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THE CUESTION

Between Chili and Bolivia.

EXPOSITION OF THE MINISTER

OF

FOREIGN RELATIONS OF CHILI

OF THE MOTIVES WHICH JUSTIFY THE RESUMPTION OF THE TERRITORY
COMPRISED BETWEEN THE 23rd AND 24th PARALLEL OF
SOUTH LATITUDE.



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MOTIVE OF THIS PUBLICATION.

The conduct of the Government of Chili during the last critical period, violent and decisive as it is of the conflict in which we have been placed since more than twenty years, with the Republic of Bolivia, whether by the boundary question, or whether by the failure to fulfil the treaties of which that nation has been obstinately guilty presents a double aspect and has followed a double tendency.

It has been endeavored, with the most solicitous care, which some have stigmatized as debility, to spare the country the perturbation, and South America the scandal of a rupture between two states of the Continent and to preserve by dint of an attitude, prudent and temporizing in the extreme, the sympathies of those cultivated nations with which we maintain relations of friendship and commerce; and on the other hand, while the measure of long suffering and tolerance has been filled to overflowing and while the nation has been obliged to recur to the employment of force in defence of its systematically violated rights; it has been one of the principal efforts of the Government to enlighten the opinion of neutral nations and place within the reach of friendly Chanceries and of their representatives at Santiago, historical documents and antecedents which justify the extreme measure to which Chili has found herself in the unavoidable necessity of adopting.

In the earliest days which followed the occupation of the coast, Hon. Alexander Fierro, Minister of Foreign Relations, notwithstanding the fact that the capital was at that season, almost deserted, proceeded to convoke the members of the foreign Diplomatic Corps and before this distinguished reunion, at which but few of the representatives of the friendly powers were wanting, made with dignified frankness and polished courtesy a preliminary exposition of the origin and development of our conflict with Bolivia and of the motives which have decided this country and its Government to restore the situation of the Coast to that point it occupied before the signature of the first of those treaties which Bolivia never resolved to respect in that part in which they were favorable to Chili.

The official gazette ("Diario Oficial") afterwards published an analagous exposition, conceived and drawn up with that calm and dignified spirit, and in that circumspect and respectful tone which characterize, even in the moments of the most violent and profound national excitement, all the documents emanating from the Chilian Chancery.

Not satisfied with all this, the Hon Minister of Foreign Relations has given a later and more finished form to the statements of facts and declarations of motives, of an official and authentic character, in the documents which it has addressed on the date of February 18th and entitled *Exposition* to the representatives of friendly nations.

The warlike preparations in which Chile has been occupied since the fourteenth of February and the effervescence natural to a civilized and hard-working country which finds itself obliged to bare the sword against one neighboring nation with which it has cultivated close relations of friendship, commerce and even alliance, during more than forty years, have not taken part in obscuring the clear fount of sound criticism, of the calm truthfulness and severe impartiality of the gentleman entrusted with our foreign relations. Mr. Fierro sets forth in the document to which we have referred, the history of the Chili-Bolivian difficulty with a tone of zealous patriotism, but not on that account capable of falsifying a single detail of intricate negotiations and vexatious events to the detriment of his adversary or to his own advantage. He narrates the sudden turns of the conflict with the exactness and sobriety which is ordinarily employed in describing events which have occurred in foreign countries or at remote epochs. He avoids as far as possible harsh epithets and leaves to the distinguished and enlightened public whom he addresses, the task of commenting upon the malicious and crooked system of international proceeding of the Bolivian Government.

It will be difficult to find anything like them among the treaties and diplomatic relations of civilized nations. In 1866 Chili cedes to Bolivia, in exchange for certain fiscal advantages, a territory in which she exercised peaceable dominion; but Bolivia understands that she has engaged to observe the treaty solely in that part which is advantageous to her and astutely yet firmly avoids fulfilment of the obligations contracted. In 1873 Chili is a creditor of Bolivia, by virtue of solemn stipulations, for a large sum, and succeeds in getting her right acknowledged in the draught of a treaty; this draught is rejected by Bolivia without apparent motive. At last, Chili resolves in 1874, to condone this debt and to make the sacrifice of nearly all the advantages assured to her by the treaty of 1866. Instead of declaring openly and frankly that the compact is broken to which the contracting nation refuses to conform its conduct, with so much insolence and so much effrontery, she celebrates with Bolivia a new treaty by which she formally renounces her legitimate pretensions and in which she only reserves tributary franchises for Chilian citizens established along the coast, their capital and industrial establishments. Even to this minimum of concessions solemnly stipulated Bolivia does not yield and Chili is a spectator during more than four years, of the cruel persecution of her sons,

of iniquities and injustices without number, a regular frantic revel of prevarications, spoliations and disorder both administrative and judicial, until at last, Bolivia by her law of impost on saltpetre and her attempt at spoliation in the matter of the saltpetre beds, overstepped the bounds of human patience, and the Government of Chili yielding to the vigorous national impulse and to her own convenience, made up its mind to disembarass itself from treaties which Bolivia never wished to regard as reciprocal, and to return to that point whence, perchance through imprudence in an unconsidered moment, it had wandered in 1866.

The narrative which is made *in extenso* by Mr. Fierro, the Minister for Foreign Affairs, of the sudden turns of this negotiation, alternatively sustained and interrupted, and exposed at every instant, during fifteen years, to explode violently; is interesting and instructive in the highest degree. Certain we are, that once having leaped the barrier which self-interestedness and unjust prejudice have piled against Chili beyond her Northern and Eastern boundaries, public opinion in South America and statesmen of all enlightened countries, will be found agreed to applaud the conduct observed by our Government, to wonder at the imperturbable long-sufferance with which she has borne injuries, wrongs and provocations during the long period of tolerance which preceded the just and energetic act of the fourteenth of February, and to deplore that the low trickery and rapacity of pettifoggers, should yet be the favorite models of international policy in the South American state which Bolivar founded, and to which he gave, if not boundaries and conditions of existence favorable to the development of its civilization, at least his name and the example of his glorious deeds.

The authors of the present publication have been desirous of co-operating to the extent of their abilities, to the patriotic purpose with which the Hon Minister of Foreign Relations of Chili has shown himself to be inspired throughout the course of a disagreeable and fruitless negotiation and a violent rupture. They, like this high functionary, are animated by the desire of causing the faithful and dispassionate relation of the antecedents of the future conflict with Bolivia, to reach the greatest number possible of impartial minds in foreign countries. They are penetrated, as is the director of the international policy of Chili, by the obligations of publicity which are imposed upon a civilized state, by its own sense of decorum and respect for the remaining nations with whom it is connected by close bonds of friendship and commerce, and moreover as they are fully and deeply persuaded that by pouring light, all the light possible, upon the matter, they are opening way for the complete justification of the proceedings of Chili to the knowledge of South America and the rest of the world.

The pamphlet form which we have given to the interesting Exposition of Hon. Alexander Fierro and to the series of notes with which we have thought convenient to accompany it, has for its object to keep as far as possible before the view of the foreign public, documents of immense political value which have hitherto been scattered through the fugitive pages of the newspaper press,

and make the reading of it easy and convenient, while reference to it shall be rendered more expeditious for men of letters and for statesmen. If we thereby succeed in rendering some service to science and to politics, and in facilitating the attainment of the legitimate aspirations and the noble desire for publicity which animates the Chilian Chancery, our hopes will be fulfilled and our wishes satisfied.

CIRCULAR

TO THE HONORABLE MINISTERS AND DIPLOMATIC AGENTS
ACCREDITED TO CHILI.

Santiago, March 3^d 1879.

Sir:

I have the honor of accompanying to your Excellency an Exposition of the motives which justify the recovery effected by Chili of the territory she possessed in the Desert of Atacama between parallels 23 and 24 of South latitude.

I entertain the confidence that the perusal of this plain narrative will produce in the mind of your Excellency the conviction that Chili in her relations with Bolivia, did not abandon the policy of moderation and considerate conduct, which she so strongly admires, until she had exhausted all the resources in her power and imperilled the dignity of the nation and the valuable interests of her citizens residing in that territory.


The high and legitimate interest to which the Chilian Government aspires, that its international policy may be duly appreciated by those Governments whose friendship is to it an honor, and whose esteem it endeavors by unceasing efforts to deserve, has induced me to put in writing the exposition I now have the honor of placing in your Excellency's hands, begging that you will be pleased to bring the same to the knowledge of your enlightened Government.

I need not assure your Excellency, that your fellow countrymen will find in the territory in which the laws of Chili have once more resumed their empire, every guaranty for the protection of their persons and interests.

I avail myself of this opportunity to reiterate to your Excellency the expression of the sentiments of high consideration with which I remain,

Your Excellency's assured and obedient servant.

ALEXANDER FIERRO.



Republic of Chili.

Department of the Ministry of Foreign Affairs.

Santiago, February 18th 1879.

Mr Minister.

On the 12th of the present month, his Excellency the President of the Republic, ordered that Chilian forces should be transported to the coasts of the Desert of Atacama, in order to recover and occupy in the name of Chili, the territories she possessed there before adjusting with Bolivia the boundary treaties of 1866 and 1874.

The treaty of 1866 was annulled and disappeared on the celebration of that which bears the date of the sixth of August 1874, and this latter has just been abrogated by deliberate and persistent acts of the Government of Bolivia, acts which import not only the complete disacknowledgment of the obligations imposed upon her by that solemn compact but likewise an insult to the good faith and conciliatory spirit of Chili to which her national honor could not submit.

Having exhausted all the conciliatory expedients which her earnest desire for the tranquility of South America caused Chili to constantly employ, being scorned and disdained by Bolivia all the appeals that were directed to her for the fulfilment of obligations legally stipulated in the treaty of 1874, there remained no other resource for Chili but to again plant her flag in the territories of which, she had been owner and to return with it to numerous Chilian and foreign population and to their industrial establishments there implanted, that tranquility, that confidence and that welfare, of which they had been deprived by the Bolivian administration.

Chili, that loves the peace of South America almost as much as the tranquility of her own soil, and whose history and conduct has been ever characterized by temperance and moderation, has been

grieved to see, in her relations with Bolivia, her hopes of an amicable arrangement destroyed one after another, and herself placed, at last, in the painful necessity of seeking an end by the aid of force.

She would not be, however, completely, at ease, if, on taking this step, exacted at once by her conscience, her rights and her own dignity, she did not entertain the most intimate persuasion of finding in the calm and enlightened mind of your Excellency, the most ample and complete justification of her conduct.

Having received instructions to this effect from his Excellency, the President, I present Your Excellency's Government a brief and compendious review of the antecedents of the question and of the causes which have occasioned the late events.

The political emancipation of Spanish America having been consolidated, the new republics did not delay in fixing their attention upon the territories embraced by their respective nationalities, over which the empire of their laws should rule.

On the principle that the South American Republics had for their limits the same which corresponded to the colonial demarcations of which they were formed, it was easy for Chili to know how far toward the North the field extended upon which she should exercise her national activity.

For this purpose it was sufficient to interrogate history, to consult the written thought of the Spanish sovereigns, and to examine the acts of jurisdiction which had been the consequences of this manifestation of the supreme will.

This triple testimony does not permit doubt to be entertained that the southern boundary of Chili was, at least, the 23rd parallel of south latitude, or what is the same thing, that the coast and desert of Atacama to the bay of Mexillones inclusive, formed part of the territory of the Republic.

In this conviction, the President of the Republic sent to the legislative body a message dated the 13th of June 1842, in which the following words occur.

—«The utility of the substance called *guano* which from time immemorial has been used as a fertilizer for working lands on the coast of Perú, being acknowledged in Europe, I have thought it necessary to send a commission of exploration to examine *the coast comprehended between the port of Coquimbo and the hill of Mexillones*, for the purpose of discovering the existence *within the territory of the Republic* and guano beds, the working of which may produce a new branch of income to the public treasury; and although the result of the expedition did not fully correspond with the hopes that had been conceived, never-

theless from latitude 29° 35' to 23° 6', guano was found at sixteen points along the coast and on the neighboring islands, in more or less abundance, according to the localities in which those deposits exist.

There accompanied this message a bill declaring the guano-beds national property, and proposing some regulations for their being worked.

The bill having been approved and become a law of the Republic on the 31st of December in the same year, the Government of Chili learned afterwards with surprise that Bolivia exhibited, for the first time, pretensions to the desert of Atacama. Such pretensions had been disauthorized beforehand by the Chief Magistrate of that Republic, without any protest on the part of the other powers. General Santa Cruz had, in effect, said, in dictating the following decree, a few years previously, referring to Cobija; «The necessity of encouraging the *only port* in the Republic and bearing in mind that the want of funds to cover the expenses demanded by the projected works, renders useless all the means which the Government has adopted for the prompt realization of so interesting an object, I decree: Colonel Manuel Amaya is authorized to raise a loan of one hundred thousand dollars. . . »

Later on, in a message dated August 6th 1833, General Santa Cruz, the President, said to the representatives of Bolivia, as follows.

«After your recess during the anterior legislature, I have complied with the promise which I then made you of visiting in person the coast province, wishing to duly fulfil your wishes and the law of the 12th of October of the last past year in favor of our only port, Cobija. . . »

With antecedents such as these, it could not be regarded without a certain amount of wonder, that Bolivia should on its part manifest pretensions and exactions in direct opposition to the clear rights of Chili to the domain of the desert of Atacama, and which were, at the same time, incompatible with the convictions of the Supreme Magistrate of that Republic unequivocally expressed in the documents I have just cited.

The Government of however, being desirous of forming, in respect to this important question, an opinion that could be completely apart from the disturbing influences so apt to be created by national interest, undertook a careful examination of the archives, submitted to a lengthy examination the documents produced by either party, and made a calm comparison of the titles whith which each nation sustained its respective rights.

This agreeable task served to strengthen and confirm the conviction which it had, that the coast and desert of Atacama up to the 23rd parallel were evidently an integral part of the national territory.

Deploring the error into which the Government of Bolivia had fallen, when it claimed to fix the dividing limit between both countries at the mouth of a river called the Salado, the course of which, the geographers that it called to its support, mark out with a curious variety, sometimes as in the degree of 25° 30', sometimes in the 26th and even in the 27th, the Government of Chili, produced in confutation of these vague, indecisive and, not infrequently, contradictory proofs, titles of unanswerable value, from the probatory force of which, it believed it difficult for any dispassionate mind to withdraw itself.

It was, in truth, easy to show that since the middle of the fifteenth century up to the middle of the succeeding century, the most respectable writers and those who inspire the greatest amount of credit, such as Pedro Cieza de Leon in his work entitled *«First part of the Chronicle of Peru»* (Primera parte de la crónica del Perú) published in 1553, the Inca Garcilasso de la Vega, a celebrated compiler of the traditions of that country, in his *Commentaries*, which, appeared in 1616; the jesuit Anello Oliva, who published a history of Peru, and others of equal fame,—are of one accord in affirming that the desert of Atacama formed part of Chile.

But, and apart from testimony of this nature, there are official documents which prove that the territory of the Republic extended to the 23rd parallel, and that in the territory extending towards the south, jurisdiction has been exercised by the authorities of Chili since the colonial times. It appears, therefore, by these documents, that some portions of territory having been discovered fit for cultivation, towards the degree of 24° 30', they were solicited 1879, by way of grace or donation, from the Governor and Captain General of Chili, and by him granted to the discoverers. It also appears that Nuestra Señora bay, known under the name of Paposo, situated in 24° 30' that is to say, in the middle of the desert, was, towards the end of last century, the centre of the commerce of the coast of Atacama and, the place of residence for nearly all the inhabitants of that region, Paposo, therefore, was the capital of a district which embraced all the district in which there were inhabitants and was governed by a judge appointed by the authorities of Chili. The royal orders of June 3rd 1801 and June 26th 1803, which are even more explicit, declare that Paposo was considered as the capital of all the coast and desert of Atacama.

and that all that territory was subjected to the authorities of Santiago. The royal letters-patent of the 10th of October 1803, afterwards ordained that the desert of Atacama should be segregated from Chili and reincorporated with Peru, but these letters-patent never took effect, and only served to leave the fact established in a yet more unequivocal manner that that region had pertained to the Captaincy General of Chili in the colonial times, and that it continued afterwards forming part of the Republic.

It is well known that in 1789 there sailed from Cadiz a scientific expedition composed of the corvettes *Descubridora* and *Atrevida* commanded by Captains Malaspina and Bustamante. This commission, which the sovereign of Spain had entrusted to competent persons of well known ability, had for its principal object, the survey of the coast of South America. To assure the greatest fidelity and exactness in the labors entrusted to their charge, there were placed at the disposition of the chiefs of the expedition all the documents of the Department of the Indies which existed in the Spanish archives, and at the same time a circular was despatched, dated, Madrid, February 5th 1787, giving orders to the Viceroy and Captains General of the New World, to aid and assist with all the elements at their disposal the mission of Captains Malaspina and Bustamante, and to give them free access to the valuable archives of the then suppressed Company of Jesus.

This expedition touched at Montevideo, doubled Cape Horn, and off Chiloe, commenced its survey of the coast of South America, northwards. The result of this expedition, prepared and provided with the most careful anxiety with all the elements necessary for attaining the accomplishment of its important object, was the spherical chart,—still preserved,—presented to the King of Spain by Don Juan de Lángara, Secretary of State and of Universal Marine Affairs. In this invaluable chart, whose importance is beyond discussion, the northern limit of Chili was designated at the 22nd parallel, and naturally assigns her, or recognized her dominion in, an extent of territory, greater than that she had peaceably possessed since the colonial epoch.

As one of the manifold proofs that I could adduce in support of the jurisdiction that Chili has always exercised in that region, I do not consider it too much to observe that the Custom-House of Valparaiso alone, granted in fulfilment of the law of October 31st 1842, during the period elapsing from that date until the year 1857, one hundred and thirteen permits to different vessels of different nations, to load guano in Mexillones, Angamos, Santa-Maria and the various by ports of the coast of the Desert.

The manifestations of the sovereign will and the acts of jurisdiction exercised by Chili, during the two epochs of its political existence, over the desert of Atacama upto the 23rd parallel, could not find space, were they all set forth, within the narrow limits of this communication. While limiting myself to indicate but a few, I have ever borne in mind the consideration of not overtaxing the kind attention of your Excellency.

I am flattered, however, by the belief that they may have sufficed for your Excellency to be persuaded that it was not the part of Chili to leave as a gift to Bolivia, territories of which she considered herself owner and lawful possessor.

While Chili firmly sustained her rights of dominion and peaceable possession in the Desert up to the 23^d parallel, she did not cease to seek with careful anxiety all the means that appeared becoming for the purpose of approaching a solution of the existing misunderstanding. The different steps taken with that purpose, did not conduce, however, to the desired result which was to have been expected and both Republics saw years pass by and the cordiality of their relations more and more estranged.

II

Events of the deepest gravity, of which the Pacific was the theatre in 1864, profoundly moved the tranquility of a great portion of the South American continent, awakening a lively and energetic sentiment of close union, before which Chili and Bolivia hastened to lay aside their past disagreements and to seal the boundary treaty of 1866.

Chili did not hesitate to sacrifice generously part of her rights, under the impulse of a spirit of sincere friendship, imagining that Bolivia would know how to appreciate and correspond to these exalted sentiments. She subscribed a compact which by its first article specifies «that the line of demarcation of the limits between Chili and Bolivia in the desert of Atacama, shall henceforward be the 24th parallel of south latitude from the Pacific coast to the eastern limits of Chili, so that Chili on the north and Bolivia on the south, shall have possession and dominion of the territories extending from the beforementioned parallel of 24°, each of them being entitled to exercise in them all the acts of jurisdiction and sovereignty pertaining to the lord of the soil. The exact fixation of the line of demarcation shall be made by a commission of competent and skillful persons, one half of whose members shall be appointed by each one of the high contracting parties.»

By the second article it was agreed «that notwithstanding the territorial division stipulated in the preceding article, the Republic of Chili and the Republic of Bolivia shall divide between them by halves the products arising from the exploitation of the guano deposits discovered in Mexillones and such others of the same fertilizer that may be discovered in the territory comprehended between the 23rd and 25th degrees of south latitude, *as also the export duties which may be received upon the ores* extracted from the same space of territory which has just been specified.»

Article III establishes that «the Republic of Bolivia obliges itself to habilitate the bay and port of Mexillones by establishing at that point a Custom House with the number of employees required by the developement of industry and commerce. This custom house shall be the only fiscal office entitled to receive the proceeds and export duties on metals treated of in the preceding article. The Government of Chili shall have the right to appoint one or more fiscal employees, who, invested with a perfect right of vigilance, may intervene in the accounts of the entries of the aforesaid custom house at Mexillones and receive directly the aforesaid office, quarterly or in the way that may be stipulated by and between both nations, that portion of the profits corresponding to Chili referred to by the said recited article II. The Government of Bolivia shall have the same faculty whenever that of Chili, for the purpose of collecting and receiving the proceeds spoken of by the preceding article, shall establish some fiscal office in the territory comprehended between the 24th and 25th degrees.»

Article IV declared that «the products of the territory comprehended between the 24th and 25th degrees of south latitude, which may be taken out through the port of Mexillones, shall be free from all export duty; and the natural produce of Chili that may be introduced by the same ports, shall likewise be free from all import duty.»

By article V it was agreed that «the system of exploitation or sale of the guano and the export duties on the ores treated of in article II of this compact, shall be determined by mutual agreement of the high contracting parties, either by means of special conventions or in the form they may esteem most expedient and expeditious.»

By article VI it was agreed that «the contracting Republics bind themselves not to alienate their rights to the possession or dominion of the territory which they divide between themselves by the present treaty, in favor of any other nation, society or private individual. In case that either of them should desire to effect such alienation,

none but the other contracting party can be the purchaser.»

And finally, by Article VII it was agreed that «in attention to the damage which the boundary question between Chili and Bolivia has occasioned, as is notorious, to those individuals who, being associated, were the first in seriously working the guano beds of Mexillones, and whose works thereon were suspended by disposition of the authorities of Chili on the 17th of February 1873, the high contracting parties oblige themselves to give, in equity, to the aforesaid individuals, an indemnization of eighty thousand dollars, payable with the ten per cent of the net products of the custom-house at Mexillones.»

These seven articles which form the treaty of 1866, and which I have taken care to transmit with perfect exactness, were not, as the Government of Chili expected, so many more links of union between both Republics.

Chili hastened to denude herself, on her part, of the possession which she maintained to the 23rd degree, with which Bolivia invested herself, and to appoint the commissioner who, in union with the appointee from that of the latter Republic, should fix in the desert of Atacama, the 24th parallel, the divisory limit between them, and the 23rd and 25th which formed by North and South, the zone of territory in the products of which they had a common participation.

While fulfilling loyally and honorably on her part the obligations imposed upon her by the treaty of 1866. Chili was very far from thinking that Bolivia would consider herself emancipated on her part from her own obligations. No long time elapsed, however, before a series of disagreeable events undertook to impress this sad conviction upon her.

Your Excellency is not unaware, perhaps, that in 1870 a Chilian citizen, impelled by the spirit of enterprise and yielding to a happy inspiration, penetrated the desert of Atacama and plucked from its bosom the secret of riches, which very soon attracted towards it a vigorous and sustained movement of Chilian immigration. The new colonists were not daunted by the difficulties and sacrifices of the enterprise; and by dint of fatiguing labor, saw arise the populations, now flourishing, of Antofagasta and Caracoles, which the people of Chili are able to exhibit as conquests of their labor and their constancy.

The importance of the recently discovered mineral district corresponded to the first expectations, and the current of Chilian capital soon opened a course for itself to the interior of the desert, to assist in divers forms, the purposes of an initiative as intelligent as it was energetic.

This great event impressed a greater importance upon the stipulations of the treaty of 1866, the fulfilment of which Chili commenced to claim unavailingly.

As I have had the honor of shewing you by transcribing the compact, of the abandonment by Chili voluntarily and conditionally of the 23rd degree, the following rights, among others, were clearly and explicitly recognized as hers by Bolivia on her part.

1st To receive the half of the proceeds derived from the collection of the export-duty upon the ores that should be extracted from the territory comprehended between the 23^d and 24th parallel (article II of the treaty.)

2nd To appoint one or more fiscal employees, who, invested with a perfect right of vigilance, should intervene in the accounts of the receipts of the custom house at Mexillones which the Government of Bolivia obliged itself to habilitate and maintain with the corresponding number of employees, and to receive directly and quarter-yearly, that part of the receipts appertaining to Chili, in conformity with article II (Article III of the treaty.)

The Government of Bolivia having been called upon to give faithful compliance to the treaty in this part, by handing over to Chili the half of the duties already received and which she continued to receive, which duties, in the estimation of Chili, represented a prodigious sum, because it was notorious that one single commercial house of Valparaiso, had paid into the custom-houses of the former Republic, the sum of twenty five thousand dollars, refused under futile and studied pretexts to accept the just demand made upon it, pretended from the first that the mineral district of Caracoles did not lie in territory under the participation in common, without producing any respectable reasons which would authorize such a supposition to the contrary, as to the rest to the decision of the scientific commissioners who had determined that territory by order of both Governments and comprehended within its boundaries the locality in which the mines are situated.

Nor was Chili more successful in her exigence that there should be accepted in the Antofagasta custom house in conformity with the existing treaty, the intervention of Chilean functionaries who should watch the operations of the Bolivian employees. Under the pretext that the exercise of this right would aggrieve the national sovereignty, the convention of 1866 became a dead letter, and the rights of Chili were converted into an irritating jest and she was openly despoiled of her indisputable property.

The secret springs of the resistance opposed to the inspection of

the offices receiving the funds, were revealed later on by the following words of a report which Mr. Virreira, a Bolivian employee, presented to the authorities of his country:—«In the custom house at Antofagasta it appears that chaos had been maintained purposely to avoid an inspection. No account whatever had existed until the present administrator opened the first books and accounts. The two first months of 1872 have no other account than a resúmen or synopsis which the administrator Mr. H. Ortiz passed to his successor Mr. E. Zalles; the account of the second two months is also contained in another similar account of the business of the office. In Mexillones, although books of account are found, they are incomplete and do not even throw light upon the operations of the custom house, for the necessary documents are wanting.»

In the presence of these facts, breaking obligations solemnly agreed upon, and to a certain point offensive to the dignity of our country, the Government of Chili would have been perfectly justified in withdrawing its name from the treaty of 1866 and reoccupying the territory which it ceded only in virtue of conditions which the other party shewed the most tenacious perseverance in eluding.

But withal, the decided inclination to peace prevailed in the councils of the Government of Chili, and throwing all past contrarieties into oblivion, it resolved to attempt another amicable solution, and for this purpose accredited another extraordinary legation to Bolivia.

This started on the 10th of April 1872 to the place of its destination, and a month after commenced its mission. It did not cost the Chilean representative much trouble to make palpable to the Government of Bolivia the evident justice of the claims of which he was the bearer. *Apropos* of this, and after circumstantially relating to the Cabinet of Santiago the arguments adduced in a conference which took place on the 18th of May, the Chilean diplomate added in his despatch of the 20th of the same month, the following. «His Excellency the Minister knew the force of these arguments and gave me no reason which destroyed them, but he set forth to me in the clearest and most positive manner that in spite of all, Bolivia could not accept the partnership agreed upon in the treaty. Upon this point he would not yield in any way whatever. His Excellency believed this community unacceptable in all respects, for besides being unusual, it would be the cause of continual disagreements.»

It will thus be seen that the Government of Bolivia entertained the firm and unshaken resolution of not accepting the community

established by the existing treaty. It was indispensable to define in some method this situation, which, day after day, continued accumulating in itself greater elements of complication. The exertions of the Chilean Minister directed towards obtaining the acknowledgement of the rights of Chili, encountered always in the Cabinet of La Paz, demurrers and studied delays, of which that Government enjoyed the advantage, since by means of these expedients it continued receiving exclusively all the duties which the treaty declared partible in moieties between the two nations.

Finally, after eight months of lofty but sterile efforts on the part of diplomacy, the Government of Chili found itself reduced to the alternative of yielding a part of its rights in order to secure by these means the rest, or of returning to the *status quo* in which matters existed before the negotiation of the aforementioned compact.

It elected; as at other times, the system of concession, and on the 5th of December 1872, there was signed at La Paz by and between the plenipotentiaries of Chili and Bolivia, a convention composed of nine articles, intended to determine, in conformity with the treaty of 1866, the incidental questions to which prejudiced minds had given origin.

As to the rest, the convention alluded to, which gave to Chili no advantage whatever, bears witness to its benevolent sentiments towards Bolivia. By Article VI it was established, modifying in this part the treaty of 1866, that before handing over to Chili the moiety of the sums collected for duties on the export of ores, there should be deducted the amount of the estimate for the employees of the Treasury and Department of Justice claimed by the good service of the territory formed by the 23rd and 25th parallels, which was equivalent to paying with the funds of Chili the salaries and remunerations of employees in whose appointment she had no part whatever.

This convention was approved by the Government of Chili a month afterward, on the 8th of January 1873; but that of Bolivia did not favor it with its acceptance. In this way the prospects of an arrangement were once more frustrated through no fault of Chili, and the high and conciliatory purposes which she had in new when accrediting a special legation, were sterilized.

III.

Without being yet disheartened by this thankless result, and seeking with more earnestness, guarantees and security for the tranquil developement of the large Chilean interests endangered

along the coast and desert of Atacama, the Government of Chili sent a new legation to Bolivia, which left Valparaiso about the middle of 1873.

Up to that period the treaty of 1866 had only been respected by Chili. Bolivia continued, contemptuous of the interests and rights of this Republic, enjoying the usufruct of the territory in common participation, and ignoring the privileges and advantages to which that treaty stipulated in our favor.

The unstable policy, one not always respectful to other's rights which is usually dominant in the Cabinet of La Paz, caused the Government of Chili to fear that violent exactions or exorbitant tributes could make themselves weigh upon the persons and business of Chilians scattered over the desert of Atacama. To avoid this peril and to protect honest labor against unmerited spoliations, had by that time become one of the strongest ruling passions of the Government of Chili and the stand point of the negotiations about to be established.

The new legation of Chili, penetrated by these fears, directed its effort with solicitant and resolute earnestness to obtain means, which while assuring the tranquility of the valuable Chilean enterprises, should at the same time communicate life and vigor to the industrial spirit of the citizens of the country.

The Chilean Government succeeded at last in attaining this object, making considerable sacrifices to do so.

She condoned to Bolivia the moiety of the sums received from the export duties on the ores extracted from the 23rd degree, which appertained to Chile according to the treaty of 1866, the liberty of fiscal examination which she hand a right to make in her custom house offices; and lastly, she ceded her forever the exclusive enjoyment of all the export duties which the treaty referred to declared partible by moieties between both nations. In exchange for these valuable concessions Chili claimed and obtained one single guaranty; the security that during twenty five years, under no pretext, under no form or denomination, should there be imposed upon Chilean citizens, capitals or industries, other or higher contributions than those at that time existing.

It was in obedience to this thought that the treaty which was signed at Sucre on the 6th day of August 1874, among other dispositions at present incongruous to the explanation of the actual conflict, established the following:

«Article IV The export duties which may be put upon the ores exploited in the zone of territory of which the preceding articles speak (that formed by parallels 23th and 23th), shall not exceed the rate now recoverable, and *Chilian persons, industries and capi-*

tals, shall not be subject to more contributions *of what class soever they may be* than those which now exist. The stipulation in this article contained shall last for the term of twenty five years.)

«Article III disposed, «From this date the treaty of the tenth of «August 1866 remains annulled in all its parts,» and by a protocol annexed, the text of which is considered incorporated in the treaty itself, the following precept is set forth: «All questions to which the understanding and execution of this treaty may give rise, shall be submitted to arbitration.»

IV

The treaty of 1866 had just appeared without its fundamental stipulations having been for once observed by Bolivia, and in order that your Excellency may still be persuaded of the little respect merited by the word of that Republic, its solemnly pledged faith, it will be sufficient for me to recall to the mind of your Excellency, that during the eight years in which that compact was in force, she did not comply with the obligation contracted by Article VII. Your Excellency will not have forgotten, perhaps, that by this article both Republics obligated themselves to indemnify certain persons who while laboring in the desert had received some prejudice in consequence of the controversy respecting the limits which existed between both nations. In accordance with this compromise» Chili and Bolivia should have each handed, by equal half parts the sum of sixty thousand dollars to the parties damnified, which sum should have been raised out of the ten per cent of the product of the guano sales. Chili punctually paid that sum, but Bolivia delayed its payment under various pretexts, and now pretends that she does not owe it because her obligation disappeared since the treaty of 1874 abrogated that of 1866, without taking into account that a compact intended to create or to modify the obligations of two countries, cannot destroy the rights of third parties who have not been consulted about it nor have intervened in it. I should not bring this fact to memory if the parties injured by this conduct had not presented themselves, invoking therein a certain moral responsibility which the treaty establishes in this part, soliciting of the Chilean Government, that it should use amicable exertions with the Government of La Paz in order to obtain payment of that claim.

V.

The Government of Chili hoped that the new compact would put a definitive conclusion to the interminable series of hateful

controversies, of daily reclamations, of difficulties of every kind to which the previous one had given rise, and evinced itself highly gratified at this confidence, to the National Congress of 1875 in the following words; «The treaty of the sixth of August of last year, the particulars of which I hold it unnecessary to express here, having been recently approved by Congress, reveals in the clearest manner, by the liberality of its dispositions, the eminently cordial and South American spirit by which the Congress and Chancery of Chili are animated with respect to the Republic of Bolivia, and is an assured pledge of the permanence of good relations between the two countries. There being eliminated from this treaty the community of interests, with the exception of that which respects the guano, the common participation in which has not given rise to any difficulties, and the intervention in the custom-house, which will be unnecessary, nothing will henceforward come to dampen the cordiality of existing relations nor to render difficult the fulfilment of the obligations contracted.»

«In the adjustments of the new stipulations, Chili has not hesitated to surrender a portion of her rights, as well to obtain new privileges in behalf of the commerce and industry of our fellow-citizens, as principally to amicably settle, once for all, thankless disputes which, day after day, removed it to a greater distance apart from Bolivia, whose friendship it is our interest to preserve, and whose progress intimately connected with the solution of these difficulties, can in no case be indifferent to us.»

VI

This confidence, which had no other foundation than a feeling of natural affection on the part of Chili, was not long in being made a scoff of by events of another character which developed themselves in the towns of Caracoles and Antofagasta. The Bolivian authorities who ruled these places, far from the seat of the National Government, free from its critical vigilance, gave themselves up without restraint to the dictates of their caprice or of their convenience and the people, a Chilian people, were the victims of continual misconduct and unjustifiable insults.

The Government received by nearly every steamer, the protests and complaints of its citizens, and perceived nothing which induced it to consider as probable, an immediate and radical change in that painful situation. A feeling of contempt, which the word of the Chilian Government and the moderate efforts of its consuls were not sufficient totally to repress, began to make itself

visibly known in the Chilian colonies and occasioned fears for the explosion of conflicts having vexatious consequences.

The Chilian people, who had carried to the desert their laboriousness, their lives and all their hopes, which instinctively inclined towards considering themselves masters of those territories through the ancient rights of the Republic and through the titles which genius and sacrifices call to mind, and who composed ninety three per cent of its inhabitants, could scarcely resign themselves to support the vexations which were showered upon them with offensive haughtiness by functionaries of a subaltern order.

In this state of circumstances, the Government of Chili believed it to be its duty to present to that of Bolivia, a slight sketch of the situation and on the date of January 31 et 1877, wrote as follows.

«For some time past, my Government has been preoccupied by inquiring with calmness and impartiality, the causes which can produce a separation between the citizens of this Republic and those of that, residing on the coast of Bolivia.»

«Animated by the most sincere purpose of destroying every thing that might be opposed to the close union of both nationalities, my Government has not ceased to inculcate this sentiment in the consuls it has appointed there, pressing upon them the utility of transmitting it to their fellow citizens. They have been charged likewise that they should deny their protection to any petition or claim which should not be presented accompanied by evident justice, and even now, I take pleasure in acknowledging it, those functionaries have not ceased to faithfully interpret the ideas of my Government.»

«Unhappily, this has not sufficed to restrain or avoid the perpetration of grave and detestable abuses, of which some Chilian citizens have been victims, nor of the exorbitant pretensions of some secondary agents of the administration, denying the most elementary attributes of our consular agents, as I shall soon have occasion to demonstrate.»

«My Government has, therefore, arrived at the persuasion that the origin of the evil is to be found in the improper selection of some agents invested with the functions of public power in this portion of the Bolivian territory, agents, who placed at a great distance from the superior authorities, are deprived of the salutary vigilance and superintendence of that enlightened Government which judges of the events and situations by the passionate and untrue accounts of these selfsame agents, whose abuses thus remain without the necessary corrective.»

«The numerous Chilian colony has gradually formed the pain-

ful conviction that the liberal institutions which govern in Bolivia, do not reach it, and that their persons and goods are at the mercy of the unscrupulous caprice of the subaltern agents of authority.»

«Your Excellency must have had knowledge of the inhuman flagellation which was inflicted in Tocopilla, upon a Chilian citizen by an officer of police: Your Excellency must also have knowledge of a similar flagellation recently inflicted in Mexillones, upon another Chilian citizen, by order of the commissary of police.»

«The respective action had in each case by our consuls, to stimulate the zeal of the authorities in satisfaction of justice and its public vindication, have had no other result than a pompous trial, as ridiculous as it was illusory.»

«Neither will Your Excellency have forgotten, the assassination perpetrated upon the person of Clement Andrade. But, in order not to cite other cases, look at the case of the murder recently committed on the person of Arriagada, which it is now endeavored to save appearances by falsifying; in the judgment of my Government, the facts which have brought it about.»

This series of hateful facts which our citizens have had to suffer, executed by administrative employees, without their having, in the generality of cases, received the penal sanction indicated by the laws of Bolivia, whatever may be the nationality of the delinquent and the injured party, has awakened in the Chilian colony a natural sentiment of grief and indignation, which if it does not reconcile itself with the respect and prestige with which authority should see itself surrounded, does not proceed in this case, except from the want of circumspection and regularity in the conduct of this same authority.»

«And, do not believe that the want of vigilance to which I attribute the principal part in the creation of the situation which I am now examining is found only in the agents of political power. Even the administration of justice, saving honorable exceptions, is far from inspiring the respectful consideration of which it should render itself deserving. Various facts, which I omit to state here, manifest that the fears and want of confidence with which their judgments are regarded by the parties who find themselves obliged to apply to them, are not unfounded.

«After relating the antecedents of an unjustifiable suit, initiated against two Chilian citizens by the Bolivian law-judge in Caracoles, the despatch of the Government of Chili adds; Well then, does your Excellency wish to know the antecedents of the judge who thus deprived two families of their support and their peace, who shut up two honest men in prison, and who has spread in-

quietude and anxiety throughout the numerous group of Chilians who give life to Caracoles.

«Your Excellency will learn with pain, by means of the copy I have the honor to accompany, that this judge, whom it has been thought convenient to make the depositary of the most delicate functions, which require of him who puts them in exercise, unassailable antecedents and proved honor, had hanging over him the weight of a criminal accusation for an attempt at assassination and wounds inflicted by him in consequence, on Sebastian Lopez, in the year 1874, and as if this were not yet sufficient, in the year 1875 there was brought against this same judge, another criminal suit for the robbery of money and other effects, the property of Dr. Manuel María Berezain.»

«And in this case, I regret to tell your Excellency I cannot even find attenuating circumstances in a supposed ignorance of the infamous stigma which made this judge an impossible judge, because it is of recent date, and because the name of the criminal, together with that of other delinquents was set forth by order of the Superior Tribunal of Cobija in the register of the public prison of that city.»

«This, and other facts that I could cite to your Excellency, will doubtless convince you that the situation of the Chilians in that region has in it something ominous and insecure.»

«A state of affairs which contained all kinds of perils for the Chilian colony, was impossible to continue longer. Its petitions to the Government of La Paz, three hundred leagues distant from the theatre of events, did not allow them to indulge in well founded hopes of reparation. The formation of a society was then thought of, to which the name of «LA PATRIA» was given, the programme, which was made public, gave a resumen of the objects of the members, which were no other than to assure themselves mutual protection, aid to the sick and occupation to those who wanted it. The members bound themselves, moreover, to submit whatever question, commercial, mining or personal, which might arise among them, to the decision of a jury of arbitration, appointed from the society. They also bound themselves not to meddle with the politics of the country, nor with the religious belief of any of their members.»

This programme, which, responding to a humanitarian and fraternal sentiment, satisfied at the same time an imperious necessity by creating a means of safeguard, took very special care not to wound the susceptibilities of the Bolivian functionaries. The society was not stamped with the seal of an exclusive nationality, far from this, Bolivians and foreigners, as well as Chilians, were

called to form part of it. And yet more, it was hinted to the sub-prefect that the board of directors intended to nominate him as an honorary member of the society.»

Sensible to these feelings, the sub-prefect of Caracoles replied in answer:

«Enthusiastic as the most enthusiastic for every beneficial and moral society that may be established, I pray that this which it is proposed to found, may redound to the benefit of this industrious mineral district.»

The Chilians flattered themselves with having removed one of the gravest causes of their evil plight by the formation of this society, and there was nothing to lead them to imagine that it would soon make them the target of a severe and hateful persecution. They considered that the right of association, which the Constitution of Bolivia grants, without exception or distinction, to all its inhabitants, would not disavow them, and that they might count upon that precious guaranty that free people ever offer to those who tread their soil.

«This belief, added the Government of Chili in the despatch hereinbefore referred to», must have felt itself, notwithstanding, considerably weakened in view of a note that your Excellency directed to his honor the prefect of the coast on the 7th of last December, in which you recommend to the authorities that they should employ exceptional methods of rigor against the members of the society «LA PATRIA» in whom your Excellency, does not see honorable men who to the extent of their means and in use of their rights cooperate for the common progress, but perilous elements that it is convenient to separate from the Bolivian territory even without the form of procedure, or else by submitting them to an exceptional procedure, as I am assured has already happened. And this is so much the more serious because in order to put in force this recommendation, your Excellency refers to simple tendencies and not to any over and determined act, as if intentions and purposes could be matter for a criminal proceeding.»

«My Government does not feel capable of explaining, Mr. Minister, what species of considerations they are which may have counselled such a line of conduct against the natives of this Republic, which appears to create a systematic hostility tending to make their stay in the country, if not impossible, at least painful in the extreme for them.

«Your Excellency has seen that their fortunes, their honor and their lives have been placed in criminal hands, and when for this motive, which could not be more conformable to justice, they resolve to have their contentions settled solely by judges or arbitrators cho

sen by themselves, they are persecuted and even threatened with expulsion from the territory. Already it is pretended to deny to our citizens, not only the lawful exercise of the right of association but even the natural faculty which all possess of submitting their private disagreements to the award of third parties. Your Excellency will coincide with me in opinion that this unjustifiable prejudice against the Chilean nationality could not well be carried further.

To varnish over this proceeding with a gloss of common honesty, you feign to see in the resolution of the Chileans, an insult to the Bolivian magistrate and do not bear in mind that this respect cannot be imposed by violence, but is gained by the high and honorable character and rectitude of the magistrate. The right of submitting their lawsuits and questions to the decision of arbitrators not only rests upon the civil legislation of all countries, but has the double sanction of international practice and law. In some nations there is a special jurisdiction for foreigners, for the purpose of giving them a guaranty from the prejudice which the natives may have conceived against them. The greater part of the consular regulations, as your Excellency well knows, charges the consuls that they admonish their fellow citizens to the effect that they should settle their controversies without applying to the local tribunals, and many of them constitute the consuls themselves as arbitrators and judges. It is not needful for me to remind your Excellency that the very origin of consuls was no other than the faculty that some sovereigns voluntarily conceded to the foreign merchants who arrived at their ports or establishments, to appoint a judge of their own nation, that he might decide their suits in conformity with the laws of their own countries.

«If the society «LA PATRIA» has received its birth under the protection of that Republic, if it be about to exercise its action within the sphere permitted and guaranteed by the laws, without interfering with the administration of justice. its right to exist and even to be protected, is yet more perfect, if the judicial antecedents I have had the honor to set forth, be borne in mind.»

The Chileans vexed in their persons, and damaged in their interests, solicited in their anguish the consular intervention of Chili. The prefect of Antofagasta, in his declared hostility to the members of the society «La Patria», caused the president and treasurer, residing in Caracoles, to be cited, so that, abandoning their business, they should traverse a road of forty leagues to give explanations relative to the said society, a proceeding enti-

rely unnecessary, since it was easy for him to obtain all the data of which he had need, through the sub-prefect of Caracoles.»

«The consular interference rendered necessary by these events, also came to demonstrate that the subaltern authorities of the coast were totally ignorant of the attributes and duties of those functionaries. The consul of Chili at Caracoles asked the sub-prefect, delicately, if the order was authentic, that was stated to have been imparted through him by the prefect of Antofagasta, ordering that the president and treasurer of the society «La Patria» should travel to that port, and the said sub-prefect, after declining under some pretexts to satisfy the courteous request of the Chilean consulate, transcribed the following note from the prefect of Antofagasta, in which he refused to acknowledge the right of consuls to protect their fellow citizen when unjustly injured.»

«This prefecture, »said the note« not being able to recognize in the consul of Chili, nor even in the Consul General, the faculty of intervening in treaties with the countries in which they reside, I am obliged to remind the Consul of Chili of the principles and general rules of international law which prohibit consuls from intermeddling with affairs which, like those of Messrs Palazuelos and Lichtenstein, the one a Chilean and the other a German, should only be matter for a diplomatic reclamation, *since consuls have no faculty to admit protests of their fellow citizens against the acts of an authority of a country to whose laws they are subjected.* Of this unusual proceeding, I shall give an account to my Government, in order that, through the proper channel, it may ask that of Chili, that the consuls shall circumscribe themselves in their official relations with the political authority of this department, within the rules established by the law of nations in such cases, and that they shall not go out of the orbit of the attributions which is prescribed them by law and the practice generally accepted among nations.»

This conduct of the prefect of Antofagasta was so much the more incomprehensible, as the Cabinet of La Paz had manifested a month before, by a circular, dated the 16th of November, directed to its consuls in foreign parts, theories directly contrary. In this circular it was said. «The Government can not see with indifference that its citizens residing in a foreign country may be persecuted, imprisoned and victimized, without for that purpose, as has happened in certain places, observing not only the principles of reciprocity established by international law, neither the laws of humanity nor the common law of the State. «And in conclusion it is added. The enunciated precedents, Mr Consul, oblige me to direct myself to you in order to recommend you that in ob-

servance of the conventions which Bolivia has celebrated with foreign states, and in view of the protecting laws of international justice, which govern in defect of treaties, throughout all civilized nations that you will endeavor *to give the most decided and efficacious protection to Bolivian citizens resident at this point, making in favor of these before the Government of that nation all the reclamations that in their cases may be necessary*, giving timely information to the Government of this Republic, to the end that it may ask the reparation which justice exacts from the enlightened Governments with whom Bolivia, happily maintains relations of frank and loyal friendship.»

While the Government of Bolivia in the transcribed circular, declared that consuls should give decided protection to its citizens injured in their rights, the prefect of Antofagasta declared, in his turn, that they had no faculties, not even to accept the protest of their complaints. The Government of Bolivia recommends to them the advantage of reclaiming before the Government of the Nation itself against the vexations of which they had been the object, and the prefect, well knowing the thoughts of his Government, affirmed, notwithstanding, that it was not lawful for them even to reclaim before subaltern authorities.

These facts make it manifest that there existed a deep-seated disturbance among the springs of the Bolivian administration, owing, without a doubt, as I have heretofore had the honor of setting forth, to the want of illustration on the part of its agents, and to the immense distance which separates the authorities of La Paz from those of the coast.

The Government of Chili, deploring the painful situation which censurable proceedings of the Bolivian authorities had created for the natives of this country, did not feel that it was yet sufficient to weaken its conciliatory and benevolent sentiments towards the Republic of Bolivia.

At the conclusion of the despatch containing the narrative of the events with which I am now engaged, it set forth these words; «on the part of the Government of Chili which does not wish to see in Bolivia anything but a friendly and sister nation with whom she aspires to always maintain and draw closer together the most cordial relations of brotherhood, there will be incessantly made all possible efforts in order that the peace and friendship now existing may not be changed or weakened, confiding, at the same time, to accomplish these purposes, in this; that its citizens resident in Bolivia will be subject to the common law impartially administered, that the society «La Patria», while it does not go out of the orbit which itself has traced out in its pro-

gramme, while it does not infringe the laws nor attack any right, must enjoy the protection which cannot be denied it without establishing an odious exception against it; in which the consular functionaries of Chili shall not see their actions hampered in the benefit of their fellow-citizens, whenever these may be victims of some vexation or injustice. My Government finally confides in the hope that you will dictate all the other means of reparation and of strict vigilance rendered indispensable by the delicate state of affairs.»

«These well founded observations of the Government of Chili did not obtain any response from that of Bolivia, until many months after it became necessary to send a minister to La Paz, who obtained, however, some tranquilizing orders and the change of various functionaries along the coast. The returned, for the moment, part of its repose to the Chilian colony.»

VII.

In the meantime, from the first months of last year, there was manifested in an unmistakeable manner, the deliberate purpose entertained by the Government, of wounding and rendering illusory, the gaaranties which Article IV of the treaty of 1874, assured on the coast and in the desert of Atacama, to Chilians, their capitals and their industries.

In Antofagasta under the pretext of attending to services of the community, there were dictated or harshly modified, and there were put in exercise against our citizens, employing at times an excessive rigor, divers imposts, which were denominated *additional duty*, tax for ballast and lighting, all of which violated openly and clearly the letter and spirit of Article IV of the afore-said treaty. To the same purpose of undermining that guaranty a law, dictated by the Bolivian Assembly on the 14th February 1878, and promulgated by the Government on the 23rd of the same month contributed. This law ordained that the Chilian Saltpetre and Antofagasta Railroad Company should pay a minimum impost of ten cents per quintal of saltpetre exported. In this manner and the Assembly leaving open the road to increase the impost which it now fixed at 10 cents, to 20, to 50, to the rate that avarice or necessity should indicate, a rude and unjust blow was aimed and death was threatened, later on, to one of the Chilian enterprises, which during ten years had battled with most tenacity in the desert, which had invested no few millions of dollars, and which was the origin and the life of now flourishing populations.

Permit me, your Excellency, to narrate briefly the origin of the rights of the industrial Society denominated the Saltpetre and Antofagasta Railroad Company.

Two Chilian citizens desiring to work certain deposits of borax and saltpetre they had discovered in the desert, solicited and obtained from the Government of Bolivia, in the years 1866 and 1868, the concession of the land necessary for that object, the exclusive privilege for fifteen years for the elaboration and free exportation of the saltpetre and other concessions connected with the primordial object of the manager. In compensation, the latter were to pay into the Treasury of the State, the sum of ten thousand dollars, construct at their own expense a mole in Antofagasta and a cart-road twenty five leagues long, which, starting from that port, should be prolonged towards the interior of the wilderness, establishing along the line, from distance to distance, the necessary water-stations, lodgings for travellers and other accommodations.

It is certified that the sum of ten thousand dollars aforementioned, was punctually paid into the treasury of Bolivia, and that the mole as well as the cart-road with its accessories and adjuncts, were delivered before the time fixed, to the satisfaction of the Government of that Republic.

In the meantime, a revolutionary movement in 1871 upset the administration which had granted these remunerative concessions, and the new chief of State, under the heat of passions produced by the struggle, expedited various decrees tending to annul the acts of the fallen administration. By one of these decrees, the concessions of lands, beds of saltpetre and borates, made by the previous administration were declared illegal and of no value; and the right of retraction was only granted in favor of those persons that should have obtained such concession provided that they presented themselves as bidders at the auctions at which, according to this decree, the portions or lots of the deposits which contained said substances should be newly adjudicated.

The Chilian Legation then celiezed it thlieir duty to proclaim against this measure that ingured interests of such magnitude and which, in their gudgement, could not be applied without manifest ingustice to industrious foreigners who, indifferent to interior politics, devoted their activity and capital fo peaceful cabour, confident in the seriousness and justice of the governments. The Bolivian Minister of Foreing affairs replying to the Chilian representative, said in March 1872 that although the government insisted on the official acts of the past administration being cancelled, itheld out also "the hope of excepting equitably from their effects, once knowing of the fact and by means of private resolutions, those consessionists, who *might have made effective their privilege who might have capital compromised in it and who should have*

effected improvements and advancements to the benefit of the country in the enterprise which they might have directed"

The Saltpetre enterprise reunited, therefore, all the conditions necessary to guaranty its existence.

Some months later the National Assembly of Bolivia passed the law of November 22nd 1872, the exacting clauses of which say thus:

Article 1st The reclamations of foreign citizens for indemnity arising from concessions or contracts celebrated with the Government, shall be brought before the Supreme Court of Justice, which shall take cognizance of them in a contentious suit, the public ministry representing the national interests.

Art. 2nd The Executive is authorized to arrange about indemnity and other claims now pending against the State, whether they be by natives or foreigners and to agree with the parties interested upon the form most convenient in which their respective obligations are to be fulfilled, deferring these matters, only in the case of non-agreement, to the decision of the Supreme Court, with the charge to give an account to the next legislature.

Art. 3rd Those claims which the Supreme Court shall find well founded, shall be passed to the Government with the designation of the net sum to which the credit amounts.

Art. 4th The general estimates shall designate the funds for the payment of these indemnities.

In conformity with Art. 2nd of this law, which the Executive hastened to promulgate, the Government and the authorized representative of the Saltpetre Company adjusted the bases of a settlement, which put, once for all, a definitive end to the existing difficulties. Among these bases figured the right of the company to work the saltpetre beds *for the term of fifteen years* and to export through the port of Antofagasta *the produce of their industry, free from every fiscal or municipal impost.*

Immediately afterwards the Government issued a decree dated November 27th 1875, in which it gave testimony in justice to the loyalty and good faith of the Company and in the resolute part ordained as follows "There is accepted by way of compromise and in use of the authorization which the law of November 22nd 1872 confers upon the executive authority, the eight bases contained in the preceding proposal, the anterior acts that are in opposition to them, remaining null and of none effect."

Two days later, the arrangement as approved was solemnized by a public document executed in Sucre, November 29 of that year and was registered in the *Official Annual of Laws of Bolivia.*

The arrangements between the Saltpetre Company and the

Government thus being definitively completed, the latter hastened to report to the next legislature, as it had been recommended by the law of November 22^d 1872, and did so in the following terms on the opening of the sessions of 1874; "The reclamations of this house, which were reported upon in 1872, have also been arranged upon conditions which are stated in resúmen by the convention of November 27th 1873. The representatives of the said house have accepted them. *Thus is definitively settled a hateful question, which during a long time has compromised the probity of the Government in public opinion, having dependent upon its discussion the fate of the heavy capital which the managers had disbursed to establish in the desert of Atacama the saltpetre manufactory on a large scale.*"

The National Assembly of 1874 informed itself of the compromise and with this proceeding, the obligation to report, which the recited law imposed on the Executive, remained complied with.

Lastly came the treaty of August 6th 1874, and by it was established as has been seen, that the persons, capital and industries of chilians, should not for the space of *twenty five years* be subject to more contributions, of what class soever they might be, than those at present existing.

Nothing could now justify any fear, and the Saltpetre Company gave themselves up tranquilly and without anxiety to the prosecution of the industry to which they had dedicated themselves. Four years had passed without anybody attempting to ignore or attack the rights of that enterprise, which in the last epoch, began to reap the material reward of its heavy sacrifices and the large capital which they had buried in the desert.

Suddenly, and when least to be expected, it was learned with astonishment that the Assembly of Bolivia had passed on the 14th February, 1878, a law couched in these terms:

«Sole article. The arrangement celebrated by the Executive November, 27th, 1873, with the agent of the Saltpetre and Antofagasta Railroad Company, is approved on condition of their making as a *minimum* payment of an impost of ten cents per quintal of saltpetre exported. Let it be communicated to the Executive for execution and fulfilment." This law was sanctioned by the Government the 28th of the same month.

The Chilian legation hastened to represent to the cabinet of La Paz the very grave remarks to which this resolution was open, which not only injured with marked injustice pacific interests which existed under the protection of its legal titles and the probity of the nation, but was likewise an open and flagrant violation of the treaty existing between the two Republics; and on the 2nd

of July, addressed a note setting forth in writing the observations therefore made at verbal conferences.

This despatch was not answered, but the Chilian minister obtained from the Minister of the Treasury, an assurance that the law, which he himself found objectionable, should be suspended until a correct and prudent solution of the difficulty could be found.

After various observations, the Chilian Minister called the attention of the Cabinet of La Paz to an important and decisive antecedent which manifest the opinion of that Government upon the rights acquired by the Saltpetre Company and the practical application of the treaty of 1874, our Minister in this note said: «The Municipality of Antofagasta having addressed itself to the President of the Council of State, in an official communication of may 4th of 1875, asking that the Saltpetre Company should be assessed with a municipal contribution of three cents per quintal of saltpetre exported, and founding, among other considerations on the Supreme Government having declared that the Company was not exempt from municipal taxes, this petition was remitted in a report to the Departamental Council of Cobija, by decree of 9th June same year dated at Sucre and signed by Mr Reyes Ortiz, now Minister of Justice and then President of the Council of State. The Departamental Council reported that the petition should be rejected because it was in contradiction with article 4th of the arrangement celebrated between the Supreme Government and the Company on Nov^r 27th 1873, on which it is stipulated that the saltpetre exported shall be free from any export duty and any other municipal or fiscal impost and also because there likewise exists in force the boundary treaty with Chili whereby new contributions can be collected on the coast. In view of this report and the reasons upon which it was based, the decree of August 27th was issued in Sucre, by which the contribution sought to be established was declared illegal»

On the beginning of November, there reached the knowledge of the Government of Chili, trustworthy information that the Bolivia Government again persisted in carrying the impost in question in to effect. Withaot loss of time and on the date of the 8th of the same month, these rumors and fears were transmitted to the Chilian legation, earnestly pressing upon it the necessity of preventing this unlawful act from being consummated. After insisting upon the justice of vur rights, this note is added:

«It becomes necessary then, to avoid serious conflicts that your Excellency should call upon the Minister of Foreign Relations, reading him the present note and leaving him a copy of it should it be convenient, and make manifest to him that my Government

does not believe for one single instant that the Government of Bolivia persists in the establishment of a contribution like that in question, for it is openly contrary to the letter and spirit of the compact of August 6th 1874.»

«Equally contrary to this compact, are the augmentation of the contribution known under the name of «additional duty,» received by the launch company the onerous modifications of the impost for ballast in favor of the Municipality, and finally the contribution for illumination which is at present being actively collected in Antofagasta.».....

«My Government, for the reasons set forth, cannot regard with indifference these violations of the treaty of 1874 and considers it necessary that you should ask of that of Bolivia, the definitive suspension of every contribution posterior to the operation of the treaty, as likewise of every onerous modification introduced in those contributions existing prior to same date. The refusal of the Government of Bolivia to comply with a request as just as it is demonstrated, will place mine in the case of declaring null the boundary treaty which uniteus as with that country, and the consequences of this painful declaration will be at the exclusive responsibility of the party ceasing to comply with what has been agreed upon»

The Minister of Chili in La Paz already had knowledge of the purposes entertained by the Government of Bolivia and before his reception of the note before, in part transcribed, had solicited and obtained from the Minister of Foreign Relations a conference which took place on November 25th. The Chilian representative set forth thereat all the reasons which, in the judgment of the Government of Chili, rendered the collection of the impost unjustifiable, but the Minister of Foreign Relations and his colleagues of the Interior and Treasury, who were present, persisted in the resolution to make it effective. Without having come to any agreement the conference broke up, intending to meet again to treat of the same business, three days after. On the 28th of November the projected conference took place in fact, and in it the same ministers declared to the Chilian representative that after having spoken with his Excellency the President, it had been resolved upon at a cabinet-council to recover the impost immediately. The Chilian diplomate could not conceal his surprise at this determination which he considered irreconcilable with the promise which had been made him by the proprietary Minister of the Treasury, Mr. Medina, absent at that period, that the collection of the impost should not be proceeded with until the pending diplomatic question should be resolved, and incompatible with the most

elementary principles of international law and with the courtesy which Chili, a friendly country, had the right to expect of Bolivia; for up to the present date he had not received any answer whatever to the note which he had presented five months previously, manifesting the powerful reasons which prevented Chili from accepting that contribution as legitimate.

The Cabinet of La Paz having insisted upon making the impost immediately collectable, the Minister of Chili read the note of November 8th which he had just received and which had been sent to him for this purpose, and declared that if it were insisted upon in putting that resolution in execution, the Government of Chili would believe that they considered the treaty of 1874 as broken, and would, on its part, take the steps necessary in the new situation which was about to be created without any fault on its part.

The Ministers then stated that they would return to speak with his Excellency the President and as the Chilean representative observed that he needed a categorical answer in this emergency, before the departure of the mail, which would take place four hours later, this second conference was terminated.

An hour afterward the Chief clerk of the office of Foreign Relations presented himself at the Chilean legation to inform it that the Ministry had resolved to suspend every measure until the answer to the note of July 2nd should be put into the hands of the Minister of this Republic.

On the 13th of December, our Minister at La Paz received, in answer to his despatch of July 2nd a note from the Minister of Foreign Relations of Bolivia, intended to give him a copy of a report which the Minister of the Treasury had passed him respecting the Chilean reclamation and to announce to him that in merit of the considerations expressed in the said report, his Government believed it to be its duty to order the execution of the law which affected the Saltpetre Company with an impost.

The Minister of Bolivia, interrogated by the Chilean representative as to whether order to put the law in execution had already been given or whether it would be waited for until the Chilean Government should learn of the note of December 13th, answered, on the date of 18th of same month that said order had been despatched and that it would be carried to its destination by the mail of the following day.

There could no longer be any doubt but that Bolivia was determined upon disavowing her obligations and producing a serious conflict. Vain had been the efforts of the Government and Representative of Chile to avoid it. The prudent, temperate and

friendly despatch of the Chilian Minister, had been answered after the lapse of five months by the strange and, moreover, discourteous notification that the law of February 14th would be immediately put in execution. It was not deemed proper to wait even that the Chilian Government should take cognizance of the offence done to her, and it was endeavoured with a rare precipitation, to render it wholly impossible to employ conciliating arbitrators.

Article 2nd of the additional protocol to the treaty of 1874 establishes arbitration for the case of difficulties arising as to the meaning and application of its dispositions; and the Government of Bolivia, fearful, perchance, that on the part of Chili an appeal might be made to this saving resource, hastened to create a situation which would render it unacceptable.

It decides, according to the dictates of its own convenience, the obligations of a bilateral contract; an interested party, it erects itself into an exclusive judge to interpret its dispositions; disdains the observations of its opponent and, despite his reclamations and protests, orders that its mandate shall be executed, with demonstrations of needless rigor.

Only after consummating the attempt and sacrificing the most obvious considerations of justice and international courtesy, the Government of Bolivia calls to memory the opportunity which, in its judgment there would be in seeking a solution in arbitration. The Minister of Chili, agreeably to the instructions received by note of January 3rd, still accepts the arbitration and represses out of regard for the friendship and harmony of two brother people, his natural repugnance to continue treating with a Government so forgetful, and apparently intentionally so, of the respect that cultivated nations owe each other. One thing alone is asked by the Chilian representative, before accepting the arbitration; the suspension of the executive proceedings which were being followed out by order of the Government against the Saltpetre Company, from which it was sought to recover the sum of ninety odd thousand dollars, to which sum they made out the total of the contribution imposed by the law of February 14th, and the restoration of the *statu quo* previous to the execution of this law. Without this condition the arbitrator could not pronounce upon the meaning and application which should be given to article 4th of the treaty, but upon facts realized as irrevocable and for which, reparation would be difficult, if not impossible. «My Government», said the Chilian Minister on this occasion, «charges me to manifest to that of Your Excellency, that by accepting the indication which has been made to me, it is disposed to continue

the discussion interrupted by the order to execute the law of February 14th, and to form the arbitration in case of a direct agreement not being possible.»

«But my Government acts thus in the persuasion that that of Your Excellency proposes, on its part to give immediate orders for the suspension of the execution of the law and that things may be re-established in the state they were in before the decree of December 18th, since this is a logical consequence of the proposal of arbitration made by Your Excellency. Bolivia has contradicted the stipulations of the treaty of 1874, by making innovations in the tributary system existing on the coast at the date of that compact; consequently, the suspension of the decree which ordained that the new impost should be put into effect, is an essential prerequisite to reassuming the discussion or to initiating the proceedings conducent to the constitution of the arbitral tribunal.»

«But this situation, so uncertain and so full of perils cannot be «prolonged much more without occasioning considerable prejudices to both nations; such an uncertainty must disappear as soon «as possible and that it may be so done it is necessary that the «Government of Bolivia let its thoughts be known as soon as «possible. I therefore beg your Excellency, that whatever may «be the definitive resolution which your Government may adopt «in view of the present note, your will be pleased to communicate «it to me before the 23 of the present month, because on that «day I must transmit it to my Government, which awaits with «intense interest the denouement of this most grave question.»

The Chilean representative waited in vain till the 24th of December, the reply solicited from the Government of Bolivia, he awaited it even until the 20th of that month; but it was not to arrive neither then nor now. It appears that it had on reflection been resolved to carry out to an incredible extent, the series of proceedings against Chili so provoking and outrageous to her dignity.

Instead of welcoming the arbitration with sincerity, or of pronouncing openly against it, the Government prefers to maintain the representative of Chili in a deceitful doubt, which will permit them to realize without impediment, their plans of spoliation on the coast, and has sent secret instructions to that effect to the authorities of Antofagasta.

The Government of Chili has learned with astonishment that the Saltpetre Company which has seen its properties and industrial establishments taken in execution, their operations paralyzed, its two thousand Chilean operatives put in alarm, for they are

threatened with the deprivation of subsistence, has at last just received a notification that on the 14th of February, its valuable properties, the fruits of ten years of incessant and costly sacrifices, will be put up to public auction.

And lastly, a telegram received from the legation of Bolivia on the 11th instant, the Government of Chili is informed that the Government of that Republic has just issued a decree despoiling the Chilian Saltpetre Company of their rights and properties, and declaring itself exclusive owner of those goods, the value of which probably amounts to more than six millions of dollars.

In respect to this, your Excellency will observe and be surprised to learn, that at while issuing this illegal decree, destitute of every elementary principle of justice, the Cabinet of La Paz, abstains absolutely from the reclamation deduced by Chili and seems to believe, with malicious premeditation that it is only incumbent upon it to settle a private question between the Government of Bolivia and the Saltpetre and Antofagasta Railroad Company, and yet to point the injury more strongly, this Government declares that it suspends the law which imposed upon the above mentioned company an impost upon the same document in which it declares itself owner of the saltpetre beds.

Your Excellency will again have to be surprised reflecting that the Government of Bolivia has politically and administratively decided a controversy, which in the denied case of having been a mere private matter, was and ought to be in the exclusive jurisdiction of the courts of justice, and care taken that its decisions should be subjected to the tutelary guaranties of judicial procedure. Nothing of this appears has been respected by the Cabinet of La Paz; which violating the most primordial notions of universal jurisprudences, constitutes itself judge or tribunal of the bounds, and pronounces a verdict upon a bi-lateral contract in which it figures as a contracting party, and in which is involved a grave international question.

The Chilian Chancery reclaimed and asked the definitive suspension of the decrees under the influence of which it was attempted to appropriate, under cover of an impost, Chilian industry and capital, in contravention to the treaty of 1874, and the Government of Bolivia suspends the partial spoliation and ordains it in the mass, and declares itself possessor and owner of the goods of our fellow citizens, invoking only its avarice and its power. And still, after this unjustifiable act is resolved upon, the Chilian Minister, dominating the noble impulses of his soul, asks its revocation, and acts with the most solicitous anxiety to

obtain permission that it may be submitted to arbitrators, without being able to attain his object.

In the presence of such unheard-of facts, facts of which the history of civilized nations has, heretofore, furnished no example, there remained no other road to place in safety the interests of Chilians and the dignity of their country.

In consequence, his Excellency the President ordered, that some land and naval forces should immediately embark for the desert of Atacama, and hoist the standard of Chili in the territories she possessed prior to negotiating with Bolivia those treaties which she had broken with purposes as unrighteous as hostile.

Fifty hours later, the Chilian law ruled in that region, placing under its protection the interests of Chilians and foreigners, without the shedding of a single drop of blood and amidst the patriotic enthusiasm of a reunited people.

In executing this resolution, Chile considers that she is putting into practice natural attributes inherent to her sovereignty, without the interests of South Americans being considered as thereby affected. This Republic which has respected those interest with generous earnestness, will never attempt to injure them; but it will ever maintaind with lofty spirit its rights and prerogatives of an independent nation and master of her acts.

The Chilian nation, a lover of conciliation, anxiously desirous of maintaining peace and union in South America, did for their sakes all that was possible and as worthy; but a solemn compact being violated, her amicable reclamations being unheeded in a manner unused in international relations, and convinced that Bolivia neither had offered nor could offer for the future, efficacious guaranties to the Chilian colonies which had created cities in the desert, has considered as a duty to re-assume all the rights which she peaceably possessed before the compact of 1866, and will know how to maintain them with that firmness which is inherent in her sons, whatever may be the emergencies that may supervene.

I avail myself of this opportunity of offering to your Excellency the homage of my sentiments of high consideration, with which I am your Excellency's obedient and humble servant.

ALEXANDER FIERRO.