Delegations of Chili and Equador have manifested their conformity with the amplification to the ruling made by the Chair, that has been proposed by His Excellency Mr. Buchanan, Delegate from the United States, in name of the other Delegations forming the Conference, the President rules: that in sending to the Department of Foreign Affairs of the Republic of Mexico, the project of treaty and the petition signed by the fifteen delegations, that there accompany the same a certified copy of the minutes of the two last sessions and of the present one, when approved, and what was conducive to the last, to the effect that the unanimous adhesion to the conventions of the Governments represented in the Conference.

His Excellency the President.—There being pending discussion in turn, the propositions presented in the first place by the Honorable Delegate from Colombia and in the second by the Delegation from Chili, and it appearing that with the approval of the final ruling of the Chair, they are no longer in order, I beg to be permitted to ask the honorable delegates from Colombia and Chili to inform the Chair if they withdraw their propositions or if they insist upon their being considered.

His Excellency General Reyes, Delegate from Colombia.—The Delegation from Colombia with much pleasure withdraws the proposition, for the reasons just expressed by the Chair, for it no longer has any object, when once by unanimity the Conference asks that these documents pass to the Department of Foreign Affairs of Mexico.

His Excellency Mr. Bello Codecido, Delegate from Chili.—Mr. President: The Delegation from Chili has no hesitation in withdrawing the proposition that it has made, maintaining only its statement of motives, which is the foundation of its adhesion to the conventions of The Hague.

His Excellency the President.—I beg to ask the Honorable Mr. Bello Codecido to please state if he desires, as is the opinion of the Chair, that the statement of motives be read and included in the minutes of the day, and also if he desires that the same be sent to the Secretary of Foreign Affairs.

His Excellency Mr. Bello Codecido.—Mr. President: the reading of the statement might be dispensed with and simply inserted in the minutes.

His Excellency the Secretary General.—And sent to the Department of Foreign Affairs?

His Excellency Mr. Bello Codecido.—There would be no harm in doing so.

His Excellency the President.—The same will be inserted in the minutes of the day and sent to the Secretary of Foreign Affairs.

PREAMBLE and project of convention, presented by the Chilian Delegation.

I.

It has in all times been the noble aspiration of humanitarian minds to seek the surest mode of fostering peace among nations and the grand interests which modern civilization has converted into bonds of close union among the peoples, have made this desire for peace one of the most important problems, that can he submitted to the deliberation of statesmen.

For this reason, this sentiment, with which formerly only deep thinkers and philosophers have occupied themselves, is slowly engrossing the attention of all cultivated minds, to the degree, that during the past century it has been considered as the primordial necessity for the well-being and progress of the nations.

Public writers, philanthrophic societies, private congresses and conferences, inter-parliamentary conferences, and other institutions, foreign to the official action, have made this great desideratum the subject of their eflorts.

This aspiration has likewise taken possession of the mind of some sovereigns, who by proclaiming the same, have believed themselves able to definitely establish the reign of peace, by means of a new organization of international relations.

Without referring to extravagant and utopian schemes, like the grand project of Henry IV of France, who sought to attain that end by means of a confe deration of all the Christian European States, or to the projects of a universal monarchy of Louis XVI and Napoleon I, which were rather inspired by the idea of the predominance of France over the rest of Europe, than by any idea of peace, History tells of noble efforts, due to the initiative of sovereigns, toward the securing of universal peace.

Among these efforts deserve to be mentioned: the Treaty of the Holy Alliance, concluded when Europe, exhausted by the wars of Napoleon, was anxiously seeking for some way, by which this strife that was ruining it could be made to cease; the proposition of universal disarmament proposed to the European Powers by the Czar Alexander I; the project of disarming, which Napoleon III supported in 1863, and which he cherished in order to settle international conflicts by means of congresses of the great European nations; and finally the proposition which in 1899 Czar Nicholas II addressed to the principal Powers of the glove, inviting them to assemble at The Hague, for the purpose of coming to an agreement regarding the reduction of armies and other measures, intended to solve the differences between nations in a pacific manner.

Besides these measures, either proposed or simply conceived by the European sovereigns, there are others, which we may call American, because their imitiative belongs to the governments of the countries of the New World.

In 1826 in the Congress of Panama, and in 1847 in the Congress of Lima, many of the Spanish-American Republics, among other measures, entered into a confederation, which was intended not only to protect them against foreign foes, but also to prevent causes of conflicts among themselves. In 1856, in the Congress of Santiago de Chile, a Continental Treaty, and in 1864 in the Congress of Lima, one of alliance between all the nations therein represented, were signed. Both had for their object, among other things, the securing of peace among the signatory nations. Finally, in the Congress of Washington of 1889, in which all the North, Central and South American Republics were represented, the means of deciding international conflicts were sought to be obtained by compulsory arbitration.

Such have been the new bases, upon which the European and American governments have endeavored to establish the international equilibrium.

Unfortunately, none of these measures have given the results which were desired to be obtained.

The Holy Alliance proved rather an element of discord among the States, and of oppression for their peoples, which reached even the character of despotism. The proposed Conferences for disarmament of the Russian and French Emperors dit not even assemble. The Congresses which Napoleon III succeeded in assembling, gave results contrary to those which he aimed at.

The treaties of confederation of some of the Spanish-American Republics did not meet with ratification.

The Continental Treaty of 1856 and the Treaty of Alliance of 1864 did not go beyond mere declarations, without any practical results. The resolutions of the Conference of Washington in 1889, have not received the sanction of the Governments. The Conference of The Hague, although it has produced some good results and has proclaimed some important doctrines relating to International Law, has declared that the reduction of armaments and the compulsory arbitration, as solutions of certain question, are, for the present, impossible to become practicable.

All these attemps at assuring peace, although always proclaimed to the world as a sure promise of tranquility and progress, have had in reality no other effect than that of producing bitter disappointments, because they were all inspired by well intended ideals, but took no account of the real condition of the political life of the nations, and disregarded the fact that such life is not only dependent upon the opinions and desires of the Governments, nor can it be based upon purely conventional reasons.

The great international problems, as well as the political and social ones, possess an advantage, which at the same time is a defect: the solution which should be given to a problem is easily conceived, and it is believed that such solution should be able to be put in practice with the same rapidity, without previously examining the obstacles which it may encounter, and, above all, without examining the course it will have to follow in order to arrive at the end desired to be obtained. And such manner of of proceding, instead of favoring the matter, does it harm, because the premature proclamation of beautiful ideals, and of principles the solution of which be defered, causes International Law to be discredited, making it appear in contradiction with the state of affairs in existing.

II

The present International Conference, which aims at the establishment of peace on this Continent as its principal object, finds itself in a position to take advantage of the experience which the history of diplomacy furnishes in this respect.

The positive declaration, which the Conference of The Hague has just made against one of these measures, namely, Compulsory Arbitration, should serve this Conference as a lesson and prevent it from entering, so soon after such declaration, into endeavors which in Europe have been characterized as premature, and which America has already rejected by refusing to ratify the declaration of the Congress of Washington.

In order to solve, in a proper manner, the question whether compulsory arbitration should be declared as the best means of deciding international conflicts, as it is proposed, we should not examine it in the light of a useful and desirable institution, because such a task belongs principally to public writers. The only thing which pertains to us, as diplomats, to ascertain, is: if in the present state of affaires it is possible to solve by arbitration all kinds of controversies among the nations, or only some of them; if it is objectionable in some cases and to what degree it sacrifices the independence of the nations, and finally, to what point can it surely prevent armed conflicts and the best means of setling them peacefully.

If it were as easy as it is pretended, to replace the cruel measures of war by the humane and civilizing one of arbitration, no nation would hesitate to limit its sovereign rights before so grand an institution. But if the advantages and benefits are not manifestly apparent; if arbitration is not sufficient to settle all kinds of disputes, and especially those which are the causes of wars, only few States would be disposed voluntarily to diminish their sovereignty, which is the indispensable condition of their existence, in exchange for á principle of such problematic results.

Only by freeing ourselves from the natural tendency to take great principles out of the domain of practical reality, and to place them in the realm of illusions, and by examining the doctrine of compulsory arbitration with rational and positive discernment, by which statesmen solely should be guided, shall we be able to accomplish practical and useful work for the American nations.

III.

There are, of course, questions which do not admit of arbitration in any form whatever. Among them are those affecting the independence, integrity or sovereignity of a Nation. Each country is the only judge of its independence and sovereignity. An indeclinable duty compels it to defend the origin and reason of its existence, with all the elements, all the forces and all the energy of which it can avail. To abandon its sacred duty to a stranger's criterion would render such country unworthy of forming part in the concert of the Nations which pride themselves on their sovereign independence.

What is said of questions relating to the independence and sovereignty of States, also applies, for the same reason, to those questions affecting their dignity, honor or their most vital interests. As there is an individual honor, there exists also a national honor. This sentiment is the source of the prestige of Nations and at the same time the safest factor of their preservation and one of the most powerful elements of their moral and material progress.

This sentiment is based on public conscience, it is an inseparable part of the national character, and a question which refers to it cannot be submitted to arbitral decision. It would be preposterous to pretend that a State should renounce its national sentiment and its right to be the sole judge of its destiny, in such cases when its safety is at stake, and when inevitably it becomes its duty to show all its energy and all its dignity. No case is found in the history of diplomacy where such questions have been submitted to the decision of arbitrators.

This explains why in all permanent Arbitration Treaties, recorded in the history of diplomacy, but with few exceptions, questions derogatory to the ho-

nor, dignity and vital interests of Nations, are excluded from such recourse.

The plan of arbitration presented in 1890 by the Russian Government at the Hague Conference wherein it was proposed to condense all the conquestes that the Law and the practice of Nations had established on this matter, provides in Article 8., that questions relating to vital interests, and national honor, of the contending parties, are excluded from arbitration, and in the explanatory note of Article 10 of the plan it is stated, that; «No Government would consent to assume beforehand the obligation to submit to the decision of an Arbitration Court all conflicts arising in the international sphere, if that conflict would involve the national honor of the State, or its vital interests, or its imprescriptible rights.»

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It is also rightly held that conflicts of a political character are not susceptible of arbitration, for in questions of this nature elements of very complex and varied kind are involved, which are difficult to define in a precise manner, and hence of impossible decision according to Law, as all arbitral decisions must be. Only in questions of a legal character which can be formulated and decided judicially may the solution be reached through these means.

This doctrine has been acknowledged in articles 7. and 10. of the Russian plan. With great truthfulness and insight, said Government has stated in the explanatory note of the same Article 10. «in general thesis conflicts arising in connection with political treaties refer, in most cases, not so much to a difference of interpretation of this or that rule, but to the modifications to be introduced into it, or to its entire abrogation. The Powers that take an active part in European politics, cannot then, submit the conflicts arising in the sphere of political treaties, to the examination of a Court of Arbitration in the eyes of which, the rule established by the treaty, would be as obligatory, as inviolable, as is the rule established by positive law, in the eyes of any national Court.»

The Hague Conference has recognized in a still most explicit manner, the aforesaid doctrine. In art. 16. of the plan of Convention for the pacific settlement of international conflicts, political questions are excluded from the cognizance of the efficacy of arbitration, leaving the latter to deal with legal ones and specially with the interpretation or consideration of Conventions which in their nature have no political meaning and can not produce conflicts that affect national interests.

IV.

In the foregoing remarks the first difficulty which the proposition of establishing Compulsory Arbitration offers in practice, is demonstrated.

In effect, if the questions — which involve the honor and dignity of one of the nations or its primordial interests are excluded from Compulsory Arbitration, the difficulty which naturally presents itself is that of knowing, when in a specific dispute any of those essential principles are involved, and when, consequently, the interested party may decline Arbitration.

There exists no method of pointing out distinctly the cases in which those interests are at stake. It is not possible either to establish a rule in this respect, because the especial circunstances under which a litigation is brought about determine its character. In this conflict of ideas, that which is of small importance to one State may seriously affect another in its dignity or its vital interests. A very suggestive example of this is found in the allegations made by the United States to the Committee of the Third Section of the Hague Conference, when they asked to eliminate from compulsory arbitration all that which refers to interoceanic canals. And while that Republic alleged, that the question affected its most important interests, the other countries therein represented manifested, that they had no interests whatever in the matter.

There is no other solution to the aforesaid difficulty, but that every State be, in each particular case, the sole judge to decide when a question affects its honor, or its vital interests, and when it is therefore warranted in rejecting arbitration. That decision must be solved by each State, because, to submit to an arbitrator a question of such a vital interests, would be equivalent to place the States under a foreign tutelage, which it is impossible to accept. It would imply in fact, the complete abdication of their sovereign rights.

Endeavors have been made to solve this serious difficulty by an enumeration of cases designated beforehand, as exempted from all connection with those which affect natural honor, but these enumerations are of such slight importance as to leave the difficulty untouched.

From these considerations is to be deduced that it rest exclusively with the decision of the States, whether any question comes within the scope of those which affect its honor or vital interests, which amounts in reality to the same thing as not to have agreed on compulsory arbitration.

V.

Other objections exist to render impossible compulsory arbitration.

The first is that it always limits the sovereignty of a State, because it places the latter in the condition of whoever renounces blindly his rights, no matter how absurd the difficulties which may arise and surrenders unconditionally to a strange judgement. No man exposes his individual rights with such indiscretion. Much less of course is it possible to recommend to Nations such an indiscretion.

The second objection refers to the fact that international difficulties often present themselves surrounded with peculiar circumstances which excite national public sentiment, and in such cases the people's will does not consent to be subjected to a foreign criterion. In such emergency, the existence of an agreement of general and compulsory arbitration would compel the Government to avoid its compliance under pretext or reasons which would bring more serious and unavoidable conflicts. Or if the State binds itself to carry out the agreement and becomes a slave of its word submitting to arbitration matters, which would not have submitted voluntarily to the resolution of a third party, the conflict might be according to law, but never in reality. It is not sufficient resolved that a question be passed upon by arbitrators, to be accepted by the people.

A decision must reconcile the opposing interests, temper rivalries and calm passionate sentiments; otherwise conflicts shall subsist and war will necessarily result, if no appeal be made, in order to avoid it, to more efficaclous means, as circumstances may indicate.

Experience has demonstrated how inexpedient it is to agree to compulsory arbitration in general.

The history of diplomacy abounds in practical examples, to the effect, that many times, notwithstanding that arbitration has been agreed upon as a means to avoid conflicts, such an obligation has not been sufficiently enough to avoid them; or if arbitration has been carried out, it has been through efforts made outside of the agreement, thus giving to it, in reality, the character of a new voluntary act. There are even some cases, and others may occur yet, in which a conflict may be peacefully decided through means outside of the provisions agreed upon, and which may arise from special circumstances not considered at the time of the agreement.

This exposition would become too extensive if the above ideas which have been proven by facts were to be amplified.

We all know the precedents which can be cited in confirmation of these statements, through more reference to the diplomatic history the of last few years and without going beyond the limits of Spanish America.

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Nor is compulsory arbitration so efficacious, as pretended, to prevent wars. They arise through political questions, in which national sentiment of a Nation always forms a part, and such cases, as previously stated, cannot be decided by arbitration.

Furthermore, such a course is slow, by its own nature. An arbitrator must arrive at a full knowledge of the causes of the contentions, after an investigation which necessarily must take in some time, while the conflict, which at first may have been easy to prevent, may in the meantime have reached its extreme limit through unavoidable complications emanating from the sensitiveness of the Nation, and may then bring on war, before it has been possible to avoid it by arbitration.

It has been claimed that compulsory arbitration has in its favor of its efficacy the numerous causes of international treaties in which it has been considered as the fundamental basis and the only means for the solution of conflicts. But if a careful examination of this argument is made, by studying all such cases, a conviction will be acquired that the countries among which such means have been stipulated are those in which is very improbable that a conflict should acquire the proportions of a casus belli.

Arbitration forces itself under such circumstances, as the best means for solutions, not because it has been agreed upon beforehand, but by the course of events.

With regard to powerful countries among which conflicts may arise leading them to war, the fact is that they have not entered into general treaties of compulsory arbitration, and when they have intended to do so, they have met with unsurmountable difficulties in the public opinion and in their respective parliaments.

Experience, as the best standard that regulates the principles of international law, has demonstrated that no matter how much the number of treaties of compulsory and general arbitration is increased, their application in practice is limitted to questions not affecting public sentiment and which cannot be a cause of a war.

VI.

Based on the real tendencies in the life of the people and on the teachings of experience, all the above considerations lead to this practical result: that, when a conflict arrises between two States, it is indispensable that each should enjoy sufficient freedom to calculate the importance and nature of the conflict and to think over the expediency of deciding it peacefully, as compared with the dangers of a war and with the importance of the interests. Prudence is daily more considered by the governments on the most important factor to avoid events whose economical and social consequences may be incalculable.

A well devised policy, therefore, counsels that no previous compromise should be made to solve all the conflicts that may occur, by a specific method The States should on the contrary always reserve to themselves perfect liberty of criterion for the best solution of special cases. In other words: the benefits of arbitration are real and practicable only when it is optional; that is to say, when the contending Governments may have selected in each special circumstance as the most suitable means for the solution of the conflict. Only in this way will its results leave no ill–will among the respective Nations.

It was thus decided by the Conference of The Hague in 1899, which was considered as one of the most notable of those that had for sought the ideal of peace.

Leaving aside, exaggerated aspirations and utopian theories, the men there gathered together combining the most enlightened intellects of the diplomatic world and the representatives of the most powerful nations, disregarded theories formed beforehand, and even historical rivalries, in order to seek in the field of the actual interests of the people for what might be practicable and compatible with the common necessities, so as to establish, as far as possible, the reign of peace.

And there it was resolved that, in view of the present condition of international relations, the institution of arbitration should always have an optional character.

That Conference took good care not to fall into the error of establishing the paradoxical result in which some writers and some Governments have fallen believing that because optional arbitration has produced good results, it should, for that same reason, be made compulsory.

That Conference, with clear judgement applied the lesson derived from practice to the case under consideration and boldly abandoned as premature at least, that illusion of the universal peace and was satisfied by recommending by means of resolutions which bear the stamp of good sense and modesty in its aspirations the only thing that was practical and feasible.

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To this rule the Republic which we represent has adjusted its policy in the differences which it has had with other countries, and it was inspired by this rule