

Committee on Sanitary Regulations.

Mr. Guzmán, of Nicaragua. Mr. Andrade, of Venezuela.
 Mr. Valente, of Brazil. Mr. Laforestrie, of Hayti.
 Mr. Zegarra, of Peru. Mr. Nin, of Uruguay.
 Mr. Hanson, of the United States.
Secretary, Henry R. Lemly, U. S. A.

Committee on Patents and Trade-Marks.

Mr. Decoud, of Paraguay. Mr. Calderón, of Colombia.
 Mr. Carnegie, of the United States.
Secretary, Edmund W. P. Smith.

Committee on Weights and Measures.

Mr. Castellanos, of Salvador. Mr. Studebaker, of the United States.
 Mr. Antonio Francisco Silva, of Venezuela.
Secretary, Edmund W. P. Smith.

Committee on Extradition.

Mr. Zelaya, of Honduras. Mr. Saenz Peña, of the Argentine Republic.
 Mr. Trescot, of the United States. Mr. Quintana, of the Argentine Republic.
Secretary, José Ignacio Rodriguez.

Committee on Monetary Convention.

Mr. Mexia, of Mexico. Mr. Coolidge, of the United States.
 Mr. Estee, of the United States. Mr. Velarde, of Bolivia.
 Mr. Martinez Silva, of Colombia. Mr. Zelaya, of Honduras.
 Mr. Alfonso, of Chili.
Secretary, J. Vicente Serrano.

Committee on Banking.

Mr. Hurtado, of Colombia. Mr. Flint, of the United States.
 Mr. Mendonça, of Brazil. Mr. Aragón, of Costa Rica.
 Mr. Varas, of Chili.
Secretary, Henry R. Lemly, U. S. A.

Committee on International Law.

Mr. Cruz, of Guatemala. Mr. Alfonso, of Chili.
 Mr. Quintana, of the Argentine Republic. Mr. Caamaño, of Ecuador.
 Mr. Trescot, of the United States.
Secretary, José Ignacio Rodriguez.

Committee on General Welfare.

Mr. Henderson, of the United States. Mr. Hurtado, of Columbia.
 Dr. Quintana, of the Argentine Republic. Mr. Valente, of Brazil.
 Mr. Velarde, of Bolivia. Mr. Cruz, of Guatemala.
 Mr. Bolet Peraza, of Venezuela.
Secretary, Edmund W. P. Smith.

Committee on Rules.

Mr. Alfonso, of Chili. Mr. Romero, of Mexico.
 Mr. Quintana, of the Argentine Republic. Mr. Castellanos, of Salvador.
 Mr. Trescot, of the United States. Mr. Valente, of Brazil.
 Mr. Caamaño, of Ecuador.

Committee on Credentials.

Mr. Romero, of Mexico. Mr. Coolidge, of the United States.
 Mr. Quintana, of the Argentine Republic.

4. EX-SENATOR HENDERSON AND THE ARBITRATION PROJECT OF THE PAN-AMERICAN CONFERENCE.

From the North American Review, April, 1898.

In *The North American Review* for September and October, 1890, I published a paper on the Pan-American Conference, which had then just met, and wherein I tried to give an idea of what took place in the same, from the point of view of one of the Latin-American delegates, which I thought would be of interest for the government and citizens of the United States, especially in case that at a future time a similar Conference should be convened. In the second part of that paper, speaking about the arbitration project reported by the Committee on General Welfare of that Conference, of which ex-Senator Henderson, the first of the United States delegates, was the Chairman, I mentioned the fact that said project was reported in the last session of the Conference, and therefore too late for a fair discussion, and judging from what I had heard at the time, especially from an Argentine delegate, member of the same Committee, and from the natural disposition of Mr. Henderson to be deliberate and careful in anything he does, I thought, and expressed it in rather harsh terms in the first edition of this paper, that he was responsible for the delay of the Committee on General Welfare in reporting to the Conference the arbitration project.

When my article was published, Mr. Henderson informed 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 with him or with 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 prepared a second edition of this paper, I begged of him again to make his statement of the case, and he kindly sent me a letter dated on the 14th instant, containing the history of his connection with the arbitration project presented by the Committee of which he was chairman, with two annexes referred to by him, all of which I am glad in justice to Mr. Henderson to append to this paper.

M. ROMERO.

WASHINGTON, February 24, 1898.

WASHINGTON, D. C., February 14, 1898.

MY DEAR MR. ROMERO :

In compliance with my promise to that effect, I herewith forward you a brief explanation of the action of the Committee on General Welfare in the International Conference on the subject of arbitration.

In February, 1890, two plans for arbitrating controversies between the American Republics were pending, one known as the plan of the Argentine and Brazilian delegates, and the other as that of the United States.

The Argentine-Brazilian plan is enclosed, marked A. The plan offered by myself is enclosed and marked B.

At a meeting of the Committee, held on February 19, 1890, it was unanimously agreed that the general principle of arbitration for the settlement of disputes should be accepted.

Dr. Quintana, of the Argentine Republic, then propounded the following proposition to be voted on by the Committee, to wit: "Shall arbitration include all questions of controversy present and future?"

The discussion which followed its introduction drew forth the admission of its friends that its adoption was intended to operate as an approval of the principles enunciated in the 5th, 6th, 7th, and 8th clauses of the Argentine-Brazilian scheme of arbitration.

A declaration of this character was, of course, offensive to the representatives from Chili; and would necessarily make all the states, under any general plan of arbitration, parties to the controversy between Chili on the one side and Peru and Bolivia on the other. Its adoption, in my judgment, meant even more than this. It would suggest an invitation to wage wars by pledging to the aggressor total immunity against any possible loss of territory as the result of such wars.

My first object was to exclude the construction so palpably offensive to Chili. I therefore moved to amend the proposition as follows, to wit: "Shall arbitration include all *new* questions of dispute which may arise after these articles shall be accepted, whether growing out of disagreements, past or present?" The vote on this (my amendment) was as follows:

Ayes—Henderson.

Noes—Cruz, Velarde, Hurtado, Quintana, Valente, Bolet Peraza.

When the Committee reached the question of the formation of the tribunals of arbitration, I offered the plan embodied in the first four articles of the bill or ordinance presented by me and herein referred to as B.

Ayes—Henderson and Hurtado.

Noes—Cruz, Velarde, Valente, Quintana, and Bolet Peraza.

Dr. Quintana then proposed the third and fourth articles of the Argentine-Brazilian plan, and his proposition was adopted by the same vote as the one last recorded, the ayes and noes being of course reversed.

It will be seen that my views were entirely overruled, and that such was the understanding of the Committee; and thereupon Mr. Velarde, of Bolivia, moved a special committee, consisting of Quintana, Hurtado, and Cruz, "to put into shape and form the articles voted upon." The Committee again met on February 27, 1890, to receive the report of the sub-committee. The secretary's report of the proceedings of the Committee on this occasion reads as follows: "Mr. Quintana, Chairman (of sub-committee), stated that, as it was understood that a plan would be presented by the Honorable, the Secretary of State, on arbitration, to the various members of the Committee on General Welfare, the sub-committee had deemed it advisable to defer its report until said plan had been duly considered; but his committee (sub) would endeavor to present its report before Mr. Henderson's departure for the

West." Immediately after this announcement Mr. Valente again called up the Argentine-Brazilian plan, and moved that Articles 2, 6, 7, and 8 thereof be considered and adopted.

I at once moved to amend Article 6 by inserting between the words "convey" and "any" the words "to the offending nation." I also moved to amend Article 7 by striking out "the" between the words "to" and "hostilities" in the first line, and in the fourth line of Article 7 to insert between the words "territory" and "they" the words "to the offending nation." I also moved to amend the first line of Article 8 by striking out the word "whether" and inserting the word "when," and in the same line to strike out the words "or the consequence" and insert the words "and purpose." After long discussion the original resolutions, together with my amendments as aforesaid, were referred to the sub-committee to be considered and reported on as early as practicable.

If my motions had been adopted Section Six would have read as follows, to wit:

"Sixth. In cases of war a victory of arms shall not convey to the offending nation any rights to the territory of the conquered."

And Section Seven would have read as follows, to wit:

"Seventh. The treaties of peace which put an end to hostilities may fix the pecuniary indemnifications which the belligerents may owe to each other, but if they contain cessions or abandonment of territory to the offending nation, they will not be concluded," etc.

And Section Eight would have read as follows, to wit:

"Eight. Acts of Conquest, when the object and purpose of the war, shall be considered to be in violation of the public law of America."

I now declare to you that the great delay of my Committee on General Welfare to make report on the subject of arbitration was wholly and entirely caused by the failure of this sub-committee to formulate the plan or scheme of arbitration for the action of the Conference. Why this delay was adopted as the seeming policy of this sub-committee I have no reason to assign. It was appointed on February 19th, and did not report until April 9th. This neglect is not, in any sense, chargeable to me. I repeatedly called on Dr. Quintana and the other members of the Committee, both before going to St. Louis and after my return, and urged immediate action in order that ample time might be given to the Conference for consideration of so important a subject. My views had been overruled and the whole subject removed from my charge by the deliberate action of the Committee. Principles had been enunciated by the Committee as the basis of action by the sub-committee to which I could never give my assent. At my solicitation much of this objectionable matter was rejected and thrown out by Mr. Blaine as wholly impracticable and impossible of acceptance by the people of the United States. So far from Mr. Blaine's commanding or even requesting me or my colleagues to support the Argentine-Brazilian plan, he at all times considered it in its original form as wholly indefeasible, if not absurd.

Yours truly,

J. B. HENDERSON.

A.—PLAN OF ARBITRATION SUBMITTED BY THE MEMBERS FROM ARGENTINE AND BRAZIL.

Considering, That the international policy of the American Conference should be characterized by reciprocal principles and declarations of mutual security and respect among all the states of the continent;

That this feeling of security should be inspired from the very moment in which the representatives of the three Americas meet for the first time, so as to show that their acts and resolutions are in accordance with sentiments of mutual respect and cordiality;

The Conference being also desirous of giving assent to the principles which, to the honor of the strong states, have been established by public law for the support of the weak, and which are confirmed by the ethics of nations and proclaimed by humanity, it is hereby declared:

First. That international arbitration is a principle of American public law, to which the nations in this Conference bind themselves, for decision, not only in their questions on territorial limits, but also in all those in which arbitration be compatible with sovereignty.

Second. The armed occupation of the disputed territory, without having first resorted to arbitration, shall be considered contrary to the present declarations and to the engagements entered into thereby, but resistance offered to such act of occupation shall not have the same character.

Third. The arbitration may take place in an unipersonal form whenever the states agree to the election of only one arbitrator; but if it takes place in a collective form, there shall be appointed an equal number of judges by each party, with power to elect an umpire in case of disagreement; said election to be made at the first meeting of the Tribunal.

Fourth. The election of arbitrators shall not be subject to any limitations or exclusions; it may devolve either on the governments represented in this Conference, or on any other government deserving the confidence of the parties, and also on scientific corporations, or on high functionaries either of the interested states themselves or of other neutral states.

Fifth. The present declarations are applicable not only to differences which in the future may arise in the relations of the states, but also to those which, in a direct form, are now in actual discussion between the governments; but the rules to be made shall have no bearing upon the arbitrations already constituted.

Sixth. In cases of war, a victory of arms shall not convey any rights to the territory of the conquered.

Seventh. The treaties of peace which put an end to the hostilities may fix the pecuniary indemnifications which the belligerents may owe to each other, but if they contain cessions or abandonment of territory they will not be concluded, as far as this particular point is concerned, without the previous evacuation of the territory of the conquered power by the troops of the other belligerent.

Eighth. Acts of conquest, whether the object or the consequence of the war, shall be considered to be in violation of the public law of America.

Washington, January 15, 1890.

B.—ARBITRATION PROJECT SUBMITTED BY MR. HENDERSON TO THE COMMITTEE OF GENERAL WELFARE OF THE INTERNATIONAL AMERICAN CONFERENCE ON FEBRUARY 19, 1890.

1. If any of the nations assenting to these articles shall have cause of complaint against another, it shall cause formal notice thereof to be given to the offending nation, specifying in detail the origin and character of such complaint and also the redress which it seeks.

2. The nation receiving notice of such complaint shall as soon as practicable, and within a period not exceeding three months thereafter, furnish a full and explicit answer to such complaint, and cause the same to be delivered to the State Department or other especially accredited agent of the complaining nation.

3. If within three months from the time of delivering such answer no agreement shall have been made for the final settlement of the questions in dispute, then each of said nations shall appoint five members of a Joint High Commission, who shall meet together as soon as possible after their appointment for the purpose of hearing and considering the questions of difference. They shall adopt for themselves rules of procedure and notify each nation thereof; and they shall hear and consider the case presented by each, and within six months from the time of their first meeting they shall report to the nations interested the result of their deliberations.

If, in determining any question coming before them, the members of the Joint High Commission fail to agree, they shall select an umpire who shall then and thereafter become a member of the Commission.

4. Whenever the Joint High Commission, appointed as hereinbefore provided, shall fail to agree, or where the nations appointing them shall fail to accept and abide by their decision, either or both of the contending nations may give notice of such failure to all the nations signing these articles and becoming parties thereto, and there shall then be formed a High Tribunal of Arbitration in manner following, to wit: Each nation receiving the said notice shall immediately transmit to the nations in controversy the names of four persons, to be selected by the Executive Department of the Government so selecting them, and from the list of such persons the nations in controversy, beginning with the complaining nation, shall alternately strike out one name until the number shall be reduced to nine, which nine persons shall constitute a Tribunal.

The Tribunal thus constituted shall, by writing signed by the members or by a majority of them, appoint a time and place of meeting and give notice thereof to the parties in controversy; and at such time and place, or at other times and places to which an adjournment may be had, it shall determine the rules of its proceedings and thereupon hear the parties and decide between them; and the decision when made or signed by the majority of the members thereof and delivered to the nations in controversy, shall be final and conclusive.

If any nation receiving the notice and request to appoint members of such Tribunal shall fail to transmit the names of the four persons as herein provided within two months after receipt of notice to do so, then the states in controversy shall each appoint two persons in their places, who shall be subject to ultimate rejection in the same manner as those appointed by the neutral states; and if either of the parties to the controversy shall fail to signify its rejection of a name from the list, as herein required, within one month after request from the other to do so, such other may reject for it. If any of the persons selected to constitute this Tribunal shall die, or for any cause fail to serve, the vacancy shall immediately be filled by the nation making the original appointment.

5. Each nation signing these articles as a party binds itself to unite in forming a Joint High Commission and a High Tribunal of Arbitration in all proper cases and to submit to the decisions thereof, when constituted and conducted as herein required.

6. If any of the said nations shall begin and prosecute war against another wrongfully and in disregard of the provisions hereby adopted for the preservation of peace, such nation shall have no right to insist on the performance of neutral duties by the governments of any of the other states; and in such a case the offending nation shall have no lawful right to take or hold property, real or personal, by way of conquest, from its adversary.

5. FACSIMILE COPY OF THE AMENDMENTS MADE BY MR. BLAINE TO THE ARGENTINE PLAN OF ARBITRATION.

The delegates ^{from} of the Republics of North, South and Central America ~~and the Republic of Haiti~~, assembled in the International American Conference --

Believing that war is the most costly, the most ^{cruel} ~~uncertain~~ ^{dangerous} ~~expensive~~ ^{perilous} experiment for the ~~permanent~~ settlement of international differences -

^{Believing} Recognizing that the growth of moral principle in the world has induced a public opinion that there are no questions of international interest which cannot be ~~promptly and~~ ^{amicably} ~~settled~~ ^{settled} by the intervention of impartial counsel -

^{Believing} Encouraged by the ~~great benefit to mankind which has~~ ^{thus far attended the establishment of Republican institutions, and confident} ~~that the present condition of their respective countries~~ ^{is} ~~free from the conflicting political interests and entanglements which disturb other countries - is~~ especially favorable to the substitution of Arbitration for war -

^{Believing that the} Convinced by their friendly and cordial association in the present Conference that the American Republics, sharing alike the principles, the ~~own~~ ^{own} obligations and responsibilities of popular constitutional government, and bound together by vast, ~~largely~~ ^{largely} increasing, ~~and ever concentrating~~ ^{to much to} common interests, may within their own circle, establish peace on earth and good will towards men ^{by the outbreak of April}

~~Do hereby recommend to all the governments by which they have hitherto agreed upon & concluded are accredited to celebrate a uniform treaty of Arbitration~~

in the articles following:

Do hereby recommend that a uniform Treaty of Arbitration in the articles following be celebrated and confirmed

6. PLAN OF ARBITRATION.

REPORT OF THE COMMITTEE ON GENERAL WELFARE, SUBMITTED TO THE CONFERENCE, APRIL 14, 1890.

The delegates from North, Central, and South America in Conference Assembled:

Believing that war is the most costly, the most cruel, the most fruitless, and the most dangerous expedient for the settlement of international differences;

Believing that the growth of moral principle in the world has awakened a public opinion in favor of the amicable adjustment of all questions of international interest by the intervention of impartial counsel;

Animated by a realization of the great moral and material benefits that peace offers to mankind, and that the existing conditions of the several nations is especially propitious for the adoption of arbitration as a substitute for armed struggles;

Believing that the American Republics, sharing alike the principles, the obligations, and the responsibilities of popular constitutional government, and bound together by vast and increasing mutual interests, may, within their own circle, do much to establish peace on earth and good will to men;

And considering it their duty to declare their assent to the high principles which tradition has authorized, public reason supports, and the whole of mankind proclaims, in protection of the weak states, in honor of the strong, and to the benefit of all;

Do solemnly recommend all the Governments by which they are accredited to celebrate a uniform treaty of arbitration in the articles following, namely:

ARTICLE I. The Republics of North, Central, and South America hereby adopt arbitration as a principle of American international law for the settlement of all differences, disputes, or controversies that may arise between them.

ARTICLE II. Arbitration shall be obligatory in all controversies concerning diplomatic rights and privileges, boundaries, territories, indemnities, the right of navigation, and the validity, construction, and enforcement of treaties.

ARTICLE III. Arbitration shall be equally obligatory in all cases, other than those mentioned in the foregoing article, whatever may be their origin, nature, or occasion, with the single exception mentioned in the next following article.

ARTICLE IV. Such exception shall be when, in the judgment of any nation involved in the controversy, its independence might be endangered by the result of arbitration; for such nation, arbitration shall be optional, but it shall be obligatory upon the adversary power.

ARTICLE V. All controversies, or differences, with the exception stated in Article IV., whether pending or hereafter arising, shall be submitted to arbitration, even though they may have originated in occurrences antedating the present treaty.