

*His Excellency Mr. Carbo, Delegate from Ecuador.*—I have requested the floor simply to second the motion of the Honorable Delegate from Venezuela, because it seems to me that it solves the difficulty; it permits that the convention embrace both the Spanish speaking countries, where the system of official education prevails, and the United States, where the education is free, entirely so, and, on the other hand, because it conciliatingly establishes certain guarantees, so that those who practice a learned profession may be verily competent in it.

*Secretary Duret.*—As several amendments to article 1 have been offered, in compliance with article 17 of the Regulations, discussion on said article is suspended, and we will take up article second.

*His Excellency Mr. Bermejo.*—Mr. President: It is not possible to continue the discussion on other articles, because as every one is connected with the first, in order to work harmoniously it would be advisable to suspend said discussion.

*His Excellency the President.*—Does His Excellency Mr. Bermejo wish that the discussion on the whole project be suspended?

*His Excellency Mr. Bermejo.*—Yes, Sir, because it seems to me that as all its propositions are connected with each other, any amendment made in any of them would affect the whole project.

*His Excellency Mr. Alvarez Calderon, Delegate from Peru.*—I have requested the floor in order to second the proposition offered by the Delegate from the Argentine Republic. In view of the reasons expressed by the Delegate from the United States, the amendments submitted by him modify substantially the report under discussion. Here they relate to a treaty, and instead thereof, the Delegate from the United States offers us a project of recommendation, it is stated that we recommend to the States the acceptance of our titles; and we are here discussing a compulsory project. Therefore, if we must accept later the project of the American Delegation, we must not discuss the project previously presented.

*His Excellency Mr. Blest-Gana.*—Mr. President: I do not think that the motion presented by the Hon. Mr. Foster may in any case fully substitute the whole project, the articles of which are so closely connected with article 1. Therefore, in order that the Committee may consider the motion offered by the Hon. Mr. Foster, it deems it necessary for said gentleman to state whether he really wishes that his motion be considered as a substitute for the whole project.

But as several other propositions which may have their own merit and might perhaps be included in the project, have been presented, I believe that there cannot be any objection in suspending the discussion; and the reporting Committee, on its part, requests through me to all those Delegates who may have any suggestion to make on the matter that they please submit them to said Committee in order to avoid the presentation of different motions, each one of which must be separately reported on.

In this manner, all the suggestions made will agree, and the Committee will do its very utmost to try and include all the suggestions made in one or more articles, in order to avoid the difficulties with which we are now contending.

*His Excellency Mr. Foster.*—The American Delegation appreciates the courteous spirit with which the Delegate from Chili has considered our suggestion.

Returning to my original statement in regard to comity in our own country and its power in the moulding of our institutions and in our progress and relations to Nations, I believe that I can safely say that it has all the power of a treaty or of a law.

Therefore, there would be found a reciprocal disposition on the part of our people to return every courtesy that might be extended by the Spanish American countries in this matter.

We desire to join you in everything that you are undertaking; but under our Constitution there are some things that it is impossible for us to do in an exact form. However, there is hardly anything, if it be desirable, which it is impossible for us to do under the practice of our country.

Replying to the question of Mr. Blest Gana, I must state to him that we do not intend that the amendment we have submitted be considered as a substitution of the article under debate, but simply as a modification.

And what has already been suggested that it would be considered in Committee with other matters is quite satisfactory to our Delegation.

We desire to apologize Mr. President, for taking up considerable time on this matter; but on this occasion there seem to be two parties, the Spanish American countries being in a position to act in uniformity under national approbation, we being the only ones who cannot, owing to our federal laws. That is our only excuse for taking up so much time.

*Secretary Duret.*—In view of the reasons expressed by the reporting Committee, discussion on the project is suspended, and in compliance with the order of the day, discussion on the report submitted by the Committee on Credentials will now be taken up.

SESSION OF JANUARY 2, 1902.

*Secretary Macedo.*—The report of the 12th Committee on the amendments submitted at the session of the 9th of December, upon the project of convention on practice of the learned professions being discussed, and the private vote of His Excellency Mr. Guachalla, Delegate from Bolivia and a member of said Committee, having been presented, the Chair rules that said documents be printed and distributed among Their Excellencies the Delegates. They read as follows:

**REPORT of the 12th. Committee, relative to the propositions submitted at the Session of the 9th. inst., during the discussion of the Project of a Convention on the Practice of the Learned Professions.**

Mr. President:

The undersigned, members of the Committee on the Practice of the Learned Professions and Literary Relations, have duly considered the proposition submitted by the honorable Delegations of the United States, Hayti, and Venezuela, for the purpose of amending Article 1 of the Project of the Convention on the Practice of said Professions, and submitted by the Delegation of Chili for the approval of the Conference.

The first of these propositions says that:

«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.» (Signed): *Volney W. Foster.*

The second proposition is in the following terms: (Addition to the Second Paragraph of Article 1.)

«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.» (Signed) *J. N. Léger.*

Finally, the third proposition is worded as follows:

«Article 1. The citizens of any one 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 practice the profession in the whole territory of the Republic which has issued it and that the requisites provided by Article 3 and 4 be complied provided the profession to be practiced does not exact citizenship for that purpose. The certificates, etc.,.....» Continue as the second paragraph of Article 1 of the project. (Signed): *Gil Fortoul.—M. M. Galavis.*

Accepting the proposition of the Honorable Delegation of Haiti, as it appears to the undersigned that it completes in a satisfactory manner the precept established by the second paragraph of article 1 of the Chilean project, they will limit themselves to analyze the other two propositions.

The one signed by His Excellency Mr. Volney W. Foster on behalf of the Delegation of the United States of America, demonstrates the care with which that Honorable Delegation endeavors to harmonize the varied legislation of the several States of American Union, in so far as it relates to the exercise of liberal professions, with those regulations in the proposed Convention emanating most of them in a spirit of unity and of similarity of proceedings such as they exist in the Spanish American legislations.

Most unfortunately that well inspired intention is not sufficient to overcome through the means offered by that proposition the obstacles which present themselves by the differences existing between those legislations.

A recommendation such as the one contained in the first paragraph of the proposition of the Honorable Mr. Foster addressed to the various States of the American Union, not knowing beforehand how it will be received by those states, cannot be used as the basis of a contract in which must be established as a fundamental principle the equality of positive rights reciprocally accepted in the recognition of ti-

ties or diplomas issued by the various countries signing the same.

This opinion, does not seem to us, that it can be disputed, inasmuch as the preamble of that very proposition states that «the Colleges and Universities of the United States of America are not under the patronage of the Federal Government,» and that «In this respect said institutions differ from those of Spanish America.»

This declaration fully justifies our opinion that if the United States cannot undertake beforehand to assume the indispensable reciprocity in conventions of this character, they can only accept the mutual agreement which is sought by means of an understanding of a general character such as is proposed in the latter part of this report.

The undersigned regret, therefore, their inability to recommend to the Conference, as part and parcel of the projected agreement, the acceptance of the proposition of Mr. Foster in the form in which it is worded, but they are pleased to acknowledge that if the Honorable American Delegation, after the agreement is being approved and made operative, lend their valuable assistance to the recommendation made to the various States of that country as suggested in article 1 of the proposition presented by the Honorable Mr. Foster, it will contribute efficiently, and at no distant time, to give greater scope, as suggested, to the field which is to be opened to the practice of the Learned Professions in all the countries, without any exception, which are represented in the American Conference.

In so far as article 2 of the same proposition is concerned, it will be almost superfluous to enter into a detailed demonstration in order to prove that in no manner can that article do away with the difficulties which result from the difference in the legislations referred to. The suggestion contained in that article, that the Spanish American States authorize whomsoever it may concern, or that they may appoint proper officers to pass upon the titles held by American citizens, and to accept those which may appear satisfactory, presupposes that the difficulty of general reciprocity has already been obviated; this has already been considered fully in article 3 of the project of Convention in the hands of the Committee, each Government will recommend most naturally to the proper department, the acceptance or rejection of the diplomas of the applicants.

Altho it does not appear to the undersigned, for the reason stated, that the recommendation to which art. 2, proposed by His Excellency Mr. Foster refers, can be incorporated in the form in which it is drawn in the project of the Convention, the idea which it conveys is yet susceptible of being admitted for the purpose of permitting the acceptance of diplomas of the many different schools of the United States, which may ask for recognition.

Enlarging the scope for art. 3 of the project of the Delegation of Chili, in the following form, it appears to us that this end would be obtained, whereas the said article would not accomplish it in the form in which it is actually worded.

«Art. 3. Each one of the high contracting parties shall officially inform the others, which are the Universities of the signatory nations, the titles and diplomas whereof it will consider as valid for the practice of the professions of which this Convention treats, in its respective territory.»



Those schools which are not comprised in such designation and which may consider themselves of sufficient authority to do so, may request that their professional diplomas be recognized by the respective Governments by means of a petition accompanied by the corresponding proof which shall be passed upon in the manner which each Government shall consider proper.

The preamble of the proposition, which we have just analyzed, gives to the undersigned the reasons which must guide them in reporting upon the proposition of which the Honorable Delegation of Venezuela is the author. Although it follows, almost literally, in its greater part, the wording of art. 1 of the Project of the Convention, this proposition introduces into the article a substantial modification so that its application may be said to completely exclude from this compact the American professional men, when taking into consideration the declarations contained in the first two preambles of the proposition of the Honorable American Delegation, since the titles and diplomas issued in many States and Territories are not valid in all the territory of the United States, as that modification requires.

In the State of Delaware, for instance, altho the citizens of the other States are admitted to the practice of the law, provided they produce proofs of having acquired a good reputation as lawyers in other States, still as far as medicine is concerned, each person has to submit himself to a severe examination before entering upon the practice of that profession.

In the State of West Virginia, the same is the case, more or less.

In Minnesota the legislation is even more strict, because it requires that all persons who desire to practice a learned profession, must submit to an examination before a Commission appointed by the State, and the titles issued in other States are not recognized, and not even those granted by institutions of learning of the same state.

These examples, to which we could add many more, make it manifest that the condition embodied in the proposition of the Honorable Delegation of Venezuela, that the diploma or title confer the right to practice the profession in all the territory of the Republics in which it has been issued, would exclude the United States from the benefits of the Convention, a country in which the present legislation does not allow compliance with this condition.

The Committee is of the opinion, for this reason, that the proposition of the Honorable Delegation of Venezuela is not admissible.

Our Committee, however, does not believe it impossible to find a solution which would obviate the difficulty referred to.

If upon opening the door to the admission of the titles of the Colleges and Universities of those States and Territories of the United States, which offer reciprocity, these States will consider it to their interest that their citizens should have the right to practice their profession in the other signatory countries, they will not be slow, doubtless, in modifying their respective legislation in this matter, in order to accomplish that end. This consideration, which appears very possible in practice, is the basis of the following proposition, which the

undersigned submit for the approval of the Conference, as Article 2 of the Project of the Convention:

« Art. 2. As to professional titles issued by colleges and universities of each State and Territory and by the Federal District of Columbia, of the United States of America, taking into consideration the fact that those institutions are not under the patronage of the Federal Government, and in many cases not even under that of the several States, the titles and diplomas granted by the colleges and universities of those States, whose legislation offers reciprocity, and that may have been issued in accordance with the conditions prescribed in Article 4 of this Convention, shall only be recognized.»

Mexico, December 30, 1901.—(Signed).—*A. Blest Gana*, President—*M. Sanchez Marmol*.—*M. A. Martinez*, Secretary.

The Delegate for Bolivia holds the opinion that he had the honor of expressing before the Honorable Conference, in the sense that as his Government is bound to several nations by treaties which allow the free exercise of professions, without any other requisite than the proof of the authenticity of the title, or the identity of the person, he does not see any plausible reason to accept a Convention restricting that freedom, voluntarily granted in his country more than half a century ago, and ratified afterwards by acts of reciprocity, which it respects, and he does not desire to see them modified in a less ample form.

That if the *competent authority* of each country (university, college, or medical faculty,) issues a medical or pharmaceutical diploma, after the necessary evidence of proficiency or examinations, and in conformity with its laws, there would be no justification in a new examination casting a doubt upon the validity and efficiency of a title, recognized, nevertheless, as having been properly issued in accordance with the respective legislation.

That such title or diploma should be valid within the signatory countries, or that it should be clearly expressed that it is of no value without having recourse to the course mentioned in the project, that is to say, to admit the title and to exact nevertheless a new examination, rendering nominal and illusory thereby the liberty granted to the practice of the profession of physician, pharmacist, etc.

That it does not appear to him justifiable that the absolute right should be reserved by each State, to select the universities or other institutions of learning, whose titles or diplomas would be considered valid for the practice, in their respective territories, of the professions referred to in the project; because those universities or schools constitute the proposed authority established and recognized by national law; and that such being the case, it might be considered that the lack of recognition of the title or diploma issued by them, would result in lowering the estimation for the standing of those corporations.

And that, finally, the status of citizenship, in resolutions of that character, should be ignored, because the exercise of a profession is not a political act that demands that condition.

He, therefore, regrets very much not to be in harmony with the opinion of his respectable and distinguished colleagues Messrs. Blest Gana and

Sanchez Marmol, so long as in the course of the debate, the broad scope that he called for was not given in the stipulations of the project, in which case he would accept the conclusions of the report with regard to the special conditions existing in the United States, where there is no competent authority, in the sense that the Government cannot recognize officially these institutions.

The Delegate of Bolivia would thus show his fervent wish for the establishment of the free practice of the learned professions, without hindrance or restriction, throughout the nations of America, the principle whereof has already been established in his country, and to the realization of which he has had the honor of assisting on several occasions; he considers, therefore, that the obstacles presented by the project destroy the edifice that it is desired to erect, maintains alive a necessity, which it was fully intended to meet, a necessity felt throughout the Continent, and which the Honorable Conference has the obligation to satisfy in the most ample manner and in a spirit of true brotherhood.

Mexico, December 30, 1901.—(Signed).—*Fernando E. Guachalla*.

SESSION OF JANUARY 13, 1902.

*Secretary Macedo*.—The order of the day will be taken up and in compliance therewith, discussion on the report of the 12th. Committee on the amendment submitted at the Session of the 9th. of December last, upon discussing the project of convention on the practice of the learned professions, will begin.

*His Excellency Mr. Blest Gana, Delegate from Chili*.—Mr. President: The Secretary has been pleased to draft a project in which he has condensed the propositions of the first project presented by the Committee, and the modifications and additions which it has proposed to the Assembly in its second report. As President of the Committee I declare that it accepts the work of the Secretary and request that the same be considered as a basis for the discussion.

His Excellency Mr. Foster, in a private manner, and after the Committee had presented its second report, suggested to its members that the previous article 3, which will take the place of the 4, be added with the words which I will have the pleasure to deliver to the Secretary, in order that they may be inserted in the proper place of the project drafted by the Committee, between the first and second paragraphs of said article. The Committee accepts the addition of the Honorable Delegate from the United States, because it will surely do away with the difficulties encountered upon discussing this matter for the first time, on account of the special legislations of the different States of the American Union.

*His Excellency Mr. Foster, Delegate from the United States*.—Mr. President: As the Conference knows the project on practice of learned professions has been the work of His Excellency Mr. Blest Gana and his associates; they have been extremely deferential, taking into consideration the suggestions which the American Delegation has made to them in regard to the conditions, more then complex, which exist in our country, distinct from those of their own country; and now that I think that all these articles have been arranged in a manner which perfectly adapts itself to the institutions of our respective countries, I wish to give a testimony and declare that the result obtained is very satisfactory

to the Delegation of the United States. I therefore believe that we can gladly cooperate in the plan as contained in the project submitted to the Conference, and hope that this will be approved without further important modifications.

*His Excellency Mr. Blest Gana*.—In the report which is to be discussed, the efficient and earnest cooperation of the American Delegation, represented in this project by the Honorable Mr. Foster, is recognized; therefore, I am pleased to declare that he has contributed to an avoidance of all the difficulties which the different legislations of the countries which are concerned in this project presented, and I beg to thank him most sincerely in the name of the Committee.

*Secretary Macedo*.—The project of convention drafted by the Secretary with the addition of His Excellency Mr. Foster, reads as follows:

**DRAFT of Convention regarding the Practice of the Learned Professions.**

Art. 1st. The citizens of any of the Republics signing the present Convention, may freely exercise the profession for which they may be duly authorized by diploma or title granted by a competent national authority, even if such authority should not be of their native country, in any of the territories of the other nations, provided such diploma or title complies with the regulations established in Articles 4 and 5, and that the laws of the country, in which it is desired to practice the profession, do not require the practitioner to be a citizen.

The certificates of preparatory and higher studies, issued by any of the countries, parties to this Convention, in favor of citizens of one of their number, shall have in all the rest of the contracting countries the same effect as those authorized by the laws of the Republics of their origin, provided they do not confer superior advantages than those recognized by the legislation of the country in which such certificates are to be used, and that there should be reciprocity.

Art. 2. With respect to the professional titles issued by the colleges or universities of each State, territory and of the District of Columbia, of the United States of America, in view of the fact that those institutions are not under the control of the Federal Government, nor in many cases under that of the States Governments, the signatory countries shall only recognize the titles and diplomas issued by the colleges and universities of those States, whose legislation offers reciprocity, and which should have been issued according to the conditions provided in Article 5 of this Convention.

Art. 3. Each one of the Contracting Parties reserves, however, the right to require the citizens of another country, who may present diplomas or titles of physician or any other profession related to surgery or medicine, including that of pharmacy, that they submit themselves to a previous general examination in the branch of the profession which the respective titles or diplomas may authorize to practice, in such a manner as may be determined by each Government.

Art. 4. Each one of the Contracting Parties shall give official notice to the others, which are the universities in the signatory countries, whose titles and diplomas are considered valid for the practice of the professions, the subject of this Convention, in their respective territories.