

designate a Committee specially intrusted to carry out the proposition regarding the Pan-American Railway.

The American Diplomatic Corps might be requested to organize the Committee, not only from among its members, but also from outsiders, calling in competent persons, such as the Hon. Mr. Davis, who is the author of the proposition.

Perhaps it would not be advisable to appoint at this moment a Committee made up of these members or others that would substitute the former at Washington.

I will close by suggesting that the Diplomatic Corps be entrusted with the organization of the Committee, whether it be with its own members, or with persons not having such character.

As it is possible that my motion may have to be referred to the Committee, I have drafted it in the following terms: «That the eleventh clause be substituted by the following: «That the American Diplomatic Corps residing in Washington appoint a Committee, from their own members and from outside, in the number they may deem expedient, to give impulse to the preparatory labors of the Inter-continental Railway, to supply the information solicited, to nominate sub-commissions, to help and stimulate as far as possible the successful termination of the line, and to present to the next Conference an account of their acts, with the motions and projects conducive to the accomplishment of the Railway which is to unite the countries of America.»

*His Excellency Mr. Carbo.*—I request the Chair that the motion of the Hon. Delegate from Bolivia be referred to the Committee for its consideration.

*His Excellency Mr. Davis.*—Mr. President: The Hon. Mr. Guachalla is mistaken when he says that I do not live in Washington, because I am only there six months. Of course, I do not want to impose my opinion; but, like all the members of this Assembly, I am greatly interested in the construction of this railroad. Now, what is the best way to accomplish it? I believe that the proper and the easiest way to accomplish it is to give the Committee, any Committee, whether that which submitted the report or any other, the power to select gentlemen in the different countries, to confer with capitalists in their respective countries, and to have some head to whom they may report. Otherwise, as I have said, I fear that when we go home the project of the railroad will die with us.

As to the power of this Conference to appoint such a Committee as I suggest, I do not think there is any objection. Such a thing is done at every session in the American Congress. In the House of Representatives all the members go out every two years, and yet a Committee is appointed of the existing House to report to the next Congress. So it is in the Legislatures of the States. At this time I am a member of a Committee in West Virginia which has under consideration the revision of the tax and corporation laws of that State, to report to the next Legislature. And there is no question in my mind that a part of this Committee ought to be in Washington. The particular and anxious part of it is not whether the railroad is to be built, but who is to furnish the necessary money to carry it out? Of course, nothing will be done, unless capitalists in New York or elsewhere come to our aid. It is true that the countries through which the road will pass, may help, and

they are already friendly; but it is better that the Delegates on the Committee should be in their respective countries, where, being in direct contact with the local elements, can more successfully help the enterprise, we all desire to be realized.

*His Excellency Mr. Galavis, Delegate from Venezuela.*—Mr. President: As the propositions which are now being discussed cannot be carried out without consulting our respective Governments, it seems to me that article 11th. is simply a recommendation to said Governments, so that they may appoint the same persons who form part of the present Committee on Pan-American Railway.

The Venezuelan Delegation has no objection to said proposition, the meaning of which, in my opinion, is the following: that the Governments be recommended to appoint their representatives, of those appointed here and who now form a part of the Committee on Pan-American Railway, so that they may continue their labors for the execution of said work.

*His Excellency General Reyes, Delegate from Colombia.*—Mr. President: The article in question was, perhaps, the most discussed among the members of the Committee, just because we thought, at first, that the Committee, which the Conference has a perfect right to appoint, so that it may continue working on the subject, might not be efficacious on account of its having to disappear as soon as the Conference closes its sessions and the members return to their different countries. But if the article is carefully read, it will be seen that the difficulties pointed out by the Hon. Delegates Messrs. Carbo and Guachalla, that if the Delegates return to their homes they will not be able to work on the enterprise, have been taken into consideration. To this objection, Mr. Davis has answered that the intention of the article was exactly that the members of the Committee, upon arriving at their different countries, would help to carry out the project, availing themselves of the local elements. But you might say: if each Delegate returns to his home, how can he continue working on the Committee? This has been provided for in the article, because the Committee has the right to appoint in the United States and in the other Republics, sub-committees to report and help it. As a member of the Committee on Pan-American Railway, I gladly cast my vote in favor of the proposition under discussion, because I was convinced, considering the previous efforts towards this great enterprise, that he who brought to this Conference some work accomplished and most accurate data, was the Hon. Mr. Davis, who formed part of that first Conference, and I believe, as my honorable colleague on the Committee, that such fact helped a great deal to consider anew this matter in this Second Conference and that the enterprising Delegate from the United States should be elected Chairman of the Committee entrusted with its consideration.

If we have seen practically, that during the last ten years, the only thing that has come to us in a formal manner, tending to carry this work into effect, is the initiative and labor of His Excellency Mr. Davis, I think that the Conference, in view of the fact that it is expedient to do so, ought to approve this article, so that Mr. Davis may continue those labors, aided by the other members of the Committee, and undoubtedly by the Diplomatic Corps resident at Washington.

*Secretary Macedo.*—The Chair rules that the proposition of His Excellency Mr. Guachalla be referred to the Committee, for consideration. Consequently, discussion on Art. 11th. remains suspended.

SESSION OF DECEMBER 20, 1901.

*Secretary Macedo.*—The Committee on the Pan-American Railway has presented its report in regard to the amendments proposed by some of the Delegates to resolutions 8th., 10th. and 11th. of the original report of said Committee. It will now be read as well as the private vote of His Excellency Mr. Elmore, upon the neutrality of the railway. They read as follows:

**REPORT of the Committee on the Pan-American Railway, relative to the Amendments proposed to resolutions 8th., 10th. and 11th. of its first Report.**

The Committee on the International Railway has considered, during three consecutive meetings, the amendments offered to the recommendation, made by said Committee to the Conference, in the Committee's report of November 27th last, and has the honor of submitting the following substitutes for Articles 8th., 10th and 11th.

«Eighth. That the traffic in transit through the different Republics shall not pay custom dues, nor taxes of any other kind.»

«Tenth. That the United States of America be invited to initiate with the other Republics the adoption of such measures as may be deemed most efficacious so as to send, within one year, to said Republics, competent and reliable persons whose duty shall be to accurately determine the resources of the different countries and the condition of railway lines in operation, the existing condition of commerce and the prospects for business for an inter-continental line, in case said line can be constructed, and also to ascertain what concessions or assistance each of the respective governments is willing to grant to the enterprise.

«Eleventh. That the President of the Conference shall appoint a Committee of five members, residing in the United States of America, said Committee to commence its work after the adjournment of this Conference; and that said Committee shall have the right to increase the number of its members or to replace, when necessary, any member; to appoint such sub-committees as may be deemed; to report to the next Conference on the result of its labors; to furnish all possible information as to the work of the inter-continental railway and to aid and stimulate the execution of said project if necessary, this, however, shall not prevent the members of the present Committee from continuing their efforts to attain the desired end; and finally, that the committee, in unison with the Secretary of State, of the United States of America and with the Ministers of the interested countries, resident in Washington, may cause to be convoked within the period of one year, an Assembly composed of the representatives of all the Republics of this Continent with proper credentials, for the purpose of calling a Convention to arrange for the construction of the proposed Continental railway.

(Signed.) *H. G. Davis.*—*Augusto Matte.*—*J. B. Calvo.*—I except my vote from Article 11, approving the rest. *Francisco Orla.*—*J. Leonard.*—*Alberto Elmore.*—*Baltasar Estupinian.*—*José López-Portillo y Rojas.*—*Rafael Reyes.*

His Excellency Mr. López Portillo agreed to the proposed substitute for Article Eighth, provided that the following words be added to it: «Not to exceed 50 cents gold per ton;» giving as a reason for his opinion that this charge is generally established by the fiscal legislation and the customs regulations of the Republic of Mexico.

The Committee having decided that the foregoing recommendation is to serve as a substitute for Article 8th. in its original form, and that no declaration as to the neutrality of the line is to be made, the Honorable Mr. Elmore, Delegate for Perú, explained the reasons for his vote on this point, in the annexed memorandum.

With regard to the proposition submitted by the Honorable Mr. Pineda, Delegate for Mexico, as a substitute for the 10th. recommendation in the original report of the Committee, the Committee decided unanimously to substitute the above Article Tenth.

As to the proposition of His Excellency Mr. Guachalla, Delegate for Bolivia, relating to Article 11, which is the last of the recommendations presented by the Committee, it was agreed unanimously that said Article shall read as the above Eleventh Article.

**REMARKS on the Neutrality of the Pan-American Railroad, by His Excellency Mr. Alberto Elmore, Delegate for Peru.**

The 8th. clause of the Proposition regarding the neutrality of the Inter-Continental Railway, having been referred back to the Committee, on account of the substitute offered by His Excellency Mr. López-Portillo, Delegate from Mexico, I beg to state in writing the reasons for my vote which I gave against such substitute yesterday, during the session of the Committee.

I.

In order to determine the scope of the said 8th. clause, it is to be borne in mind that as a general rule, treaties only bind the nations which are the signers thereof, and these have in exchange full liberty to obligate themselves in any manner they see fit. The conventions regarding neutralization are in a different condition: these affect also the countries which are not parties to them, in case they should become belligerents, and for that reason, in order that this effect be produced, it is indispensable that these conventions should be based on reasons of recognized general utility.

The neutralization of the Inter-Continental Railway is based on those reasons of common benefit which are evident, and when in the report it is stated, that the neutralization should be declared, then there is thereby established, on the one hand the obligation to respect it even on the part of those nations that have not signed the treaty of neutralization; and on the other, the moral necessity in which the American Republics find themselves, to make such a treaty in so far as considerations of a superior kind do not prevent it.

The 8th. clause of the Report does not imply, then, the precise obligation of the Governments of this Continent to subscribe such treaty with respect to their respective territories, because their primordial duty is to watch over the interior and exterior security of the State, and if this security should not be compatible with the neutrality of the said Pan-

American Railway, it is undoubted that the right of self-preservation would prevail.

In many cases that security would remain better guaranteed with the neutrality than without it, because a railway may be more useful for invasion than for defence.

It also comes to the mind sometimes, when it is a question of lines to be constructed that may not be immediately productive, that it is possible the dilemma should present itself whether to do the work with the condition of neutrality as required by the Company, or not to do it at all; and, in that case, it is manifest that the security of the State will remain better guaranteed with a neutral railway than without any.

But in these and other cases, it is unquestionable that each country is absolutely free to decide what to it seems best for its own preservation, granting or denying the neutrality of lines which may traverse its territory.

From the foregoing follows the deduction that the 8th. clause of the Report under discussion signifies only «that a Convention which is to establish the neutrality of the Pan-American Railway, in order to insure the liberty of traffic, is justified by and founded on the common welfare, without prejudice to what each country might think proper to resolve respecting the lines in its territory.» If such a declaration should be considered indispensable, it would be a substitute for the 8th. Resolution of the Report; it would however, be preferable to preserve that beautiful declaration of neutrality, which is a reproduction of the one made by the unanimous decision of the Washington Conference, and the meaning of which would remain well-explained by the Report of the Committee, if the latter should accept what is set forth in this present document: the expression of the ideal of the whole Continent becomes disfigured with the restraints over difficulties for its immediate realization.

## II.

His Excellency Mr. López Portillo has proposed a substitute for the 8th. clause referred to, which considers this matter from a point of view entirely distinct, and establishes that the neutrality be limited to the lines to be constructed by the Company destined to complete the Inter-Continental railway, and should not extend to those already constructed, or which might be constructed under separate contracts with the respective Governments.

Such a proposition destroys the noble idea of neutrality of the Pan-American Railway, which for such purpose should be considered indivisible,—the question under discussion is not to recommend a treaty to all of these Republics, but to give expression to their generous aspiration of being united by a neutral railway through the whole length of the Continent, putting an end to their national jealousies if not immediately, at a no remote period. To limit the neutrality to sections of the Railways of some countries, means to depress and belittle the idea, and in great part, to nullify the benefits which it is expected to produce. At the present time the sections already constructed are more than one half of the whole line.

On the other hand, the proposed substitute falls short of its purpose of guaranteeing the countries against a neutrality that might be harmful toward

them, and under this aspect, is objectionable on account of both excess and deficiency, because in the sections that the Company of the Inter-Continental line may construct, some Governments may think that their neutrality is hurtful to them, and would have the right to deny within their territory while as to lines already constructed, or which may be constructed under separate contracts it is possible that it may suit the respective countries to stipulate that they should remain neutral.

The circumstance of some lines being already constructed, or of their being subject to special contracts, does not affect the main question; the difficulty to make them neutral depends upon what the security of each country requires as such country may understand it, so that it has the right to enter, or not, into a convention of this nature at its pleasure; the fact of there not existing any works already executed, nor contracts for their realization, constitutes a new difficulty of administrative character which the respective Governments will encounter for denying neutrality as a condition which the Company of the Inter-Continental Railway might insist on.

The United States of America offer an example of what is stated above, in having constructed already the whole of its system, which is to serve as the Inter-Continental line, and the representative of which country, being President of Committee, is the first to sustain the disputed neutrality. This shows that, in proportion as the railway system of a country is developed, it becomes easier to accept the neutralization of a part of the lines; and be it for this reason, or for others that the countries may deem sufficient, it is to be hoped that at a not very remote period, it may be possible to have a unanimous convention, which will realize the aspirations contained in the 8th. clause under discussion.

It follows from the reasons given, that it is unacceptable to depreciate the decision of the Conference, by limiting the neutrality to sections of lines to be constructed in some countries, and considering the 8th. clause as a simple industrial franchise for the contract of the construction of a railway, when the real intention is to proclaim this neutrality of the Inter-Continental railway to be a complete one, as a means of securing communication between all the countries of the Continent, as far as is compatible with the right of self-preservation, for the purpose of multiplying the benefits of peace, diminishing the waste of war, and assuring with ties of steel, not strategical, but neutral the fraternity of the peoples of this Hemisphere.

Committee Room, Mexico, December 6th 1901.—(Signed) *Alberto Elmore*.

*President Raigosa*.—The reglamentary hour having arrived, the session is suspended to be continued this afternoon at four o'clock.

SESSION OF DECEMBER 20th., 1901.  
(Afternoon.)

*Secretary Macedo*.—Article 8th. of the new report of the Committee on the Pan-American Railway is now under discussion.

*His Excellency Mr. López-Portillo y Rojas, Delegate from Mexico*.—In order not to create difficulties for the Mexican Treasury, which collects certain transit duties on merchandise crossing our territory, I expressed to the Committee, the opinion that it

would be well to add to the amendment under debate the necessary words so that the interested countries might be at liberty to collect a moderate duty of that class. Later I have been authorized by my Delegation to abstain from this attitude: Mexico wants to manifest in this manner the profound sympathy it feels for the project of the Pan-American Railway, and, consequently, I withdraw the addition that I had presented and express my entire approval of the wording of the article under discussion.

(Demonstrations of approval.)

*His Excellency Mr. Elmore, Delegate from Perú*.

—By reason of the observations made to some articles of the report relative to the project of an Inter-continental Railway, the matter was returned for reconsideration to the respective Committee.

As on prior occasions, it was observed that the difficulty of languages did not render perfectly comprehensible all of the opinions, I adopted the course of putting mine in writing, with respect to the eighth clause, referring to neutrality, to which great importance was given, and had the same translated into English. The few hours at my disposal for this labor, were too short to render the work as extensive and detailed as the matter deserves; and I reserve the right to touch upon it when it comes up for discussion in this Conference, and to add to the arguments already adduced. But in the Committee there prevailed the opinion that it were best to withdraw the eighth clause of the original project, it being considered that the majority of the Conference did not approve of its admittance. Undersuch circumstances, and not thinking it expedient to provoke a debate lacking an object, I have only asked for the floor in order to base my vote and to state just what my opinion is on this point.

*Secretary Macedo*.—No one desires to discuss the question. It is asked, if article 8th. as amended, is approved?

The vote having been taken, the amendment was approved by fourteen votes, the Delegations of the Dominican Republic and Hayti having abstained from voting.

*Secretary Macedo*.—Article 10th. is now under discussion in detail.

*His Excellency Mr. Guachalla, Delegate from Bolivia*.—Mr. President: In the first session in which we commenced to discuss this project, the Honorable Mr. Pineda, Delegate for Mexico, presented a modification to this article, and as a consequence of that motion, I also had the honor to present another relative to article 11th., which motions are published in the respective minutes. The session being terminated and the Delegation of Mexico having reached an accord with that of Bolivia, we substituted the two motions introduced to the Conference with another that was referred to the respective Committee. This motion is not known to the Conference and perhaps the Committee has not taken it into account either, because according to the report that I have before me, mention is made of the motion of His Excellency Mr. Pineda and of that of the Delegate from Bolivia; but not of the one presented by the Delegations of Mexico and Bolivia, and I am obliged to call the attention of the Conference to this omission.

We did not wish in the following session to present the motion formally to the Conference, because we thought that inasmuch as the two motions were incorporated in one, the Committee would take them

into account. Whether this has been done or not, I desire that the Conference take cognizance of the motion and that the Honorable President kindly order the same to be inserted in the minutes. I will read it:

**AMENDMENTS to the resolutions 10 and 11 of the Report on Pan-American Railway, proposed by Their Excellencies Messrs. Guachalla and Pineda.**

The Delegations of Bolivia and of the United States of Mexico, propose, by common accord, to submit, in substitution of the motions which they have presented before, the following declaration, instead of the simple recommendation which are contained in sections 10 and 11 of the Project of the Committee on the Pan-American Railway:

«The American Nations shall arrive at an agreement, through their representatives in Washington, with the United States of America, for the purpose of appointing a Technical Commission, which shall determine with accuracy, by means of a personal report, to be certified to by its members, the resources of the different countries, the location and condition of their railroads now in operation, the present state of their commerce and the expectation of traffic for an inter-continental line in case it should be completed, and what concessions each Government is disposed to grant to the enterprise.

«The said Commission shall be authorized to appoint sub-committees, to give impulse to the preparatory work, to furnish information to the Government, enterprises, corporations and private parties that may request the same; to aid and encourage as much as possible the successful completion of the inter-continental railway; and to present a detailed account of its act, initiatives and projects, to the next Pan-American Conference, putting itself in accord with the American Diplomatic Corps resident in Washington.

Mexico, December 4th., 1901.—(Signed:) *R. Pineda*, for the Mexican Delegation.—*E. Guachalla*, Delegate for Bolivia.

I will add but a few words for the purpose of supporting this motion of the two Delegations. We all, without any exceptions, have been in sympathy with the idea for the last eleven years; consequently, we thank His Excellency Mr. Davis for the laudable enthusiasm and eagerness with which he has devoted himself to the same. Undoubtedly, among all those who applaud him, I am one of the most fervent advocates of the railway, however, it is not to the idea itself, to which I wish to refer, but to the manner of carrying it into effect.

I am going to call attention to a great difference. The Committee, in its recommendations has simply desired, that the American Nations be invited, in order that they, in accord with the Department of State of the United States, may appoint a commission. The Delegation from Mexico and Bolivia are going farther than that; they do not desire, that the Governments be invited to name that Commission, but that the representatives of those Governments appoint it at once, that is to say, that instead of doing what the Committee wishes to do in the course of a year, it should be done at once by the Diplomatic Corps at Washington. Consequently, I do not know whether His Excellency Mr. Davis is a stronger advocate of the Railway, in desiring that the Commission be appointed in the course of a year, or the Delegations of Mexico and Bolivia, who propose that Commission charg-