

Why should a foreigner who abandons a country for the one of his origin, be deprived by that fact of the nationality he has acquired? I do not believe there is any reason justifying it; the only one who could renounce said right would be the foreigner himself, who had acquired a new nationality, and he is also the only one able to decide on this matter, and to say: «I either renounce this right or preserve it!»

There are some cases in which a foreigner, who, for instance, has been proscribed the right of citizenship in his own country, acquires positive and real rights in his new country; so if this foreigner, by the mere fact of leaving the latter country should be deprived of said rights, he would be again the victim of his country of origin.

I believe that said rights once acquired are only lost in accordance with the laws, for instance, by offenses, such as treason or infamous crimes, or else by renunciation. But I believe that the appliance to a foreigner of a penalty without culpability, is entirely outside the bounds of justice and reason.

Therefore, I personally, and I believe that my colleagues of the Delegation will also vote against said article, because we deem it inconsistent and useless.

His Excellency Mr. Bermejo.—I must rectify the remarks made by the Honorable Delegate who preceded me, because it seems to me he has given to the article a meaning which it has not. It has not been said, nor could it be said, that a foreigner by the act of leaving the country loses the rights which he has acquired. The proposition is simply to avoid the abuses which were being committed, and the Delegate from Honduras may see for himself in several treaties that this provision tends to avoid such abuse, whereby persons going to a foreign country would naturalize themselves there and return to the country of their origin to enjoy the rights of foreigners, avoiding all the obligations of citizenship and placing themselves in exceptional circumstances. And would the country in which these individuals had naturalized themselves derive any benefit? None! On the contrary, it is charged with the obligations and necessity of protecting them as citizens.

For this reason, the Honorable Delegate from Honduras will see that in the treaty between Mexico and the United States, celebrated in 1868, this difficulty had been foreseen, as well as in the treaties between the United States and Germany and other nations, it being established that if citizens of the United States were naturalized in Mexico and returned immediately afterward to the United States, without intention of returning to the former country, they would lose the benefits of naturalization.

I therefore believe that this article is in no way consistent, but on the contrary is a provision of much foresight in order to avoid the above mentioned abuses. This is the intention of the article under discussion; but as it is included in the other article, if the delegates wish to discuss it now, or if they do not wish to discuss it and separate it from the other article, it is exactly the same to me, because the Delegation that I represent has no interest whatever in continuing the discussion.

His Excellency Mr. Leonard.—I believe that matters could be arranged by adding to this article, that if a naturalized foreigner should return to his

country announcing his intention of not returning to establish himself in the country wherein he was naturalized, since the laws of the country of his origin considers him as a native, he would not naturally have the right to use the privileges conceded him by the nationality he had acquired. But it cannot be established in any case that by the mere fact of leaving the country to go to another—that of origin, for instance,—he would lose his rights of citizenship. This is a right properly acquired and is only lost according to the laws of each country. There have been some cases in the United States for instance, in which Russians and Poles who had acquired, according to the laws of the United States and who had filled high positions entrusted to them by popular vote in that Republic, when they arrived in Russian territory were sent to Siberia and soon afterward notice of their death was received. On this account occurred great interpolations and incidents in the House of Representatives of the United States, naturally to no purpose. Are we going to aggravate the conditions of naturalized foreigners by placing them in more difficult circumstances than those in which the legislations of arbitrary countries keep them?

I believe that this is our mission. We must shield the people, and, therefore, when the occasion arises, as at present, to make our intentions visible and evident, we must insist upon it, without showing weakness or the least submission, to the more powerful, because there is nothing more powerful than the law, there is nothing that rules over the destinies of humanity except law. Without law nothing can exist; everything is centered therein, the present and the future of the countries. I believe we are here assembled to protect the right, the law and justice, and justice is not precisely on the side of the strong, but many times would that it were always on the side of the weak.

His Excellency Mr. Walker Martinez, Delegate from Chili.—I only wish to call attention to one phase of the matter, not yet touched upon. I believe that this article does not proclaim any right, any principle. In the previous articles a principle was involved, but what we have here is almost a regulation of the internal laws of a country. My opinion is that we must leave the countries at liberty in regard to this point, because as I understand it, we have set aside the main question. This point, I believe corresponds to the internal laws of each nation, whereby the form in which citizenship is established.

His Excellency Mr. Henríquez i Carbajal, Delegate from Dominique.—I understand, as also some of the delegates who had the floor have understood, that art. 4 could have been suppressed, since it appeared to be in opposition to the criterion which presided in the formation of this resolution, which was, with art. 1, to equalize the civil rights of citizens and foreigners; in art. 2 to dispense with the probability at least of the privilege which foreigners have been enjoying in our poor republics, whereby they were protected from the law and the courts by means of the use of diplomacy; however, since art. 4, as the Honorable Mr. Walker Martinez has correctly stated, does finally contain a principle involving the exposition of one of the two theories, on the principle of nationality, that of heredity, or that of birth place,—and furthermore, it being in accord-

ance with the constitution of my country, I voted in favor of art. 4, but I understand that art. 5 is merely a matter of regulation, and as in my country the constitution expresses categorically the cases in which nationality is lost, the Dominican Republic, which so far has voted in the affirmative, will vote in the negative, when the time comes to discuss art. 5.

His Excellency Mr. de la Barra.—As I had the honor to state this morning to the delegates, the text of art. 5 is ambiguous, there being several interpretations, which have not, perhaps, been considered by its authors.

It is difficult to determine the conditions whereby it can be definitely known, when the intention to return exists. This must be deducted from facts so apparent and precise that there will be no room for doubt. If the intention of not returning to the territory is inferred by a long absence from the country without the consent of the Government, then the condition can be clearly expressed. Otherwise the article gives room for interpretation which may not always be correct, because the text is elastic and we must avoid ambiguity. If «without intention of returning» were likewise to be suppressed, the meaning of the article would be so definite that it would be in opposition to the Mexican legislation and that of the greater number of the states represented in this Conference.

The meaning of the article is net, according to the intention of its authors, to affirm that a person who has been naturalized loses his rights of citizenship immediately after leaving the country where his papers of naturalization were acquired, it is necessary that a certain period elapse in accordance with the laws on the matter for the loss of citizenship. According to our laws, for instance, the term is two years, if the person naturalized returns to the country of origin, and of five years if it is another country in which he has resided during the period of absence unless he has the consent of the government justifying his sojourn in that country.

It, therefore, appears to make an addition to this article, stating that the loss of the rights of the nationality acquired must be submitted to the provisions of the laws of each state. I therefore propose to my honorable colleagues on the Committee, with whom I regret not being in accord for the reasons expressed this morning, the following addition to Article 5, «in accordance with the provisions of the laws of each state.»

His Excellency Mr. Bermejo.—This article, after suppressing the anterior, has no longer any object in the project, since the anterior, which is the foundation of the one under discussion, is lacking, this is unsustainable.

Furthermore, the principle is taken literally from the treaties in force between México and the United States and other countries; so, it results there is no attack nor lack of recognition of rights as indicated by someone. Thus, article 4 suppressed, article 5 has no object, and the most convenient course would be to postpone discussion on it until the anterior article is reconsidered.

Secretary Macedo.—The Committee proposes that discussion on article 5 be postponed, in order to resume it when article 5 is reconsidered.

His Excellency the President.—This discussion is postponed until to-morrow.

His Excellency Mr. Guachalla, Delegate from Bolivia.—In the Committee whose report has just been considered, I had the honor to propose—but it was not taken duly into account—a motion that I am now going to repeat: that this declaration should not remain as such, and that the Committee on Engrossing consign it in form of resolution or agreement; that we arrive, in fact, to something more practical than a simple recommendation of principles. For this reason, I beg to be permitted to insinuate to the Committee, that if it deems it proper, to accept this motion.

His Excellency the President.—Discussion having been postponed, what his Excellency proposes is timely, and in the interval the Committee will decide if it accepts or not his motion.

The session was then adjourned.

SESSION OF JANUARY 28, 1902.

Secretary Macedo.—In conformity with the announcement made in the order of the day, article 4 of the report of the Committee on International Law, regarding rights of foreigners, will now be reconsidered.

His Excellency Mr. de la Barra, Delegate from Mexico.—The Committee on International Law, having in view the observations presented at the session of yesterday, respectfully asks the Conference to be allowed to retire article 4 and to substitute it with the following:

«Art. 4. The American States recognize the principle of natural citizenship, and in consequence consider as citizens the persons born in their respective territories. The sons of citizens born on foreign soil, who at the time of arriving at legal age, should elect the nationality of their parents, shall be considered equal to those born in the respective country, in all political rights.»

The declaration enclosed in article 4, just read, conciliates the differences manifested in the last session, and for this reason the Committee submits it to the Conference, in order that it may resolve what it may judge convenient and opportune.

His Excellency Mr. Matte, Delegate from Chili.—I am going to insist upon what I had the honor to manifest yesterday, when this matter was being discussed.

It seems to me that the votes taken yesterday have demonstrated in an evident manner that there was absolute conformity, for there were offered solely two abstentions, respecting the three first articles, that have been already approved. I insist in believing that this final article presented by the Committee, has no connection with the first ones on the fundamental point, of interest to all the American Nations, and that tries to eliminate the diplomatic protection extended to foreigners, to refer the resolution of their exigencies or claims to the ordinary justice of each country, and it has nothing in common, I say, with the subject of citizenship, that might provoke some other difficulty.

In our country, we would not put the article in the form that has just been proposed, because it openly impugns our Constitution. Consequently, the Delegation of Chili would not be able to sign the treaty, and being in this inability, neither would it be able to subscribe the three primary articles. For this reason, I insist upon the convenience of dividing this project into two parts, to wit: first, to form

an agreement regarding the three primary articles; second, to discuss separately the point relative to citizenship.

In this form, the Delegation of Chili, that I have the honor to represent, could subscribe the primary agreement, and not the second, and, therefore, if the two matters are incorporated in the agreement, we could not subscribe it. I have the honor to propose, consequently, that the three articles be considered as an agreement already concluded, and that later we discuss the subject of citizenship.

I have said that according to our Constitution, we cannot establish that political rights be granted to individuals born outside Chilean territory, because it declares that one in such condition cannot be, for example, President of the Republic. Admitting, then, the article, we would accept something contrary to our Constitution, that is, we would agree that all political rights might be granted to individuals born outside Chilean territory, altho they might not be sons of Chilean parents.

It will be seen, then, by the Conference that the Delegation from Chili labors under a material impossibility, and this same difficulty must occur to many other countries here represented. Therefore, I submit to this Honorable Assembly the following proposition:

"The Conference resolves to separate the three primary articles of the project on the right of aliens, already adopted, for the purpose of forming with the same an independent project of Convention."

His Excellency Mr. Bermejo, Delegate from the Argentine Republic.—I only wish to state that the principle contained in art. 4th is found in the Constitutions of all the South American States, that is, the principle of the place of birth to determine nationality: then, the special laws of each country, among which those ruling in the country I represent, establish a number of provisions to determine nationality, granting to the sons of citizens born in foreign soil the right to adopt it. The foundation for this doctrine is equally just, as I think has been proven, both from the point of view of self interest and the principles of Law; it is a doctrine which ought to be accepted.

However, I think that the establishment of the other principles which form part of the project must be adopted and that we ought not to form two separate projects of this whole, because I insist on my assertion that they form a harmonious whole, that they are inseparable; thus, it is considered by the authorities I have cited at the former sessions.

On my part I have no objection whatever—knowing as I do that we are not in an academic meeting, but in a diplomatic meeting—in withdrawing that part and that the discussion be postponed as requested.

Secretary Macedo.—The proposition of His Excellency Mr. Matte is under discussion.

His Excellency Mr. Bermejo.—As the intention is to limit the project, that is, to constitute it with the first three articles, the whole project is actually accepted without restrictions; but the last two articles, which have been rejected without, are considered as forming no part of the project. So that, if it is decided to postpone indefinitely the discussion of the last two articles, the project will be sanctioned without them.

His Excellency Mr. Calvo, Delegate from Costa

Rica.—I find myself in the same position as that of Mr. Matte, Delegate from Chili; and I should not like to abstain from voting. I therefore second his motion that a Convention be formed with the three first articles and that the other two be eliminated.

Many of the Hon. Delegates are in the same position, and I think that a decision might thereby be reached with regard to this point.

Secretary Macedo.—The Committee begs leave of the Conference to withdraw the last two articles of the report, the 4th. and the 5th. Is this request granted?

The votes having been taken, it was unanimously granted.

His Excellency Mr. Matte.—There is no room now for my proposition as the Committee has withdrawn the two articles in question; I only wish to call the attention of the Assembly to the advisability of having this resolution in the form of a convention. This was the intention of the proposition I had the honor to submit, so that the three articles already approved would be in the form of a Convention.

His Excellency Mr. Bermejo.—Regarding the form of a Convention and not of a Declaration for the project, the Committee is agreeable. I do not consider the project of any importance, because I think that a recommendation containing this principle has the moral authority of a treaty. The fact that in this declaration only some of the American States, not all, take part, the United States of America having abstained from an intervention, induced me to believe more fully that a recommendation of general principles was sufficient.

With regard to the suggestion of the Honorable Mr. Matte, that a convention should be formed, on my part there are no objections, since the principles having been accepted, I think that my country will be willing to accept also an agreement to respect them.

His Excellency Mr. Carbo, Delegate from Ecuador.—Mr. President, I move that the Committee on Engrossing be entrusted with the redaction of a form of convention to the project just approved.

Secretary Macedo.—The Conference is asked whether the motion of His Excellency Mr. Carbo will be taken into consideration immediately. It will. It is now under discussion. No one requests the floor. It is asked if the motion is approved.

The vote having been taken, the motion was unanimously approved, with the exception of the delegates from the United States and Hayti, which abstain from voting.

Secretary Macedo.—The Chair rules that the documents on the rights of aliens be referred to the Committee on Engrossing.

SESSION OF JANUARY 28, 1902.
(AFTERNOON.)

Secretary Macedo.—In compliance with the resolution of the 22nd. instant, the reports of the Committee on Engrossing, on the resolutions approved by the Conference are filled in the office of the Secretary, and are at the disposal of their Excellencies the Delegates, who may revise and make such suggestions as they may deem advisable.

¹ See page 74.

The report on the rights of aliens reads as follows:

Engrossing Committee.—The undersigned have the honor to submit the following text for the report approved by the Conference on the Declaration of rights of Aliens:

Art. 1. Aliens shall enjoy all civil rights pertaining to citizens, and make use thereof in the substance form or procedure, and in the recourses which result therefrom, under exactly the same terms as the said citizens, except as may be otherwise provided by the Constitution of each country.

Art. 2. The States do not owe, nor recognize, in favor of foreigners, any obligations or responsibilities other than those established by their Constitutions and laws in favor of their citizens.

Therefore, the States are not responsible for damages sustained by aliens through acts of rebels or individuals, and in general for damages originating from fortuitous cases of any kind, considering as such the acts of war, whether civil or national, ex-

cept in the case of failure on the part of the constituted authorities to comply with their duties.

Art. 3. Whenever an alien shall have claims or complaints of a civil, criminal or administrative order against a State, or its citizens, he shall present his claims to a competent Court of the country, and such claims shall not be made through diplomatic channels, except in the cases where there shall have been, on the part of the Court, a manifest denial of justice, or evident violation of the principles of international law.

Hall of Committees of the Second International American Conference.—Mexico, January 28, 1902.
—(Signed).—*Alberto Elmore.*—*Rosendo Pineda.*

The Convention relative to rights of aliens expressed in exactly the same terms of the above report, was signed on the 29th. day of January, 1902, by the Delegations of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, Dominique, Ecuador, Salvador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru and Uruguay.

NUMBER 17.

Future International American Conferences.

SESSION OF JANUARY 27, 1902.

Secretary Macedo.—The Committee on Future Pan-American Conferences has presented its report, that the Chair orders published and distributed among their Excellencies the Delegates. Said report states:

FUTURE International American Conferences.

The expediency of holding periodically International American Conferences has been recognized by the Republics of this Hemisphere. Many advantages have been derived from these assemblies, inasmuch as the exchange of ideas and the diffusion of knowledge among the countries represented in them, contribute to foster closer relations among these Republics through the resulting Treaties and Conventions. The progress achieved at these reunions is towards the realization of mutual ideals and the unification of their legislations, in which manner all these nations harmonize their desires of mutual welfare. This work must necessarily be a gradual one, and therefore recommendations of one Conference may be amplified by those of a subsequent one, or if such recommendations should have met with difficulties in their applications, such obstacles may be removed by the next Conference, in such a form as experience may indicate, and which it may consider as the most appropriate.

The guiding aim, then, is to be found in the continuity and unity of interests of the American Republics, and especially the stimulus of the commercial relations between them and in encouraging the development of natural resources.

It is worthy of special recommendation, that each one of the governments prepare a report for the next Conference, in which all the measures taken in carrying into effect the recommendations and resolutions of this Conference shall be stated, as well as those of the former. It is sufficient to cite in this respect, as an illustration of the value of such re-

ports, the one prepared by the Honorable Mexican Delegation, containing a recapitulation, not only of most useful information, but also many valuable suggestions; and that of the Honorable Argentine Delegation, relating to the progress of their country and the measures taken by their government by virtue of the resolutions of the First Conference.

It is the prevailing opinion of this Conference, that reunions of the American Republics should take place at short intervals, and this Committee believes that it would be advisable that they meet every five years.

For the purpose of taking the necessary steps for the assembling of the next Conference, this Committee proposes the following project of resolution:

Whereas, the First International American Conference, which met in Washington in 1889, closed its sessions without having adopted any resolutions regarding future Conferences, and without having delegated its power to any one for that purpose;

Whereas, the frequent reunions of the American Republics would foster the friendly relations which happily unite them, and contribute to strengthen peace and the general well-being of each one and all of them;

Whereas, it is rather early at this moment to designate the place where the Third International American Conference is to meet.

RESOLVED, that the Third International American Conference shall meet within five years in the place which the diplomatic representatives accredited by the American Republics, in Washington, and the Secretary of State of the United States of America, may designate for the purpose, and in accordance with what at the meeting of the said representatives may be resolved, regarding the programme and other necessary details, for all of which they are hereby expressly authorized by the present resolution.