

Secretary Duret.—The Committee having accepted the amendment of His Excellency Mr. Leger, the Conference is asked if it approves article 8 with this amendment.

The vote having been taken, article 8 resulted approved by unanimity of the Delegations present.

There were approved in succession Articles 9, 10 and 11, without discussion, by unanimous vote of the Delegations present; article 12 by eleven votes, to wit: Colombia, Costa Rica, Chili, Dominique, Equador, Salvador, United States of America, Hayti, Honduras, Mexico, Nicaragua, Uruguay, against the vote of Guatemala.

Secretary Duret.—Article 12 is under discussion.

His Excellency Mr. Chavero.—Several Delegates have made the just observation that there should be inserted: for both countries the demandant and the demanded. The Committee accepts this idea and makes the corresponding modification.

Secretary Duret.—The article with the addition proposed by Mr. Chavero now reads: "The Contracting Parties agree to establish in their legislations a penalty against the propaganda of anarchism. In consequence, every individual advocating anarchism may be extradited from the date on which said propaganda is made punishable, in the demanding State as well as in the demanded. In this case, extradition shall be granted, even when the individual claimed deserves a minor penalty of two years."

His Excellency Mr. Carbo, Delegate from Equador.—Mr. President, article 13 states:

"The Contracting Parties agree to establish in their legislations a penalty against the propaganda of anarchism. In consequence, every individual advocating anarchism may be extradited, from the date on which said propaganda is made punishable by the demanding State. In this case extradition shall be granted, even when the individual claimed deserves a minor penalty of two years imprisonment."

All pacts are subscribed by the Governments, and these cannot compromise themselves to do something where they cannot comply. The provision in the first part cannot be a faculty of the Executive Power, but of the Legislative Power; the correct course, in this case, would be, to solicit the respective legislatures for a penal legislation against anarchism; thus the redaction of the first parts of the article might be changed in the sense I indicate.

His Excellency Mr. Leger.—I fear that this article 13 remains subject to the same objections that I presented when article 2 was being discussed. In my opinion, it would be very difficult to define what constitutes anarchistic propaganda, and for the same reasons expressed in the discussion of article 2, which formed motive for approval of the amendment presented by the Honorable Delegate Macedo, I now propose to the Conference with due respect, that the text of the article in discussion be changed in the following terms: "The Contracting Parties agree to define and castigate the acts or deeds reputed as anarchistic, at latest within one year after the ratification of the present treaty. In consequence the extradition of every individual culpable of one of these acts or deeds, may be asked for as soon as the respective legislation of the States interested may have passed laws in this respect. In such case, the extradition shall be granted, even when the individual

claimed may incur in a minor penalty of two years imprisonment."

Secretary Duret read the amendment proposed by the Honorable Delegate from Hayti.

His Excellency Mr. Chavero.—The observations made by the Honorable Mr. Carbo are of such force, that the Committee at once accepts them, and I think that the Honorable Mr. Leger has included them in his reformation; but to my idea, the redaction would be clearer if it were left simply in these words: "The extradition of every individual considered as delinquent of anarchism by the legislation of both Nations, both the demanding and the demanded, shall be proceeded with. In this case, it shall be granted, even when the individual claimed, deserves only a minor penalty of two years imprisonment."

We may also accept the redaction of the Honorable Mr. Leger; but removing the first part, the obligation of the nations to establish the penalty and admitting that extradition proceeds at once upon the nations establishing the penalty. In this manner we proceed with more respect for the Legislative Power of the Contracting Parties.

His Excellency Mr. Buchanan, Delegate from the United States of America.—I desire to ask only if I have understood well that what the Committee proposes is to retire completely the first portion of the article.

His Excellency Mr. Chavero.—Yes, that is the intention of the Committee, because, as the Honorable Mr. Carbo has observed, we believe that in a treaty the legislative powers cannot be obligated, but that they should be left at liberty to establish or not establish a penalty for anarchism, and then extradition will proceed between the States so establishing penalty.

His Excellency Mr. Buchanan.—There appears to exist a difference of opinion or comprehension regarding the desire of the Committee. If I am correct, the Committee intends to retire completely that part of the article that obligates Nations to issue a law, and proposes to state solely that as soon as the law is issued, extradition will proceed. Otherwise, I would feel obliged to vote in contra, for this would signify the imposition of an obligatory regulation upon the legislative power.

His Excellency Mr. Chavero.—Just what the Honorable Mr. Buchanan desires is to know if the Committee means to say that no obligation shall be imposed, but if laws exist against anarchism in two Republics, one may ask extradition from the other.

His Excellency Mr. Buchanan.—One remark only, Mr. President, that I have to make to the Committee, that is that it appears better to state in the final part of the article: "both countries," in place of "country demanded," for otherwise the article would be inefficient, in as much as it is a rule and practice in extradition proceedings that a man cannot be delivered for a crime that does not possess that character in the country of refuge.

His Excellency Mr. Chavero.—The Honorable Mr. Buchanan has mixed his ideas due to the bad interpretation of the interpreter, who said "country demanded," and the proposition does not say country demanded; it says simply: "In this case it shall be granted, even when the individual claimed only deserves a minor penalty of two years imprisonment."

And as we already establish in article 1, that this minor penalty of two years imprisonment is in the two countries, there was no longer necessity of saying it; so the Committee is entirely in accord with Mr. Buchanan.

His Excellency Mr. Pineda, Delegate from Mexico.—I think the observation that I desire to be permitted to make to the Committee is obvious. If I comprehend aright, the proposition of the Committee and that of the Conference, is to include in this projected treaty of extradition the prosecution of anarchism or to render difficult its impunity. If this is the idea of the diverse forms or amendments presented to the original article of the Committee, I understand that the last form given is useless, or at least unnecessary. In fact, to say that the delicts of anarchism will be cause for extradition when they have been declared by both countries, falls of its own weight. In consequence, when it is question of crimes of anarchism, extradition proceeds, even when the penalty imposed does not exceed two years imprisonment.

I do not think that the article would result useless in its present form, by only saying: "When it is question of crimes of anarchism, extradition shall be granted, even when the penalty is for less than two years."

His Excellency Mr. Chavero.—In fact, at first view, the first part of the article appears redundant; but it has its object, and that is to restate that the crimes of anarchism cannot be considered as political offenses, and that therefore they enter into the treaty. Redundancy is preferable on a point so grave and interesting.

His Excellency Mr. Pineda.—If the object of the Committee in substituting the terms of its article placed in debate, is simply to reaffirm, that is to say, to state again what it has already stated, I have no hesitation to accede to its proposition, and as I understand neither has the Conference; but if this is stated clearly, explicitly, in the amendment of this Honorable Mr. Macedo and was approved by the Conference, why repeat the thing at each step unnecessarily? I have naught more to say.

Secretary Duret.—No one has the floor. It is asked if article 13 as presented by the Commission is approved

The vote having been taken, it resulted approved unanimously by the Delegations present, computing the vote of Colombia, deposited with the Secretary.

Secretary Duret.—Article 14 is under discussion.

His Excellency Mr. Leger.—I would only like to know what would happen if the two arbitrators could not reach an accord in the nomination of the third.

His Excellency Mr. Walker Martinez.—The question propounded by the Representative of Hayti is an insolvable problem: if there is no accord, there is no resolution.

No one having asked for the floor, the vote was taken, the article resulting approved unanimously by the Delegations present, computing the vote of Colombia.

There was placed under discussion article 15, which was approved without debate, by unanimity of votes.

Secretary Duret.—The first additional article, presented by the Committee is under discussion.

His Excellency Mr. Buchanan.—I only have to propose to the Committee that it resolve that the article presented as first additional of its project of treaty, and which contains the enumeration of crimes, be inserted in article 1, following immediately after paragraph second.

His Excellency Mr. Chavero.—The Committee is entirely in accord, for, in fact, it is its place.

Secretary Duret.—No one asks for the floor. It is asked if it is approved.

The vote having been taken, the first additional article resulted approved by a majority of twelve votes, computing the vote of Colombia against that of Equador.

The second additional article was approved unanimously by the Delegations present, computing the vote of Colombia.

Secretary Duret.—The Chair rules that the matter pass to the Committee on Engrossing

SESSION OF JANUARY 24, 1902.

Secretary Duret.—Complying with the ruling of the 22nd instant,¹ there remain at the disposal of their Excellencies the Delegates the reports of the Committee on Engrossing, upon the following resolutions of the Conference:

. . . VII. Treaty of Extradition and Protection against Anarchy.

The text of said report is as follows:

Committee on Engrossing.—The Committee subscribing has the honor to propose for the project of treaty approved upon extradition and protection against anarchism, the following redaction:

Art. 1. The High Contracting parties agree reciprocally to surrender persons accused or sentenced by the proper authorities whenever the following circumstances occur:

I. That the demanding State shall have jurisdiction to commit the delinquent who is the cause of the demand of extradition.

II. That the perpetration of a crime or an offense of the common order which the laws of the demanding and demanded States punish with the penalty of not less than two years imprisonment, be duly invoked.

III. If by reason of the Federal form of Government of some of the High Contracting Parties, it shall not be possible to determine the punishment corresponding to a crime for which extradition has been demanded, the following list of crimes shall be taken as a basis for the demand.

1. Murder, comprehending the crimes known as parricide, assassination, poisoning, infanticide.

2. Rape.

3. Bigamy.

4. Arson.

5. Crimes committed at sea, to wit:

(a) Piracy, as commonly known and defined by Law of Nations.

(b) Destruction or loss of a vessel, caused intentionally; or conspiracy and attempt to bring about such destruction or loss, when committed by any person or persons on board of said vessel on the high seas.

(c) Mutiny or conspiracy by two or more members of the crew, or other persons, on board of a

¹ Vide page 43.

vessel on the high seas, for the purpose of rebelling against the authority of the captain or commander of such vessel, or by fraud, or by violence, taking possession of such vessel.

6. Burglary, defined to be the act of breaking and entering into the house of another in the night time, with intent to commit a felony therein.

7. The act of breaking into and entering public offices, or the offices, of banks, banking houses, savings banks, trust companies or insurance companies, with intent to commit theft therein, and also the thefts resulting from such acts.

8. Robbery, defined to be the felonious and forcible taking from the person of another of goods or money, by violence or by putting the person in fear.

9. Forgery or the utterance of forged papers.

10. The forgery or falsification of the official acts of the Government or public authority, including courts of justice, or the utterance or fraudulent use of any of the same.

11. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, or other instruments of public credit; of counterfeit seals, bank-notes, stamps, dies and marks of State or public administration, and the utterance, circulation or fraudulent use of any of the above mentioned objects.

12. The introduction of instruments for the fabrication of counterfeit coin or bank notes or other paper current as money.

13. Embezzlement or malversation of public funds committed within the jurisdiction of either party by public officers or depositaries.

14. Embezzlement of funds of a bank of deposit, or savings bank, or trust company, chartered under the laws.

15. Embezzlement by any person or persons hired or salaried, to the detriment of their employers, when the crime is subject to punishment by the laws of the place where it was committed.

16. Kidnapping of minors or adults, defined to be the abduction or detention of a person, or persons, in order to exact money from them for their ransom or for any other unlawful end.

17. Mayhem and any other wilful mutilation causing disability or death.

18. The malicious and unlawful destruction or attempted destruction of railways, trains, bridges, vehicles, vessels, and other means of travel, or of public edifices and private dwellings, when the act committed shall endanger human life.

19. Obtaining by threats, or injury, or by false devices, money, valuables or other personal property, and the purchase of the same with the knowledge that they have been so obtained, when such crimes or offenses are punishable by imprisonment or other corporal punishment by the laws of both countries.

20. Larceny, defined to be the theft of effects, personal property, horses, cattle, money, of the value of at least twenty-five dollars, or receiving stolen property, of that value knowing it to be stolen.

21. Extradition shall also be granted for the attempt to commit any of the crimes and offenses above enumerated; when such attempt is punishable with prison or other corporal penalty by the laws of both contracting parties.

21. Extradition shall also be granted for the attempt to commit any of the crimes and offenses above

enumerated, when such attempt is punishable with imprisonment or other corporal penalty by the laws of both contracting parties.

IV. That the demanding State present document which according to its laws, authorize the provisional arrest and the legal commitment of the offender.

V. That either the offense or penalty has not prescribed in conformity with the respective laws of both countries.

VI. That the offender, if already sentenced, has not served his sentence.

Art. 2. Extradition shall not be granted for political offenses or for deeds connected therewith. There shall not be considered as political offenses acts which may be classified as pertaining to anarchism, by the legislation of both the demanding country and the country upon which demand is made.

Art. 3. In no case can the nationality of the person accused prevent his or her surrender under the conditions stipulated by the present treaty, but no government shall be bound to grant the extradition of its own citizens, reserving to itself the right to surrender them, when in its judgment it is proper to do so.

Art. 4. If the person whose extradition is demanded is subject to penal proceeding, or is detained for having committed an offense in the country where he has sought refuge, his delivery shall be delayed until the end of the proceedings, or until he has served his sentence.

Civil obligations contracted by the accused in the country of refuge shall not be an obstacle to his delivery.

Art. 5. Extradition, when granted, does not authorize the trial and punishment of the party surrendered, for a crime different from the one that may have served as ground for the corresponding demand; unless it has connection therewith and is founded upon the same proof as that of the demand.

This stipulation is not applicable to crimes and felonies committed after extradition.

Art. 6. If another State or States, by virtue of stipulations in treaties, demand the surrender of the same individual by reason of different felonies, preference shall be given to the demand of the State, in whose territory the greatest offense has been committed in the judgment of the State upon which the requisition has been made. If the felonies should be considered of the same degree, preference shall be given to the State having priority in the demand for extradition, and if all the demands bear the same date, the country upon which the demand is made shall determine the order of surrender.

Art. 7. The requests for extradition shall be presented by the respective diplomatic or consular agents; and in the absence of these directly by one Government to another; and they shall be accompanied by the following documents:

I. In regard to alleged delinquents, a legalized copy of the penal law applicable to the offense for which the demand is made, and of the commitment and other requisites referred to in clause IV of art. 1, shall be furnished.

II. With regard to those already sentenced, a legalized copy of the final sentence of condemnation.

All data and antecedents necessary to prove the identity of the person whose surrender is asked for, shall also accompany the demand.

Art. 8. In cases of urgency, the provisional deten-

tion of the individual demanded may be granted on a telegraphic request from the demanding Government to the Secretary of Foreign Affairs, or to the proper authority of the country upon which demand is made, and wherein a promise shall be made to send the documents mentioned in the foregoing article; but the person detained shall be liberated, if such documents are not presented within the term that may be designated by the nation on which demand has been made, provided such term shall not exceed three months, to be counted from the date of the detention.

Art. 9. The demand for extradition, in so far as the procedure is concerned, the determination of the genuineness of its origin, the admission and competency of the exception with which they can be opposed by the criminal or fugitive demanded, shall be submitted, whenever they do not conflict with the prescriptions of this Treaty, to the decision of the competent authorities of the country of refuge, which shall proceed in accordance with the legal provisions and practices established for such a case in said country. The fugitive criminal is guaranteed the right of habeas corpus, or the protection (*recurso de amparo*) of his individual guarantees.

Art. 10. All property which may be found in the possession of the accused, should he have obtained it through the perpetration of the act of which he is accused, which may serve as a proof of the crime for which his extradition is asked, shall be confiscated and delivered up with his person. Nevertheless, due recognition shall be given to the rights of third parties to the confiscated articles, provided they are not implicated in the accusation.

Art. 11. The transit through the territory of one of the Contracting States of any individual delivered by a third country to another State not belonging to the country of transit, shall be granted on the simple presentation, either of the original or of a legalized copy of the resolution granting the extradition by the Government of the country of refuge.

Art. 12. All expenses connected with extradition of the fugitive shall be for the account of the demanding State, with the exception of the compensation to the public functionaries who receive a fixed salary.

Art. 13. The extradition of any individual guilty of acts of anarchism can be demanded whenever the legislation of the demanding State and of that on which demand is made has established penalties for such acts. In such case, it shall be granted altho the

individual whose extradition be demanded may be liable to imprisonment of less than two years.

Art. 14. The Contracting Governments agree to submit to arbitration all controversies which may arise out of the interpretation or carrying into effect of this Treaty, when all means for a direct settlement by amicable agreements shall have failed.

Each contracting party shall name an arbitrator, and the two shall name an umpire in case of dispute. The Committee of Arbitrators shall adopt the rules for the arbitration proceedings in every case.

Art. 15. The present Treaty shall remain in force for five years from the day on which the last exchange of ratifications shall have been made and shall remain in force for another term of five years if it should not have been denounced twelve months before the expiration of that period. In case any government or governments should denounce it, it shall remain in force among the other contracting parties. This Treaty shall be ratified and the ratification shall be exchanged in the city of Mexico, within one year from the time of its being signed.

Art. 16. If any of the High Contracting Parties should have concluded treaties of extradition among themselves, such treaties shall be amended only in the part modified or altered by the provision of the present Treaty.

Transitory article. The representatives of Costa Rica, Ecuador, Honduras and Nicaragua signed this Treaty with the reserve that their respective Governments shall not deliver the culprits who deserve the death penalty, according to the legislation of the demanding countries, except under the promise that such penalty shall be commuted for the one next below in severity.

If the Governments of the above mentioned Delegations sustain the same reserve upon ratifying the present Treaty, the latter will only bind them with those governments which accept the conditions referred to.

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

The Treaty of Extradition and Protection against Anarchy, drafted exactly in the same terms of the above report, was signed on the 28th of January, 1902, by the Delegations of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chile, Dominican Republic, Ecuador, Salvador, United States of America, Guatemala, Hayti, Honduras, Mexico, Nicaragua, Paraguay, Peru and Uruguay.

NUMBER 10.

Practice of the Learned Professions.

SESSION OF NOVEMBER 29, 1901.

Secretary Duret.—The Chilean Delegation has presented the following project of convention upon the practice of the learned professions, which, by ruling of the President, passes to the Committee on the practice of the Learned Professions and Literary Relations, for examination:

EXPOSITION of Reasons for the proposed Convention regarding the Practice of the Learned Professions, which the Delegation of Chili submits to the Second International American Conference.

There is no need of an elaborate exposition of the reasons which make it advisable to extend, as far as possible, the Practice of the Learned Professions in