

Central America, or of any other part, wishes to know the productions of the Argentine Republic. This office informs him that said Republic produces such a quantity of wool, that it so many head of cattle, that it imports such and such articles, and that its market is in such or such a countrp. It will be seen from this that the Museums of Philadelphia have a very distinct character, and not only distinct from the private mercantile agencies but lend great service to the American Republics, in making known the products of their commerce.

For such reasons, and even though certain private mercantile agencies might be injured thereby, the Committee on Commerce and Reciprocity could not reject the proposition of the American Delegation.

Moreover, this Meseum, as a permanent exposition of the products of the American Republics, needs resources, and in order that it may fulfill the object of its institution, it is necessary that they be provided in some form. If the American governments recommend this institution as a simple museum, the recommendation will serve no purpose, for our products are well detailed, perfectly determined, in all the books, pamphlets and communications written on the subject and printed by the gross and sent to the four quarters of the globe. If the Museum is to render proper service, it is necessary that it give reports respecting interior commerce, upon the solvency of large houses, etc., and in this sense, it cannot be denied that it may be recommended by the Conference.

Taking these reasons in to account, the Committee on Commerce and Reciprocity has proposed this recommendation, and in proposing it, I ought to declare, that so far as concerns myself, that the Delegation of Paraguay has given its consent, in all conscience, with head erect, without any reason ever to repent its purpose.

*Secretary Macedo.*—The Committee having accepted the amendment proposed by His Excellency Mr. Carbo, the Conference is asked if it approves the reformed text, which now reads as follows: «The Second International American Conference urges the governments of the Republics in it represented to take measures tending to complete and renew the collections of their products exhibited in the Museums of Philadelphia and for the remittance to said Museums, as an institution of public benefit, of all official data, reports and publications of a general

character, tending to favor and augment mercantile traffic.

The vote having been taken, the recommendation was approved by fourteen votes as against of Chili. The Argentine and Dominican delegations abstained from voting.

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

SESSION OF JANUARY 28, 1902.

*Secretary Macedo.*—In accord with the ruling of the 22nd instant <sup>1</sup> the reports of the Committee on Engrossing upon the resolutions approved by the Conference, remain in the office of the Secretary at the disposal of the Honorable Delegates, who may revise them and make such observations upon them as may judged appropriate.

The report upon the recommendation in favor of the Commercial Museum of Philadelphia, readst thus:

*Committee Engrossing.*—The undersigned have the honor to propose the following draft to the resolution voted by the Conference, to the effect that the Commercial Museum of Philadelphia be recognized as an institution worthy of support and cooperation.

The Second International American Conference urges the governments of the Republics in it represented to take measures tending to complete and renew the collections of their products exhibited in the Museums of Philadelphia, and for the remittance to said Museums, as an institution of public benefit, of all official data, reports and publications of a general character, tending to favor and augment mercantile traffic.

Committee Room of the Second International American Conference. Mexico, January 29, 1902. Signed: *Alberto Elmore.*—*Rosendo Pineda.*

The recommendation in favor of the Commercial Museum of Philadelphia, drafted exactly in the same terms as the foregoing report, was signed on the 29th day of January, 1902, by the delegations of Bolivia, Colombia, Costa Rica, Chili, Equador, Salvador, United States of America, Guatemala, Hayti, Honduras, Mexico, Nicaragua, Paraguay, Peru and Uruguay.

<sup>1</sup> See page 74.

NUMBER 16.

## RIGHTS OF ALIENS.

SESSION OF DECEMBER 4, 1902.

*Secretary Macedo.*—The delegations of Salvador, Costa Rica, Equador, Guatemala, Nicaragua, Colombia, Honduras and Venezuela have presented the following project of declaration upon the rights of aliens, which the Chair rules shall pass for examination to the Committee on Pan American Tribunal of Equity and Claims. The project reads as follows:

The majority of the Spanish American peoples, since they were ushered in to a life of independence, have received a long and painful experience, by

reason of unjust diplomatic interventions, at times exorbitant and baseless, presented by foreigners, resident in those countries, endeavoring to elude the jurisdiction of the common courts, and to enjoy greater rights and privileges than those enjoyed by the citizens of the country.

The new currents of civilization, the progress of international law and the practices of advanced countries, have nullified the Roman theory that considered foreigners as barbarians and did not grant to them the same rights as to Roman citizens.

The progress of nations, the necessity of an honest, intelligent and industrious immigration, that should give impulse to their intellectual and material development, have been powerful factors to efface the distinctions made of foreigners, in the past; and to the aforesaid causes is due that the new generations of the American continent consider the alien that brings his capital, his intelligence and his labor to a new soil, not as an enemy, not as a menace, but as an indispensable element for the fruitful development of human activity.

But as there have been those who, making an ill use of this prerogative, convert the rights granted into a hostile element, presenting unjust claims, governments have taken care to put an effective remedy to that evil by adopting measures so that a foreigner residing in a country shall be amenable to common legislation, as a safeguard for the innate rights of the nation, wherein he lives and in obedience to the principles of justice that do not accept groundless claims, as the proper courts are the ones to try the complaints which foreigners may intend to bring against the authorities and individuals of the country where they reside. A painful past compels American countries to adopt measures that shall shelter from the mighty the sovereignty of the nations congregated in this American International Conference, and with the experience of the past, it is expediente that they keep in mind the declarations recommended at the Conference in Washington, by the Committees of Relations and Diplomatic Intervention, the 12th of April, 1890, and which unfortunately were not unanimously accepted, as one of the nations therein represented gave a negative vote and another abstained from voting.

It is not claimed that the above mentioned Conference desires, by means of such a proposition, to establish aspecial International American Public Law; when it has accepted principles recognized by the powerful nations of Europe, but which the latter sometimes pretend to disown, when dealing with some weak Spanish American nations.

It is enough for our purpose, without mentioning painful cases of unjust interventions, to quote the opinion of that eminent authority, Mr. Carlos Calvo who referring to the difference established by Europe in the application of the International Law to the relations with the States of America, says that the most fervent advocate of the unjustifiable theory of force, which he calls the «English system,» was Mr. Thiers, who believed with a pessimistic criterion that because of defects in the organization of our new Spanish American countries, we should be treated in a very different way from that in which European nations were treated and justified foreign interventions, as that of France in Mexico.

The opinion of the renowned statesman, M. Thiers, is greatly exaggerated, and there is a marked injustice in judging so unfavorably the Spanish American nations, who, if they have had distressing falls have arisen to devote their efforts to a slow but sure labor of political organization, which enables them to appear mighty in right and united as they are in this Conference, animated with but one sentiment of fraternity and justice.

Believing in modern ideals, and wishing to maintain firmly the principles of International Law, that only permits diplomatic interference when there has been a delay in administering justice, or when it

has been denied, or when the resolutions of the tribunals are manifestly unjust, and after all the means that the laws establish to obtain complete satisfaction of the rights of the claimants in the same way pertaining to its own citizens have been exhausted, the government of Salvador desiring that the principles accepted by the majority of delegations to the First International Conference of Washington should be maintained, addressed itself to the Cabinets of the other Republics of Central America and to those of Colombia and Venezuela, requesting their acquiescence in a similar declaration of principles in the present International Conference of Mexico, and it obtained favorable replies.

The Foreign Office of Caracas, in reply to that of Salvador, in note of the 18th of June of this year, says: «The declaration that to the same effect was signed on the 18th of April, 1890, by fifteen of the delegates to the Washington Conference, is destined to constitute a doctrine of very salutary effects in Public International Law, as any practice opposed to it would amount to the establishment of privileges and pre-eminences in behalf of those who try to establish themselves in a territory that is not their own, to the detriment of the precepts on which the sovereignty of States rests,» and the same Cabinet adds that «the most recent Constitution of Venezuela sanctions, in articles 12 and 13, the redeeming principles referred to.»

If the manifestations which in a private way have been already made by the Honorable Delegates to the present Conference, are to be practical, and if it is aimed, as there is no reason to doubt, to recognize the right of American nations in their most ample manifestations, it is to be expected that the following declaration, which we respectfully submit to the Second American International Conference will not be disregarded:

I. Foreigners enjoy all the rights granted to our own citizens and they can make use of them in the same manner and form, availing themselves of all proceedings to which they may properly have recourse to, in and under the same terms as those enjoyed by said citizens.

II. The nation asserts that it has no other obligations or responsibilities towards foreigners than those which the Constitution and the laws establish for all cases in favor of its own citizens.

Mexico, November 30, 1901. — For the Delegations of Salvador, *Baltasar Estupinian, Francisco A. Reyes.*

For the Delegation of Costa Rica, *J. B. Calvo.*

For the Delegation of Equador, *F. L. Carbo.*

For the Delegation of Guatemala, *Antonio Lazo Arriaga.*

For the Delegation of Nicaragua, *Luis F. Corea.*

For the Delegation of Colombia, *Rafael Reyes.*

For the Delegation of Venezuela, *Gil Fortoul.*

For the Delegation of Honduras, *Jose Leonard.*

The following project was presented during the suspension of the sessions, and passed by the Chair to the Committee on Pan-American Tribunal or of Claims, by virtue of the power conceded him by the Conference in session of the 8th. of November, 1901:

One of the most frequent causes which tend to disturb good international relations, and which give rise to diplomatic conflicts, is the protection given



by one State to the claims for damages suffered by its citizens upon the territory for another.

This cause of conflict tends to disappear, most happily, in modern American diplomacy. The Secretaries of Foreign Relations in Europe and in America, inspired in the true principles of international law, in the sentiments of respect and mutual confidence of the States, and in the equitable principle of the equality of conditions which foreigners and national subjects must have, has established through numerous treaties, fundamental rules, which have even now almost the authority of an axiom.

The first is that a foreigner had not the right to claim indemnity for the damages, exactions or sufferings happening to him in the territory of a State, due to insurrection or civil war, and only in the case when a constituted authority or its agents have failed to comply with their duties, or have not used due diligence, or the necessary precautions in the cases which have given rise to the claim.

The second is that in all the cases where a foreigner has claims, or complaints, of a civil order, criminal or administrative against a State, no matter the basis of his election, he must address his complaint to the corresponding judicial authority of that state, without being able to claim diplomatic support of the government of the country to which he belongs, to enforce his pretensions, but only when there shall be a denial of justice, or when the principles of international law shall have been violated by the court which took cognizance of the claim.

The Spanish American republics have given numerous proofs of their conformity with these principles. The following treaties exemplified that conformity:

Of November 5th., 1863, Articles 10 and 11, between Peru and Bolivia;

Of February 10th., 1870, Article 28, between Colombia and Peru;

Of May 9th., 1874, Articles 13 and 14, between Salvador and Honduras;

Of March 31st., 1878, Articles 13 and 14, between Salvador and Honduras;

Of November 8th., 1882, Articles 15 and 16, between Salvador and Costa Rica;

Of November 17th., 1883, Articles 12 and 14, between Salvador and Nicaragua.

This proposition was presented during the suspension of the sessions and was referred by the Chair to the Committee on Pan-American Court of Claims, in compliance with the authority granted it by the Conference in session of November 8th., 1901.

Of September 12th., 1885, Article 29, between Salvador, Guatemala and Honduras;

Of August 27th., 1886, Article 5, between Venezuela and Salvador;

Of July 10th., 1888, Article 3, between Mexico and Equador;

Of April 24th., 1893, Article 25, between Mexico and Salvador.

Besides the foregoing there exist others entered into between Spanish American countries and some European powers, which confirm the recognition of the principles here discussed. They are:

Of December 5th., 1882, Article 18, between Mexico and Germany;

Of November 27th., 1886, Article 2, between Mexico and France;

Of April 16th., 1889, Article 12 and April 16th., 1890, Article 12, between Mexico and Italy;

Of July 23rd., 1892, Article 20, between Colombia and Germany;

Of October 27th., 1892, Article 21, between Colombia and Italy;

Of June 7th., 1895, Article 15, between Mexico and Belgium.

The text of the treaty of the 5th. of December, 1882, between Mexico and Germany, is worthy of reproduction, not only because it coincides with absolute clearness with the two principles which we consider fundamental in this matter, but because its clauses are reproduced verbatim more than once in the other treaties to which reference has been made.

Art. 18, paragraph 2, says:

«Both contracting parties equally agree, desirous as they are to avoid discussions which might alter the friendly relations which with regard to claims of complaints of individuals in matters pertaining to the civil order, criminal or administrative, in which their diplomatic agents shall not interfere, unless it be due to extraordinary delay or illegal failure of justice, or lack of execution of the final sentence, or having exhausted all legal recourse through express violation of existing treaties between the contracting parties, or of the rules of international law, public or private, generally recognized by civilized nations.»

Paragraph 3. «It is also stipulated between the contracting parties that the German government shall not pretend to render the government of Mexico responsible, unless the fault be due to the lack of proper diligence at the hands of the Mexican authorities or its agents for the damages, losses or exactions caused during insurrections or civil war, to Germans residing in the territory of Mexico, at the hands of rebels, or caused by the savage tribes which are not under the obedience of the government.»

The Secretary of Foreign Relations of our country gave form to the same principles in the Treaty of May 18, 1895, entered into with the Republic of Bolivia, article 5 of which says verbatim:

«The high contracting parties, with a wish to avoid all that may disturb their friendly relations, agree that whenever claims or complaints of individuals concerning matters which pertain properly to the civil and penal branches of justice, and which have been submitted to the courts of the country, their diplomatic representatives shall not interfere, unless there has been a denial of justice or acts which involve the recognition, or manifest infraction of the rules of international or public or private law, generally recognized by all civilized nations.»

«It is likewise established that none of the two parties can bring claims against the other to hold it responsible for damages, loss or exactions which their respective citizens could have sustained or may sustain in case of political disturbance occasioned by insurrection or civil war, and that may have been caused by rioters or rebels, unless the public authorities have failed in their duty, or have not used proper precautions or diligence.»

To the Second American International Conference, at which all the Northern, Central and South American Republics are represented, corresponds to the sanctioning of the progress made in the doctrine and in the practice by the American depart-

ments of Foreign Affairs. Therefore, the Chilean Delegation submits the following Project of Convention:

Art. 1. The contracting parties agree that their citizens have no right to claim indemnization for damages, losses or exactions sustained in the territory of another country or State, in case of insurrection or civil war, except when the constituted authorities or their agents have failed to comply with their duties, or have not used the necessary vigilance or precautions.

Art. 2. In every case when a foreigner has claims or complaints of a civil, criminal or administrative order against a state, he shall comply by filing his claim with the ordinary courts of such state. However the government of the state to which a claimant belongs, may solicit that such claims as may be designated by it, shall be brought before the Supreme Court of the country against which the claim is made.

Art. 3. The contracting parties shall not officially support any claim of those which must be brought before a court of the country against which the claim is made, excepting in case when the court may have shown a denial of justice, or an abnormal delay, or an evident violation of the principles of international law. It shall be understood that a denial of justice exists only in case the respective court refuses the claim based on the nationality of the claimant.

Mexico, November 12, 1901.—(Signed).—*A. Blesi Gana.*—*Augusto Matte.*—*Emilio Bello Co-decido.*—*Joaquin Walker Martinez.*

SESSION OF DECEMBER 18, 1901.

*Secretary Macedo.*—The Committee on the Pan-American Court of Equity or Claims, has presented its report upon the initiative proposed by various delegations relative to the rights of aliens and the responsibility of the governments. The Chair rules that said report be printed and distributed among the Delegates, and which reads as follows:

*International Conference.*—The Committee on the Court of Equity or Claims has examined the initiative of the Delegations of Salvador, Costa Rica, Guatemala, Nicaragua, Honduras, Colombia and Ecuador, that a declaration be made defining the rights of foreigners and the responsibility of the governments with respect to them.

This Committee understands that its mandate was limited, from the beginning; to the study of the projects relative to the organization of an International Court of Claims, and for this reason believes that it has no jurisdiction to consider the said initiative, which, in its opinion, should be referred to the Committee on International Law, and it proposes that it be so resolved.

Mexico, December 17, 1901.—(Signed).—*Antonio Lazo Arriaga.*—*F. L. de la Barra.*—*L. F. Carbo.*—*Juan Cuestas.*

*His Excellency Mr. Guachalla,* Delegate from Bolivia.—We have heard the report of the Committee on Court of Claims, based upon the important project presented by several delegations. As that report is not fundamental and simply refers to the convenience of passing it to the Committee on International Law, I beg to ask that the Conference take it into consideration, at once, if it thinks well to do so, because it is a matter to which we all attribute importance.

*Secretary Macedo.*—Suspending the order of the day, the Conference is asked if, as proposed by His Excellency the Delegate from Bolivia, it will take immediately into consideration the project of the Committee on a Pan-American Court of Equity or Claims.

The Conference having replied affirmatively by a unanimous vote of eighteen, the report was put under discussion as a whole, and later in part, and was approved by the same number of votes.

SESSION OF JANUARY 24, 1902.

*Secretary Duret.*—The report of the Committee in International Law has been presented, regarding declaration of the rights of aliens, which the Chair rules shall be printed and distributed among the Honorable Delegates. Said report reads:

«Until a short time ago, aliens found themselves in all countries in a conditions of manifest inferiority, in relation to the citizens thereof. In the exercise of civil rights, they were subject to restrictions, which constituted real disadvantages to their persons and property. More than this, they were regarded with suspicion and were treated with disfavor.»

From this circumstance arises the principle, generally recognized and justified, that each state must watch over and protect its citizens residing in foreign countries, in order to prevent that their rights be disregarded and their guarantees violated.

This state of things has radically changed with the advent of democracy and the progress of civilization. Not only are foreigners now treated without suspicion, but they are received in the country of their residence as an element of progress. The American Republics especially regard honest immigration as one of the surest sources of their well being and prosperity.

This generous and hospitable sentiment has entered into the legislation of the American countries, in all of which the principle of absolute equality between citizens and foreigners in the acquisition and enjoyment of civil rights, is recognized.

In spite of this fraternal declaration, some countries with frequency still support, by their diplomatic intervention, claims of their citizens against the American Republics, as the former state of things still prevailed at times as we have said, vexations for the persons and the property of foreigners.

These claims, especially those of powerful countries, and against states having the same civilization, create for their citizens a privileged condition, because by these means they exercise rights which by the law of the country, against which the claims are made, do not belong to their own citizens, by means of a special and unjust privilege, offensive to the Government and to the people who extend their hospitality to the claimants.

Besides, the support through diplomatic channels of the rights which a foreigner desires to secure, whether it be well founded or not, is a complete disregard of the democratic principles, which serves as a basis for the modern International Law. This latter is based above all on the respect for the sovereignty of the States, and inasmuch as supreme jurisdiction is one of the principal attributes of sovereignty, the right must be conceded to such state to submit to its tribunals all the inhabitants which may