

to form pacts in the sessions of the Congress, what we may judge proper.

Referring to the concrete point in debate, I ought to say, that if we have not thought it correct, nor judged ourselves authorized to express our adhesion in other form than within the Assembly, it is evident that we have endeavored to exert every possible effort to regulate a proceeding that we judge inadequate and in trying to obtain that the adhesion to the conventions of The Hague be realized in the form that we esteem due, that is to say, by means of a frank and explicit declaration from the Conference.

I will now pass, Mr. President, to the question of form, and in doing so, I ought to commence by establishing, that we the Delegates from Chili have not believed, nor do we now believe, that we are judging the conduct of His Excellency. Such idea is very far from us: we merely study a procedure that is adapted to the Resolutions of the Congress in a matter of such fundamental importance. It is not proper here to discuss the conduct of the President nor to cast a vote upon it. It would not be proper in an Assembly of Plenipotentiaries, each one of whom represents a nation. Distinct are the rulings that in this respect might be adopted in a simple legislative body; but in an international congress there is no room to place doubt the good spirit with which the Chair proceeds in directing the debates. We ought to believe, therefore, that in dictating a resolution, His Excellency believes that he correctly interprets the rules. I will leave, therefore, absolutely inviolate the personality for us very distinguished and respectable of the Honorable President of the Conference. But one may observe the reglamentary procedure, discuss and study it, for its purpose is to see that the resolutions of the Assembly, in all that is possible, are so made as to accomplish the objects in view, vested with all the authority and efficacy they may require.

Our remarks lead to this end, and I cannot conceive that the Honorable President should take as ill the fact that we discuss a measure that tends to effect that a resolution of the Congress be passed in a more or less solemn form; for this is precisely the point that divides us: the Delegation of Chili desires that the adhesion to the pacts of The Hague be verified in an official and solemn manner; while other delegations have sought a different manner in which to proclaim that adhesion. What ought we to do then, Mr. President?

Taking the facts as they have been presented, the situation is as follows: we have before the Assembly a petition signed by many of our distinguished, who solicit that the Conference remit a protocole agreed upon between them and signed outside of this hall. To said petition it has been responded that, in order that the Chair may communicate that document to the Department of Foreign Affairs, it is necessary that a vote of the Congress be taken, for the President can act only in representation of all the delegations that form it. The protocole has been sent in order that the Chair in representation of the Assembly, may remit it to the Department of Foreign Affairs of Mexico.

So sure it is that His Excellency the President cannot act except in representation of the whole Congress, that a practical example will suffice to demonstrate that in no other form can the relations

of the Assembly be established with the public authorities. Let us suppose that a document analogous to the one now occupying our attention reaches the Chair, signed by two or three delegations, petitioning that the Conference through the medium of the President, send said document to the department of Foreign Affairs. Could His Excellency consider himself authorized to satisfy the terms of the petition without soliciting the accord of the Assembly, for the purpose of doing this in its name.

That is the point that we are discussing. And in the presence of such a petition, no remarks have been made of the kind that I have just expressed, but an amendment has been proposed, which, at indication of the Delegates from Chili, imports naught more than a slight variant from the one solicited by the authors of the protocole. What does the Chilean delegation solicit? It solicits that the same document that it has adopted as its own, be submitted previously to the vote of the Assembly, before sending it to the Department of Foreign Affairs.

Thus, Mr. President, we have before us two petitions: one in which it is solicited that a determinate document be remitted to the Foreign office of Mexico, and the other in which it is proposed in conformity with the reglamentary provisions, that the said document be previously approved and then sent to the Department of Foreign Affairs. This is the point to be cleared by the Conference; in this I have had especial care to make patent that it is not upon the ruling of the Chair that we ought to pronounce ourselves, but upon the two indications that comprise the same subject, that they be discussed simultaneously and that they should be governed by the reglamentary provisions. It is for that reason that the Delegates of Chili ask that our indication or modification be voted on primarily, in accord with the provisions of the rules.

I will not terminate these brief remarks, Mr. President, the sole object of which is to clear more still, if possible, the question of procedure, which has been discussed for several hours, without referring also to some other remarks that we have listened to this morning from Mr. Buchanan.

Our distinguished colleague stated that the procedure adopted by the fifteen delegations signing the document to which I have referred, obeyed the convenience of avoiding a debate in the Assembly, that might result vexatious, as referring to the point whereon the delegations are most divided.

I comprehend, Mr. President, the well inspired motive counselling that line of conduct, because in an unanimous consent all procedure is united, but the same being without our reglamentary practice, it being outside of our voluntary unanimity, since two delegations have not lent themselves to that private accord, extra-official; we being in the full exercise of all our rights, as members of this Conference, it is evident that our observations are not only opportune, but absolutely necessary. First, because they tend to modify the procedure and to give to it the form corresponding to the purposes of the Assembly, and, second, because knowing, as we know, that the latter is unanimously in accord in manifesting its adhesion to the pacts of The Hague, we desire, in the exercise of our right as members of the Conference, that it pronounce itself in the matter in a solemn manner.

Referring to the explanations of the Honorable Mr. Buchanan, that tend to justify the abnormal procedure adopted, I ought to make another remark. It is sought to prevent another debate, and we are engaged in one, the duration of which has already been long. Moreover, what debate can there be with respect to a proposition signed by nearly all the delegates of the Conference, and which signifies, as a whole, the adhesion of the two delegations which have not signed it? None can exist, and, therefore, the inconvenience emanated from the debate, which it is sought to raise, does not exist. What obstacle is placed in the way of obtaining the explicit and solemn consent in favor of adhesion to the conventions of The Hague? The delegation of Chili does not see it; therefore, it insists upon its indication, and begs the Chair that in preference and at opportune moment, there be submitted to debate the modification presented.

*His Excellency Mr. Buchanan, Delegate from the United States of America.*—Mr. President, I rise with great reluctance, and desire first of all to beg the Chair's pardon for further taking up the time of the Conference with regard to a subject which has been so extensively discussed.

I am very glad, however, to have this opportunity to express to the Chilean Diplomatic Officer accredited to Mexico, my good friend Mr. Bello Codecido, my sincere compliments and gratification for the very kindly and courteous manner in which he has presented the subject from his point of view; also to the other members of that Delegation, the friendship of one of whom, Mr. Walker Martinez, I esteem most highly. I wish merely to make two requests at this time, in the name of those who have signed the protocol that has been sent to the desk. First, I desire on their behalf and by their authority, to state that it is their wish that the minutes of the Conference shall show, and that there shall be attached to the document in question a statement to the effect that nothing therein contained is intended to have, nor shall it have, application of any character, to any Delegation that has not signed the document. Second: inasmuch as the signature of one of the Delegates to the document has been brought in question, I request the Chair on behalf of the signers of the protocol to have attached thereto a certified copy of the telegram or telegrams in the office of the Conference, from the Government of Venezuela, touching the withdrawal of that Delegation from this Conference. Lastly, may I say that it is a source of the greatest satisfaction to me to have heard the cordial support given to this document by the distinguished Delegation from Chili. I wish further to compliment their aptness and their ability in parliamentary tactics which I appreciate the more highly because of my own lack in this particular. It appears to me, however, we have been during the day discussing or bringing into this subject with remarkable ability, subjects which are not pertinent to the question at issue. I do not understand that there is before the Conference the question of whether or not this protocol was signed within or without the Conference, or anything with regard to the authority of those who did sign it; that there is simply one question before the Conference, and that is the ruling of the Chair with regard to the document in question.

*His Excellency Mr. Alzamora, Delegate from*

*Peru.*—Messrs. Delegates: I ought not to take part in this debate, because it was understood, in the mutual concessions made by us in the signing of the protocoles that have originated it, that we would abstain from speaking; and I accepted this condition as homage to tranquility and even to the life of the Conference, and also to the conciliatory desires of the delegations of the United States and Mexico, that have done so much to save it and to make it attain to the desired end. But two considerations now impose upon me the ineludible obligation of saying a few words.

The delegation of Chili has manifested that, in its opinion, the abstention in this debate on part of the delegations signing the protocole, signifies that they disapprove of the ruling of the Chair that is now under discussion; and, furthermore, has interpreted our silence as a manifestation that we flee from discussion of the capital theme of arbitration, for which purpose this Assembly was convoked, that we accept veiled proceedings, foreign to the Conference, and availing myself of the words of the Honorable Mr. Walker Martinez, although I am not sure that the have been directed to us, in that we are following a Florentine diplomacy, and do not do all that is due for the prestige of the Congress and the principle of arbitration.

The question of the procedure of the Chair has already been well planted and resolved, from my point of view, by all the gentlemen who have sustained before me the acts of the Chair, and more especially by Mr. Buchanan, who has just said, in brief terms, all that is necessary upon the subject.

We sustain, then, openly that opinion, and believe that the Chair has proceeded strictly in conformity with its attributes.

The Honorable Mr. Walker Martinez Delegate from Chili, said that the Chair has infringed upon the rules in ordering that the treaty signed by fifteen delegations pass to the Department of Foreign Affairs, without first submitting it to discussion and to the vote of the Conference, and proposed that it be sent to the Committee on Arbitration, in order that upon its decision might rest the discussion and the vote of the Assembly.

The rule is made, like all of its kind, to carry the matters of the Conference to their end; but when a matter is presented terminated, I do not know what application the rules can have. Rules everywhere are thus, to assign the course that matters are to follow that are ventilated in the institution or body which they govern; but in all parts, also, there may be presented and there are presented facts pertinent to the rules, that have no longer a course to follow, and to which no rule can be applicable. This happens not only with rules, but also with all kinds of laws and even with constitutions.

Let us suppose that any national congress, by an accident of somewhat graver character than that which has just occurred here, remains totally buried among the ruins of the edifice wherein it had reunited. To what then remain reduced the laws upon renovation by thirds or halves that generally govern those bodies? To nothing, because they result completely inapplicable, for a case has occurred that rests upon those laws. And such a thing happens in any country and with reference to the most

1 A few moments before a strong earthquake had passed.

fundamental laws, it has to happen, for greater reason, when it is a question of an Assembly of Nations and not of a simple rule.

The rule here is a very secondary matter, for as several gentlemen have said, the delegations of sovereign nations cannot be subject to other rules than to the instructions that they have received from their own governments; thus each one of them accepts or not, what it finds suited or not suited to its interests. The votes cast here are not properly votes of majority nor of minority, because in neither case can they obligate independent nations, if they themselves do not obligate with their own vote; and consequently, there is no reason why importance should be given these rules, invented in national assemblies for the purpose of embracing within their just limits both majorities and minorities.

We need, for the prestige of the Congress and of arbitration, that this matter be amply discussed, and for this reason desire that it pass to the committee corresponding to it, says the Chilean Delegation. But it forgets that the Committee on Arbitration has done nothing in three months, and that it is impotent to do anything in future, and are we then to send this Treaty concluded by fifteen sovereign nations to that committee for the purpose of remedying its sterility?

Moreover, if the delegates from Chili and Ecuador, as they affirm, are in accord with the Treaty signed by the fifteen delegations remaining, between whom is the discussion going to take place?

It is not exact that the Conference has anything to do with the stipulations or the contents of the Treaty, and that from this originates its right to examine it. The stipulations of the Treaty appertain to the responsibilities of the nations signing it. If the Honorable Mr. Buchanan has accepted the substitution of the word Conference for the word Delegations, it is because we have discovered that there was effectively an error that it is convenient for us to avoid, but not because we concede to the Conference the right to amend them. The Treaty might go to the Department of Foreign Affairs with that error, or with any other, without the Conference being compromised, because the responsibility in this case rests exclusively on the signatory powers.

It seems absurd to the Chilean Delegation that all the delegations, with the exception of two, should present the Treaty to the very Conference of which they form part. And what is the remedy that it proposes? That the Treaty go to the Committee on Arbitration which is composed of all the delegations of the Conference, in order that said Committee may present a report to the Conference itself.

The Chilean Delegations maintains that there are two opposing petitions: that of the fifteen delegations signing the treaty, in order that the same may be sent to the Department of Foreign Affairs, and that of the other two, to the effect that the treaty be not sent; and that in such a case it is necessary that the Committee render a report and discuss and vote on the matter, for the purpose of ascertaining which of the two petitions should dominate. It is possible that I have not understood this well, for I cannot explain it to myself.

The Chair is the organ of communication between the Delegations here united and the Department of Foreign Affairs. Fifteen Delegations representing

sovereign nations celebrate a treaty and present it to the Chair in order that it be sent to that Department; what right have the other two remaining nations to oppose the doing of such a thing, or the Chair to attend to their pretensions?

Not only are the treaties or acts executed in this hall those of the Conference, and by unanimity of vote, but as well those executed in any part, within the limits of this city, and by any number of delegations, be it all those composing the Conference or a majority or a minority of them: such as the labors of the Conference, not only those realized in its public sessions, but all executed in fact, whether within or without this place, among the members of the Conference, in the pursuit of its objects.

The delegation of Chili has a most perfect right to adhere to the treaty, if, as it affirms, it accepts all its stipulations; to make propositions distinct from it, and to do in the matter whatever may suit its pleasure or interest. But it has no right to oppose that the treaty celebrated already between fifteen sovereign nations should remain perfect, and much less to impede the ruling made by the Chair for that purpose.

But it is clear, gentlemen, that we are not discussing a simple ruling. If this were the case, the debate would not have taken on the proportions that it has. Mr. Bello Codecido himself has already, in one of his discourses, established that it is not a question of a simple ruling.

The question here, gentlemen, is that of arbitration. Unfortunately I am prohibited at present from discussing it. But I have to explain, at least, the reason of this compromise of non-discussion of arbitration, and to raise the veil of the situation, that the public will not explain and which our own governments will find difficult to comprehend.

This international congress became almost dislocated when in the Committee of the International Bureau of Washington was planted the question, of which without doubt the signatory delegations of the protocol now engaging our attention were not the authors, to eliminate arbitration from the questions of the Conference; arbitration that had been accepted by all the nations of the continent, in the Congress at Washington, excepting the Republic of Chili, which abstained from voting, and that of Mexico, which offered some exceptions.

Since that question was planted, gentlemen, the Congress has been agitated by these two currents, that have been combatted in its midst, one with the idea that arbitration be discussed and the other in a contrary sense, and the delegations of the United States and of Mexico, with the laudable desire of reuniting once again the nations of America and promoting its common interests, have exerted superhuman efforts to obtain that this Assembly be installed and enabled to live. This conciliatory policy explains how a Committee on Arbitration was constituted, in which were represented all of the delegations, and as, by virtue of the same fact, it remained, soon after, sterilized; thus, it has given no sign of life during the three months of the sessions of Congress.

But not for this reason can it be said, as affirmed by the Delegation of Chili, that nothing has been done on the question of arbitration. All that the Committee has failed to do, the delegations have done privately, uniting in groups, of varying num-

ber, according to affinities, some groups negotiating with others, without a moment's truce, at last reaching a result.

Two treaties have been signed: one upon adhesion to the principles of The Hague, by fifteen delegations, and another by ten delegation, which constitute the majority of the Conference, establishing obligatory arbitration.

The delegations of the United States and Mexico have encountered the means of conciliating all opinions, presenting the arbitration of The Hague to those not disposed to form a more effective league, and promoting the celebration of obligatory arbitration between the partizans of this principle. It is an honor for the United States and proof of consideration and respect for the sovereignty and the liberty of the other nations of America, that without having signed, this time, the treaty of obligatory arbitration, they have notwithstanding lent their voice, for the celebration of the same among the states that aspire to it.

There is not, moreover, anything contradictory in the conduct of the delegations that have signed the two treaties; because, as my distinguished friend Mr. Bermejo has said, the treaty of The Hague foresees that the signatory powers may make treaties more or less efficacious among themselves, according to the current of ideas or of interests that dominate them. There is a common tie that binds all, and then ties more especial and close that bind the different groups.

Now then: this being so, if the protocol now in question is not isolated, but is part of a convention in which also figure another protocol of obligatory arbitration celebrated between the majority of the nations here represented; if both are the fruit of the labor of three months and of a series of mutual negotiations and concessions, what results triumphant among all the nations of America, in one form or another, is the principle of arbitration; if, finally, in accord with the manifestations of Mr. Buchanan, the Chilean delegation is perfectly cognizant of this situation, how can it be explained that it wishes to decide it under the form of a simple reglamentary question and in the sense of leaving without effect all the labors and resolutions of the delegations of the Conference, to relegate us to a Committee that most decidedly is impotent to do anything?

Mr. Buchanan has also affirmed, that a certain delegation, that undoubtedly is the Chilean delegation itself, had asked that the Congress should discuss certain aspects of arbitration; and there can be no doubt that all the efforts that he and his companions, as well as those of the Mexican Delegation, have exerted to attain to the result that we have in view by means of private negotiations, have responded to the desire of satisfying this exigency of the Chilean delegation. How, then, can this delegation charge the signers of the protocols with having used strange and inconvenient diplomacy in the Conference, when we have been guided by the two delegations named, in the way outlining the same exigencies of Chili? I repeat, moreover, that even while the protocolos in question were signed outside of this hall of sessions, they are none the less acts of the Conference, nor are they excluded from the course to which should be subjected those of this nature; because they have been celebrated by the majority

of the delegations here congregated, for the purpose of realizing the most important of the objects of the convention and with the guaranty of the signatures of the delegations that have subscribed them.

To conclude, I might enter upon a dilucidation of these two questions: first, if the delegations that have signed the protocols, or those that have opposed their course, the ones that have done most for the prestige of the American Congresses and of arbitration; and second, that of the very principle of arbitration, with regard to the form with which it should be vested, to satisfy common and permanent interests of America. But this could not be done without the delegates from Chili manifesting a desire to discuss these questions and they would release me from the compromise contracted with the delegations of the United States and Mexico. In such case I would be much disposed to demonstrate, with the consideration and the courtesy that I owe to each one of the delegations and to the Conference, that the delegations that have signed the protocolos, constitute the ones that have done most for the prestige of the Congresses of America and for the principle of arbitration, and that if the treaty of The Hague is a field of conciliation on which the United States and Mexico have succeeded in reuniting all the nations of America, it is far from signifying the desideratum for these nations, which can be no other than a treaty of obligatory arbitration, like the one so happily signed by the ten delegations, constituting the majority of the Conference.

*His Excellency the President.*—The Chair feels obliged to reply to the invocation of art. 17, cited by His Excellency the honorable representative of the delegation of Chili, Mr. Bello Codecido, in the discourse that with so much discretion he has pronounced before the Conference, and to rectify also some of his remarks with regard to the rulings of the Chair.

Commencing with the citation of art. 17 of the Rules, His Excellency opines that the Chilean proposition, which as yet is not in debate, is naught more than a modification, and that, as such, it ought to be discussed and voted on before the one that it modifies. Ably presented, as it is, by the discreet discourse of His Excellency, this indication might tend to involve the Chair in one of two irregularities: to leave either without reply this invocation to the rule and tacitly acknowledge that the Chair infringes it, or to change or modify its ruling, admitting that there is in debate what never has been. To obviate these two difficulties, I have to say with all clarity and precision, with all the due respect that I profess for the very honorable Mr. Bello Codecido, that His Excellency suffers at this moment, in my judgment, a simple hallucination: what is in debate is exclusively the ruling of the Chair, in that a document presented to the secretary pass to the Foreign Department of Mexico. It is a question, then, of sounding the procedure that the Chair has considered under obligation to adopt with respect to the fact. The note of remission is not a consultative proposition, but simply a fact before the Conference, and the facts Messrs. Delegates, are not susceptible to discussion of any sort; the notes of remission are simple matter of fact, and, consequently, are not propositions that can be submitted to the vote of an assembly. How can the proposition of the Honorable Delegate from Chili be a modifica-