

ed in the affirmative. If the Senate of the United States approves a treaty, it becomes the law of all of the United States. The difficulty in this matter, however, Mr. President, is an organic one, and it lies in this fact: that in the United States the practice is to ascertain whether or not the applicant for the privilege of practicing one of the liberal professions has an adequate and competent education, rather than to investigate where he received that education.

Hence it occurs, for example, that in the State of New York all applicants for the right to practice the profession of law, or of medicine, or of dental surgery, or any other of the liberal professions, are required by the Regents of the University of the State of New York to pass an examination, and that examination covers certain requirements,—none of them, however, referring to the fact as to where the applicant received his education; but all of them directed to ascertain whether or not he has received in some institution of learning, no matter where, whether in the United States or abroad, such an education in an institution having for its standards those admitted to be competent and adequate by the State of New York, as would entitle him to be considered a person competent to practice the profession that he desires to enter.

If I am not mistaken upon this point, this is the organic difference between the system in use in the United States for the practice of the liberal professions and that in use in the other Republics of this Hemisphere. I believe that in certain Republics it is required that an applicant who desires, for instance, to practice medicine, must first of all have a diploma issued by the national college or university of that country. To obtain that diploma, he must take the regular course in that university, which signifies that he must acquire the language of the country in which that university is situated. In the United States the question of language is only implied. A man may go to the United States, let me say, from Chili, with a diploma certifying and showing that he has passed the requisite years of study required, for example, in the State of New York,—four,—and if he is able to satisfy the regents of the State of New York as to his competency and as to his knowledge of law, he can obtain a diploma and practice law in the State of New York.

I do not think that this is the case in the greater part of the Republics of South America; and therein lies the organic difference, and the principal obstacle, as I have already said, in the way of the approval of this proposed convention. If I am right, the Congress of Convention of Montevideo can be accepted by any country that was not a participant in it; any country desiring to adhere to that convention, and wants to obtain the reciprocal advantages of the practice of the liberal professions in any one of the signatory countries to that convention, may do so in the manner and by the procedure named in the treaty by simply granting reciprocal rights, by the recognition on its part of the diplomas issued in the countries which have signed that convention.

I think I have said possibly enough to show you that so far as the United States is concerned, we would be delighted to see the broadest and the most ample application possible of this principle of reci-

procuity, in connection with the granting of diplomas in the liberal professions. In regard to the manner by which such a convention might be framed, I can only say that I think it would offer a number of difficulties. The different states in the United States have different laws regarding the acceptance of diplomas in the practice of medicine. These laws are aimed more at the exclusion of certain colleges, so called, or certain institutions which are not standard institutions, than they are in reference to the admission of some form of diploma issued by other establishment. So you may comprehend what is involved in this, let me say that there exist in fact in the United States five hundred universities and colleges, recognized by the American Bureau of Education as being institutions of learning worthy of acceptance and also worthy of being classified by that Bureau. These are almost wholly sustained by private means. They are in greater part private institutions. A great number of them owe their existence to special charters, which have been issued to them by the different states, and, possibly, in one or two instances, by Congress. But none of them have any rights beyond those which would appertain to any other corporation or to any other institution organized in accordance with the laws of the United States, and the acceptance by different states, or the recognition,—which is the proper word,—of the diplomas issued, for example, by Yale and Harvard, is simply that measure of compliment and that due respect for the dignity, for the seriousness, and for the character of such institutions that have developed by reason of their history and by reason of what they have done for the young of our country and for what they mean to our country.

Secretary Macedo.—No one has the floor. The Conference is asked if it approves the report under discussion as a whole.

The vote having been taken, the Honorable Delegate from Bolivia stated, that the project being restrictive, he voted for the project, but with the understanding that this convention will not abrogate former treaties.

Secretary Macedo.—The report as a whole has been approved by seventeen votes against that of the Delegation of Bolivia, the Delegation of Peru having voted with a reservation. Due to the fact that the hour is late, His Excellency the President rules that discussion be suspended on this report until the next session.

SESSION OF DECEMBER 9, 1901.

Secretary Duret.—Article one of the project of convention on the practice of the liberal professions, which was approved as a whole at the preceding session, is now under discussion in detail.

His Excellency Mr. Cuestas, Delegate from Uruguay.—I take the floor, Mr. President, to make an explanation. Due to the fact that I was confined to my bed on the day that the project, which is now under discussion in detail, was approved as a whole, I was deprived of the honor of uniting my negative vote to that of my honorable colleague Mr. Guachalla, Delegate from Bolivia. I would have offered in its support, in addition to the reasons expressed by my distinguished friend, as evidenced by the minutes which I have just read, the very powerful one in that I had presented opportunely to the

Honorable Assembly the Treaties of Montevideo, among which figures one, precisely, relating to the liberal professions.

His Excellency the President, on that occasion, ruled that said Treaties should pass to the Committee for examination, and I am sure that at the present time they are still in its possession.

Now, then, Mr. President, the Committee in making the respective report on the project of the Chilian Delegation, has not taken at all into account those treaties, not even referring to them as a more precedent, despite the fact that the learned Mr. Garcia Merou, Delegate from the Argentine Republic, formed part of the Committee, and who took so active a part in the organization and realization of that labor: so active a part, Mr. President, that in the First Pan American Congress of Washington, the delegates from the Argentine Republic believed it their duty to claim for their country the honor of initiative of those labors.

In this situation, and esteeming that my absence from the debate in general signified adhering to the silence, more or less disdainful of the Committee, I think that I am doing my duty in manifesting why I did not take part in that debate, and to give this explanation, not only to my country, but also to the honorable colleagues who form part of the Conference, and to whose learned consideration I had the honor to submit the Treaty.

His Excellency Mr. Blest Gana, Delegate from Chili.—I am not at this moment able to recall sufficiently to enable me to reply to the Honorable Delegate who has just spoken, with respect to the charge that he makes against the Committee of not having taken into account the convention approved by the Congress of Montevideo, relative to the practice of the liberal professions. I remember very well having noted the import of that pact while we were engaged in drafting the project that we presented to this Assembly; but at this moment I have not well in mind just what were the reasons that induced us to consider that said pact was not adapted to the necessities of the moment, to the necessities created by the new current of ideas that have arisen in this matter during the discussion. Consequently, at this moment I am not prepared to answer the Honorable Delegate from Uruguay.

Permit me to say, however, that the use of the word *disdain* surprises me a little, which he has deemed necessary to employ in speaking of the attitude of the Committee over which I preside, in presenting the project, for nothing could have been farther from the spirit of its authors, than to disdain a work having, as I recall it, very recommendable bases, and which above all has been signed, in part, by the Chilian Delegation; and even if it were not, it would have sufficed for us that other countries, sisters of our own, had formulated a convention, to render the same a document worthy of the greatest consideration and respect.

Consequently, I object energetically to the use of the word, which, perhaps, the Honorable Delegate has employed without first weighing well its sense, without giving it the signification that it has in reality.

In the first place, I ought to observe that when the honorable member who has just spoken recommended the adoption of the Treaty of the Private International Congress of Montevideo, and the rul-

ing of the Chair, it passed to the Committee for its examination, I did not understand such ruling to be an imperative mandate to consider it exclusively and not to alter it. Consequently, we read it and took it as the base of our labors, and if it was modified in any way, it was because we encountered powerful reasons for so doing.

Permit me to add, Mr. President, to the arguments that I have presented to the Conference, that in proof of the fact that the recommendations approved by the International Congress of Montevideo have merited our consideration, I may cite the fact that in the project we have drafted, and which we are expected from one moment to another to present to the Chair, upon copyright, we commence by declaring that we have taken as base the Convention approved in Montevideo. This is a new practical proof, that will demonstrate to the honorable gentleman who has preceded me, that there has not been even the remotest idea on our part to treat with disdain the projects approved in that Congress.

His Excellency Mr. Foster, Delegate from the United States of America.—Mr. President: In our last discussion it was disclosed that in our country the Nation does not exercise control over educational institutions; but that they are, for the most part, independent, as are our commercial institutions, and that our Government has not the power to recommend or designate them for special honors anywhere.

Simply as a matter of interest, in regard to the divergency of the laws of the States of our country, we have here some information which at that moment was in the hands of the Committee, indicating that the legal conditions in some of our States are as liberal as one could desire, and that in others of our States examinations are required; and so it appears in connection with this branch of human activity, we are dependent on comity for acknowledgment and recognition, as we are in many other things; and comity has followed, sufficient to give standing to every institution of substantial merit in our country, as between the States.

The Conference has not much time at its disposal and for that particular reason, I will endeavor to make my remarks very short on the subject, condensing them into a simple preamble and resolution, which I will offer to the Conference, intended to obviate the difficulties that have presented themselves in the course of this discussion.

So, without further explanation, I will read this, which, in my judgment, explains itself:

«Whereas, the Colleges and Universities of the United States are not under the patronage of the National Government, and;

«Whereas, in this respect, these institutions differ in status from those of Spanish America, and;

«Whereas, it is the desire of the Conference that there should be the freest exchange of well accredited diplomas;

«Therefore, the American Delegation propose that they will earnestly recommend, and do by this act so recommend, to the respective States of the United States, that they, each and several, shall accredit and respect the diplomas of the Learned Professions of the National Colleges of Spanish America.

«Second. We beg to urge the Spanish American Republics, each and several, to empower the competent present authorities, or in the absence of such power, to appoint competent officials to consider and

decide upon credentials that may be offered by American citizens and to accept such credentials as may be satisfactory to such commissioners; such commissioners to be fully empowered to accept or reject any credentials offered.»

Secretary Duret.—The Chair rules that the proposition of His Excellency Mr. Fester be referred to the consideration of the Committee.

His Excellency Mr. Cuestas.—Mr. President: It was not my intention, in addressing the Conference, to create a discussion on the matter under debate; for this reason, I fully accept the explanation of the distinguished Delegate from Chili, Mr. Blest Gana, and believe there is no further cause for a continuance of this discussion.

However, as the Honorable Delegate from Chili stated in the course of his address that the Treaty of Montevideo had not been submitted to the consideration of the Committee in an imperative manner, so as to sanction it under any circumstances, and that the word «disdain» which I had used could not therefore be accepted, I beg to make an explanation in regard to this point. Verily, Mr. President, when I submitted to the consideration of the Conference the Treaties of Montevideo, it was not my intention that they should have been accepted in an imperative manner; and as a proof that such was not my intention, will quote the following, which were the closing words of my address at that time.

«It would be a great honor for Uruguay if the Nations which have not already done so; would adhere to all those treaties; but apart from this desire, she is prompted by the legitimate wish that the result of the enlightened and conscientious deliberations of the noted counselors who were members of the members of the Congress of Montevideo be taken into consideration by the Congress in Mexico, and because she believes that if those principles are adopted or modified by you, not only a special service will be rendered in behalf of the progress of International Law in America, but deems that it will also create a new tie which will unite her more closely with all her sister Republics of America, so worthily and brilliantly represented in this Assembly.»

Those were my words at that time, Mr. President, upon courteously submitting said treaties to the consideration of the Assembly; but the Committee, in dealing with a treaty on a similar matter, does not even make the slightest reference to the Treaty of Montevideo. So that the word «disdain» for which now there is no room, after the explanation of the Honorable Delegate Mr. Blest Gana, was then perfectly applicable, since it was founded upon the text of the report in which the resolutions of the Congress of Montevideo appeared as having been ignored.

Since the distinguished Mr. Blest Gana has made the explanation just listened to by the Conference, and which I accept because I believe it to be wholly sincere, it is undoubtedly understood that the words which I uttered have no reason to exist; but I wish it to be recorded that it was not thoughtlessness on my part, but the result of what was to be inferred from the report of the Committee. This I believe will end the incident.

His Excellency Mr. Sanchez Marmol, Delegate from Mexico.—Mr. President: Upon article 1st. of the project on practice of the learned professions having been placed under discussion, His Excellency Mr. Foster, Delegate from the United States of

America, has submitted a proposition which ought to be understood by the members of the Committee as an addition to said article; but I wish that His Excellency would state categorically, in order to systematize our works, whether his intention has been that the proposition submitted be considered as an addition to article 1st., or whether he leaves the Committee at liberty, to place it wherever it deems advisable. I think that this is an important explanation in order to avoid complications in the debate.

His Excellency Mr. Bermejo, Delegate from the Argentine Republic.—Mr. President: I will define the situation of the Delegation I represent in relation to the project under debate, especially on account of some of the remarks made by our distinguished colleague from Uruguay.

Personally, I ignore the reason which Mr. Garcia Merou may have had to sign the report submitted to the Conference; but I need to explain why, as a member of the Argentine Delegation, I have voted as a whole, on the project under debate.

It is stated that the Congress of Montevideo had sanctioned a treaty of a larger scope than that which is now submitted. This is in reality so: this fact was declared at the previous session and it was also declared that there were treaties which differ from the treaty now under discussion in two fundamental points: in the first place, no exception is made in those treaties of any profession, not even that of medicine and those related thereto; in the second place they attain a greater scope in so far that they do not restrict natives of each of the American countries; foreigners also enjoy that privilege, since an inhabitant of one State, holding a diploma from the University of that State, may practice in any other of the South American States, even though he be European or of any other nationality.

Yet, Mr. President, we must keep in mind this consideration: the Congress of Montevideo was a South American Congress, only the States of that part of the Continent were invited to take part in it, and precisely for the very reason that it referred to a Congress of International Private Law to legislate in that part of America, an endeavor was made to make a uniform common law; and it would have been very difficult to reach a practical result if the desire had been to give a wider scope to the program. This fact is demonstrated by the difficulties with which we are now contending. If as regards civil and commercial matters the legislation of the American Republics were to be regulated in accordance with that of the United States, the problem would be almost insoluble, for the simple reason that in that country each State enacts its own laws, while the other Republics have a code which is enforced throughout the Nation. For this reason, the invitations were confined to the South American States, believing that it would thus be easier to make a uniform law. Only in this way was there secured the establishment of a treaty or general basis which was accepted by the Argentine Republic, Peru, Paraguay, Uruguay and Bolivia.

Now, then, under the circumstances, the Argentine Delegation puts this question: if the Treaty of Montevideo is exclusively of a South American character what objections exists for us in undertaking a treaty of a general character on the subject? To this the report of the Committee replies and that is why I have no objection in adopting the

fundamental idea therein contained, reserving the right, upon entering, to consider the problem in detail, to make the necessary remarks in order to avoid the difficulties which may arise, difficulties with which we are already contending through the proposition made by the Hon. Delegate Mr. Foster, who has demonstrated to us that the universities of the United States are not of a national character, a fact which must create an obstacle of more or less magnitude, in the validity of professional titles.

This is what I formerly stated: there not only existed that difficulty regarding the lack of official diplomas of a national character, but also of a local status. Out of the one hundred or more universities—not five hundred as has been stated because this would be confounding the institutions of primary instruction with those of higher instruction—of the one hundred or more institutions which exist there are not more than twenty which can be veritably classed as universities. Nevertheless, even thus it will be difficult to determine rules for the recognition and validity of the respective diplomas, since said universities are not of a national status.

The Argentine Delegation desires to state that we may all consider the matter without holding any disdain or lack of consideration for the Treaty of Montevideo, much less on the part of our Delegation, which can claim that it is a work of its country, although not an exclusive one. Neither can the Committee, which reported on the matter, be accused of such an error, since the ideas are the same, the principle of this report being that which is contained in the Treaty of Montevideo, restrained only by a certain spirit of prudence, which may or may not be judicious; this is to be seen afterwards when the report will be discussed by articles.

Mr. President, I wished to establish the vote of our Delegation by giving the above explanation.

His Excellency Mr. Foster.—The intention was, Mr. President, to offer what might become, in the event of differences a substitute on the project submitted. It is our especial desire to cooperate in this matter and I am sure that you will not underestimate the value of unity as a vital force throughout the civilized world. Find a way to do the thing and it will be done. Therefore, I submit to you that the idea crudely as it is conveyed in this hastily made document, if approved by you, will accomplish all that you desire. I have before me some memoranda relating to the differences existing on the matter between different States of our Union; but I will not read this, except upon the request of any of the Delegates, as I hesitate to engage the attention of the Conference for a longer time.

His Excellency Mr. Gil Fortoul, Delegate from Venezuela.—Mr. President: of the discourses delivered in the former session and at the present one, by our honorable colleague of the United States, the result to be deducted therefrom is, that there is not a competent national authority in that country for the issuance of professional titles. To obviate this difficulty and to facilitate the manner in which this agreement, if approved by the Conference, should be submitted too the Congress of the United States; the Delegation of Venezuela has the honor to offer an amendment to art. 1st., which simply consists in substituting the words «the profession for which they should be qualified by diploma or title issued by a competent national authority,» by

the following: «. . . . diploma or title issued by an authorized university or competent college.»

The Delegation of Venezuela adds the words «competent college,» because in Venezuela besides the universities which are national, there are in the different States public schools which also issue titles which are valid throughout the territory. As this is also the rule in the United States, it would be advisable to adopt the above text. The amendment submitted by Venezuela thus continues: «. . . . provided that said diploma or title grants the right to practice a profession throughout the territory of the Republic where it was issued.» For, if these diplomas are not recognized throughout the country, it is evident that they cannot form a subject of international treaties.

How are they to overcome this difficulty in the United States? That is a question for them to decide; those obtaining titles from universities which are not of a national character in aforesaid country must endeavor, whenever they desire to practice their profession in any other country, to prove that said titles are recognized throughout American territory. Further than this, the above remarks are made solely with the purpose of making uniform the principles of the project. The United States has well known Universities all over the country which have grown wonderfully, where studies are undertaken as notable as those of the most celebrated universities in the world; and it may be stated, by way of example, that one of the subjects in which most progress has been attained is experimental psychology in which such notable advances have been made that they now compare with the most renowned Universities of Germany.

The article submitted by the Delegation of Venezuela would read as follows:

«Art. 1. The citizens of any of the Republics signing the present Convention can freely practice, in the territory of the other countries, the profession for which they may be accredited by a diploma or certificate issued by the University or competent college, even when not of their own nationality, provided that said diploma or certificate gives the right to practise the profession throughout the territory of the Republic which has issued it, and that the requisites provided by Articles 3 and 4 be complied with, whenever the law of the country in which the profession is to be practised does not exact citizenship for that purpose. The certificates, etc.»

Secretary Duret.—The Chair rules that the amendment offered by the Delegate from Venezuela be referred to the consideration of the Committee.

His Excellency Mr. Leger, Delegate from Hayti.—Mr. President: I have had the honor to deliver to the Secretary, an addition to paragraph second of article I under discussion. I beg that the Secretary will please read it, in order that it may be referred to the consideration of the Committee.

Secretary Duret.—The Chair rules that the proposition offered by the Delegate from Hayti which reads as follows be referred to the consideration of the Committee.

Addition which must be introduced at the end of the 2nd paragraph: «Provided that no advantages superior to those recognized by the legislation of the country in which it is desired to make use of said diplomas may arise, and that there may be reciprocity.»