

list of the same in the respective official journals, so that the public may be able to consult them in the office or library in which they are placed for inspection, stating at the same time the place and the printing office from which each work was issued, for the information of those who may desire to acquire said work.

Art. 5. The Contracting Governments, in so far as the stipulations of the Universal Postal Union allow will declare free of postage, in the respective countries, all official correspondence and the publications under agreement referred to in this Convention, in conformity with the special arrangements made amongst themselves.

Art. 6. Each of the Contracting Countries shall send the printed matter to which this Convention refers, to the Legation or Consulate which it may have accredited to the Governments of the others, so that they may be delivered by such channels to the Department, office or library which each Government may designate to receive them. In the absence of direct agents, the transmission shall be made from one Government to the other.

Art. 7. For the operation of this Convention it is

not indispensable that its ratification shall be made simultaneously by the signatory nations. The State approving it shall make known that fact to the others through a diplomatic agency, or directly, and such proceeding shall be considered of equal force as an exchange of copies.

Art. 8th. This Convention shall take effect for an indefinite period, from the day on which its ratification shall have taken place, in the manner expressed in the foregoing article, and the nation desiring to denounce it, shall give notice of its intention to the others; and its obligations under it shall cease only one year from the date of giving such notice.

México, January 24th, 1902.—(Signed.) *Alberto Elmore.—Rosendo Pineda.*

The Convention on exchange of publications, couched in exactly the same terms of the above report, was signed on the 27th of January, 1902, by the Delegations of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, Dominican Republic, Ecuador, El Salvador, United States of America, Guatemala, Hayti, Honduras, Mexico, Nicaragua, Paraguay, Peru and Uruguay.

## NUMBER 6.

## Protection of Literary and Artistic Works.

SESSION OF DECEMBER 16, 1901.

*Secretary Macedo.*—The Delegation of Hayti has submitted the following project for a Convention, on the protection of literary and artistic works, which, by ruling of the Chair, has been referred to the Committee on Practice of the Learned Professions and Literary Relations. Said proposition reads as follows:

Art. 1. The contracting countries hereby constitute a Union for the protection of the rights of authors in their Literary and Artistic Works.

Art. 2. The expression «Literary and Artistic Works» comprises books, pamphlets and other writings; the oral lessons of professors, dramatic works, musical compositions, with or without words, works on designs, painting, sculpture and engraving; lithographs, geographical maps, plans, sketches and plastic works relating to geography, architecture and sciences in general; and finally every product of the intellectual work of man.

Art. 3. The authors who belong to one of the countries of the Union, or their assigns, shall enjoy in the other countries the rights which the respective laws confer upon their citizens at the present time, or which they may confer upon them in the future, but the enjoyment of such rights shall not exceed the duration of protection granted in the country of their origin.

Art. 4. The country in which the work has been first published, shall be considered as the country of its origin, but if the publication has taken place simultaneously in various countries of this Union, then the one whose legislation fixes the shortest period of protection, shall be considered as the country of origin.

Art. 5. Authors belonging to one of the countries of this Union, or their assigns, shall enjoy in the other countries, and for the time specified in Art. 3,

the exclusive right of making or authorizing a translation of their works.

Art. 6. Authorized translations shall be protected the same as the original works; but in the case of a work the translation of which is within the public domain, the author cannot oppose the translation of the work by others.

Art. 7. Articles of newspapers or periodical collections relating to political and scientific discussion, may be reproduced in other countries of the Union, giving credit to the newspaper or collection from which they were taken.

Art. 8. The reproduction of portions of literary or artistic works continued in publications devoted to public instruction and chrestomathy, does not confer any rights of authorship, and for that reason may be made freely in all countries of this Union.

Art. 9. The person whose name or nom-de-plume is given to a work in the customary manner, except in the case of proof to the contrary, shall be considered as author of such work.

Art. 10. All counterfeit works may be confiscated in the countries of the Union, in which the original work has secured the right of legal protection, besides the indemnity and punishment that the counterfeiters may be liable for.

Any adaptation without the consent of the author shall be considered as counterfeiting and shall be treated accordingly.

Art. 11. Each one of the Governments reserves to itself the right to watch over and prohibit the circulation, representation or exposition of any work or production, in regard to which it may appear necessary to the authorities to exercise such right.

Art. 12. The countries which have not subscribed to the present Convention, may become parties to

the same, by notifying the United States of Mexico of such desire who shall in turn serve the same notice on the other countries.

Art. 13. The present Convention shall become operative within three months after the date on which its acceptance has been made known to the Mexican Government by at least four of the Signatory Powers, and shall remain in force until the expiration of one year from the date in which it has been abrogated by any of the Signatory Powers. Such abrogation shall be made known to the Government of Mexico, and shall not cause any effect except in respect to the country that has withdrawn from the compact.

Done in Mexico, etc., etc.—(Signed.) *J. N. Léger*, Delegate from Hayti.

SESSION OF DECEMBER 18, 1901.

*Secretary Macedo.*—The Delegation of Chili has submitted the following project for a Convention on Literary and Artistic Copyrights, which, by ruling of the Chair has been referred to the Committee on Practice of the Learned Professions and Literary Relations. Said Convention reads as follows:

Messrs. Delegates:

It is absolutely indisputable that the Spanish American countries are today enjoying great advantages owing to the fact that no legislative regulations or International Conventions recognizing the right of intellectual works, whether national or foreign exist in any of them.

As no official fees are paid in those countries, the reprint of those works or their translations puts them within the reach of greater numbers at reduced prices, and facilitates their circulation in social spheres which they could not reach with that burden and thus affords to those less favored by fortune the necessary elements for their edification and moral progress.

But, above that consideration of expediency, a higher sentiment should predominate in communities that reach a high grade of culture and in which the acquisition of public wealth now allows a considerable number of its members to dispose of the necessary means to acquire this intellectual food. This sentiment, which takes greater hold with the incessant march of civilization, is the scrupulous respect for the rights of others. And inasmuch as now no one doubts that the works of intellect represent a real property as important as those more worthy of respect, it is necessary to recognize that the lack of an international treaty for the protection of these rights is a long felt want, corresponding to the justice and dignity of the American countries.

The project on Literary and Artistic copyrights which the Delegation from Chili has the honor to submit to the Hon. Conference, is based on this conviction.

Without aspiring to originality in this matter, on which for a long time past the most advanced nations have adopted principles which are to-day universally recognized, our Delegation has taken as a basis the similar Convention approved by the South American Congress at Montevideo, adding to it certain proscriptions, indispensable in its opinion, so that the conventional legislation proposed in the project may contain the means which are found wanting in the treaty of said Congress, in order to make effective the protection of the rights which it desires to preserve.

These considerations excuse us from occupying the attention of the Honorable Conference with greater details, which would be superfluous on the other hand, when addressing an assembly in which are found so well represented a great number of the most interesting ideas expressed through intellectual productions by means of printing.

Mexico, November 28, 1901.

## Project of a Convention Regarding Literary and Artistic Copyrights.

Art. 1. The signatory States bind themselves to recognize and protect the rights of literary and artistic property (Copyrights) in accordance with the stipulations of this Convention.

Art. 2. The copyright of a literary or artistic work includes for its author or his assignees, the exclusive right to dispose of the same, to publish, sell and translate it, or to authorize its translation, and to reproduce it in any form in its entirety or in portions.

Art. 3. In order to secure the recognition of the copyright of a work, it is an indispensable condition that the author or his assignees, whether a citizen or foreigner, or his legal representative, shall address an application to the official department which each signatory Government designates for that purpose, requesting the recognition of such copyright, said application to be accompanied by twenty-one copies of his work. The said Department shall open a register, on which the respective applications shall be recorded, and shall grant a certificate of copyright in favor of the author or his assignees, for each work so registered.

Three of the twentyone copies mentioned shall remain in the possession of the Department referred to and the rest shall be distributed by the same among the other signatory Governments, accompanied by a copy of the certificate of copyright, so that such copyright may be recognized in all these countries.

When, by the nature of the work, it is not possible to furnish the twenty-one copies of the same, it shall be sufficient for the purpose stated that the applicant furnish an equal number of photographic copies of the respective work.

Art. 4. The copyright shall be recognized, excepting in case of proof to the contrary, in favor of the persons whose names, or recognized pseudonyms are stated in the respective literary or artistic work, and in the application to which the foregoing Article refers.

Art. 5. None of the signatory nations shall be compelled to recognize the copyright of literary or artistic works in favor of authors of the other countries for a longer term than that which their laws grant to their own citizens. Such term may be limited to that allowed in the country of the origin of the work, if the same be shorter.

In the case of works composed of several volumes which are not published at one time, as well as of bulletins or periodical instalments of literary or scientific societies, or private persons, the term of copyright shall begin, with reference to each volume, bulletin or instalment, from the respective date of its publication.

The exclusive right to make, or authorize, the translation, shall remain in force in all of the signatory countries only for five years, counted from the date of the publication of the original work.



Art. 6. In the expression «Literary or Artistic Works» are comprised books, pamphlets of all kinds, whatever their subject may be or the number of their pages; dramatic or melo-dramatic works, dancing music, musical compositions with or without words; drawings, paintings, sculpture, engravings; photographic copies, astronomical or geographical globes; plans, sketches and plastic works relating to geography, geology, topography, architecture, or any other science, and finally all productions of the literary and artistic domain, which may be published by any method of printing or reproduction.

Art. 7. The translators of works, for which there exists no copyright, or the copyright of which has already elapsed, may obtain a copyright for their translations, as provided in art. 2, but shall not have the right to prevent the publication of other translations of the same work.

Art. 8. Articles of newspapers may be reproduced, but the name of the publication from which they are taken, and the name of their author, must be given, if it should appear in the same. Exception is made of articles that treat on science and art, the reproduction of which is especially prohibited by their authors.

Art. 9. The speeches delivered or read at deliberating assemblies, before Courts of Justice, or at public meetings, may be published in the newspapers without authorization therefore.

Art. 10. There shall be considered as illegal reproductions, the indirect unauthorized appropriations, of any literary or artistic work not possessing the character of an original work.

There shall also be considered illegal the reproduction, in whatever form it may be, of a complete work or of the greatest portion of it, accompanied with notes or comments, under pretext of a literary criticism, amendments or additions to the original work.

Art. 11. The responsibility which those usurping a literary or artistic copyright may incur, shall be dealt with before the Courts of the country in which the fraud has been committed.

Art. 12. The recognition of the copyright of literary or artistic works does not prevent the signatory States from prohibiting, in accordance with their respective laws, governmental decrees or municipal ordinances, the reproduction, publication, circulation, representation or public exposure of such works as may be considered to be against public morals and good habits.

Art. 13. It is not indispensable for the enforcement of this convention that it be simultaneously ratified by all the signatory countries. The country approving it shall have to communicate it to the others through diplomatic channels, and such procedure shall take the place of an exchange.

Art. 14. When the exchange has been made in the form indicated in the above article, this convention shall be in force forthwith for an indefinite time.

Art. 15. If any of the signatory countries should consider it advisable to withdraw from the Convention, or to modify, it shall so communicate to the others; but it shall not be free to withdraw until one year from the date of such notice, during which period an endeavor shall be made to arrive at a new agreement. — *A. Blest Gana.* — *Augusto Matte.* — *Emilio Beltrán Codecido.* — *J. Walker Martínez.*

SESSION OF JANUARY 10, 1902.

*Secretary Duret.*—The twelfth Committee has submitted the following report on the project of convention in regard to Literary and Artistic Copyrights, submitted by the Delegations of Chili and Hayti, which report the Chair has ruled, be printed and distributed among Their Excellencies the Delegates. Said report is as follows:

Mr. President:

The Delegations of Chili and Hayti presented to the Conference, almost simultaneously, two projects of Convention on Literary and Artistic Copyrights, which were referred to this Committee for its consideration.

Although in essence said projects were quite similar, yet they differed in regard to certain details, which necessarily should agree and harmonize. For that purpose we requested the Honorable Mr. Léger to attend the meetings of the Committee so that he might co-operate in merging the labors of both into one, which will be the one that we shall have the honor to submit for the approval of the Honorable Conference at the end of this report.

Although our Committee was only appointed, as its title indicates, to report on the projects that might be submitted to its consideration relative to the establishment of literary relations between the countries of this Continent, the Delegations of Chili and Hayti have presented two projects of Convention in which there are included, not only the recognition of the copyright of literary works, but also the copyright of artistic works.

Having before us the numerous antecedents existing in the matter, we the undersigned feel that we do not go outside our province in considering said projects and in merging them into one, preserving the same form and extension given to each, inasmuch as artistic and literary copyrights are so intimately connected in practice, that it is not possible to ignore the former when the latter is taken into consideration. In so far as both matters are concerned, it is well known that, until the middle of the last century, it was believed, in view of the principle of independence of the States, that it was permissible to reproduce in any one country the scientific, literary, and artistic works published within the territory of the other countries.

The Congress held in Vienna in 1815 was the first one which adopted certain measures tending to limit the reproduction of literary and artistic works.

Later, Denmark in 1828, England in 1888, Sweden in 1844 and Austria in 1846, declared themselves with more precision in favor of the recognition and protection of the intellectual rights of the countries which should recognize and protect reciprocally those of their own citizens.

Nothing done, up to that time, constituted, however the idea of general conventions on literary and artistic copyrights among a considerable number of countries.

The first step taken in that respect was that of the Congress of Brussels in 1858, which proclaimed the principles of ample protection that have served as a basis for entering into international agreements of this character.

The series of congresses, held since 1861, have tended to confirm and strengthen, afterwards, the same principles.

The International Union that resulted from the Conference of Berlin in 1886 was thus brought about.

As the above convention was too broad in its scope, and therefore inapplicable to our young Republics, the undersigned believed that, both the Delegation of Chili and that of Hayti have acted wisely in confining themselves to take as a basis for their projects the well known Convention executed between the countries attending the South American Congress of Montevideo, supplementing the provisions of that Convention with some ideas taken from the Convention of Berne, already mentioned.

The principle of literary and artistic copyright has been embodied, for many years past, in the domestic legislation of almost every nation of the European Continent, in that of the United States of America and in that of some of the Spanish American countries, such as Mexico, Chili and Hayti, the same principle has been recognized in numerous international treaties, as for example, in the one signed between Belgium and Spain of June 28, 1880; those entered into between Germany and England, and France, of April 19, 1883, and December 12 of the same year respectively, and in many others too profuse to enumerate.

Our Committee thinks, based on the above precedents, that the time has arrived to accept unanimously that principle in the conventional legislation which may be agreed upon among the countries represented at this Conference, with the view of rendering more and more close the ties of every kind that unite them at the present time. The two projects of Convention submitted to the consideration of the undersigned tend fully to accomplish this object and to realize that great aspiration.

It seems to us that the preamble of the project of Convention presented by the Chilean Delegation explains with sufficient clearness the reasons given for accepting the proposition in question and our Committee considers itself exempt from the necessity of entering into a more detailed analysis, and confines itself to recommend to the Conference the approval of the following:

#### PROJECT OF CONVENTION.

Art. 1. The signatory States constitute themselves into a Union for the purpose of recognizing and protecting the rights of literary and artistic property, in conformity with the stipulations of the present Convention.

Art. 2. Under the term «Literary and Artistic works, are comprised books, manuscripts, pamphlets of all kinds, whatever may be their subject or the number of their pages; dramatic or melo-dramatic works; choral music and musical compositions, with or without words; designs, drawings, painting, sculpture, engravings, photographic works, astronomical and geographical globes; plans, sketches and plastic works relating to geography or geology, topography or architecture, or any other science; and finally, every production in the literary and artistic field, which may be published by any method of printing or reproduction.

Art. 3. The copyright of a literary or artistic work, includes for its author the exclusive right to dispose of the same, to publish, sell and translate it, or to authorize its translation, and to reproduce the same in any manner, either entirely or partially.

Authors belonging to one of the signatory countries, or their assigns, shall enjoy in the other signa-

tory countries, and for the time stipulated in art. 5. the exclusive right to translate their works or to authorize their translation.

Art. 4. In order to obtain the recognition of the copyright of a work, it is indispensable that the author or his assigns, or legitimate representative, shall address an application to the official Department, that each government may designate, claiming the recognition of such right, said application to be accompanied by two copies of his work, which shall remain in the proper Department.

If the author, or his assigns, should desire that their right of property be recognized in any other of the signatory countries they shall attach to their application a number of copies of their work, equal to that of the countries they may designate therein. The said Department shall distribute the copies mentioned among the countries so designated, accompanied by a copy of the respective certificate, in order that the right of property of the author may be recognized thereunder.

Any omissions in which the said department may incur in this respect, shall not give the author, or his assigns, any rights to make claims against the State.

Art. 5. Authors belonging to one of the signatory countries, or their assigns, shall enjoy in the other countries, the rights that their respective laws grant at present, to their own citizens, or that may be granted them in future, but such right shall not exceed the term of protection granted in the country of their origin.

In the case of works composed of several volumes, which are not published at the same time, as well as for bulletins or installments of publications of literary and scientific societies, or private parties, the term of property shall commence to be counted from the date of the publication of each volume, bulletin or installment.

Art. 6. The country in which a work is first published, shall be considered as the country of its origin, or, if such publication takes place simultaneously in several of the signatory countries, the country whose laws establish the shortest period of protection, shall be considered as the country of its origin.

Art. 7. Authorized translations shall be protected in the same manner as original works. The translators of works, in regard to which there exists no guaranteed right of property, or the right of which has already elapsed, may secure the right of property for their translations, as provided in article 3., but they shall not have the right to prevent the publication of the translations of the same work.

Art. 8. Newspaper articles may be reproduced, but the publication from which they are taken must be mentioned, and the name of the author given, if it should appear in the same.

Art. 9. The right of property shall be recognized in favor of the persons, whose names, or recognized pseudonyms, are stated in the respective literary or artistic work, or in the application to which Article 4. of this Convention refers, except in case of proof to the contrary.

Art. 10. Addresses delivered or read in deliberating assemblies, before the Courts of Justice or at public meetings, may be published in the press without any special authorization.

Art. 11. The reproduction in publications devoted to public instruction of chrestomathy, of fragments