the United States on July 14, 1890, and qualified in the harshest possible manner, although fully deserved, considering the impropriety of his conduct. I append to this paper a copy of my communication to *Las Novedades* of New York.

Arbitration.—Arbitration is a very difficult and complicated subject. It cannot be denied that during the present century mankind has advanced very rapidly in civilization and moral sense, and it is to be hoped that, at no distant period, such advancement will make war impossible, for war has been thus far one of the greatest scourges which has afflicted the human race. But so long as the moral sense of highly advanced countries does not disapprove of war as an uncivilized way of adjusting differences among themselves, not much progress can be made by accepting arbitration in solemn treaties, especially if no method of coercion is agreed upon against such nations as may refuse to compromise their differences, and such a method cannot be established without attempts against the sovereignty and independence of the respective states.

It was thought by some Spanish Americans that the purpose of the United States was to establish a permanent court of arbitration at Washington, and this was looked upon as a way of giving the United States a decided preponderance in all questions affecting this continent. Although I understand that the United States delegate who was chairman of the Committee on General Welfare looked favorably upon the idea of having a permanent tribunal, and his views on this subject were shared by his Colombian colleague, the plan was not accepted by the other Latin-American delegates, nor by the Secretary of State of the United States, and had therefore to be abandoned.

Mr. Blaine wished arbitration without limitations which might nullify its principle. Chili did not favor arbitration, except in a very restricted manner. Mexico and the Argentine Republic desired reasonable limitations, while all the other States accepted the idea without any limitation. The Argentine and Brazilian delegates introduced, on January 15, 1890, an arbitration project which contained, besides, declarations and stipulations against conquest.

The Argentine delegates were the nucleus of the opposition to the acquisition of territory by conquest, and naturally were joined by the South American nations which had lost territory in the then recent war with Chili, namely, Peru and Bolivia. The object of the Argentine delegates was to have the Conference declare that territory could not in any case, past or future, be acquired as a consequence of war. Such declaration would interfere with the acquisition by Chili of territory belonging to Peru and Bolivia. The United States delegate in the committee thought it inexpedient that the Conference should join in any such declaration, among other reasons because that would be

equivalent to condemning the acquisition of Mexican territory after the war of 1847 and 1848, and he could not therefore join the Argentines in accomplishing that object.

The text of the Argentine and Brazilian project appears in Mr. Henderson's letter of February 14, 1898, which will be found among the documents (No. 4) annexed to this paper, taken from the minutes of the meeting of the Conference held January 15, 1890. The Argentine-Brazilian project was referred, upon its presentation, to the Committee on General Welfare, and was not reported by that committee[1] until April 14th, near the close of the session of the Conference, which finished its work on the 18th and adjourned on the 19th of the same month.

While this project was in committee Mr. Blaine had two meetings with delegates at his residence; the first one with the representatives of Chili, the Argentine Republic, Brazil, and Mexico, whose views were supposed not to be in entire accord with Mr. Blaine's, although the Republican Government of Brazil had then authorized its delegates to accept the broadest possible plan of arbitration; and the second meeting with all the other delegates, who fully accepted the views of the Secretary of State.

The divergence of views between the United States and the Latin-American delegates about the details of the project was so great that Mr. Blaine had to take the matter into his own hands, and summoned all the members of the Committee on General Welfare to discuss the subject with him at his private residence, spending the greater part of two nights in that work. He suggested several changes to the Argentine-Brazilian project, which had been accepted by all the Latin-American members of the committee, and suggested further, as the only way in which matters could be adjusted, to divide the project into two parts, confining the first to a general arbitration, and the second to a declaration against conquest, which the Argentine delegates made a condition *sine qua non* to accept arbitration.

After the committee had accepted Mr. Blaine's suggestion they agreed upon a draft for the first project, which when completed was handed to Mr. Curtis with instructions to have a clean copy made of the same and submit it to Mr. Blaine for his information. Mr. Curtis did so and Mr. Blaine amended it considerably, and with such amendments, and others afterward made, it was reported by the committee. Mr. Curtis keeps in his office in this city (Washington) the original type-

[1] The verbal incorrections which are noticed in the Plan of Arbitration as reported by the committee, were due to the fact that Señor Cruz, the Guatemalean delegate to the Conference, and a member of the Committee of General Welfare, was entrusted to put into English the Spanish text of the project, who, although a good linguist and having a fair knowledge of the English language, was not then entirely proficient in the same.

written copy of the project as agreed upon by the committee, with the amendments made by Mr. Blaine in his own handwriting, and he has kindly allowed me to make a facsimile of the first page of that paper (Document No. 5 of the Appendix), which was the one most substantially amended, and from which it appears exactly how much and how materially the Argentine-Brazilian project was altered by Mr. Blaine, and shows at the same time the trend of his mind on the subject of arbitration and the interest he took in the same. At Mr. Blaine's request Mr. Henderson signed the report of the committee as modified and approved by Mr. Blaine.

On the 14th of April, 1890, the report of the committee, bearing date of the 9th, was presented to the Conference, and was first discussed and approved under the rule called in Spanish "*Discusion en lo general*," which in English might be "discussion on the whole," and by which the adoption of the general idea of a measure is first discussed, since, if that idea is not accepted, it is useless to enter into its details, and if the idea is accepted then the discussion and approval of the details of the measure are in order, under our parliamentary practice accepted by the rules of the Conference. The project reported by the committee was approved on the whole on the day of its presentation, as were also the first eleven articles, excepting the 2d and 4th, which were discussed and approved at the meeting of the Conference which took place on the 16th of April. The Preamble was considerably modified, and it was finally approved at the meeting of the 17th.

The Argentine delegates voted in favor of arbitration when the project was discussed on the whole; but when the final vote on the specific project proposed by the committee was submitted to the Conference on April 18th, they abstained from voting.

The fact that Mr. Henderson did not sign the report on the right of conquest, that it had suffered substantial changes from the form in which it was presented by the Argentine delegates, and the fear that after the agreement was signed it might not be ratified by the contracting parties, were, in all probability, the causes why they did not vote for the arbitration plan nor sign the respective treaty. Mr. Henderson's refusal came near causing a failure of arbitration, and to avoid such failure Mr. Blaine had to accept the scheme against conquest.

Before the arbitration project was finally approved, important changes were made in the same, which appear in Document No. 8 of the Appendix to this paper, which is the text of the treaty signed in Washington April 28, 1890. This treaty as well as two other recommendations of the Conference were submitted to Congress by the President with his Message of September 3, 1890.

At the meeting of April 18th the Committee on General Welfare presented their project against conquest, the final text of that project

being approved in very different shape from that in which it was reported by the committee. In the annexed document, No. 7, appears the text as reported by the committee, and in No. 8 the text of the project as approved by the Conference.

The Conference also approved a recommendation to the European nations to accept the principle of arbitration, which appears among the papers embraced in Document No. 8.

The report of the committee was presented to the Conference so late that it could only be taken up partially in three meetings, and there was not sufficient time to consider it carefully, or even to adopt verbal amendments which were necessary to make it more clear and precise. It can therefore be properly said that there was no discussion on the subject of arbitration, since the delegates could only give their views in the debate which followed for the purpose of explaining their votes and the position of their respective Governments.

From what I heard at the time especially from Señor Quintana, and judging from the natural disposition of Mr. Henderson to be deliberate and careful in anything he does, I thought, and expressed in rather harsh terms in the first edition of this paper, that he was responsible for the delay of the Committee of General Welfare in reporting to the Conference the arbitration project. When my article was published, Mr. Henderson told me that I had done him an injustice, and that he was in no way responsible for that delay. I assured him that I did not have any intention to be unfair to him or to anybody else connected with the Conference, and that if he would do me the favor of writing a memorandum of the case, I would publish it at once as a correction of my statement. He did not do so at the time, and when I was preparing the present edition of this paper, I begged of him again to make his statement of the case, and he kindly sent me a letter containing the history of his connection with the arbitration project presented by the committee of which he was chairman, with two enclosures, which in justice to Mr. Henderson I published in the *North American Review* for April, 1898, so that those who had read my article could read Mr. Henderson's explanation, and I now append to this paper what I published in that *Review*. (Document No. 4.)

Mr. Blaine desired that the delegates who had accepted the report of the committee should sign it in the shape of a treaty before the Conference closed its sessions. His grounds were that Article I. of the Act convening the Conference mentioned as its principal object the consideration and recommendation of a plan of arbitration. Several delegates, among them the Argentines, were of the opinion that this subject ought not to be disconnected from the others, and were willing to sign in the shape of a treaty the recommendation relative to arbitration,

provided all the other recommendations adopted by the Conference were signed at the same time. As there was no time to engross all of them, the formality of signature was, on motion of a delegate from the United States, limited to that concerning arbitration, and this constituted another reason why the Argentine delegates would not sign it. Other delegates who would have signed the arbitration project in the shape of a recommendation did not consider themselves authorized to sign it in the shape of a treaty, and this explains why some of the delegates who voted for the agreement did not sign the treaty. On that occasion Mr. Blaine's earnestness carried him so far that he thought it necessary to come down from the chair and take the place of a delegate in supporting the motion, which was finally carried.[1]

After the Conference approved the arbitration project on the 18th of April, 1890, it was necessary to engross the same in the form of a treaty written in the four languages spoken by the American nations, namely, English, Spanish, Portuguese, and French; and after the proper translations were made, a work done at the State Department, Mr. Blaine ordered twenty-five copies of the same printed at the Government Printing Office, on large paper, with four parallel columns, one of them for each of the respective languages, and when all this work was finished, the treaty was signed at the State Department on April 28, 1890, exactly in the shape in which it appears in Document No. 8 of the Appendix to this paper. The treaty was signed by the representatives of the Governments of Bolivia, Ecuador, Guatemala, Hayti, Honduras, Nicaragua, Salvador, the United States of America, the United States of Brazil, the United States of Venezuela, and Uruguay. The States that failed to sign the treaty were, therefore, Mexico, Costa Rica, Colombia, Peru, Chili, the Argentine Republic, and Paraguay. The Costa Rican delegate left Washington before the treaty was signed, and the Venezuelan delegates received instructions to sign the treaty after it had been executed by the other delegates.

As Article XIX. of the treaty provided that the ratifications of the same should be exchanged in Washington on or before the 1st day of May, 1891, and as that time expired before the treaty could be ratified by the respective nations, another convention extending the time for such a purpose was signed in Washington on October 22, 1891. The only Governments which signified to the United States Government

[1] In a paper which I published in the *Bulletin of the American Geographical Society*, of New York, for September 30, 1897, vol. xxix., No. 3, entitled, "*Mr. Blaine and the Boundary Question between Mexico and Guatemala*," I stated at length how earnest a friend of arbitration Mr. Blaine was, and how hard he worked to substitute arbitration for war in the settlement of international disputes, making this almost the object of his life, and how his devotion to arbitration shown on different occasions and under very different circumstances enlisted his sympathies in favor of Guatemala in our boundary question with that State.

their willingness to renew the treaty were Ecuador, Guatemala, Honduras, Venezuela, Nicaragua, Salvador, and Bolivia.

I understood the treaty had been submitted to the United States Senate for its ratification; but after having made inquiries on the subject I found that it was never sent to the Senate. I cannot understand, knowing as I do how earnest a friend of arbitration, and how anxious to have it reduced to a tangible shape in the form of a treaty, Mr. Blaine was, that when the treaty was actually signed, at his earnest request and through his decided efforts, he should leave it in the files of the State Department, without sending it to the Senate as is always done with all treaties negotiated by representatives of the United States Government, unless disapproved by the President. When he had it in his power as Secretary of State to submit the same to the Senate, it is beyond my comprehension why he did not do so. Possibly President Harrison objected to the treaty, and that may be the explanation of his failure.

Although Mr. Blaine was the leading spirit of the arbitration project, he cannot be considered as the author of the form in which it was finally approved by the Conference, because he had to give up much for the purpose of securing the acceptance of the principle of arbitration; but the Preamble to that paper was due almost entirely to him.

The population, territorial extension, trade, wealth, and advanced civilization of the United States make them the greatest and most powerful nation on this continent, and on this account they had decided advantages over some of the smaller nations, which they could easily bring to bear in case of difficulties with them. The plan approved by the Conference deprived them of all these advantages, and placed them in the same position as the weakest American nation. It is true that this agreement, equitable as it is in all its bearings, as all the countries participate in it under the most absolute equality, might be used hereafter in establishing the preponderance of the United States; but should they have intended to undertake this, they would not have been willing to bind themselves by an agreement which they would have to break more or less openly before they could take other steps. This appeared so clear to my mind that when the agreement was made I expressed the opinion that it would not be ratified by the Senate of the United States.

I was sure that a treaty of arbitration which had been approved in such a hasty manner, and in my opinion without due deliberation and without fully considering the serious objections presented against it, would not be approved by the Senate of the United States, and I so expressed in the first edition of this paper published in October, 1890. My prediction could not be fully verified, because the treaty was not submitted to the Senate for ratification, and to my surprise not only

the United States but other governments whose delegates signed the treaty did not ratify it, and so the treaty failed.

Since that time the arbitration views of the United States Government have received a great set-back in the rejection by the Senate of the United States on May 5, 1897, of the Treaty of Arbitration with Great Britain signed in Washington on January 11th of the same year. It seems to me that if the United States are not willing to enter into a general plan of arbitration with a nation at least as powerful as themselves it is not likely that they will do so with smaller and weaker nations. I am sure, however, that the arbitration idea will be developed, beginning in a limited way, until finally, possibly after some centuries, it may supersede war.

Mexico on the Treaty of General Arbitration.—The Mexican Government did not look with good-will, for obvious reasons, upon the idea of forced and unrestricted arbitration; and as Article XXI. of the treaty of February 2, 1848, between Mexico and the United States provided ample arbitration with this country, Mexico thought it prudent not to have it extended any further, and instructed its delegates accordingly. We did not intend, therefore, to take any part in the discussion on this subject, but only to cast our votes in accordance with our instructions when the question came up. But when the Mexican Government heard that several South American nations were disposed to go much farther than Mexico in the premises, not wishing to appear in disaccord with her sister Republics, it authorized its delegates to extend the scope of arbitration, but not to accept it without limitation.

I had, however, to give up the intention of taking a passive position on this question, because the Secretary of State requested me particularly to prepare a draft of arbitration, which, in my opinion, would be acceptable to the Mexican Government and the Latin-American States which were not disposed to accept arbitration without limitation. I stated to him, with all candor and sincerity, the obstacles which were in the way of my drafting a project which I was not sure would have the support even of my own Government; but, in order not to disregard his repeated requests, and because I thought that I might possibly draft something which would be acceptable to all, I consented to take up the matter and to speak on the subject with several of my colleagues. Soon afterwards, however, I found that the difficulties in the way of coming to a general agreement were insurmountable, and I wholly gave up the attempt. When the report of the committee was discussed in the Conference the Mexican delegates expressed only the opinion of their Government, and voted in accordance with their instructions, when they had specific instructions, or with what they understood to be the wishes of their Government on new points regarding which there had been no time to receive instructions.

There were besides some subjects connected with arbitration which were looked upon in a very different way by Mexico and the South American nations. I refer to boundary questions, and, in fact, to all territorial questions. In the immense territorial area, very thinly populated, of the South American nations, their people being of a homogeneous race and having the same religion, habits, and language, and those nations not having, as a general rule, clearly marked territorial limits, the boundary questions which have sprung up among them are relatively of little importance. A district of land practically uninhabited does not diminish in any perceptible manner the domain of the nation that may lose it, nor increase greatly the power of the nation which may acquire it, nor make any material change of language, habits, education, social condition, and political status of its inhabitants. This is not the case as between Mexico and the United States, because they are countries inhabited by different races, speaking different languages, having different customs, religions, and habits, and because the proportion of population, wealth, and material strength between them constitutes a very different condition of things. The boundary disputes in South America have generally been decided, and with a great deal of reason, by arbitration, and its statesmen hold the view that, if arbitration is good for anything, it is good to end such disputes. Perhaps it is the best way to solve them in any case; but to make arbitration obligatory as to all questions, including boundary difficulties, which may arise between Mexico and the United States, would be equivalent to placing Mexico in an unfavorable position. Therefore so broad a stipulation, which is not only desirable, but even necessary, in South America, might well not be accepted by Mexico. This explains why Mexico did not follow her sister-Republics in the whole length to which they were willing to go on this subject.

Subsequent action by the United States on the subject justifies the position of Mexico in this case. The United States has had since the arbitration treaty was signed, serious questions threatening war, with various countries, as with Chili in 1891, growing out of the Valparaiso riot which resulted in the wounding of some sailors of the United States cruiser *Baltimore*. Chili proposed arbitration to settle that difficulty, and it was not accepted by President Harrison. In a later question which unfortunately could not be settled by peaceful means, arbitration was again proposed and refused by this government. The reason that questions affecting the honor of a country are not fit subjects for arbitration was not mentioned in either of those two cases, but I have no doubt that it was the controlling reason which decided the policy of this Government in both instances, and that was exactly the position assumed by Mexico on the subject in the Pan-American Conference when arbitration was discussed.