

Therefore, the Delegation of Bolivia cannot discuss either the propriety nor the utility of the Chilean proposition, and finds itself in the painful necessity of voting against it, for it cannot place itself in contradiction to the antecedents of its Government, and must respect the pacts that the latter has celebrated with the greater part of the South American countries.

*His Excellency Mr. Blest Gana.*—Mr. President: I ought to commence with a prior explanation.

The Committee of which I am the chairman has had the pleasure to see the Honorable Delegate from Bolivia in its midst, so one might think that he is in opposition to said Committee; but I ought to state that the project was presented before any such thing could happen. Consequently, what he has just expressed against the general idea of the project, is merely a personal opinion of His Excellency the Honorable Delegate from Bolivia.

As regards the observations that he has made against the approval of the project in general, allow me to say, with all due deference, that the opinion of my honorable colleague and his arguments are, judged from all points of view, self-contradictory. I have cited the different pacts held by his country with other Spanish-American states for the practice of the learned professions, pacts that are conceived within the most liberal lines. The question would occur to one, why is it that this country so liberal in such matter, opposes the project in general, consulting measures, some restrictive, it is true, for the practice of those professions. I confess that I cannot find a convincing explanation in this respect.

Moreover, I cannot enter into a discussion of the articles of the project, and as I have said before, I think we ought to limit ourselves to the debate as a whole.

So, in this instance, I do not consider that the arguments of my honorable colleague Mr. Guachalla have any force, for if he had studied the project now under discussion, he would have seen that there has been special care taken, a veritable zeal, to maintain entire liberty in all the countries of America with respect to the practice of the learned professions. None of them can restrict the right of another to accept or not any foreign title, and as this is a general rule, it has seemed entirely just to the Committee.

I believe that it is an unanimous opinion, an idea that extends throughout Spanish America, that this practice of the learned professions should be extended in all possible; this is the base, it is the general structure of the project. Consequently, I do not comprehend what reasons Mr. Guachalla can have for opposing that idea, since his Nation has practiced it in all the special cases to which the project is applicable, and with more amplitude than the project itself.

*His Excellency Mr. Guachalla.*—I deplore, Mr. President, not having been able to carry conviction, with regard to just what are the opinions of the Delegate from Bolivia, to the mind of our distinguished and esteemed colleague the Honorable Mr. Blest Gana.

In fact, we are in accord on one general point: we desire that America may all be like one sole nationality, in order that all may freely exercise their professions; but as the project of the honorable Chilean delegation contains certain restrictions, accord-

ing to what even the Honorable Mr. Blest Gana says, it is clear that on this point we are not yet in accord. My country, that has established in this respect more ample and liberal relations, cannot to-day react upon acquired rights and obligations. As I have said with regard to general principle, we are in accord; but with regard to the project itself, we cannot be so, for this is restrictive to the Government of Bolivia.

I will not enter upon a discussion of the principle of the question, as I am aware that we are not discussing in detail; I have only wanted to save the vote of Bolivia and explain why it cannot be affirmative. It is our desire that all professional men should freely practice in America, without any restrictions or differences. And the Chilean delegation establishes those restrictions, which, while they may be very sage, cannot be accepted by my Government, for what it desires is complete liberty, and the only thing it exacts is the identity of the person and the authenticity of the professional title.

*His Excellency Mr. Gil Fortoul, Delegate from Venezuela.*—In order to have a more secure and ample base for discussion upon this subject, I would beg the Honorable American Delegation to inform us if when the universities of the States confer a title or diploma, these are immediately, and by that sole fact, accepted throughout the Union.

This is vested with great importance in the present discussion, for here we treat solely with international questions. If those titles or diplomas are not accepted by all the States, it is sure that they would not be accepted either by the other American Republics, unless the persons who have obtained them stand the same examinations as citizens.

Moreover, the project presented by the Committee, has a tendency to leave each country at liberty to establish the indispensable formalities, in order that the diplomas be accepted, which, to my mind, takes away all practical importance from the project of convention.

Before adding, if it be necessary, any other remarks, I would respectfully ask the Delegation from the United States to kindly inform us in this respect.

*His Excellency Mr. Pepper.*—In answer to the Honorable Delegate from Venezuela, I would say, that we have, I think it is, forty-five states. Each state makes laws by virtue of which its diplomas are issued, and specifies the necessary conditions to obtain them. Other States do not necessarily recognize the diplomas issued in any certain State. Properly speaking, there is no such thing as a State diploma. In some States we have state universities, agricultural colleges, and other classes of schools, but under our general system of education, there is no such thing as a national diploma, and, practically, there is no such thing as a State diploma. The point I was trying to bring out in reference to article first was that under the project of the Chilean delegation, the United States issue no diplomas of any kind which would be recognized in the Spanish-American countries, for in these matters there is properly no national authority recognized. Some States having State colleges do issue diplomas—that is, they are issued by the colleges, not by the State as a state, and those diplomas simply have the effect in other States which those other States choose to concede them. Each federal entity in the United States has its own laws regarding the prac-

tice of law and medicine, dentistry, etc. The effect of diplomas from the different colleges is determined by the States. According to the terms of the project in discussion—and this is the point that I desire to render clear—there would be no means, as we understand it, by which graduates of institutions in the United States, who might find themselves in any other American country—in Chili, for instance,—could be recognized, for in this case there is no competent «national authority» in the United States,—which are the terms employed in the project—and I presume that there is neither any competent authority pertaining to the States. What we desire is to secure some expression as to whether or not it is possible to obtain a modification of the words to which I have referred, in the sense indicated by me at the commencement of this discussion.

Articles 2 and 3 establish very proper restrictions and fix the conditions under which the different countries should recognize the diplomas issued by the others, but as we understand the general object of these articles, there would be no chance of recognizing in the Spanish-American countries diplomas from American universities, even the most renowned, like those of Pennsylvania, Harvard or Yale.

*His Excellency Mr. Gil Fortoul.*—Mr. President: It appears to me that there is great difficulty in this matter with respect to the universities of the United States. If I have understood aright, there are States that do not recognize the diplomas issued by others; hence it is evident that the American Nations will not recognize them either: to render a diploma valid, it is necessary that it be vested with efficacy, an importance such that may be recognized nationally.

I repeat, we are here only taking up international questions, without having to refer for any purpose to the private laws of the diverse entities that compose a nation.

As we are simply discussing this matter in general, I fail to see the necessity of adding now other considerations, which I will present opportunely to discuss in detail the articles of the project.

*His Excellency Mr. Lazo Arriaga, Delegate from Guatemala.*—I wish, Mr. President, that by means of a memoir or statement to the Conference, some of the members of the American delegation would clear up this doubt that has come to me. Supposing that the Conference were to adopt this resolution, supposing, moreover, that a treaty were signed by all the Nations here represented, supposing, furthermore, that the Senate of the United States were to ratify this treaty, would it be obligatory in all the States of the Union? I have understood, from the words just uttered by the Honorable Mr. Pepper, that in these matters the States of the Union are sovereign. I doubt, therefore, if a treaty approved by the American Senate could be made effective in the States in a matter concerning its exclusive competency. And if it were so, that is to say, if this treaty approved by the Senate of the United States were not obligatory upon the various States, which have the right to legislate with respect to professions, the result would be that even after celebrating this convention, those States could not be forced to respect it, while other Nations would, and, consequently, the diplomas issued in other countries would have no effect in the United States.

For this reason, I wish that this doubt might be cleared now that we are discussing the project as a whole.

*His Excellency Mr. Pepper.*—Mr. President: Before replying to the question of the Honorable Delegate from Guatemala, I will say that perhaps the Honorable Delegate from Venezuela has not understood me aright when I stated that the States do not recognize the diplomas issued by the other States. The fact is that many of them do recognize them to a certain extent. For example, in some the diplomas of determinate schools of law and medicine are accepted; but each State has its own laws relative to this matter, and this is the point with regard to which I believe Mr. Fortoul solicits information. Each one of the forty-five states has its own separate legislation concerning this branch.

Referring to the question of the Honorable Mr. Lazo Arriaga, I will state that Mr. Buchanan, who has given a great deal of attention to that subject, not only from the aspect under which we are now considering it, but also other phases of it, will make an explanation, which I think will clear up this doubt in question completely.

*His Excellency Mr. Sanchez Marmol, Delegate from Mexico.*—Mr. President and Messrs. Delegates: The Honorable President of the Committee, whose report is under discussion, has given conclusive reasons for its foundation. Notwithstanding, member as I am of the same, I find myself obliged to take part in this debate, for the sole purpose of calling attention to certain facts that are being handled, in my judgment, in an irregular manner, and to renew the arguments that His Excellency Mr. Blest Gana adduced in such a brilliant manner.

Under pretext of discussion in general of the project, the articles are being brought into discussion, and thus we are already examining the first when the discussion ought only to be directed at this moment to the question whether said project, in general, is acceptable or not.

To my mind, there is not a single member of this Conference who ignores the convenience of accepting it in general, and arguments are merely made upon certain details that are not yet under discussion.

The Honorable Mr. Guachalla has argued, stating that Bolivia has most liberal treaties regarding the practice of the learned professions by citizens of other States; but I do not conceive that this argument opposes the fundamental idea of the project which we had the honor to present. It is true that it contains restrictions that are consigned in article 2; but they are of character potestative to each State.

Thus, one not desiring to submit to those restrictions, is not obliged, in any manner, by the treaty, to make them effective, because, as stated in article 2:

Consequently, if Bolivia is at liberty to accept diplomas without any limitation, in what manner does the argument of Mr. Guachalla oppose the capital principle of this project? I do not perceive it, in all frankness.

With regard to the explanations given by Mr. Pepper, I ought to say that in the United States, the States are sovereign in this matter, and each one issues its professional titles in accordance with its own laws. We here in Mexico are in exactly the same position, which did not prevent me from sign-



ing the project presented by the Chilian delegation. With us, the States are sovereign in their interior regimen, in everything relating to the learned professions; but we have an article in our Constitution, the 115th, in conformity with which the diplomas issued by them, are valid throughout the Nations. In consequence, each professional diploma issued by a State, is a title of national character.

Now, then, treaties, in accordance with our Constitution, are complementary of the fundamental law, and has the same force and effect. So, if in a convention celebrated by Mexico it is stated that the professional diplomas of other States are valid in Mexican territory, that pact would have the same force as our constitutional law.

In the United States, says the Honorable Mr. Pepper, there are States that issue professional diplomas, and these in some are valid and not so in other. I would like to ask His Excellency Mr. Pepper, if in the Constitution of the United States there is any provision relative to this point, if the diplomas issued by the States are valid in all, or if each one is at liberty to hold them valid or not.

In this case, his argument falls also from its own weight, because if in the United States the diplomas issued by each federative entity of the Union, have no validity in the others, then they could illy ask of us that they have among us greater effect than that which they have in his own country.

Thus, the project is not in opposition to the ideas expressed by the Honorable Mr. Guachalla nor to the statement of His Excellency Mr. Pepper.

I think, therefore, that it should be approved, as a whole, with the understanding that when we reach the discussion upon each article, any remark deemed necessary may be made. The Committee, for its part, is not wedded to its idea, and is disposed to accept such amendments as may appear reasonable.

I, therefore, beg the Chairman to order the question put if the report is approved as a whole, so that we may enter upon an efficacious discussion, one tending toward a practical result.

*His Excellency Mr. Walker Martinez, Delegate from Chili.*—Mr. President: The discussion in general has been greatly prolonged and I only wish to add two words, for I fear that perhaps some confusion of ideas may cause some of the Delegates not to cast their votes.

The first question propounded by the Honorable Delegate from Bolivia establishes an antagonism between two ideas: the most ample and the most restrictive. His Excellency states: Bolivia having accepted and conceded the most complete, the most absolute liberty in the exercise of the professions in his country, it would be a contradiction to admit limitations.

I would like to call the attention of His Excellency to the fact that in the project there exist merely facultative restrictions, as indicated very well by the Honorable Delegate from Mexico. Therefore, if they have that character, is not the Nation represented by the Honorable Mr. Guachalla in its perfect right not to make use of them and to continue exercising the most absolute liberty with the other nations with respect to the practice of the learned professions?

In consequence, if that liberty is not restricted and each Government may use it, why combat the project? The adage that «the enemy of good, is the best,» may here be applied. If we can have ample liberty, gentlemen, why then oppose the Nations of America,

which have distinct criterion and legislations in the enjoyment of that liberty? Does not the same thing occur with respect to treaties of extradition? If there is a nation that does not want to comprise in it some offense, will it for this reason refuse to sign a treaty of that sort respecting the other penal infractions?

The Chilian Delegation in proposing the project, had to consider that this idea of ample liberty in the practice of the professions, has not gained sufficient ground throughout America, nor in the whole world; and since there are Nations that have a more restricted criterion, why not leave them this safeguard, so that they may utilize it in all of their treaties?

I find myself personally in disaccord with my honorable companions of the Delegation, and in conformity with the Honorable Mr. Guachalla: I have acted as signer of a treaty in which the High Contracting Parties mutually conceded each other liberty in the practice of all the professions. But, gentlemen, do I restrict or contradict my mode of thinking, or what I procured for my country with other Nations, when I say: since we cannot obtain this in all parts of America, let us obtain at least something now?

Article 2 of the project establishes that each one of the Contracting Parties reserves, notwithstanding, the right to exact from the citizens of others that they present diplomas or titles, etc.

What does this article establish? A negotiation between the respective States, because this has to be reciprocal: Bolivia is not going to make, except under title of reciprocity, that liberal concession. Consequently, the door is open; let us sign the treaty, and if it has reservations, we will exercise them only with those Nations which exercise them with us. Thus, this convention may be approved by all the Nations, by those that want the most and by those that seek the least: and above all, once admitted the idea in general, His Excellency Mr. Guachalla may tell us, in the discussion in part: let us obtain all we can, and eradicate every sort of restriction.

With respect to the remarks that have been made relating to the divers legislations of the American Union, I ought to call attention to the fact that we are here discussing a treaty, not one of absolute liberty in the professions, but which will permit the exercise of them, from one country to another, in conformity with certain rules. If we are going to take into account that there are States in the United States where no title whatever is exacted to practice a profession, we would have to accept that legislation and sign a treaty of absolute liberty, that would not be accepted, surely, by the other countries of America. Hence, this is not the question. Established as should be a national title, the door is left open to the Government of the United States to enumerate the universities the diplomas of which should be considered as valid.

I think, then, Mr. President, that this treaty being ample for all the countries, it comes within the criterion of all legislations, and I call attention to the point, in order that there may be no votes cast on a mistaken idea.

*His Excellency Mr. Guachalla.*—I trust the Honorable Delegate from Chili will permit me to call his attention to his own ideas.

Our esteemed colleague states that the restriction established in article 2, for the practice of the learned professions, is facultative; that in consequence, the countries having ample conditions and which con-

cede absolute liberty in this matter, may make use or not make use of those treaties or mutual concessions.

I do not think there will be reciprocity where one country accepts that restriction and another does not accept it. In consequence the principal base upon which His Excellency Mr. Walker Martinez raises his edifice would disappear.

And as it is not possible to cast the vote of my country in order that others may put restrictions, I have believed it my duty to vote against the project. If it were a matter of a simple recommendation in which it were stated that the Conference desires that all the countries accept the liberty of professions, I would support it; but as it is a matter of project of convention, I feel obliged not to accept it, for if another country is allowed the liberty to make or not make use of that power, it is evident that the very base of the treaty will disappear.

*His Excellency Mr. Bermejo, Delegate from the Argentine Republic.*—Mr. President: I base my vote upon premises analogous to those of the Honorable Delegate from Bolivia, and my conclusion, notwithstanding, will be distinct.

The country which I represent in this Conference, has, like Bolivia, very liberal pacts in this respect. The convention signed in Montevideo, established the recognition of the certificates or diplomas for the practice of the learned professions, without any restriction, be what it may that certificate or diploma: the mere presentation of a certificate, a duly legalized document, suffices to accredit his title and personal identity, for the practice of his profession.

How then, if the principle is accepted in this form and with such amplitude, can the Delegation that I represent accept the project now being debated? The reason is very simple. We are dealing with the project as a whole, and its approval imports simply the acceptance of the fundamental idea, that is to say, if there will be or not a treaty of reciprocity or recognition of diplomas in the learned professions.

Now, is it well or not for the Conference to enter into an examination of the problem whether it is possible to celebrate a convention? As to this there cannot be two ways, and I think that the Honorable Delegate from Bolivia can accept the project, reserving the right that we all have to retain our opinion upon such or such details. I, for my part, wish that the work of the Committee were still more ample, would give still greater facilities to the practice of the learned professions, since in our countries, of rather agitated life and of democracies somewhat turbulent, men of intelligence have to apply themselves to the practice of their profession in foreign soil.

The difficulty of the problem consists in this, that in certain States there are authorities of national character that issue titles and others of local or provincial character that also issue them. This difficulty, to my mind, may be obviated. In my country, for example, the national universities grant diplomas with a national character, and the establishments of provincial order may also issue theirs; but the value of each is in accord with the class of the institution that issued it: the provincial diploma is recognized in the province, while the national diploma is valid in any part of the national territory. I suppose the same thing occurs in the other countries.

But it is said that in the United States the situation is different, of a special character. There the

universities are not of state, but of private character, as the Honorable Delegates know perfectly well; they are entirely independent of the national entity, provincial or even municipal, with the particular circumstance that does not occur in any other country, that the universities have proper names. Then, how can the authenticity and efficacy of the diplomas issued in this manner be recognized? This is a question that will have to be discussed at the proper time in detail.

Yes, one has to note, at once, that notwithstanding, the great desire of Washington, in no part of the American Constitution is there any provision made for the foundation of universities or institutes of learning, and yet one cannot see any reason that would prevent the creation in the United States of an institution of that class, like those of England, there being established in London an university that has no other object than to issue certificates of national character.

To resume, Mr. President: I understand that we can accept the project under discussion as a whole, without losing any right when we arrive at discussion in detail of introducing the modifications that may be deemed opportune and proper.

*His Excellency Mr. Alvarez Calderon, Delegate from Peru.*—I wish to put a pointed question. Referring to the discussion in general of project, I desire to know if the Delegation of the United States is disposed to sign this convention, if the Government of that country will sign it later, if when once signed by it, the same will be approved by the American Senate, and if in such case it will become a law obligatory upon all the States of the Union.

The Honorable Mr. Lazo Arriaga has made an interpellation in this respect that has not been answered and which is important, for we accept the diplomas of all or of the greater part of the universities of the United States, and we would like to know if those issued by the other American Republics will be accepted, not only by the Union, but also by the different States composing it.

I ought, on the other hand, to make a statement, and which is the following: the Honorable Delegate from Bolivia has indicated that we are obligated with that Republic, as we are with Equador, Uruguay, Paraguay and the Argentina. Now, then, all of them are going to form part of the new convention, and it is a general principle of law that a second treaty supersedes the former. We recover, then, the liberty that we no longer have, since we are abrogating the right we have to put conditions previous to the free exercise of the professions to the peoples with whom we are leagued in an absolute manner: so, although we create no safeguard whatever, if we do not establish that the treaties celebrated with other nations shall remain in force, we will have implicitly abrogated them, which we ought not nor do we desire to do.

*His Excellency Mr. Buchanan.*—I am not certain whether it is advantageous or disadvantageous for the success of this discussion but the fact remains, that the American Delegation is not able to state what action the United States Senate would take upon any measure which might come before it.

With regard to the question asked by the distinguished gentleman from Guatemala, concerning the power of the American Senate to celebrate this class of conventions, that can be unquestionably answer-