vast and increasing mutual interests, can, within the sphere of their own action, maintain the peace of the continent and the good-will of all its inhabitants;

And considering it their duty to lend their assent to the lofty principles of peace which the most enlightened public sentiment of the world approves;

Do solemnly recommend all the Governments by which they are accredited to celebrate a uniform treaty of arbitration in the articles following.

The PRESIDENT. The two versions of the preamble are before the Conference. If there be no objection, they will be taken as a whole. Is there objection to agreeing to both the Spanish and the English preamble? If the Conference is ready for the question, the roll will be called. Those in favor will respond in the affirmative; those opposed, in the negative. The roll will be called.

Mr. QUINTANA. A moment ago I was privately informed by Dr. Cruz of the amendment which had been made in the last article, and the omission of some of the ideas which gave rise to the present discussion. With a desire to prove to the Conference that it was not a spirit of obstinacy, but a deep conviction that compelled me to defend the assertions contained in that article, I will make no objection to the suppression of the same as indicated by the amendment made. Although, Mr. President, still holding the ideas and convictions which I have hitherto expressed, and believing, as I do, that arbitration is authorized by history, I will accept the preamble as presented.

Mr. ROMERO. I would say that the Mexican Government gladly give their affirmative vote to all that is contained in the preamble, but the Mexican delegation having been unable to accept all the articles,

we think it our duty to abstain from voting in this case.

The roll-call resulted as follows:

AFFIRMATIVE, 15.

Hayti.	Argentine.	Bolivia.
Nicaragua.	Costa Rica.	United States.
Peru.	Paraguay.	Venezuela.
Guatemala.	Brazil.	Salvador.
Colombia.	Honduras.	Ecuador.

Mexico and Chili abstained from voting.

The PRESIDENT. The preamble is agreed to. The discussion of the report of the Committee on General Welfare will be resumed.

Mr. CRUZ. From the statement of the honorable delegate from the Argentine Republic, whom I thank for his condescension, I think the Spanish text can be amended in that part since he has accepted the amendment to the English text. In order that both texts may agree perfectly we might strike out that part.

The PRESIDENT. The Chair was not aware that he had passed over that point. The honorable delegate asks that the adjustment of the Spanish text to the English text, which has been read, be confirmed by the Conference. Is there objection? The Chair hears none. That concludes the action with the exception of the last report from the Committee on General Welfare.

The Secretary read as follows:

Resolved, That each and all recommendations adopted by this Conference shall be engrossed and signed by the delegations approving them, and that a sufficient number of copies be prepared and signed to deliver one copy to each delegation for transmission to its Government, recommending that such action be taken thereon as may be deemed proper.

Mr. TRESCOT. Mr. President, I now renew my motion to strike out "each and all" and leave resolution to apply only to the principle of arbitration as adopted by the Conference.

Mr. ALFONSO. I feel compelled to take part in this debate in spite of the declaration made upon the subject of arbitration, upon which the Chilian delegation has refrained from discussing or voting. From the reading of the report just concluded it appears that the question of arbitration has been mixed with the other subjects which have occupied the attention of the Conference. There is therefore a heterogeneous mixture which I do not comprehend, and which compels me to say that there seems to be a disposition even to refer to subjects which have not been discussed and which seem to me out of order.

Therefore, as regards the several distinct subjects which have been discussed here, among which is the arbitration question, the Chilian delegation declares that it will conform to the law of the convocation and to the objects of the Conference, but will not sign any paper or agreement whatever with the others. It will consent, however, to recommend to its Government such decisions reached by the Conference as it believes proper. I beg that this announcement will be spread upon the minutes.

The PRESIDENT. The honorable gentleman from the United States (Mr. Trescot) will please state his amendment.

Mr. TRESCOT. As I understand it, it is the desire of this body to give a larger dignity to the plan of arbitration than to any other act, and I move that "each and all" be stricken out, and that the plan of arbitra-

tion adopted by this Conference shall be engrossed and signed as the resolution reads.

The PRESIDENT. The honorable gentleman from the United States (Mr. Trescot) moves to strike out the words at the beginning "each and all" and to insert "the plan of arbitration" after the word "Conference," so that it shall read "that the recommendations adopted by this Conference in favor of a plan of arbitration." It is always very difficult for the Secretary to get these amendments in correct form unless they are sent up in writing. Members scarcely remember to put what they desire in writing. It ought to be an imperative rule.

Mr. TRESCOT. I will conform to the rule and send up my amendment in writing.

Secretary WHITEHOUSE. Mr. Trescot proposes to strike out the words "each and all recommendations in the report of the committee" and to make it read:

Resolved, That the plan of arbitration adopted by this Conference shall be engrossed and signed by the delegations approving it, and that a sufficient number of copies be prepared, etc.

The PRESIDENT. The point of the amendment is that it confines the resolution to the plan of arbitration. Is the Conference ready for the question? The Chair apprehends that the question is not fully understood. It is a very radical amendment, and the Chair apprehends that the members of the Conference do not understand it. Instead of signing the name of the members of the Conference to everything that has been done, this confines it to this one plan of arbitration. Is the Conference ready for the question?

Mr. QUINTANA. I do not intend to attack the amendment offered by the Hon. Mr. Trescot; I am simply going to make a statement with regard to the Argentine delegation.

The plan presented by the committee was a compromise made in view of the extreme opinions presented in the Conference. This plan was presented by the committee in which the delegation of the United States is represented by the Hon. Mr. Henderson, the chairman of the committee, and therefore the committee supposed, as was natural, that it could count upon the support of the United States delegation. But the resolution offered by Mr Trescot convinces me that was an error. The United States delegation seems to have two distinct opinions upon this subject, and this annuls the compromise entered into by the committee.

I therefore declare that I will vote against the proposition offered by Mr. Trescot, and will vote contrary to the report of committee because as the United States delegation has broken its compromise agreement the other delegations are permitted to do the same.

The PRESIDENT. The Chair can not recognize what the honorable gentleman from the Argentine has said as parliamentary law of the body. There is no reason why in the Conference, where there is free speech, every delegation should be absolutely compelled to proceed exactly in the same way. It is only in the final vote that they must be a unit.

Mr. HENDERSON. Mr. President, so far as the United States delegation is concerned we approve the amendment offered by Mr. Trescot. He made it with our

consent. Although it may be true that I assented to the original resolution as reported, I desire to state that the United States delegation is privileged to change its mind when it finds that it can do better or that it is wise to do so.

Mr. QUINTANA. Notwithstanding the profound respect which I have for the ruling of the Chair, I hold, nevertheless, an opinion diametrically contrary, and my conduct will be regulated accordingly.

I do not wish to discuss this point, nor is it the proper time to do so. Neither do I deny the right of the United States delegation to change its opinions, and I have simply said that if the United States delegation changed its opinion and withdrew its vote that the other delegations were thereby authorized to do the same.

The PRESIDENT. In reference to the point of parliamentary law, the Chair desires to call attention to Article X, which he would be glad to have read.

Article X was read as follows:

> Each delegate may offer to the Conference his written opinion upon the matter or point in debate, reading it or having it read by one of the secretaries, and ask to have it inserted in the minutes of the session in which he shall offer it.

(The Spanish version of Article X was also read.)

The Chair thinks the rule clearly contemplates perfect freedom of debate among the delegates of a nation, only being confined to the fact that they can give only one vote when the question is called.

Mr. HURTADO. I merely wish to state that my vote will be in favor of the amendment, and, as I am a member of the committee, and in fact the one who

wrote that proposition of the report. I ought to explain that, as Colombia has three delegates, what has taken place in the committee is evidently unknown to my colleagues, for they are not members of this committee. I am of the opinion that it is better to adopt the amendment proposed by the honorable delegate from the United States than to vote for the report presented by the committee. The delegation from Colombia have thought from the beginning that this question of arbitration stood on quite different ground than all other subjects before the Conference. We have been convened to discuss and to report for adoption a definite plan. I believe with the delegate from Chili that we ought to limit ourselves respecting other matters to an interchange of opinion, to an expression of our respective views on each matter, and to report the recommendation in our correspondence with our respective Governments. But in reference to this plan of arbitration, it ought to be dealt with in an entirely different manner, for the chief object and purpose for which we were convened here was to discuss, to adopt, and recommend such a plan. We have not received the same instructions in regard to any other subject. Therefore, I believe it should be treated in an entirely different way.

Mr. CRUZ. I will take but a few moments of the time of the Conference, and that only to explain that in the committee the proposition presented by Mr. Henderson was suggested, and I thought it should be assented to. I would have voted in favor of that proposition, but I afterwards accepted the other as a compromise, to secure unanimity of all the votes; but now, as this unanimity is broken, I have a reason to vote according to

my former opinion, and thus in support of the amendment that has been proposed.

Mr. VELARDE. As a member of the Committee of General Welfare I gave my approval to the project under consideration, because I believed and still believe it necessary to have some record of the resolutions adopted by the Conference; but if it is shown that this plan is impracticable, I will have no objection to support the amendment, because I am not only authorized to vote upon this question of arbitration but also to sign the treaty thereof. Therefore, whatever form it takes, my vote may be counted upon.

Mr. MENDONÇA. Mr. President, I have the honor to make a declaration in regard to our delegation. The delegation from Brazil has no power to sign any compromise or any written recommendation concerning this matter any more than in regard to any other matters that have been before the Conference. In fact, as a principle of international law, there is no use of any protocol that is more than the document we adopt and recommend. To my country, as to each country represented in this Conference, it amounts to a very little really. It does not give any more importance to the document that it be signed as proposed. I am entirely in disagreement with my colleague from Colombia (Mr. Hurtado) when he states that this arbitration matter should receive our signatures or recommendations differently from the other matters recommended by the Conference. The signature of the delegates of a country is all that gives standing to the document in that country. My Government does not require any more than the signatures of my colleague and myself to make the resolution of the

Conference authoritative. So I do not see the use of establishing a special rule to cover the plan of arbitration. There are some disadvantages connected with this plan. We have colleagues in the Conference who could not sign such a document, and the Brazilian delegation have no power to sign any paper as a delegation, whatever be the power of the representatives to act in another sphere outside of this house. That would be a treaty. As delegates to this Conference we have no more power to sign the paper than to sign the acta or the minutes of the Conference, but such signatures would give standing enough to the document before our Government without the signatures of the other members. That every one has accepted the compromise on the articles of arbitration is shown by our minutes. In transmitting such minutes to our Government with our signatures, we do all that is necessary for the approval of such document. So the Brazilian delegation can not vote for that special amendment. We can not, at least if my colleague has the same opinion as he had when the agreement was made with the committee. The Brazilian delegation will not vote at all, because I do not give my approval to such an agreement. I do not think it is necessary that any exception be made in regard to the plan of arbitration.

The PRESIDENT. The Chair would be glad, as a matter of order and detail, to ask the honorable delegate from Brazil a question: If the plan of arbitration is to go to each country with the signatures only of the delegates of that country, how is any one country to know with whom the treaty is to be made?

Mr. MENDONÇA. That is already in the minutes, Mr. President.

The PRESIDENT. The minutes will not be out for a long time.

Mr. MENDONÇA. The minutes of each day's session, being transcribed, contain our votes and the whole project. The transmission of such minutes, with our signatures, to our Government gives our Government notice that such has been the approval and the recommendation of the Conference, and if the next day the Secretary of State of the United States will have a paper drawn for the signatures of the delegates, if they have such power, they can sign. That would be a treaty. Some have manifested that they have such power to sign, but as to the recommendation I can not go any farther.

The PRESIDENT. Is the Conference ready for the question on the amendment? The roll will be called.

AFFIRMATIVE, 9.

Hayti.	Colombia.	Bolivia.
Nicaragua.	Costa Rica.	United States.
Guatemala.	Honduras.	Venezuela.

NEGATIVE, 4.

Peru.	Paraguay.	Salvador.
Argentine.		

Brazil, Mexico, and Chili abstain from voting.

The PRESIDENT. The affirmative vote is 9, and the negative 4.

Mr. QUINTANA. I profoundly respect the decision of the Conference, but ask that it be spread upon the minutes that the Argentine delegation will not sign.

The PRESIDENT. The gentleman has the right to have his announcement spread upon the minutes as

requested. The question now is upon the adoption of the report of the Committee on General Welfare, with the amendment just adopted.

Mr. ROMERO. Upon what did we vote the last time?

The PRESIDENT. On Mr. Trescot's amendment, and it was adopted by a vote from 9 to 4. Now the question returns upon agreeing with the report of the Committee on General Welfare, as amended. When the report was made, it was laid aside until the preamble should be completed.

Mr. HURTADO. I move to amend it as follows: To strike out the final words after "for transmission to its Government."

The PRESIDENT. The question is on the adoption of the amendment offered by the honorable delegate from Colombia, Mr. Hurtado. Is the Conference ready for the question? If so, the roll will be called.

AFFIRMATIVE, 11.

Hayti.	Costa Rica.	United States.
Nicaragua.	Brazil.	Venezuela.
Guatemala.	Honduras.	Salvador.
Colombia.	Bolivia.	

Peru voted in the negative.

Mexico and Chili abstained from voting.

Mr. CASTELLANOS. I wish to state, in order not to appear contradictory in my way of voting, that I previously voted in the negative because it was desired to sign the recommendation in a very special way; but now I vote affirmatively. Therefore it is all the same whether we sign or not.

The resolution, as finally amended, was then voted upon, and it was adopted by a vote of 11 to 1, the same delegations voting as before.

The text of the resolution, as adopted, reads as follows:

Resolved, That the plan of arbitration adopted by this Conference shall be engrossed and signed by the delegations approving it, and that a sufficient number of copies be prepared and signed to deliver one copy to each delegation for transmission to its Government.

Mr. ZEGARRA. Before this subject is closed, I must announce that the Peruvian delegation does not consider itself authorized to sign, as a delegate, any documents other than the minutes of the Conference.

SESSION OF APRIL 18, 1890.

Mr. GUZMAN. When the debate on the subject of arbitration was closing yesterday I wished to say a few words thereon, but it being impossible, as the hour of adjournment had been reached, I beg leave of the Conference to offer a few remarks, counting on its well-known indulgence.

Mr. President, Honorable Delegates: Upon closing the notable debate that has taken place in this Conference with respect to the plan of arbitration which has just been approved, the Nicaraguan delegation desires to say a few words, which it hopes will be listened to indulgently.

I believe it to be my duty to state, right here, that it would have given the Nicaraguan delegation satisfaction to see introduced into the plan of which I speak, a clause which should establish efficient measures to prevent, as far as possible, the breaking of the obligations contracted; for, although it is a recognized fact that nations can not be compelled, like

individuals, to carry out their agreements, it is also true that, without recurrence to violent means, there are means of a purely moral character which could be appealed to in the case (improbable, I admit, but still possible) of an American Government violating its pledges to arbitrate.

What has been said in this regard, in language as cultured as it was eloquent, by my distinguished colleague and friend, the delegate from Guatemala, is true in principle, and it would be in fact, if political questions were always viewed with the calm impartiality of equity and justice.

There is nothing more solemn than international compacts; nothing more sacred than the word of a country pledged by its legitimate representatives, and when such compacts are signed—when such words are pledged—no one is disposed to admit that the day may come when the former will be violated or the latter broken; but, gentlemen, what does contemporaneous history demonstrate? I leave the reply to the experience of my colleagues.

The committee undoubtedly did not believe it advisable to recommend the adoption of efficacious means to render the infraction of the treaty on arbitration impossible, or, perhaps, it could not in its wisdom discover any recourse which, at the same time that it acted as a guaranty for the pledge, would not be a species of menace to the independence and sovereignty of the nations of the continent. I bow before the decision arrived at by the honorable committee in this delicate matter, for I am pleased to recognize that its members dedicated themselves to their work with an intelligence and learning which I admire, and

animated by an essentially American spirit, which I applaud.

Futile it is, gentlemen, for me to raise my weak voice here to declare the incomparable results to be obtained by substituting arbitration for war as the means of solving difficulties arising between the American Governments. The honorable delegates who have preceded me on the floor during the instructive debate which has just terminated, have already said, with eloquence denied me, all that could be said. But I wish to state, in the name of the Government I have the honor to represent in this assembly, that Nicaragua unites and will ever unite enthusiastically with her sisters of the continent in any effort that shall tend to render impossible armed conflicts in the future between the countries of America.

Dedicated to the peaceful work of her intellectual and material development, enjoying under a well-constituted Government and the protection of a constitution duly respected, all the liberties that a republican people can wish, her credit raised to a height that would do honor to nations ten times larger and richer than she, having in view the opening across its surface of that great medium of interoceanic communication which will offer to the commerce of the world new and beauteous horizons, Nicaragua will hear with pleasure the good news that this distinguished assembly, in which all the Governments of America are found represented, has carried into effect the wise and civilizing principle of arbitration, noble and transcendental decision, which upon ending war forever will be an assurance of peace to the weak, who have always feared the threats of the strong, and will serve

as a profitable lesson to the strong, who have ignored with lamentable frequency the rights of the weak.

Nothing can be more significant, gentlemen; nothing can better please the friends of universal peace, than to see the United States, the American nation whose strength rivals that of the first powers of the world, taking the initiative in the matter which claims our attention, forgetting physical prowess, symbol of barbarism, to stand upon right, standard of Christian civilization. Worthy of this noble and generous country, which owes to peace its marvellous growth, are the efforts it has made and continues making, to the end that the New World may present to humanity the sublime spectacle of an immense continent, peopled by different races and on whose surface eighteen independent nationalities exist, making of arbitration the corner-stone of international American law.

On bringing to a close, Mr. President and honorable Delegates, these few words, let the Nicaraguan delegation be permitted to express the desire that at no very distant day all the nations of this continent, without a single exception, may be united by the compact which has merited the approbation of this honorable assembly, so that there may never again be presented the sorrowful and melancholy spectacle of Americans shedding American blood upon the bosom of our loved America.

PLAN OF ARBITRATION AS ADOPTED.

The delegates from North, Central, and South America in Conference assembled:

Believing that war is the most cruel, the most fruitless, and the most dangerous expedient for the settlement of international differences;

Recognizing that the growth of the moral principles which govern political societies has created an earnest desire in favor of the amicable adjustment of such differences;

Animated by the conviction of the great moral and material benefits that peace offers to mankind, and trusting that the existing conditions of the respective nations are especially propitious for the adoption of arbitration as a substitute for armed struggles;

Convinced by reason of their friendly and cordial meeting in the present Conference that the American Republics, controlled alike by the principles, duties, and responsibilities of popular government, and bound together by vast and increasing mutual interests, can, within the sphere of their own action, maintain the peace of the continent, and the good-will of all its inhabitants;

And considering it their duty to lend their assent to the lofty principles of peace which the most enlightened public sentiment of the world approves;

Do solemnly recommend all the Governments by which they are accredited to conclude a uniform treaty of arbitration in the articles following:

ARTICLE I.

The republics of North, Central, and South America hereby adopt arbitration as a principle of American international law for the settlement of the differences, disputes, or controversies that may arise between two or more of them.

ARTICLE II.

Arbitration shall be obligatory in all controversies concerning diplomatic and consular privileges, boundaries, territories, indemnities, the right of navigation, and the validity, construction, and enforcement of treaties.

ARTICLE III.

Arbitration shall be equally obligatory in all cases other than those mentioned in the foregoing article, whatever

may be their origin, nature, or object, with the single exception mentioned in the next following article.

ARTICLE IV.

The sole questions excepted from the provisions of the preceding articles are those which, in the judgment of any one of the nations involved in the controversy, may imperil its independence. In which case for such nation arbitration shall be optional; but it shall be obligatory upon the adversary power.

ARTICLE V.

All controversies or differences, whether pending or hereafter arising, shall be submitted to arbitration, even though they may have originated in occurrences antedating the present treaty.

ARTICLE VI.

No question shall be revived by virtue of this treaty concerning which a definite agreement shall already have been reached. In such cases arbitration shall be resorted to only for the settlement of questions concerning the validity, interpretation, or enforcement of such agreements.

ARTICLE VII.

The choice of arbitrators shall not be limited or confined to American States. Any Government may serve in the capacity of arbitrator which maintains friendly relations with the nation opposed to the one selecting it. The office of arbitrator may also be entrusted to tribunals of justice, to scientific bodies, to public officials, or to private individuals, whether citizens or not of the States selecting them.

ARTICLE VIII.

The court of arbitration may consist of one or more persons. If of one person, he shall be selected jointly by the

nations concerned. If of several persons, their selection may be jointly made by the nations concerned. Should no choice be agreed upon, each nation showing a distinct interest in the question at issue shall have the right to appoint one arbitrator on its own behalf.

Article IX.

Whenever the court shall consist of an even number of arbitrators, the nations concerned shall appoint an umpire, who shall decide all questions upon which the arbitrators may disagree. If the nations interested fail to agree in the selection of an umpire, such umpire shall be selected by the arbitrators already appointed.

Article X.

The appointment of an umpire, and his acceptance, shall take place before the arbitrators enter upon the hearing of the questions in dispute.

Article XI.

The umpire shall not act as a member of the court, but his duties and powers shall be limited to the decision of questions, whether principal or incidental, upon which the arbitrators shall be unable to agree.

Article XII.

Should an arbitrator or an umpire be prevented from serving by reason of death, resignation, or other cause, such arbitrator or umpire shall be replaced by a substitute, to be selected in the same manner in which the original arbitrator or umpire shall have been chosen.

Article XIII.

The court shall hold its sessions at such place as the parties in interest may agree upon, and in case of disagreement or failure to name a place the court itself may determine the location.

ARTICLE XIV.

When the court shall consist of several arbitrators, a majority of the whole number may act notwithstanding the absence or withdrawal of the minority. In such case the majority shall continue in the performance of their duties until they shall have reached a final determination of the questions submitted for their consideration.

ARTICLE XV.

The decision of a majority of the whole number of arbitrators shall be final both on the main and incidental issues, unless in the agreement to arbitrate it shall have been expressly provided that unanimity is essential.

ARTICLE XVI.

The general expenses of arbitration proceedings shall be paid in equal proportions by the governments that are parties thereto; but expenses incurred by either party in the preparation and prosecution of its case shall be defrayed by it individually.

ARTICLE XVII.

Whenever disputes arise the nations involved shall appoint courts of arbitration in accordance with the provisions of the preceding articles. Only by the mutual and free consent of all such nations may those provisions be disregarded and courts of arbitration appointed under different arrangements.

ARTICLE XVIII.

This treaty shall remain in force for twenty years from the date of the exchange of ratifications. After the expiration of that period, it shall continue in operation until one of the contracting parties shall have notified all the others of its desire to terminate it. In the event of such notice the treaty shall continue obligatory upon the party giving it for one year thereafter, but the withdrawal of one or more nations shall not invalidate the treaty with respect to the other nations concerned.

Article XIX.

This treaty shall be ratified by all the nations approving it according to their respective constitutional methods; and the ratifications shall be exchanged in the city of Washington on or before the 1st day of May, A. D. 1891.

Any other nation may accept this treaty and become a party thereto by signing a copy thereof and depositing the same with the Government of the United States; whereupon the said Government shall communicate this fact to the other contracting parties.

In testimony whereof the undersigned plenipotentiaries have hereunto affixed their signatures and seals.

Done in the city of Washington, in copies in English, Spanish, and Portuguese, on this day of the month of , one thousand eight hundred and ninety.

RECOMMENDATION TO EUROPEAN POWERS.

SESSION OF JANUARY 20, 1890.

FIRST VICE-PRESIDENT. The Secretary will read the resolution which has been sent to the President's desk by the honorable delegate from Venezuela (Mr. Bolet Peraza).

The preamble and resolution were read as follows:

The International American Conference, pursuant to the provisions of the eighth section of the inviting act of the Government of the United States, which is as follows: "8th, and to consider such subjects relating to the welfare of the several States as may be presented by any of said States," resolves to adhere, as it does, to the sentiments and good wishes expressed by the President of the United States in his message of December 3 of last year regarding the controversy on the subject of the two Guianas, now pending between the Republic of Venezuela and Great Britain, and hopes that the earnest desire expressed by the Government of the United States that the said question may be amicably settled upon the basis of the historical titles of the respective parties, will incite it to exert effectively its great influence to the end of inducing Great Britain to look with favor on and accept the recourse to arbitration which has been proposed by Venezuela, thus preventing an appeal to violence, the results of which are apprehended with alarm by the Conference, whose prime object is to preserve the peace, the rights, and the interests of America.

ADDRESS OF MR. BOLET PERAZA.

Mr. President: I have offered this draft of a resolution with the idea of securing from my colleagues their assent to its being taken up at once, not relying upon that

article of the rules which assigns urgency to certain questions, but upon the most urgent and weighty nature of the subject-matter of the resolution.

The controversy which gave rise to this resolution has reached its most critical point. Venezuela now witnesses with amazement the invasion of her territory by agents of Great Britain. The governor of the English colony at Demarara has just declared Barima a British port. This territory, honorable colleagues, which at the present time and by an act of violence flies the flag of Great Britain, is situated at the very mouth of the Orinoco; that is to say, at the great entrance leading to the heart and the uttermost parts of South America, an entrance confided by nature to the guardianship of the Venezuelans.

The Orinoco is the artery of the continent by which the riparian Republics of the Amazon and the Plata may be reached. Venezuela, then, sees herself despoiled not only of a portion of territory which she considers hers, but also of a locality confided by nature and circumstances to her custody as the guardian to the commerce, the sovereignty, and all the rights and interests of her sister nations.

I do not wish to tire the Conference by rehearsing the voluminous record Venezuela has made with the steps taken to maintain her rights in this controversy of half a century. This would be prolix, and might appear inopportune, since neither the rights of Venezuela nor those of Great Britain are within the purview of the Conference. I do not pretend that this body shall constitute itself into a court of arbitration. I merely desire to a vote in sympathy with the doctrine laid down by modern civilization, and by which the nations are already governed, when, as in the present case, controversies arise touching properties and rights, and they wish to settle them without the disastrous incidents of war.

If the controversy were not between a sister Republic and a European power, but were between two far-off nations in a foreign continent, it would also lie within the province and the spirit of this Conference to express sympathy with an appeal to the resources of peace and

conciliation. And if the Conference could do this respecting nations with which the Republics here represented have no connection, with how much more reason can it appeal to that recourse when treating of a sister nation having a voice here, for the purpose of assuring her prosperity, her peace, her interests, her sovereignty, trusting in the unifying force of fraternity? Venezuela does not bring her titles here, neither does she state that Great Britain's titles are not valid. Venezuela will do this (the right she has to be considered a civilized nation having been recognized) when she be given a hearing in a court of peace to defend them.

For the present all that Venezuela has stated regarding her rights, is that she considers them so legitimate and indisputable that she does not fear the decision of any judge. What she does fear is that force shall decide, and the arbitrament of war render judgment. Venezuela, then, has placed herself in the position of one of those mothers who figure in the famous judgment of Solomon. Easy it was upon that occasion to decide which of the two mothers claiming the same son was the rightful one. One wished the steel to decide and the blood to flow, whereas the other condemned such a course. Venezuela does not wish that in her dispute blood shall flow nor steel decide. She appeals to the reason of the people and the conscience of nations.

I cannot forbear, although it be only superficially, rehearsing the steps Venezuela has been taking to settle her controversy with Great Britain, for it is precisely in the manner in which Venezuela has gone on trying all the legal recourses in the field of peace and amity, that she to-day builds her hope to be heard as a reasonable and discreet nation.

By the treaty of 1845, made, after her independence, with Spain, Venezuela acquired jurisdiction over all that formerly constituted the Captaincy-general of the same name. Spain recognized in the Dutch, in 1648, the right to a part of Guiana, and the Dutch, in turn, transferred those rights to Great Britain by a treaty concluded in London, and by which the colonies of Esequibo, Dem-

erara, and Berbice became British territory. Behold, then, the right of Great Britain! Its only title to Guianan territory is that derived from the Dutch cession, recognized by Spain.

Those boundary lines, like the greater part of those designating the different possessions of Spain in America, were left in some places not very well defined, the several countries having to resort to examinations of archives and other means of enlightenment. As something of this kind might occur regarding some part of the boundaries of both Guianas, Venezuela proposed to Great Britain the determination of its exact extent by means of a conscientious examination of title, which was accepted by Great Britain, both countries agreeing not to occupy a certain territory in dispute until its rightful owner should have been declared. This was the state of things when, about the year 1841, Engineer Schomburg, English Commissioner, began to lay out lines and establish landmarks over all the disputed territory. Venezuela, alarmed, protested, against that arbitary demarkation. Great Britain satisfied Venezula by assuring her that those landmarks had not been located as indications of ownership, but simply as guides in an engineering exploration preliminary to a later determination of the boundaries.

In 1850 the news was given out in Venezuela that Great Britain claimed the right to occupy the territory referred to. Venezuela demanded explanation of the rumors from the representative of Great Britain in Caracas, and the representative of Great Britain emphatically declared that neither in that case nor in any other would his country occupy territory the claims to which had, by mutual agreement, been made subject to future determination. Venezuela, finding that at every step, founded or unfounded rumors of invasion were current, wished to terminate the matter definitely, and consequently several propositions passed between Great Britain and Venezuela. Finally, in the year 1883, Venezuela succeeded in reaching an understanding, during the ministry of Lord Granville, it being agreed that Great Britain bound itself to refer to arbitration the question of boundaries. That

memorandum of agreement was reduced to writing, as binding on both nations. But at that time there came about a change of ministry in Great Britain, and the successor of Lord Granville considered himself as not bound by the agreement of his predecessor, adding that Great Britain did not recognize controversies on the subject of boundaries as among those that could be submitted to the award of arbitrators.

In the first place Great Britain forgot that on three occasions she herself had resorted to arbitration in controversies with the United States regarding territory in America, with the further circumstance that on the third occasion, touching the Haro channel, Great Britain was not content with looking to arbitration, but urged six times that it be resorted to; and eventually obtained it of the United States. These three cases appear to have been forgotten by the British minister when he denied to Venezuela the recourse that nation had solicited. Besides this contradiction there is another, more glaring, to note here, for I must state that Venezuela desires to claim the close attention of the civilized world in this struggle for its rights. Weak nation as it is in comparison to its adversary, but tenacious as to the greatest of the privileges of its sovereignty and its territorial integrity, it does not wish to surrender. It will not submit to the unreasonableness of force without raising with all the energy of its dignity a protest founded on its rights, and without first appealing to the sympathy of all who love justice and see with horror the odious success of the strong. The contradiction to which I refer is that exhibited in the action of the successor of Lord Granville when he denied resort to arbitration to Venezuela upon the Guianan boundary controversy, and at the very time agreed to submit to arbitration pending boundary questions with Germany and Russia.

Venezuela was astonished that there should be laid down a kind of doctrine which conceded to powerful nations what was denied to weak ones, and expressed herself accordingly, appealing to the general principles of equity and the consistency of governments in carrying out their

compacts. Venezuela obtained no satisfaction from her complaints; neither did she get any explanation. The result was that that line, which it was said was traced by Engineer Schumbourg as a mere exploration landmark, was occupied by Great Britain. And finally, as demonstrated by the telegram from my Government, which I could show my colleagues, the governor of the colony of Demerara has taken possession, by his own act and authority, of the port of Barima, at the mouth of the Orinoco, and has declared it a British port.

I ask, in this situation, what should a nation, cognizant of its comparative weakness, do? Venezuela has appealed to the conscience of the countries, resorting to the means which modern law has provided to prevent force being substituted for reason.

Venezuela does not ask this body of her sister States to recognize the validity of her title nor to examine the record of her claims, and so far as I am concerned I beg the Conference to consider my remarks only as an illustration of the tendencies, ever peaceable and friendly, of my country. Venezuela does not seek a judgment, but a humanitarian and civilized mediation. Mediation, as we all must very well know, was a Christian mission before it was a function of nations.

Venezuela has not improvised arguments nor set up unusual claims to support its rights in this matter, but has produced the same titles and the same precedents with which several of her sisters in America under similar circumstances supported theirs.

In June, 1881, the Emperor of Austria decided in favor of the jurisdiction of Nicaragua in the matter of the coast of Mosquitia, which was disputed by England. It was an European nation, a nation which on several occasions had combined with England, which, in view of those titles passed to us by Spain when she recognized our sovereignties, decided in favor of Nicaragua.

In June, 1865, Queen Isabella II recognized in Venezuela the proprietorship of the island of Aves, which was disputed by Holland, thus confirming the sovereignty of the Republic through a general title derived from Spain.

In November, 1852, the United States recognized the right of Peru to the Lobos Islands, in controversy between the United States and Great Britain. Peru based her title upon that derived from Spain.

The Argentine Republic founded her title to the Malvine Islands through the same channel, as did Mexico its right to Belize.

I know not the opinion of the Conference regarding the resolution I have just submitted to its consideration. Perchance the idea prevails of referring it to the Committee on the General Welfare of America. But respecting in advance any step this body may see fit to take, I have no doubt that all hearts beat in-keeping with the spirit of the resolution, because it responds to a humanitarian sentiment and one of American fraternity.

The First Vice-President. The Chair seems to glean from the speech of the honorable delegate from Venezuela that he makes the motion that this matter be not referred to a committee.

Mr. Bolet Peraza. If I am to speak frankly, Mr. President, I shall say that were it given me to search the minds of my colleagues and to discover in them the unanimous vote to which my motion aspires, I would ask that it be submitted to an immediate decision, and would leave here for the inter-American Cable Company's office to be communicated to my Government, and through it to the whole world, the glad news that this assembly of sister Republics had appealed to peace and justice in the name of right, of civilization, and of humanity. But I do not wish that my resolution, with which I feel my colleagues are in sympathy, should run any risk because of a question of form, and I prefer that it go to the committee to which it belongs, and in which, as well as in all the other committees, I have perfect confidence.

Mr. TRESCOT. Do I understand or not that the Chair has referred this resolution to the Committee on General Welfare?

The FIRST VICE-PRESIDENT. The Chair remarked that if there were no objection he would so refer it.

Mr. TRESCOT. The question of reference then is not decided?

The FIRST VICE-PRESIDENT. Not decided.

Mr. TRESCOT. I would earnestly ask the gentleman from Venezuela to withdraw these resolutions. I think they are calculated to do a vast amount of mischief. I think there is a mistake on his part. If on the representation of the representative from Venezuela without hearing the other side of the question at all this Congress expresses the opinions he desires us to express, that would exclude ourselves—the whole eighteen nations here represented—from acting as arbitrators if an arbitration should be brought about. That would justify Great Britain in saying: "You have already discussed this question without hearing us and you have already come to a conclusion. We had no opportunity to speak, and therefore you have excluded yourselves from participating in any arbitration of this matter."

Now, I presume that the gentleman from Venezuela would prefer very much that if there be any arbitration it shall include some of the North or Central or South American powers; and I think he is taking a step that would absolutely prevent the interposition of that which would be in his own interest if we would act in conformity to his suggestion.

I am not unfamiliar with the discussion that the gentleman refers to in the controversy between Great

Britain and Venezuela, and I have not the slightest hesitation in expressing my opinion that all my sympathies are with him. I have no doubt that under the power of public opinion Great Britain would be bound to accede to arbitration, but it would not be bound to arbitration if a body like this should express an opinion in advance on an *ex parte* statement. However true the statement may be (and I believe it is true), it is an *ex parte* statement.

We are called together to decide the interests that connect us together, and if we allow ourselves to go beyond those questions and undertake to decide questions which have arisen between the nations of Europe and the countries represented by any of the members of this Conference, we are giving an excuse and a justification to the powers of Europe to say that this is a combination against them, and I think that every gentleman who hears me would agree that that would be a misfortune. With my opinion that this dispute should be decided by arbitration, and my firm conviction that an arbitration would be in favor of Venezuela, I believe that we would be taking a mischievous and unfortunate step if we now took any action whatever on this matter.

Mr. Bolet Peraza. Mr. President: Such a request would have pained me greatly, no matter whence it came. But it has pained me even more intensely, coming from one of the representatives of the United States, since, apart from other reasons, I had framed that resolution, using as a basis the sentiments expressed by the President of this Republic. And it appears to me that the United States have not been compromised with Europe in the slightest degree by

the fact of their President having expressed the good wishes he entertains that this controversy be settled peaceably and amicably. And if the United States do not appear aggressive towards any European nation by the expression of such generous sentiments, why should this body appear antagonistic to and combined against Europe from the fact of adhering to the noble aspirations of the Government of the United States, in the interest, not of Venezuela alone, but in the interest of the abstract principle of the peace and the friendship of nations?

If the action of this Conference in calllng for the peaceable settlement of controversies in which a weak American Republic is involved with a powerful European power is considered a combination, it would be the same as saying that the natural tribunal of European nations is force. And it occurs to me, following the logic of that argument, that if this eminently American assembly refrains from recommending peace in the controversies between the Republics of this continent and European powers, leaving force to do its sanguinary work, this assembly, eminently American, would then appear as a passive combination against the peace and the integrity of America.

On the other hand, if the right of an American Republic to be heard before the tribunals of civilization have no voice here, to whom will it, then, appeal? Is it, perchance, to European powers? And, indeed, when some American Republic has appealed to them, seeking peaceful mediation and just awards, it has not always found the doors closed. Austria, Germany, Russia, France, Italy, Holland, Spain, Belgium, all these nations have received us generously when we

have placed in their hands the decision of our controversies with nations of their own continent. And when they have intervened in our behalf, asking the benefits of the tribunals of peace, they have not, on this account, excluded themselves from being judges in that very controversy, for the mission of a judge is one thing, and the Christian, humanitarian, and civilized mission is another.

Here in this very country there are public societies that have no other object than the condemnation of international wars and the inducing of nations to submit their controversies to arbitration and the other measures with which modern civilization has enriched international laws. The idea would not suggest itself to any one to describe these societies as combinations against Europe. And let us suppose that the American Republics here met together should disqualify themselves from being arbitrators from the mere fact of desiring arbitration, there are not wanting nations, courts, or honorable persons in the world to whom to appeal to act as judges for us.

I am very sorry to be compelled to refute the ideas of a person so eminent in the American forum; but I firmly believe that the honorable delegate from the United States has not understood the true inwardness of my resolution. I have not pretended that this Conference should constitute itself into a court of arbitration, as his remarks would indicate when he suggests that only one of the parties has been heard here and that we have not heard the other. If we were to hear the pleas of both contending parties, then we should be disqualified. All that Venezuela aspires to, through me, is that this assembly of nations

shall say: "This controversy between Venezuela and Great Britain can be settled through the peaceful means provided by international law, and this is what we desire and earnestly recommend." I appeal to the honorable delegate from the United States as a jurist and as an American, and I am sure that he will agree with me that this body does not commit itself against any one by appealing to the peace and harmony of nations.

I think this is the opportune time to make some statements touching my views of the organization and object of this Conference. To some who are short-sighted and whose horizon is restricted, the object of the International American Conference is contracted to commercial results. They see in this meeting of nations only the means whereby an exchange of commodities is sought, the strengthening of purely commercial relations between the Latin-American Republics and the United States. For gain, an object which could be attained through simple commercial treaties, there is no necessity of so many nations meeting with such solemnity. And it can not but claim the attention of those who believe this to be the true object of the Conference, that these nations having markets where they buy things cheaply should come here to agree upon the means of buying things as good but not so cheap. No, honorable delegates, this is not to my mind nor in the judgment of far-seeing men and countries—this is not, I say, their mission, nor is it the principal idea which has brought us together here. To those who judge us thus there is no response in the heart of this continent which is called America. America

holds higher aspirations, loftier hopes, has grander ambitions than the simple interchange of commercial relations.

Two distinct impulses have brought us to this reunion. The United States are not conquest-seeking. They form a peaceful and laborious nation, with an army of only 25,000 men in all their immense territory. They do not wish to imitate other nations, which, in search of new markets, have gone in war-like guise over Africa and over China. The United States aspire to extend their markets through friendly, peaceful, and fraternal means, and in consequence have said to the Republics here represented: "Let us talk, express our ideas, consider our mutual interests, and we shall see that we are bound to understand each other." And the Republics here represented have thought that in reality America is a continent which has in the course of history, in the path of human progress and civilization, a mission to fill—a mission grand and far-reaching, for not momentarily and without cause is America being called the land of the future.

The Republics here represented purchase cheaply in other markets their manufactured articles, their clothing, their commodities. They have with those markets easy and rapid communication, but, on the other hand, some nations that sell to us cheap charge us the difference in the way of territory, and come to our ports with their powerful war-ships, and speak to us through their cannons' mouths to demand of us money in payment of unjust claims and diplomatic indemnities awarded by themselves.

The desire to find liberal neighbors as regards our territorial integrity and sovereign dignity has brought us here, and we are now trying to find a way in which, by providing a larger market for the productions of the United States, these may be made cheaper and be enabled to meet all competition, and the capital of this country, overflowing into ours and developing our natural resources, may place us in a position to buy of them more than they now sell us, and to sell them more than we now sell them.

But this commercial union is based on foundations more enduring, for it is reared upon the sentiments and the amenities of fraternity; and true it is that when one says fraternity, he says love and protection, not *protectorate*, for this word is erased from the vocabulary of independent nations. I refer to protection, so that in cases such as this we may appeal to the love, the sympathies, and the bonds of fraternity. I speak of the mutual protection due by the Republics, which on the same continent should be firmly united, as we, their respective representatives, are amicably and firmly united in this chamber; union and fraternity sincere, which shall carry out the greatest destinies in the advance of civilization.

The idea which is here being elaborated is very great, honorable delegates, is profound. Standing upon these principles we may control the future, if we imbue ourselves with the loftiness of our mission.

Let it not be thought strange, then, that I oppose the withdrawal of this resolution. I wish it to run the fate the Conference may apportion it, and if this assembly of sister Republics drowns it in its negative

vote, then Venezuela will know that it has no one to appeal to, that her sisters have abandoned her, that her own family has turned its back on her, and nothing will remain for her to do but to submit to her fate—dark, mournful, bloody fate—but it will not be the first time she has faced it. And if it be written that once more a weak nation must succumb to the rule of might, Venezuela will deliver over her territory, as high-spirited nations do, bathing it first in the blood of her sons.

FIRST VICE-PRESIDENT. As the honorable delegate from Venezuela does not withdraw the motion, the Chair must insist on its reference to the Committee on General Welfare.

Mr. BOLET PERAZA. I am very glad of that, Mr. President. I do not object to the resolution going to that committee.

FIRST VICE-PRESIDENT. The resolution will be referred to the Committe on General Welfare.

SESSION OF APRIL 18, 1890.

The FIRST VICE-PRESIDENT. The order of the day is the discussion of the report of the Committee on General Welfare.

The Secretary will read it.

The SECRETARY. The report is as follows:

WASHINGTON, *April* 11, 1890.

The International American Conference resolves: That this Conference, having recommended arbitration for the settlement of all disputes among the Republics of America, begs leave to express the wish that all controversies between them and the nations of Europe may be settled in the same friendly manner.

It is further recommended that the Government of each

nation herein represented communicate this wish to all friendly powers.

J. B. HENDERSON.
MANL. QUINTANA.
J. M. HURTADO.
FERNANDO CRUZ.
N. BOLET PERAZA.
J. G. do AMARAL VALENTE.
JUAN FRANCISCO VELARDE.

Mr. BOLET PERAZA. Honorable Representatives of the Republics of America: The resolution which you are about to consider, brief as it is, has ponderous significance, as it is the complement of the great measure which we have just recommended for the peace and concord of our countries. We have mutually promised each other that no more American blood shall be spilled by American hands; that henceforward the continent we inhabit shall comprise only sister nations, held in firm embrace, with but one ambition animating them, that of each striving to distance the others in reaching the acme of civilization and the climax of progress.

But these aspirations and those promises would not suffice to give light to America did we not imbue the other continent with this same feeling of condemnation of war and love of justice which has inspired our resolutions of to-day.

And this is precisely what the resolution before us will bring about, asking in the name of humanity and civilization that disputes into which we are provoked by other countries be not decided by force, which we do not possess, but by reason and justice, which are the standards of those nations that aspire to the respect and love of the other nations of the earth.

The delegate who has the honor to address you at this time, presented, three months since, in the name of Venezuela, a resolution which gave rise to what we are now considering. The form and not the spirit of that measure demanded a modification, and I thus understood it, and I assented, consequently, that it be referred to the Committee on General Welfare, that it might be couched in other terms. The delay it has suffered is because it depended upon the course which the plan of arbitration followed in the committee, for, it being proposed to recommend arbitration for the solution of disputes with foreign nations, our desire would carry more weight after our adoption of that friendly recourse for our domestic difficulties.

Venezuela, then, thanks the honorable committee for having unanimously acceded to its desire, and feels proud to have brought about that resolution, which not only takes in its special case but embraces all those which to-day touch or may concern later her sister Republics of America.

It may be that in some particular case this desire of the Conference may not find an echo in the political conscience of some one of the nations which quarrel for the possession of territory or for other matters which affect our rights; but it matters not. One country does not form the world, however vain it may be, nor does the success of force upholding injustice obtain sanction, and how many examples are to be found in history of victories gained on the field of battle which are so many defeats in the field of universal judgment.

With respect to Venezuela, prepared as she is to

meet the consequences of her resistance to submitting to dishonorable pretensions respecting her sovereignty and territorial integrity, she will appeal first to the sentiments of justice with that document in hand. And if, notwithstanding that vote of sympathy of all America, from the greatest and most powerful to the smallest republic of the continent, she is forced to the extremity of defending herself alone, she will do it resolutely and proudly, and her sons will fight and die for the honor of the country, spreading to the breeze, together with her tricolored flag, that sheet of paper on which is recorded the sympathy of her sisters in America.

Mr. Romero. Mr. President, I think the first part of the report of the committee is very acceptable, since, as the Conference has declared for arbitration, it naturally desires that it extend to all the other nations; but I deem it very inadvisable for this body in its own name to make a recommendation to nations not represented in it. I think the Conference has no standing to address itself to nations not represented here. At the opportune time let each Government approving the plan adopted by this Conference make that recommendation to the other Governments, but in that case it must do so on its own motion and not on that of the Conference. In the report it is proposed that the Governments represented in this body communicate this vote of the Conference to the friendly powers. I think this would be an irregular proceeding, for the reason stated; that is, that the Conference has no standing to make, on its own motion, recommendations to foreign nations.

Mr. Peraza. Mr. President, I have not quite under-

stood the idea of my honorable colleague from Mexico. The idea adopted by the committee appears to me to be fully within the scope of our work and our aspirations, since this is a wish which the representatives of the American nations, in this Conference assembled, express in favor of peace and the amicable solution of controversies arising between these countries and those of Europe. What more natural, then, than to recommend to our Governments that the expression of this sentiment be communicated to the European nations, that they may know of this resolution which also concerns them? In other words, our Governments will say to the nations of Europe that this matter has been recommended in the Conference, in order that, should these controversies arise between the Republics of America and the nations of Europe, they may know that there has been a vote of these countries, in Conference assembled, for those controversies to be decided through the friendly means of arbitration.

I see no objection to this proceeding; we do not exact it; we do not command it; we recommend and request it, for we have the right so to do with our respective Governments, since it is to the benefit of our Republics, our rights, and universal peace. Consequently I support that part of the report as it stands, unless the honorable delegate from Mexico succeeds in persuading me that we have no right to recommend any thing to any body.

Mr. Romero. I am sorry to have to ask the honorable delegate to be good enough to pardon me for not having heard his remarks well, at the moment a gentleman from the United States was speaking to

me, and I did not fully grasp what he stated. I have barely been able to hear the English version he made of his remarks, which I think was more succint. I glean from it that I did not explain myself sufficiently, for I did not intend to say that the Conference did not have the right to approve this recommendation, but the reverse. Neither do I consider inadvisable the idea entertained by the committee upon suggesting in its report that the Governments be recommended to follow that idea; I simply oppose the form of this second paragraph.

As I understand it, the recommendation should not be made in the sense of saying to the European nations that the Conference has resolved to recommend that difficulties arising with the countries of this continent shall be settled peacefully, because this body has no personality enabling it, in its own name, to make such recommendation.

The honorable chairman of the Committee on General Welfare came to speak to me, and for that reason I did not hear the honorable delegate from Venezuela well; but to the mind of that honorble delegate the wish of the Conference should not be communicated to the European nations. If this is so, I have no objection to the report; but from the Spanish text it can be deduced that that wish is to be communicated, for the report says as follows:

> Que habiendo recomendado esta Conferencia el arbitrage para la decisión de todas las disputas entre las repúblicas de América, se permite expresar el deseo de que todas las controversias entre ellas y las naciones de Europa sean decididas por el mismo amistoso medio.

To my mind another wording should be adopted,

for example, that which I began to write and which says:

The Conference further recommends that the respective Governments of the nations therein represented address themselves to the European powers with whom they have friendly relations, informing them that this Conference having adopted arbitration, would desire that differences existing between them and European nations should be settled in the same way.

I think this wording is preferable; but from the terms in which it appears in the report, it is deduced that this decision has to be communicated to the European nations. That is to say, that if the report is adopted as it stands, the United States, for instance, would have to say to the European nations that the International American Conference approved on such a date a resolution of the following tenor, and that pursuant thereto they begged England, France, Germany, etc., to settle in this way the existing controversies with the Republics of America.

As can be seen, it is a question of form. I do not doubt the right of the Conference to make recommendations, but I think it is irregular for it to refer to a foreign power not having representation here, and with respect to which the Conference has no standing to make recommendations.

Mr. Bolet Peraza. It is very difficult to discuss this matter when one's thoughts have not been reduced to writing. While the honorable delegate from Mexico does it, as I believe he is doing, I shall take the liberty to clear up an obscured point.

The Spanish text says:

La Conferencia Internacional Americana recomenda ademas que los respectivos Gobiernos de las Naciones en

ella representadas, comuniquen este voto á todas las potencias amigas.

It is possible that it has been understood that the word "voto" signifies an action, resolution, or something similar. The committee did not employ it except as the equivalent of the word "deseo" (desire, wish), for this is in reality what it means in Spanish, that is to say, "voto de simpatia" (vote of sympathy), "voto de convuseración" (vote of condolence), the sentiments which are expressed; but if, perchance, the difficulty be in the word "voto," we could change it and insert that which will be more similar to the English text which says "wish."

On the other hand, I find no difficulty, no embarrassment in our Governments communicating this wish in favor of peace and humanity. Does this assembly by this act constitute itself into a power? What does it command? What does it order? It does nothing but feel, it does nothing but express the wish that the differences which exist, or may arise, between the Republics of America and the European nations may have a peaceful and friendly solution. What act of power is exercised by this? I do not discover it.

If the honorable delegate from Mexico has concluded the drafting of his proposition, I should be greatly pleased to hear it. I already feel a desire to be able to agree to his idea if it were in consonance with what the committee seeks.

Mr. Guzman. I do not find in the resolution the objection pointed out by Mr. Romero, and I am disposed to support it; but to my mind there is another objection which is that this resolution is futile. If I

mistake not, the European nations have not decided upon arbitration for the settlement of disputes amongst themselves, and if these nations, powerful all, do not decide to resort to arbitration as a means to settle their difficulties, it is not to be expected that they would wish to resort to this measure with us, that is with the Spanish-American countries. I do not wish to say that justice and integrity are unknown, but what I do assert is that a resolution of this kind is waste paper.

The Nicaraguan delegation will gladly vote in favor of this plan, but not because it believes it will lead to anything practical. This is my opinion, although I support the resolution.

Mr. PRICE. Gentlemen, I will vote for this proposition as it is, and I will vote because I believe, in contradistinction to the idea of the honorable delegate from Nicaragua (Mr. Guzman), that it will be effective. The plan of arbitration which has been discussed amongst us is intended to be one step forward in the way of civilization, in the way of bringing mankind into unity, into fraternity. We have voted for that plan with perfect confidence as to its propriety and usefulness in the development of civilization in the shape of peace between the nations represented here. We also have relations with other civilized nations in the world, and therefore we have some interest in keeping fraternal bonds with those nations. European nations have not indeed accepted for themselves a plan of arbitration, but we have the example of a case of arbitration in a very important matter between the largest nations in Europe. Therefore, we can not say that the plan in itself is rejected by

Europe. This is simply a declaration in favor of a principle of humanity, of civilization, and it must be useful, in my mind, for us to make that declaration. For that reason I shall vote for this proposition with the hope that it will be of some use in the future.

Mr. BOLET PERAZA. I extend the most cordial thanks to my esteemed colleague, the honorable delegate from Nicaragua, for his promise, which I receive with pleasure, to vote for the plan as it is, and in the name of Venezuela, which with my colleague I represent. I thank him still more warmly for that vote, for which my country so sighs, to such an extent, indeed, that it has gone to the extreme of asking it of every Government, as alms are begged from door to door, saying: "Help me; give me your moral support; it is all I ask." It may be that what the honorable colleague from Nicaragua foresees may be true; that is, that the recommendation may be futile. But since when have humanity, corporations, philanthropic societies, or any class of human groups, when asking or invoking the principles of morality, humanitarian and civilizing principles succeeded in obtaining a favorable result? No, these acts are manifestations of the heart, outbreaks of sympathy, purposes to see realized in the world the principle for which we are laboring.

Not with the deceptive belief that what is done is useless, but full of hope, as the soul should always be that is convinced that what is proposed is rational and just, are you invited to give this vote of sympathy; if it have no effect it will not be to the detriment of this body, but to the shame and opprobrium of

those who rise to say we have not that right as men and representatives of civilized communities.

Mr. Romero. Do you refer to me?

Mr. Bolet Peraza. No, sir; I speak of those countries which do not wish to listen to us, for whom this is a blank sheet, and I refer to the idea that they might reject it as useless. I say the opprobrium will rest upon those nations, and the honor will belong to this Conference of fraternal countries.

The same argument might be made, Mr. President, regarding the plan of arbitration we have adopted between the American countries. What is the sanc tion we have given to that plan as a matter of fact? None. The nation that wishes to withdraw tomorrow from this agreement can do so, and the others can not oblige it to carry it out. It is simply a moral obligation, it is that force which is greater than the cannon or the sword; it is that moral obligation which is stronger than all between the communities that call themselves civilized.

Very well, that moral force is what is coming from this; that moral force is what Venezuela has asked of its sister States; that moral force is what the Committee on General Welfare has had in view to invoke, not in favor of a special case, but in favor of all the countries here assembled and represented, in the event of their disputes with nations stronger than they. That the European nations have not adopted arbitration between themselves has just been very clearly explained by my honorable colleague from Hayti, saying that this proceeding is not unknown to European nations. They have accepted and proposed it to our American Republics more than once.

Is it, perchance, proposed to them that the settlement of those controversies shall be brought about by improvised means, by means springing from us alone? No, sir; from Europe, from the Old World, has the idea of arbitration come to us, and from here we send it back magnified, ennobled, desiring that it adopt it for all those questions upon which we may differ with Europe. What better return can we give that Old World that has nourished us with its ideas than to accept its humanitarian measures, and accept them to the end that they may be applied to all the controversies we may have with it?

I, Mr. President, do believe that this simple paper, these few words, will be useful and bear fruit. I am not Utopian; I am a man who believes in the actions of generous hearts, who believes in the action of moral principles, in which human civilization is bound, and if it may fail in one case, perhaps in another it may succeed, and if it fail in all, as I have said before, this resolution will have served a purpose, for this assembly of American Republics will appear before history with this glorious page of its aspirations.

Even though this be the only result, even though this be the only diadem with which this body should crown itself, this paper will always be useful to humanity.

Mr. GUZMAN. I rise to make a slight correction.

When I said that to my mind the resolution would bring no practical results, I did not deny that there may have been cases of arbitration between the nations of America and Europe; they are well known, and I have recollections of them; notwithstanding

this, I think this resolution is not going to aid us in the least to obtain what is desired.

I understand very well that Venezuela, whose representative has so brilliantly expressed himself, should hold these sentiments, and I would wish, as the representative of Nicaragua, that the difficulties in which that sister Republic is to-day placed might be settled by means of arbitration.

Regarding what was said by my honorable colleague from Hayti, who cited the case of arbitration between England and the United States, that is a different matter. With the United States there will be arbitration. When you have 60,000,000 of inhabitants; when you can make heavy guns and can count on eighty odd millions in the Treasury, then they want arbitration with such a nation, because they are formidable antagonists. And if the same could be said of the other nations of America, arbitration would be already accepted without the necessity of recommendations, because it would have been established by cannons.

Mr. CARNEGIE. Mr. Chairman, may I be permitted to thank the honorable delegate from Hayti (Mr. Price) and the honorable delegate from Venezuela (Mr. Peraza) for the words which they have spoken? May I also be permitted to express my entire disagreement with the honorable delegate from Nicaragua? When the American nations have signed an agreement to arbitrate their differences on this continent, and when they ask European nations that they shall not bring the brand of war upon this continent, I would like to know where the weak American nation is. I believe that the strongest power in Europe

will think once, think twice, think three times, if it has a dispute with the smallest nation upon this continent, before it rejects the arbitration which all the nations of this continent have agreed to have among themselves. I go farther than that. I say that the statesman of the nation that thinks there is a weak nation upon this continent when that nation offers arbitration will wake up to one of the greatest mistakes that ever a nation made in the world. The man from Europe who brings the brand of war upon this continent upon any question upon which the aggrieved American nation has offered arbitration plays with fire. There is a public sentiment in this nation deeper than any law which has yet expressed it, deeper than this resolution, and that is not to be trifled with. I hope the resolution will be adopted.

Mr. Bolet Peraza. I hope to dispel the doubts of my estimable colleague from Nicaragua, for I do not wish him to cast a vote on this question simply because it comes within the rules, but that he should cast it with all his heart, inspired by the hope I entertain and which animates the committee that this "yes" of beautiful and generous Nicaragua may have moral weight in the purpose which here moves us.

When we thought of recommending arbitration, when we entertained the desire that it be resorted to in our disputes with European countries, we have not thought whether we have 60,000,000 of inhabitants, or arsenals, or gun and mitrailleuse foundries; we have remembered only that we are civilized countries. Whatever the size of nations, whatever their resources, above their weakness rises the irresistible force of the conviction that war, accompanied by injustice and

might, is still more odious. Had we 60,000,000 of inhabitants perhaps we should not be so persistent in demanding arbitration of Europe; perhaps we should become infected with that egotistical feeling which causes European nations to rely solely upon force and not to appeal to civilizing and humanitarian measures.

As regards Venezuela, Mr. President, she has not 60,000,000 of inhabitants, she has neither cannons nor mitrailleuses, but she has a force greater than all this, and it is to know how to improvise her resources, snatching them from her enemies, and to uphold her liberty and her independence, as she has done, not for herself, but for the rest of the American continent.

I shall here take the liberty to read the remarks of the President of the Senate of my country at the time of administering the oath of office to the new President of the Republic.

There is pending in the proper department the most important subject of the British usurpation in our loved territory. Be prepared, then, under the authority to be conferred upon you by the sovereign Congress, to consecrate all the strength of your patriotism to prevent by just and legal means the consummation of the attempt with impunity. And if England has two policies in her dealings with other nations, one showing herself respectful to the rights of the strong, and the other to violate, because of her strength, the territorial integrity of the weak, let us prove once more in the face of the universe that we are still fully able to perform prodigies, and that our indomitable spirit has lost naught, absolutely naught, of that heroic fiber with which it tied victory to its chariot on the immortal fields of Carabobo and Boayacá. Little matters it that we are left alone in the hour of supreme peril even by those who should run with us the same risk were it only in defense of their own interests. Let us struggle alone with the miserable usurper to dispute hand to hand

one atom, though it be, of our most sacred soil, inestimable legacy of our liberators, and whose bosom holds, together with its venerated relics, living proofs of our glorious traditions; and if at the end of the sacrifice there should come to us the melancholy fate of unhappy Poland, let it come as it will, but never, never until the last of the Venezuelans shall have fallen covered with most honorable wounds and enveloped, to die happy, like Girardot on the Olympian heights of Barbula, in the glorious standard of the Republic.

Venezuela does not fly the provocation; should it culminate, little cares she; she would disappear as did Memantia. What she does not wish at this time when peaceful measures are recommended for the solution of all these differences, is to enter into a sanguinary struggle and one disastrous to herself, without first having exhausted the means which those measures look to. For this reason she has gone as I have said, Mr. President, from door to door of the Governments of her sister Republics, asking their aid, not of armies, not of cannons, not of blood, not of gold; their sympathetic aid, for the cause is not hers alone, but of the whole continent, because of the interests endangered by the presence of a European power at the mouth of the Orinoco, whence a merchant or naval flotilla can enter up to the mouth of the Plata. And as these material interests are angered by this invasion, that offense, that blow in the face of one of our Republics should be an insult to all, or it is a lie that we are brothers.

Mr. Guzman. I beg the pardon of the Conference. I desire to make an explanation.

Probably I did not express myself clearly enough, for I believe I have not been well understood by my honorable colleague, Mr. Carnegie.

It has never entered my mind to oppose, either the resolution offered to-day, and which I shall enthusiastically vote for, if necessary, or the scheme of arbitration; what I have said is very different. I have stated that upon voting for this resolution, which I accept with enthusiasm, I do not flatter myself that it will lead to the result in the future of having the disputes arising between Europe and America settled by arbitration. Perhaps I am a pessimist in this, but that should be laid to the fact that the history of America has made us pessimists.

As regards what has just been said by my honorable colleague, Mr. Bolet Peraza, I can say that if my country were to see itself threatened to-morrow by a foreign nation, I would prefer an armed squadron to all the moral principles in the world to defend it. It may be that I rely much on force, and I would like to believe more in right; but I appeal to history and I think she will not contradict me.

As regards the utterances of the Hon. Mr. Carnegie, I must say I have experienced the most lively satisfaction upon hearing a representative of the United States express himself as he did, and I am sure that in all the nations of America his words will be read with veritable interest and satisfaction.

Mr. ALFONSO. The resolution under discussion commences as follows:

> The International American Conference resolves: That this Conference having recommended arbitration for the settlement of all disputes among the Republics of America, begs leave to express the wish, etc.

As will be seen, this resolution is based upon that which the Conference has just approved, with the ex-

plicit and absolute abstention of the Chilian delegation for the reasons it had the honor to advance. Consequently, without falling into an obvious inconsistency the Chilian delegation can not accept the report as it is now worded. Therefore, it has the honor to state this and ask that it be spread thus upon the minutes, reserving to itself the right to recommend to its Government that the recommendation be carried out in the manner it considers most advisable.

At this time it abstains from taking part in the discussion and vote on this subject.

Mr. HURTADO. I shall be brief because it is important to economize time.

The words uttered by the Hon. Mr. Alfonso are logical. It is beyond doubt that as the resolution is founded on the recommendation which the Conference made for arbitration for all the Republics of America, Chili can not be included among those making that recommendation; but if a nation as important as is Chili should accept a recommendation of this kind it is beyond doubt that it would be of great weight. And therefore I take the liberty to ask the Hon. Mr. Alfonso, if instead of saying that the International Conference had recommended arbitration, it should say that this Conference having had the idea of resorting to arbitration, would the honorable delegate have objection to particpating in the discussion and vote?

I say this because I have not understood that the Republic of Chili entirely rejects the idea of arbitration, but that it does not wish to enter into a compact which makes it extend to and obligatory upon all.

If this be so, I would amend the resolution as ex-

pressed principally, I repeat, with the object of overcoming the opposition of the delegates from Chili.

If this will remove the difficulties, I will offer that amendment; if not, so as not to prolong the debate, I shall refrain from doing it if the desired result will not be reached.

Mr. ALFONSO. I concluded, Mr. President, by saying that in the name of my Government the Chilian delegation reserved the right of communicating this decision to it, not departing in the slightest from the idea of the resolution. Therefore, if the Chilian delegation has refrained from voting it has not been for the purpose of rejecting it, but with the reservation it makes to recommend arbitration as it thinks best.

Mr. ROMERO. I am very sorry that the remark I made concerning the report upon a point which is really one of form and which is not of great importance, should have prolonged the debate.

I have formulated a modification to the second paragraph of the report, but it will probably not be accepted by the committee, for I have talked with two of its members, and the sense in which they have expressed themselves leads me to believe they will not accept it, and as I do not wish to delay the vote on this subject, I prefer not to present it to the Chair. I shall simply read it to the Conference, that it may understand it. It says:

> It is further recommended that the Government of each nation herein represented (up to this point I follow the report) make known to the European nations with whom they have friendly relations, etc.

As can be seen, this does not change the substance of the article, but neither the president of the com-

mittee nor any other member of it who has taken the floor accepts it, and as my purpose is not to embarrass the debate I do not wish to offer it.

However, before concluding I shall state that another difficulty occurs to me on a question of form also, but which may be, perhaps, more serious.

The second paragraph presupposes the recommendation already approved by the Governments, for it says:

> It is further recommended that the Government of each nation herein represented communicate this wish to all friendly powers.

It is evident that if any nation here represented has not approved by its delegation the resolution formed it can not communicate this wish to the European Governments. For this reason I think it would be very advisable to put it that they communicate this wish to friendly powers in case they in their turn approve this plan.

Mr. HURTADO. I move that this report be recommitted to the committee that it may study it anew and report to-day at 3 o'clock.

Mr. BOLET PERAZA. I am opposed, Mr. President, to any such proceedings.

The FIRST VICE-PRESIDENT. The Chair understands that the honorable delegate from Colombia has made a motion, and begs he will be good enough to repeat it.

Mr. HURTADO. Mr. President, the motion I made orally was that this matter be recommitted to the committee, with instructions to report to-day at 3 o'clock, and I made it because I believe that it is easy in this way to come to an agreement and to present a resolution which shall not seem objectionable to

any country; but the honorable delegate from Venezuela has just expressed himself in terms diametrically opposed to this motion, and as I do not wish in the slightest degree to oppose the ideas of that delegation, I do not insist on my motion.

The First Vice-President. The honorable delegate from Colombia having withdrawn his motion, the vote will be taken upon the report if no delegate desires the floor.

The roll was called with the result following:

Affirmative, 15.

Hayti.	Bolivia.	Costa Rica.
Peru.	Venezuela.	Brazil.
Colombia.	Ecuador.	Mexico.
Paraguay.	Nicaragua.	United States.
Honduras.	Guatemala.	Salvador.

When the Argentine Republic was called Mr. Quintana said:

As a whole, yes; but I have noticed that there is a word which should be stricken out.

Chili abstained from voting.

The First Vice-President. The report is adopted unanimously as a whole, with the exception of the honorable delegate from Chili. The discussion of the first paragraph of the report is in order.

The Secretary reads it as follows:

The International American Conference resolves: That this Conference, having recommended arbitration for the settlement of all disputes among the Republics of America, begs leave to express the wish that all controversies between them and the nations of Europe may be settled in the same friendly manner.

Mr. Quintana. I am not going by any means, Mr. President, to oppose or modify in the slightest degree

the vote which the Argentine delegation has had the honor to cast; I rise merely to say something relative to the exactness of the wording.

The recommendation says:

> That this Conference, having recommended arbitration for the settlement of all disputes among the Republics of America, begs leave to express the wish that all controversies, etc.

As the Conference knows, if it be true that it has recommended arbitration generally, it has expressly excepted all those cases which may endanger the national integrity or independence. Consequently the word "all" should be stricken out of the report. The report bears my signature, but this has been an inadvertence on my part.

Mr. BOLET PERAZA. I will accept the amendment. I think it very proper, but the idea was conceived before the exception alluded to was made, and afterwards care was not taken to erase the word "all" from the text of this report.

The FIRST VICE-PRESIDENT. The Chair understands that the idea of the Hon. Mr. Quintana is approved by the other members of the committee, and therefore the words "todas" in Spanish and "all" in English will be stricken out of the report.

If there be no other honorable delegate desiring the floor the roll will be called.

The roll-call resulted as follows:

AFFIRMATIVE, 16.

Hayti.	United States.	Honduras.
Peru.	Salvador.	Bolivia.
Colombia.	Nicaragua.	Venezuela.
Costa Rica.	Guatemala.	Ecuador.
Brazil.	Argentine.	
Mexico.	Paraguay.	

Chili abstained from voting.

The FIRST VICE-PRESIDENT. The first part of the report is agreed to. The second is in order for discussion, and the Secretary will read it.

The SECRETARY. It is as follows:

It is further recommended that the Government of each nation herein represented communicate this wish to all friendly powers.

The FIRST VICE-PRESIDENT. No one desiring the floor, the vote will be taken on the second part.

The roll-call resulted as before.

Chili abstained from voting.

The FIRST VICE-PRESIDENT. The second part of the report is unanimously approved by the delegations present, excepting Chili, which abstained.

Mr. ANDRADE. Mr. President, the two last acts approved by the Conference are of themselves enough to assure it just fame and enduring glory, if it be true, as the wisdom of all the centuries has professed, that true glory consists in the fame derived from the benefits afforded the human race. They may not signify as yet in the field of facts (and unhappily they do not) the immediate and universal reign of justice and peace among nations, but they are at least the faithful expression of the advance made by law in the dominion of ideas up to the year ninety of the nineteenth century. The history of international law will initiate with them, without doubt, a new era, and will record them not as a reckless leap of impatience or as a capricious flight of fancy, but as a progressive step, regular, in time and in keeping with those preceding, the hind foot being firmly planted

while the other advances, as Dante advised for climbing heights without danger. Because of this firm faith, I grieve that all the friendly arms here united (I grieve with a feeling of profound and sincere Americanism) are not on this day intertwined ascending in unison the glorious heights to whose summit the United States guides us. I had wished that all the nations of the American Ethnarchy represented in this Conference should show themselves to-day before the world under the shield of one law and one justice, and participating in one glory and praise; and I express the wish that this desire may be realized at no very distant day.

THE RECOMMENDATIONS AS ADOPTED.

The International American Conference resolves: That this Conference, having recommended arbitration for the settlement of disputes among the Republics of America, begs leave to express the wish that controversies between them and the nations of Europe may be settled in the same friendly manner.

It is further recommended that the Government of each nation herein represented communicate this wish to all friendly powers.

THE RIGHT OF CONQUEST.

Supplementary Report of the Committee on General Welfare.

Whereas there is in America no territory which can be deemed *res nullius;* and

Whereas, in view of this, a war of conquest of one American nation against another would constitute a clearly unjustifiable act of violence and spoliation; and

Whereas the possibility of aggressions upon national territory would inevitably involve a recourse to the ruinous system of war armaments in time of peace; and

Whereas the Conference feels that it would fall short of the most exalted conception of its mission were it to abstain from embodying its pacific and fraternal sentiments in declarations tending to promote national stability, and guarantee just international relations among the nations of the continent:

Be it therefore resolved by the International American Conference, That it earnestly recommends to the Governments therein represented the adoption of the following declarations:

First. That the principle of conquest shall never hereafter be recognized as admissible under American public law.

Second. That all cessions of territory made subsequent to the present declarations shall be absolutely void if made under threats of war or the presence of an armed force.

Third. Any nation from which such cessions shall have been exacted may always demand that the question of the validity of the cessions so made shall be submitted to arbitration.

Fourth. Any renunciation of the right to have recourse to arbitration shall be null and void whatever the time,

circumstances, and conditions under which such renunciation shall have been made.

MANUEL QUINTANA.
JUAN FRANCISCO VELARDE.
N. BOLET PERAZA.

The delegations from Colombia, Brazil, and Guatemala approve the preamble and the first article or declaration of the resolutions.

J. M. HURTADO.
J. G. DO AMARAL VALENTE.
FERNANDO CRUZ.

DISCUSSION.

SESSION OF APRIL 18 1890.

The PRESIDENT. The supplementary report is before the Conference.

Mr. VARAS. The Chilian delegation, Mr. President, as a consequence of the declaration it has already made in connection with the general plan of arbitration, abstains from entering into the consideration of or taking part in the discussion and vote on this plan.

Mr. HENDERSON. Mr. President, I desire to submit a substitute, agreed upon by the delegates from the United States, for the preamble and resolutions. And simply to show the position of the United States delegation upon this subject, we shall refrain from any discussion unless it becomes absolutely essential. We do not desire to discuss the matter, because we think that the resolution offered as a substitute will itself clearly show the position which we occupy in reference to this question. I have had it translated and it is in both languages:

Whereas, in the opinion of this Conference, wars waged in the spirit of aggression or for the purpose of conquest

should receive the condemnation of the civilized world; therefore,

Resolved, That if any one of the nations signing the treaty of arbitration proposed by the Conference shall wrongfully and in disregard of the provisions of said treaty prosecute war against another party thereto, such nation shall have no right to seize or hold property by way of conquest from its adversary.

The PRESIDENT. The original report and the substitute offered by the delegation from the United States are both before the Conference.

Mr. HENDERSON. Mr. President, in explanation of the resolution, I shall speak briefly, because I shall not participate in any debate that may arise hereafter upon the subject at all. The resolution offered by me is in the nature of a correction. The original resolution as it now stands condemns conquest even as indemnity for defense. It prohibits it even though a nation may be acting purely in defense of its own territory. Under the United States proposition a nation acting purely in its own defense may acquire by indemnity. It will be observed that the second resolution which is now offered by the majority of the committee, provides that all cessions of territory made subsequent to the present declaration shall be absolutely void if made in the presence of an armed force. For instance, if Peru should be attacked and prove victorious, and the other power should convey anything to Peru in the presence of an armed force, the conveyance would be absolutely void. The third proviso disregards the statute of limitations, and even fifty years after the voluntary conveyance is made between nations the whole thing

can be reopened. The fourth provision, Mr. President, upon a close reading, does not touch the question we are discussing at all. It provides that any cession of territory made between any nations shall be null and void, and may be at any time in the future, even though made for a valuable consideration. I do not wish the position of the United States delegation shall be misunderstood in this matter, or that it shall be understood that we are in favor of aggressive wars. We are opposed to aggressive wars, but if a nation is acting in its own defense, and if any nation, voluntarily, for money or other considerations, may wish to give up its territory, I do not see why the Governments should interfere, it being a voluntary conveyance. Therefore, I think the resolution as presented is dangerous. I care not about a vote upon the resolutions we have presented if objected to by the Conference, but we simply offer them to show the position of the United States. I will state that I offered these resolutions and urged them for adoption in the committee, and I reserved the right to myself to offer them as a minority report here. But I concluded that it would be best simply to offer them as the views of the United States upon this subject. I think the other is a very dangerous declaration, and one which the nations themselves would see the fallacy of after adopting it. I offer our resolution as a substitute, but at the same time simply to indicate the position of the United States upon the subject.

The PRESIDENT. The supplementary report is before the Conference. What order will the Conference take? A substitute has been offered by the

honorable delegate from the United States, Mr. Henderson.

Mr. CRUZ. The honorable chairman of the committee did, as a matter of fact, offer in the committee a substitute to the plan formulated by the majority; but the committee understood and understands that the substitute does not respond to the purposes the committee had in view on framing these special declarations.

I shall reply briefly to the principal arguments adduced by the honorable chairman of the committee against the report of the majority.

One of them is, that it does not confine itself to the aggressive nation, but may also include the nation against which an attack is directed and which, as the result of war and as a kind of indemnity, might have to take possession of something belonging to the other.

This case appears impossible if the latter nation remains on the defensive; then no territory can be taken from it. But if that nation after on the defensive assumes the aggressive, in that case it no longer exercises the right of defense, but commits an act of aggression and violence, and falls within the provisions of the article. At all events, the object of the committee has been that, if, as a consequence of war, some indemnities are indispensable, these should be freely agreed upon and not made under the menace of an army.

This is what is established in the other several articles; it is not established as a general principle that no cession of territory between the nations shall be valid. Two nations may cede or agree to a cession of territory for a price or for anything else, and the

committee does not say that that cession shall be void and of non-effect. It says that cessions made during war, under the pressure of force, shall be absolutely void, and in this case there can be no limitation because the title is vitiated *ab initio.*

As to the prohibiting of a renunciation of a right, the reason for prescribing this is, that if the renunciation of the right to have recourse to arbitration were allowed, the nation which has triumphed, may, by the same force, compel the other to make a cession, and compel it in that same cession to renounce the right of having recourse to arbitration. For the very purpose of shielding it, and to not leave any means whereby the principle of conquest could be applied, the committee has framed its report in the terms already known.

Mr. HENDERSON. Mr. President, it is substantially agreed by the delegates from the United States that as the pending resolution which we have presented expresses our views upon this subject, indicating and conveying to the minds of the Conference what we think about this subject, connected with the explanatory remark that I have made, we shall not insist upon being put to a vote.

Mr. HURTADO. I am glad the honorable delegation will not insist upon having this resolution presented as a substitute to the supplementary report of the Committee on General Welfare and voted upon, for it seems to me that they touch upon two quite different subjects. The supplementary report of the Committee on General Welfare is based upon the fact that there are no territories unoccupied or vacant on this continent, and so far the delegation from Colombia

has agreed with this supplementary report. There are no vacant territories, there are none which are not under some nation or other; hence, such conquests are no longer allowable, but the substitute is a resolution that will attend the violation of the treaty of arbitration, and so far it is a very desirable proposition.

Mr. ZEGARRA. Mr. President: Honorable Delegates: When the delegation of Peru gave its vote in favor of the general scheme of the plan of arbitration formulated by the Committee on General Welfare, it expressed with all clearness what was the scope of its vote. I recalled, in that connection, the principles of international American law submitted and sustained by the delegations of the Argentine Republic and the United States of Brazil as long ago as the 15th of last January, and I stated that, like them, I also considered those principles as an inseparable corollary of the plan of arbitration, destined to banish forever armed contests among the republics of the new continent.

The report now under discussion supplements those principles, the committee having thought it advisable, as it appears, to separate them from the report on arbitration, and to include them in a special report submitted to the consideration of the honorable Conference. This has not, however, wiped out the necessary connection existing between the stipulations that are to govern arbitration and the general principles which are to guarantee and invigorate it.

This connection so correctly and justly recognized from the beginning by our honorable colleagues from Brazil and the Argentine, has also been now recognized, judging from the words we have heard, by the

honorable delegate from Chili and the honorable delegate from Colombia. The former has declared that, having abstained from discussing and voting on the plan of arbitration, he abstains also from discussing and voting on the plan which condemns conquest, because they are both to his mind intimately connected; and the latter, in turn, has not been able to forego constant reference to arbitration in considering the principles contained in the report at present under discussion.

It was not the delegate from Peru who had the honor to present these principles to the Conference. They appeared over the signatures of the representatives of two of the most powerful nations of South America; but now that the hour to consider them has arrived, I accept them in a formal manner, declaring at the same time that just as much as my honorable colleagues I believe those principles to be indispensable to the preservation of peace, the consolidation of veritable fraternity, the maintenance of a good understanding, and the bringing about of confidence and permanent good feeling among the American Republics.

The reception accorded here to those principles could not have been more significant, as they were initiated by the representatives of two American nations, strong and happy, in the full enjoyment of an unrestricted prosperity, on a broad and untrammeled path, the route of their future progress open to their forceful tread, and with a past devoid of accidents or misfortunes sufficient to obscure their judgment or distort their views.

I accept, then, as a whole, the plan under discus-

sion, which tends to sanction the general principles proposed by the honorable delegates from Brazil and the Argentine. I shall also give an affirmative vote on the several articles composing that plan, for I consider that in them are to be found those principles just as they were formulated by those honorable delegates in the second, sixth, seventh, and eighth articles of their plan, submitted at the session of the 15th of January last in the form in which it appears in the minutes of that day.

This is the sense I attribute to the report, and in this sense must my vote of acceptance be understood.

I should also declare once more that, together with my honorable colleagues from Brazil and the Argentine Republic, with the honorable delegate from Colombia and the honorable delegate from Chili, I also consider this plan as a necessary and inseparable complement of that which deals with arbitration. Both, therefore, will be comprised in one and the same recommendation when the time shall arrive to communicate to my Government the decisions reached by this honorable Conference.

I ask that my remarks be spread upon the minutes.

The PRESIDENT. The supplementary report is before the Conference. Is the Conference ready for the question? If the Conference is ready for the question the Chair will order the roll-call. The vote will be taken under each head separately, first upon the whole. The honorable delegate from the United States does not demand a vote upon his amendment. As many as are in favor of the supplementary report of the Committee on General Welfare as a whole will

as the roll is called answer affirmatively; those opposed, in the negative.

The roll-call resulted in the adoption of the report as a whole by a vote of 15 to 1.

AFFIRMATIVE, 15.

Hayti.	Argentine.	Mexico.
Nicaragua.	Costa Rica.	Bolivia.
Peru.	Paraguay.	Venezuela.
Guatemala.	Brazil.	Salvador.
Colombia.	Honduras.	Ecuador.

The United States voted in the negative and Chili abstained.

Mr. CARNEGIE. Mr. President, I would like to ask the committee a question in regard to clause 2d. I will read clause 2d:

That all cessions of territory made subsequent to the present declaration shall be absolutely void if made under threats of war or in the presence of an armed force.

That is clear, but in the English version the 3d section reads:

Any nation from which such cessions shall have been exacted may always demand that the question of the validity of the cessions so made shall be submitted to arbitration.

Now, that has an *ex post facto* thought in it. Do you mean any nations from which such cessions shall *hereafter* be exacted? My great objection to this is that it is not clearly expressed. I read it at first and said, "This *ex post facto* application we can not admit." Now, that, as I understand it, should be changed.

Mr. QUINTANA. Mr. President, the remarks made by the honorable Mr. Carnegie cause me to entertain

the hope that the United States delegation may do us the honor to favor us with their vote.

If this were to happen, I would experience great pleasure, as would all the members of the committee, in giving them all the explanations they may need. Otherwise his remarks would appear a little premature and barren; premature because the subdivisions of the plan are not yet up for discussion. It has barely been approved as a whole; barren because if he is not to accompany us in the vote it is enough that that text satisfies those who are to approve it. Therefore, the honorable delegate, Mr. Carnegie, will permit me to beg him to be good enough to inform me whether the remarks he has made were intended to reach an agreement with the terms of the plan, so that, in case he shall succeed in so doing, he may give it his approval, a result upon which I could never congratulate myself too much.

Mr. HENDERSON. Mr. President, when I was upon the floor a moment ago I attempted to explain the position of the United States delegation upon this subject. The proposition was voted upon as a whole. Now, we understand by this proposition, and in fact it is the meaning of the word "conquest," that if the United States or any other nation joining in this treaty should be assaulted, and the nation assaulted should prove victorious and take an indemnity or land, that, in our language, would be conquest. It is the result of a victory. My objection to this proposition is that we neither condemn the wicked nor give praise or justice to the good. All ideas of right and wrong are absolutely driven out of consideration here. The good nation, the nation that avoids war and runs from

its adversary, is put in the position of the nation making an assault. These resolutions deny the right of indemnity in any shape whatever, although the nation may have been put to the most expensive war in defending its liberties, its rights, and its property. There is no mistaking the meaning, for that meaning will not be denied by the gentlemen advocating this proposition, because that is the meaning explained to me in the committee. I have taken my position upon the explanation there made and upon the reading of the text. There is no doubt about it, Mr. President.

When the Romans left Hannibal and the Carthaginian troops in Italy, and waged war upon African territory, if Rome had taken from the Carthaginians a part of their territory that would have been a conquest, although Hannibal and his troops were waging a war upon Rome at the time.

Now that is the proposition. I do not wish to declare, and will not declare by my vote, that a nation that is driven into war shall not take indemnity. But I will say that a nation that wages an aggressive war for the purpose of conquest shall not take anything. That is all that we ought to say. Mr. President, this is humanitarianism or sentimentalism; it is nothing else. Now I go as far, and the United States delegates have gone as far as we ought to go upon this subject. Now suppose that after the passage of resolutions of this character an attack shall be made upon citizens of Brazil who have gone into Peru to build a railroad, or to any other territory. Or, if you please, suppose that citizens of the United States shall go down into one of these territories and shall build railroads or establish banks there, and that in a revolution their

property shall be destroyed, and we ask indemnity for it.

I desire to know how we are to obtain indemnity. How shall Brazil obtain indemnity for its citizens? The thing would be impossible. Neither in a defensive nor an aggressive war can a nation take anything. Why, one of the nations here may be defending its absolute liberties, its absolute independence, or the liberties of its citizens, and yet at the end of the war you must leave the aggressor in the same position you found him in at the beginning of the war. Mr. President, no lawgiver, from the time of Moses down to the present day, has given a government a prohibition like this. The Creator, who made us, told us that the wicked shall be driven from the face of the earth and the good man shall be exalted. Why, Mr. President, it has been said by the great English dramatist that there is nothing that so emboldens vice as improper mercy. And another English poet, I think, if I mistake not, has given the same idea in other words by declaring that "A God all mercy, is an unjust God."

Why, Mr. President, what we want here is absolute justice. If a nation is a scourge to the civilized world, ought it to exist? If we, for instance, waged aggressive wars upon the section south of us, ought we to exist? Or suppose that a strong nation wage war upon a weak one and that the weak, with the aid of the others, shall come out victorious, can it take nothing by way of indemnity to weaken the aggressive nation's force? If the aggressive nation is sent home as strong after the war as before, it will be an aggressor again very soon. Why, Mr. President, I

do not wish to carry sentimentalism as far as this. I intend no reflection upon gentlemen who differ with me; it is, perhaps, my earnestness. I feel that we ought to do nothing that is outside of the reasonable and rational operation of civilized men. If we punish the wicked, as our Creator proposed to do, and as every lawgiver of this world has proposed to do, we do no more than is just. If the man who commits burglary, or larceny, or arson, or murder is to have mercy thrown upon him and be turned loose again, is it not an incentive to crime? And why should we not punish the man who commits crime? If I commit an assault upon my neighbor, I am not to be punished, but the man attacked is to be put into the same position. That is not practical law, and hence it is that the United States delegation have stated their views. At the same time we do not propose to ask you to vote upon those views, but if you insist upon adopting principles of this sort we are constrained, on what we consider practical and reasonable statesmanship, to abstain from voting affirmatively.

(At this point Mr. Blaine, the President of the Conference, left the Chair, which was then occupied by Mr. F. C. C. Zegarra, of Peru, the First Vice-President.)

Mr. QUINTANA. Mr. President, when I took the liberty to address a question to the honorable delegate from the United States, who had spoken of the wording of some of the clauses of the plan approved as a whole, I was very far from supposing that it would provoke a discussion, and much less revive a debate already fully terminated.

This body, by fifteen votes in the affirmative to one in the negative, and one abstention, has decided to

approve this plan as a whole. In view of the action of this body, it is the duty of every delegation in this Conference to submit to the decision.. It is not possible, Mr. President, to depart so fundamentally from the provisions of the rules of a body without involving ourselves in confusion, disorder, and anarchy.

If it is at any time necessary to follow the provisions of the rules this is the very day, when we have to economize time and there are still important questions to submit to the Conference. It is for this reason, Mr. President, that I abstain from entering into any *post-mortem* debate to which it appears the honorable delegate from the United States invites us. I will simply take the liberty to say to him that if the conclusions of the report upon conquest should be rejected because they imply a new principle in international law, upon what grounds did the United States support the recommendation of a plan of arbitration when they have no precedent in the world for their action, or for the formula they have adopted? If we can innovate or advance in the matter of public law in the matter of arbitration, why can not we advance in the matter of conquest? But I repeat, Mr. President, that this discussion is entirely out of order. The Conference has just voted almost unanimously, approving as a whole the plan submitted by the majority of the committee. What is now in order is to proceed to discuss in detail each of its articles. I demand the strict enforcement of the rules.

The First Vice-President. The vote upon the report as a whole having been taken, the discussion of the articles will now be taken up. The vote will

be taken upon the conclusions and afterwards upon the preamble.

(By direction of the Chair the first article was read.)

The first article is in discussion.

Mr. HURTADO. I have risen to say that there is not perfect concordance between the Spanish and English texts, and to avoid any discussion which might arise from that difference, I have offered a different rendering. Literally translated, the Spanish text reads as follows:

First. That conquests shall, in the future, not be recognized under American public law.

That does not seem to me very good English. It seems to me that the following version would be more correct as far as the language is concerned and would have some significance.

First. Conquests shall, in the future, be unauthorized under American international law.

That is what I consider to be the exact language of the Spanish text. Now, of course, if our friends from the United States find that there is something to be altered there in order to make it still better English and at the same time retain the sense, it should be done.

First. Conquests shall, in the future, be unauthorized under American international law.

That is, as I understand it, the correct translation.

Mr. HENDERSON. My friend from Colombia has kindly suggested to me something which he supposed I would accept. He certainly misunderstood the objection which I had to the whole scheme of these resolutions. It is proper, in the English language, to

say that a nation made conquests of liberties. Conquest comes just as well from a defensive as an aggressive war, and I submit to my distinguished friend from Colombia that even if his version should be adopted, if Colombia should wage a war aggressively against Ecuador, without reason, without justice, and Ecuador should be the victor, Ecuador, as I understand it, would be denied the privilege of taking indemnity at the close of the war, although she be victorious in defending her liberties.

Mr. HURTADO. I merely stated that I gave the translation of the words of the article. I had no reference to the observations which the gentleman made before.

Mr. HENDERSON. I am not criticising my friend. I am stating that it does not better the situation.

Mr. HURTADO. I do not refer to that. I merely thought that the English in the printed copy was incorrect, and I wished to give a translation of the Spanish version. I do not say that it would do away with any of the objections which the delegation from the United States may have to the plan proposed. I was merely putting it into what I consider a correct translation. That is all, and I leave it there, simply to avoid in the future any misunderstanding as to the translation. It has no reference at all to the opinion expressed by the chairman of the committee in the name of the delegation from the United States; none whatever. I was merely stating that the English differs in the printed copy from the Spanish and is not sufficiently correct, and I therefore offered a different version.

The FIRST VICE-PRESIDENT. It appears that there

is no objection to framing the English version as suggested by the honorable Mr. Hurtado.

The vote will be taken upon the article.

The roll-call resulted in the adoption of the article by a vote of 15 to 1.

Affirmative, 15.

Hayti,	Nicaragua,	Peru,
Guatemala,	Colombia,	Argentine,
Costa Rica,	Paraguay,	Brazil,
Honduras,	Mexico,	Bolivia,
Venezuela,	Salvador,	Ecuador.

The United States delegation voted in the negative, and Chili abstained.

The FIRST VICE-PRESIDENT. The first article is adopted.

Mr. HURTADO. I stated that I accepted this article with reservations as intimately connected with the preamble, and that I would state what these reservations are at the time when the preamble was considered, such being the desire of my colleagues, Mr. Calderon and Mr. Silva. It has a limited meaning. I shall explain what that meaning is.

(By direction of the Chair the second article was read.)

The FIRST VICE-PRESIDENT. The second article is under discussion.

Mr. MARTINEZ SILVA. Before voting on this point I wish to ask a question of the honorable members of the committee as to the meaning of certain words. This article says:

> That all cessions of territory made subsequent to the present declarations shall be absolutely void if made under threats of war or the presence of an armed force.

In the first place I desire to know what the word

"void" means here. By "void" I understand something which produces no effect, which is equivalent to the thing not having existed. If a nation, a conqueror of another, in a war, just or unjust, (I do not enter into qualifications), actually occupies a portion of the territory by the right of cession, what matters it that we declare here that it is void in disregard of the actual fact? Who declares that nullity? What tribunal do we constitute to declare that nullity, and what force has that judgment or decree?

To make a declaration of this kind, when, as a matter of fact, a portion of territory is in the possession of a belligerent nation, appears to be senseless, and I think that we ought not to employ words which can produce no effect and bring about no results.

Then there is added to this clause, as has been heard, the following: "if made under threats of war or in the presence of an armed force."

What cession of territory by one nation to another will not be made under the pressure of force or circumstances of that character? What nation would cede a part of its territory if it had not been conquered, and has absolutely no way of recovering the conquered territory, even when a treaty exists? Would France, perchance, which ceded to Germany after war, by a solemn treaty, two of its important provinces, consider that valid? It is clear that France, now or at any time it may have strength sufficient to recover that territory, will do it, and will do it notwithstanding the treaty, alleging that it was signed because she could do nothing else; that she yielded to the pressure of force.

For this reason it is a principle of public law that

treaties of peace are not invalidated by the coercion of force, for it is clear that every treaty of peace must be originated by a conquest among the belligerent parties.

In the first part of this article we declare occupation consequent upon an armed contest void; but we can not make that effective. We do not constitute a tribunal to declare this, nor do we give any force to this decree.

The second part of this article says "if the cession is made in the presence of an armed force." Now, I understand that there can be no cession not resulting from a conquest.

Of course we condemn this practice in theory, in principle, and we are agreed upon it; but if, notwithstanding the principle, the act is consummated, the declaration of nullity is barren and has no force or effect; it would be more null than the nullity we here establish.

This is the objection I have to the article: that we are constituting ourselves a kind of tribunal of nations to judge for ourselves and before ourselves questions regarding which we have absolutely no authority to judge.

"Any nation from which such cessions," says the third article, "shall have been exacted, may always demand that the question of the validity of the cessions so made shall be submitted to arbitration."

Who can deny to a nation that right? And it is understood she can realize it if the other party submits to the award of the arbitration. For this purpose we have agreed upon a general plan.

The First Vice-President. Mr. Delegate, I take

the liberty to inform the honorable gentleman, that the second article alone is in discussion. I make this statement because an honorable delegate has called the attention of the Chair to the fact.

Mr. MARTINEZ SILVA. I think there is such a close alliance between the two articles that it is impossible to separate them; but for the reasons before submitted we are sorry to have to vote negatively on this article and the next.

Mr. QUINTANA. I shall briefly take upon myself the agreeable duty of giving the explanations desired by the honorable delegate from Colombia.

Since what is treated of is the adoption of declarations which modify the existing principles of international law, it is evident that these declarations can not be obligatory, nor converted into principles except for the nations subscribing to them. From the moment a nation subscribes to them, that nation renounces the right to demand territorial indemnity under the force of arms; if, notwithstanding this, breaking its solemn compacts, contracted before all America, it should do so, it of course brings upon itself the punishment for its bad faith, for having violated its own pledges, and the risk of the amendment of title to its acquisition.

The honorable delegate to whom I reply is a distinguished lawyer, and certainly does not need that I should explain what "void" means in law. Void in law is that which has not and can not have validity. Therefore a territorial cession brought about by force may be an indisputable fact, but as a matter of law will have no existence. The honorable delegate asked: "And what sanction has the declaration of

this nullity? Are we, perchance, a tribunal constituted to judge of it?" When we provided for arbitration was there any supreme tribunal established in America to adjust all the difficulties and give judgment in the controversies which might, unfortunately, arise between two nations? For the very purpose of giving moral guaranty and force to this declaration the article to which the honorable delegate referred correctly was framed, prescribing the right of the nation despoiled to have recourse to arbitration, to protest against the validity of a cession brought about by threats or by force.

What is sought definitely, Mr. President, is to transfer to public law the principle of private law. Assent, wrested by threats, my distinguished colleague knows as well as I, does not exist in law, and if this is true as regards individuals, why should it not be with regard to nations?

The honorable delegate said: "But the fact is, territorial cessions are not brought about except by force, and are not maintained effectively except by force."

The honorable delegate will allow me to say to him that in the United States themselves he may find not only one but many cases of territorial sessions which were not preceded by war and were not brought about by threats. Was Louisiana acquired through war, or Florida? Was the Territory of Alaska, perchance, secured by threats of force?

Now, if we go from the New to the Old World we will perhaps discover other cessions not preceded by war or threats. Savoy, ceded by Italy to France—was that secured by threats or wrested by force? But

it would be enough, Mr. President, if there should be the single possibility of one territorial cession voluntarily made by one nation; for that possibility, far from serving as the basis of an attack on the plan under discussion, would be the highest praise that could be given it for the foresight with which it has been framed.

It is not desired by any means to impede the natural, voluntary, and free growth of a nation, because that would be equivalent to impeding a development to which its destinies give it a right to aspire. What is desired, Mr. President, is to preserve the *statu quo* in America and that the *statu quo* shall not be altered except by the will of the owners. What is desired is to banish from the Continent the causes which have given origin to the greater part of its wars, wars which I remember but to deplore, and which must be equally deplored by all the inhabitants of America. What we wish, Mr. President, is to guarantee and uphold the arbitration treaty; cause it to be a fact in word and action. Territorial ambitions, jealousy of boundaries, desires to grow, are what obscure the reason of nations and draw them into reprehensible courses, and it is precisely these obscurings and deviations we desire to prevent, not through force but through law, freely discussed and spontaneously accepted. Can there be a nobler task for this Conference? Can a more solemn, explicit, and categorical rule be laid down regarding the property of others, the territory which Providence, tradition or deeds have given to each nation? I know perfectly well, sir, that in matters of this kind conviction can not be secured by discussion; but I also

understand, Mr. President, that it would have been even cowardly on my part if I had not, in the name of the Argentine Republic, which asks only the respect for herself which she is willing to give to all countries, arisen to say these few words in honor of a plan, which, to my mind, is so just, so noble, so high, so good, so lofty, and so fraternal as that of arbitration which we have already adopted.

(Voices. Good! Good!)

After a somewhat extended and acrimonious discussion, Mr. Carnegie secured the floor, and said:

Mr. President, I believe that this confusion, and the differences among the honorable delegates is largely due to incorrect translations and a misconstruction of the meaning of some of the words in the text; and, in order to give an opportunity to correct the misunderstanding, I move that this Conference take a recess of twenty minutes.

The motion was put and carried, and the Committee on General Welfare, accompanied by Mr. Blaine, retired for consultation.

Upon their return to the Conference chamber, Dr. Zegarra, the Vice-President, took the chair, and Mr. Blaine, by unanimous consent of the delegates, was accorded the privilege of the floor.

Mr. Blaine. Mr. President, I am very happy to announce that any vital difference upon any question connected with the scheme of arbitration, which an hour ago might have been feared, is, I hope, entirely removed, and the resolutions of the honorable gentlemen have been simply changed from being in perpetuity to running at even dates with the treaty of arbitration; so that they stand and fall together.

They are born together, and they will die together. But we shall hope that the lives of both will be perpetual. [Applause.]

I shall read the articles, and as I read each one the honorable delegate opposite me, the distinguished gentleman from Guatemala (Mr. Cruz), will read the Spanish:

First. That the principle of conquest shall not, during the continuance of the treaty of arbitration, be recognized as admissible under American public law.

Second. That all cessions of territory made during the continuance of the Treaty of Arbitration, shall be void if made under threats of war or in the presence of an armed force.

Third. Any nation from which such cessions shall be exacted may demand that the validity of the cessions so made shall be submitted to arbitration.

Fourth. Any renunciation of the right to arbitration, made under the conditions named in the second section, shall be null and void.

These conditions are "under threats of war or in the presence of an armed force."

Now, if I may make a short cut, parliamentarily, I shall, with the concurrence of my friend on the right, (Mr. Quintana), move that these be accepted as substitutes for the first, second, third, and fourth articles before us. I shall move, therefore, and I hope with the entire unanimity of the whole Conference, that these written ones be substituted for those that are printed.

(At this point Mr. Blaine again resumed the chair as president of the body.)

The PRESIDENT. Is it the pleasure of the Conference to accept the substitute? The Chair hears no objec-

tion. Is it the pleasure of the Conference to accept that which now becomes the principle; and on that the Chair will direct that the states be called as usual. Those in favor of agreeing to the amendment in the form of the substitute now taking the place of the original will answer in the affirmative; those opposed in the negative.

(The roll-call resulted in the unanimous adoption of the substitute.)

The PRESIDENT. The vote is unanimous, with the single abstention of Chili. The amendment is, therefore, agreed to finally. The agreement also is that the preamble need not be submitted to a vote. The Chair submitted the vote as to substituting this for the original and did not call the states on that; it being a subordinate motion it did not require that.

THE RECOMMENDATIONS AS ADOPTED.

Whereas there is, in America, no territory which can be deemed res nullius; and

Whereas, in view of this, a war of conquest of one American nation against another would constitute a clearly unjustifiable act of violence and spoliation; and

Whereas the possibility of aggressions upon national territory would inevitably involve a recourse to the ruinous system of war armaments in time of peace; and

Whereas the Conference feels that it would fall short of the most exalted conception of its mission were it to abstain from embodying its pacific and fraternal sentiments in declarations tending to promote national stability and guaranty just international relations among the nations of the continent: Be it therefore

Resolved by the International American Conference, That it earnestly recommends to the Governments therein represented the adoption of the following declarations:

First. That the principle of conquest shall not, during

the continuance of the treaty of arbitration, be recognized as admissible under American public law.

Second. That all cessions of territory made during the continuance of the treaty of arbitration shall be void if made under threats of war or in the presence of an armed force.

Third. Any nation from which such cessions shall be exacted may demand that the validity of the cessions so made shall be submitted to arbitration.

Fourth. Any renunciation of the right to arbitration, made under the conditions named in the second section, shall be null and void.

SESSION OF APRIL 18, 1890.

Mr. HURTADO. I have handed the Secretary the vote of Colombia.

Following is the vote:

Mr. PRESIDENT: The Delegates of Colombia have given their support to the plan of arbitration presented by the committee appointed to report thereon; but that plan falls short of their hopes and expectations, and they therefore desire to place on record their views respecting this important matter.

The independent nations of this continent were invited by the Government of the United States to send representatives to Washington, chiefly for the purpose of devising a plan of agreement which would provide for the peaceful, just, and equitable settlement of all subjects of difference that might arise among them. This was intended as a means to a most important and humane end. The object in contemplation was to render war on this continent a highly improbable if not an impossible event. It was a noble idea; a lofty aspiration, which, from its very magnitude, would appear unattainable; yet the problem was solved from the moment that the nation, the most rich, populous, and powerful on this continent, spontaneously and unconditionally proposed to abandon the traditional recourse to arms as a means of disposing of

difficulties between nations, and to adjust all questions arising in future among American nations amicably and peacefully according to the respective rights of the contending parties.

It was a generous offer, which for magnanimity is without parallel in the history of mankind.

That the means contemplated would lead to the end aimed at seems reasonable to admit; and it would become evident of itself if we could examine the proposition, divesting ourselves of the influence which the invariable and constant recourse to war, as *the only* arbiter between nations, must exercise in our minds. For this reason it is greatly to be regretted that the chief object for which this Conference was convened has not been thoroughly carried out; for as long as there remain a certain class of questions for whose peaceful adjustment a means is not provided, and its adoption made obligatory, war is no longer an impossibility; undisturbed peace is, under such circumstances, no longer secured, and the object in view, with all its blessings and advantages, will in a great measure be frustrated.

The report of the committee withholds from arbitration questions involving the independence of a nation. To this, or any other like reservation, the delegation of Colombia is opposed; not only because, as already observed, it would nullify the chief object of the agreement, but also because it would place a great disadvantage on the weaker of the two nations in controversy; for if it be the weaker nation that refuses to settle by arbitration, there will be no course left open to it but to accept, under compulsion, the conditions which the stronger adversary may please to impose; and, if it be the stronger nation that refuses to compromise, then the weaker will have no means left of obtaining redress. Nor is this argument in favor only of the smaller or weaker States of this continent; for whatever two States may be at difference, as a rule one of them must be weaker than the other, and to the former the argument would be applicable.

On the other hand, the Delegates of Colombia fail to perceive the reason of the reservation proposed in the re-

port, exempting from arbitration questions involving the independence of a nation. It possibly arises from the idea that independence is so great a blessing, so precious a treasure, that where the rights which constitute its entirety are concerned, no question or doubt should be tolerated. But, while admitting the force of this proposition it may be remarked that it is not applicable as against arbitration, for it is not conceivable that an award be made by a tribunal of arbitration, in a controversy between nations, which would deny or impair the independent rights of either. The argument, therefore, as applied to the case under consideration, has cogency only in theory, but is of no practical application.

Yet, if arbitration be rejected as a means of adjusting disagreements when the rights of independence are attacked or called in question, what means will be left for settling that dispute? There is but one, the *ultima ratio*, war, with all its consequences. And how is it conceivable that they who so sedulously guard their independence would expose it to the chances and uncertainties of war, in preference to placing it under the ægis of justice? There have been many courts of arbitration established and hundreds of cases have been decided by them touching the rights and obligations of nations; yet, not a single award has been pronounced impairing independent rights! But how does the case stand with regard to warfare? Has there been a single war in which the reverse has not proved the case? As a rule, is not one of the belligerents invariably compelled to sue for peace and accept the conditions imposed upon him by the other? Does not this constitute an act of subjection, a loss of independence?

Still, it can not be denied that questions might arise between nations, the subject-matter of which, or the principles involved in them, it would be for certain considerations highly objectionable to submit to arbitration; yet there should be a means of peacefully disposing of such questions when they might present themselves, in order to preserve harmony and to remove the possibility of war. This, however, is not accomplished by a reservation such as is made in the report of the committee on matters

touching the independence of a nation; for the question, whatever it may be, if occurring, would remain open; all that is provided for is that it shall not be submitted to arbitration.

The delegation of Colombia has expressed the opinion that by limiting the competence of tribunals of arbitration and the jurisdiction of arbitrators to cases for which redress is not provided by the courts of the nation respondent in the dispute, and also excluding matters touching the inherent rights of a people as established by public law, the desired guaranty would be secured. Such allegations of incompetency, when made, if not concurred in by the complaining nation, might be presented to the court of arbitration in the shape of a demurrer, which would prevail unless the court unanimously declared that the exception was not sufficiently well founded to be sustained.

From the *projet* submitted, it would appear that arbitration is to be resorted to as soon as a question or dispute arises. In the opinion of the Colombian delegation, a settlement should first be sought by diplomatic intercourse carried on in a fair and amicable spirit; by invoking the good offices of friendly Governments, and by such other means as might bring about a compromise and satisfactory settlement. Arbitration should be the last recourse, in the same manner as among private citizens who do not appeal to law until other means of adjusting their difficulties have been attempted without success.

The *projet* submitted is silent as to the *procedure* to be followed by the tribunals of arbitration. This seems a grave omission. Besides the loss of time entailed by a tribunal of arbitration when required to lay down and adopt rules of *procedure*, these often can not be complied with by the parties to the suit, because they only become known after the trial has commenced; in this respect it may be said that the *projet* is not a plan of arbitration, and goes no further than advocating the principle as a means of settling disputes between nations, to which extent, however, the delegation of Colombia cordially adheres to its provisions.

As a means, perhaps, of rendering war impossible,

even in the event that a nation, party to the agreement, were tempted to violate its provisions, the delegation of Colombia considers that a clause should be introduced declaring that any nation, party to the treaty, which should, in violation thereof, wage war against another, shall be responsible and liable to each and all the other nations, parties to the treaty, for the damages and injuries it might cause to their respective citizens and their property. No nation can afford to wage a war of aggression if liable for the injuries it causes to neutrals. The nation attacked or invaded would incur no liability as long as it acted in self-defense only.

In conclusion, the delegation of Colombia considers with sincere regret that the proposal made by the Government of the United States has not been fully responded to, and that the opportunity to secure inviolable peace on the American Continent, and thus establish the basis necessary to the full development and security of the common interests which are daily increasing among the peoples of this continent, has not been sufficiently profited by. However, the friendly feelings and good-will mutually manifested during the labors of the International American Conference among the delegations of the different countries represented, justify the liveliest hope and expectation that a more perfect understanding, of which the results of the present Conference are an earnest, will ere long be reached, securing to the nations of America closer and more intimate relations and the incalculable benefit of living in undisturbed harmony and peace among themselves.

MISCELLANEOUS RESOLUTIONS AND CLOSING CEREMONIES.

SESSION OF APRIL 18, 1890.

Proposed Memorial Tablet.

The First Vice-President. The honorable delegate from Brazil has moved that the session be prolonged to give an opportunity to offer several resolutions.

If there be no objection that order will be taken.

Mr. Mendonça. We have reached the end of our work after more than six months of daily intercourse, study, and discussions in this Conference, to which the nations of this continent came as friends, but separate as sisters.

Nothing could give a higher assurance of the spirit of American fraternity than these deliberations of eighteen nations, speaking four languages, representing different races and various interests, and, notwithstanding, having as their only rule the principle of union which results from the homogeneousness of republican institutions. It can not be denied that the supreme cause of human destiny (a providential cause or an historical law) began by commemorating this meeting of peoples for a work of good-will and civilization with the bloodless disappearance of the last monarchy from the face of the New World. May the same supreme cause grant that the century only removed from us by a decade of years shall see at the light of its dawn no European possession on the

free soil of America, and all colonies chained to the ground by conquest on this side of the Atlantic transformed into so many independent sovereign states.

At times, the words uttered in our sittings have been perhaps too spirited, but they have always faithfully interpreted the free opinions of the free peoples we represent. Not once, though, was endangered the unity of views with which all of us, inspired by generous and high motives, with our eyes on the future, labored in the field where our countries will show to the world the marvelous sight of a whole continent devoted to the arts of peace and contending only for the first places in the Pantheon of democracy.

In this Conference are represented nations so vast that the sun to light their territory takes the tenth part of its apparent course around the earth, while others are so small that one-hundredth part of that course is enough to traverse them. Some are so populous that the millions of their inhabitants are counted by tens, and some so sparsely populated as yet that their inhabitants number only some hundreds of thousands. Well, it is an honor to us to assert that there never prevailed around this table any other measure of respect for opinion, liberty of speech, or the value of a vote, than that of the most perfect equality among sovereign States.

It is not incumbent on me to give an account of our work and point out the elements of progress we brought together. But we know that we have done well.

To-morrow, when we separate, each one will carry with him the consciousness of a duty accomplished,

and pleasant recollections of the noble sentiments of our brother workers. This consciousness shall be our best reward, and we may transmit to our sons a glory mightier than that of the Greek soldiers who could say to their sons: "We were at Salamis, we were at Platea," by saying to ours: We worked for the inviolability of the peace and the sovereignty of the American Nations at the Conference of Washington."

Night before last the President of the United States said to us, that the memory of this Conference will be "enduring and historical."

It was my intention to propose that the Latin-American delegations should respond to the cordial and fraternal respect with which we were received by the great republic of the north, with the offer of a monument to commemorate our work in this Federal capital. But my noble friend from the Republic of Colombia, the Hon. Martinez Silva, suggested to me another idea, which I deem better than mine, and, leaving to him to propose it, I limit myself now to move that all delegations here present, the United States delegation included, vote and provide the means to place, with the necessary permission, on the walls of the room of the State Department in which were inaugurated our sessions, a bronze tablet, which shall contain, above the roll of the delegations, the following inscription in the four languages of the Conference:

The nations of North, Central, and South America resolved that it be commemorated that, in this room, on the 2d day of October of the year 1889, James G. Blaine, Secretary of State of the United States, presiding, were opened the sessions of the International American Confer-

ence, which, besides other measures destined to promote the union and welfare of the peoples of this continent, recommended to them as a guaranty of peace the principle of obligatory arbitration.

Proposed Memorial Library.

Mr. Martinez Silva. Mr. President, ever since my distinguished colleague, Mr. Mendonça, spoke, at a private gathering, of the appropriateness and expedience of erecting a monument to commemorate the assembling of the International American Conference, the honorable delegates seem to have been unanimously of the opinion that something of the sort ought to be done. But it has since occurred to me that, among the various embarrassments which would be encountered in the attempt to carry out the suggestion, it would be very difficult to select a model which all would accept; and that discussions and delays would arise—discussions and delays which might at last lead to that worst result, that nothing should be done.

With this fear in my mind, and thinking, furthermore, that the memorial to be erected ought to be something at once useful and made up of various elements, to which each Government might contribute independently, it occurred to me that the only plan which would satisfy all these requirements was the establishment in Washington of a memorial library, to which each Government could send on its own account the most complete collection possible of historical, literary, and geographical works, laws, official reports, maps, etc., so that the results of intellectual and scientific labor in all America might be collected together under a single roof.

That would be a monument more lasting and more noble than any in bronze or marble, because, in the first place, such a memorial would redound to our honor and help to make the Spanish-American nations known; while at the same time it would be very agreeable to the United States to have erected in Washington the library which I propose. It will gradually be enriched and enlarged, day by day, because the several Governments will take care to transmit every new work which may be published in their respective countries, until at last it will become so complete a collection that whoever shall desire to pursue any study concerning America will come to Washington to do it; even from Europe itself students would have to come for any special study concerning these countries. We are so disconnected in America; there are so many difficulties in the way of communication that it may be said that we do not know each other. It is, for instance, almost impossible in Bogota to procure a book published in the Argentine Republic, and I believe that the same is the case in the Argentine Republic respecting the publications of Bogota. Let us suppose that a person is desirous of writing on America; how could he collect data as correct and complete as the case demands? He would have to go from country to country, spending much money and time to attain his object; but if there be a library such as I propose, then all those dedicating themselves to such research or in need of data can come here and find what they want.

Catalogues of this library would be distributed in all the countries of America and Europe, so that the

people of all parts of the world would know what could here be obtained. It would be, moreover, of great usefulness for the permanent Spanish-American legations in Washington. All of the honorable delegates may have had occasion to note that great difficulties have presented themselves each time that information or a book respecting our countries is needed here.

It would also be of great value to the Government of the United States, for it would stimulate the study of those nations in this country. So that my idea reduces itself to the establishment in Washington, in some building or apartment which could be provided by the Government of the United States, of a Portuguese-Spanish-American library, each Government sending a collection, as complete as possible, of geographical charts, historical, statistical, and literary works, etc., enriching this library from year to year with the new publications which may be issued by the American nations. At the outset we might collect here fifteen or twenty thousand volumes, but in the course of twenty years this library will have an importance unrivaled in the world.

I would desire to propose, also, that each Government should send its share of books in time for the library to be publicly dedicated on the anniversary of the discovery of America.

I had not the time to put this proposition in writing, and I present it in this crude state to the Conference; but if the idea is approved I shall take the liberty to submit it to the Chair in writing in the form in which it should be communicated to the Governments.

Mr. ROMERO. I understand, Mr. President, that this is to be our last session. In that case it would be advisable for the honorable delegate to submit his proposition in writing.

The Secretary will read the resolution offered by the honorable delegate from Colombia.

(It is as follows:)

Resolved, That there be established at such location in the city of Washington as the Government of the United States may designate, to commemorate the meeting of the International American Conference, a Latin-American Memorial Library, to be formed by contributions from all the Governments represented in this Conference, wherein shall be collected all the historical, geographical, and literary works, maps, manuscripts, and official documents relating to the history and civilization of America, such library to be solemnly dedicated on the day on which the United States celebrates the Fourth Centennial of the discovery of America.

The FIRST VICE-PRESIDENT. The resolutions will be discussed and voted on in the order in which they were presented.

The Secretary will read the resolution of the honorable delegate from Brazil.

(It is as follows:)

That all delegations here present, the United States delegation included, vote and provide the means to place, with the necessary permission, on the walls of the room in the State Department in which were inaugurated our sessions, a bronze tablet, which shall contain, above the roll of the delegations, the following inscription in the four languages of this Conference:

The Nations of North, South, and Central America resolve that it be commemorated that in this room, on the second day of October of the year 1889, James G. Blaine, Secretary of State of the United States, presiding, were

opened the sessions of the International American Conference, which, besides other measures destined to promote the Union and welfare of the peoples of this continent, recommended to them as a guaranty of peace the principle of obligatory arbitration.

The FIRST VICE-PRESIDENT. The resolution is up for discussion. If no delegate desire the floor, the roll will be called.

The roll-call resulted as follows:

AFFIRMATIVE, 16.

Hayti,	United States,	Honduras,
Peru,	Salvador,	Bolivia,
Colombia,	Guatemala,	Venezuela,
Costa Rica,	Nicaragua,	Ecuador.
Brazil,	Argentine,	
Mexico,	Paraguay,	

The FIRST VICE-PRESIDENT. The resolution has been unanimously agreed to. The discussion on the resolution of the honorable delegate from Colombia is in order.

(The resolution was read as before.)

Mr. BOLET PERAZA: I hold that these offspring of a noble heart and enlightened mind should not be taken from their originator, consequently I am not going to offer any amendment, but suggest to the honorable delegate who has expressed the idea, to baptize this library with the name of "The Library of Columbus."

Mr. MARTINEZ SILVA. It is unnecessary to state that I accept with much pleasure the happy suggestion of my distinguished colleague from Venezuela.

The FIRST VICE-PRESIDENT. If no other delegate asks the floor the roll will be called.

The roll-call resulted as before—the same delegations voting.

The First Vice-President. The resolution has been unanimously approved.

Resolutions of Thanks.

Mr. Romero. If there be no other honorable delegate who desires the floor for any other purpose, I beg the attention of the Conference to what I consider a pleasure as well as a duty, which is to submit to its consideration two resolutions; one which concerns all, and another which concerns only the Latin-American delegates. They are as follows:

The International American Conference, on the closing day of its labors,

Remembering that to the Hon. James G. Blaine, Secretary of State of the United States of America, and the distinguished President of this assembly, we are largely indebted for the meeting thereof, and for the blessings we hope may spring therefrom, it is with profound pleasure that we now tender him our sincere thanks for the ability, impartiality, and courtesy with which he has discharged his duties as president of this Conference.

Mr. Romero also offered the following resolution:

The Latin-American delegates to the International American Conference assembled at Washington, on the closing day of their labors, have

Resolved, That in behalf of our respective Governments we hereby tender to the Government of the United States of America our heartfelt thanks for its kindness in inviting the American Governments to meet at its national capital, on a peaceful laudable, and profitable mission, and for the uniform courtesy with which we have been received and treated.

The First Vice-President. The order is the discussion of the first resolution of the honorable delegate from Mexico.

Mr. Aragon. I believe that this is one of those resolutions which we need not even think of discussing; they reveal the sentiments which have been stirring in all of us, and I shall move that this resolution, which has been so happily offered by the honorable delegate from Mexico, wisely and correctly interpreting our sentiments, be approved by acclamation.

The First Vice-President. All those honorable delegates in favor of the resolution will manifest it by standing.

All the delegates arose and applauded.

The First Vice-President. The resolution has been unanimously agreed to. The second resolution is in order.

Mr. Caamaño. I move it be approved by acclamation.

The First Vice-President. The honorable delegates in favor of the resolution will please stand.

(All the delegates arose and applauded.)

Mr. Romero takes the Chair.

Mr. Henderson. What we have done in the discharge of duty here we hope may live forever. In reaching conclusions the freedom of debate was essential. It is the highest privilege, the richest blessing of a free people. If in that freedom of speech a word of acrimony has been used, let us now consider it expunged from the record, and resolve to forget it forever. If the people of the United States, or its delegates, have done anything to give pleasure to our distinguished guests we are profoundly glad. If we could do more our pleasure would be greatly enhanced.

Mr. BLISS. Mr. President, I wish to offer the following resolution:

Resolved, That we express our profound thanks to the Vice-Presidents of this Conference for the able and impartial manner in which they have discharged their duties.

(Upon the motion of Mr. Aragon the above resolution was carried by acclamation and applauded.)

Mr. STUDEBAKER. Mr. President, I wish to offer the following:

Resolved, That the officers, interpreters, and stenographers of this Conference are entitled to the highest commendation for the able and satisfactory discharge of their very arduous and responsible duties.

The above resolution was carried by acclamation and applauded.

SESSION OF APRIL 19, 1890.

MR. ALFONSO. I have asked the floor merely to state that the Chilian delegation, which was compelled to withdraw yesterday before the last resolutions were approved, now declares through me that it approves with pleasure all the proceedings and resolutions of the Conference at the last hour, with the sole exception of the resolution offered by the honorable delegate from Brazil, because that resolution is based on considerations which the Chilian delegation can not approve.

The PRESIDENT. The correction will be made.

Mr. ZEGARRA. Mr. President, honorable delegates: The hour of departure is at hand; and I can not resign myself to await it without your first hearing the expression of my sincere gratefulness.

For long months have there been discussed in this Conference matters of the greatest importance to America. The complicated problems which have been the object of your study and your solicitous desire to realize generous aspirations will justly claim the attention of the whole world, whose gaze has been fixed on so memorable an assembly.

In it you have seen fit to assign me the distinction of serving you, designating as my special task that of co-operating in the proper conduct of the debates, maintaining the rights of all the delegations founded on the respect and consideration for the opinions of each of them, and, on my part, I have endeavored at all times to the extent of my ability to comply with your wishes.

I have had, honorable delegates, no distinction that could recommend me to your eyes other than that most highly prized by me, of having merited the confidence of my country, for I appeared exalted in this chamber in the character of its representative.

My country, then, honorable delegates, through me, have you complimented, and to her alone belongs the honor, to her the fraternal proof of respect you have wished to show.

My name having been associated with so marked a demonstration of sympathy on your part, I shall take just pride in offering to my country the homage of which it has been the object in the person of the humblest of its servants. The most flattering recollection for me, as well as the greatest source of pride for my children, will be the eminent position you have assigned in this Conference to the representative of Peru.

Once again, honorable delegates, accept my deepest gratitude.

Mr. CRUZ. Mr. President, I have the pleasant duty of expressing my deep gratitude to the Government of the United States, especially to your honor, for the wisdom and ability displayed in conducting the Conference successfully. I do now move the adjournment of this Conference *sine die.*

THE COLOMBIAN EXPOSITION.

Mr. ALFONSO. An idea occurs to me the consideration of which requires neither full powers nor special instructions, neither does it call for expense, nor impose obligations, but it may amount to something as the happy conclusion of this session, and which, be it said in passing, to the mind of the Chilian delegation will be fruitful for America.

As we at this time represent the most important reunion ever held in America, it occurs to me to be timely, and I submit the idea to my honorable colleagues, that we do not separate without passing a resolution in these terms:

> In homage to the memory of the immortal discoverer of America, and in gratitude to the infinite service rendered by him to civilization and humanity, the Conference expresses its sympathy with the manifestation to be made in his honor on the occasion of the fourth centennial of the discovery of America.

The PRESIDENT. The honorable delegate from Chili moves that in commemoration of this large representation of States of America, the largest that has ever come together, that there should be some association of the members with the celebration of the 400th an-

niversary of the discovery of America. The Chair apprehends that this will be taken as a notice to the honorable delegates to the Conference rather than a pledge or formal resolution. The resolution of the honorable delegate from Chili will now be read.

(The resolution was read and unanimously adopted with applause.)

Mr. BOLET PERAZA. I am also going to offer something with which to bring these sessions to a close and I do it in these terms:

That the last word of this Conference shall be one expressing its gratitude for the splendid and fraternal hospitality extended to its members by this nation, and expressing a wish for the perpetual prosperity of the United States of America.

The PRESIDENT. To the adoption of this resolution the Chair hears no objection. It is agreed to.

MR. BLAINE'S FAREWELL ADDRESS.

GENTLEMEN: I withhold for a moment the word of final adjournment, in order that I may express to you the profound satisfaction with which the Government of the United States regards the work that has been accomplished by the International American Conference. The importance of the subjects which have claimed your attention, the comprehensive intelligence and watchful patriotism which you have brought to their discussion, must challenge the confidence and secure the admiration of the Governments and peoples whom you represent; while that larger patriotism which constitutes the fraternity of nations has received from you an impulse such as the world has not before seen.

The extent and value of all that has been worthily achieved by your Conference can not be measured to-day. We stand too near it. Time will define and heighten the estimate of your work; experience will confirm our present faith; final results will be your vindication and your triumph.

If, in this closing hour, the Conference had but one deed to celebrate, we should dare call the world's attention to the deliberate, confident, solemn dedication of two great continents to peace, and to the prosperity which has peace for its foundation. We hold up this new *Magna Charta*, which abolishes war and substitutes arbitration between the American Republics, as the first and great fruit of the International American Conference. That noblest of Americans, the aged poet and philanthropist, Whittier, is the first to send his salutation and his benediction, declaring,

> If in the spirit of peace the American Conference agrees upon a rule of arbitration which shall make war in this hemisphere well-nigh impossible, its sessions will prove one of the most important events in the history of the world.

I am instructed by the President to express the wish that before the members of the Conference shall leave for their distant homes, they will accept the hospitality of the United States in a visit to the Southern section of the Union, similar to the one they have already made to the Eastern and Western sections. The President trusts that the tour will not only be a pleasant incident of your farewell to the country, but that you will find advantage in a visit to so interesting and important a part of our Republic.

May I express to you, gentlemen, my deep appreciation of the honor you did me in calling me to preside over your deliberations. Your kindness has been unceasing, and for your formal words of approval I offer you my sincerest gratitude.

Invoking the blessing of Almighty God upon the patriotic and fraternal work which has been here begun for the good of mankind, I now declare the American International Conference adjourned without day.

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