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Delegation, which, in the same way as it did last year, has so frequently clarified doubtful matters and averted misunderstandings through the agency of its three wise interpreters; we owe it to the spirit of conciliation that has been shown by the French, British and Italian Delegates; we owe it above all—if I may say so, Swiss though I am—to the admirable talent of our valued President, Mr. Droz, who has so ably conducted our debates and who has always found a way out of awkward situations and a wording for resolutions that are satisfactory to all.

‘While commending you on your work, I take the liberty of thanking you, Gentlemen, *in the name of legal science and in the name of the law faculties of our four Universities of Zurich, Berne, Basle and Geneva.* Science is always receiving new impetus from life. I believe that I am perfectly in tune with my distinguished counterparts from Berlin and Paris, Dr. Dambach and Mr. Renault, when I state that we have really taken a step forward in international law. However, it is no more than the first step towards the aim to which we are all striving, namely the international codification of the law on the protection of literary and artistic works.

I also thank you, Gentlemen, *in the name of my country.* Switzerland is honoured and pleased to be the headquarters of a number of

international bureaux and thereby, as a neutral territory, to become the center of all the aspirations that make for progress, peace and brotherhood between the various peoples. Switzerland and itself has the utmost interest in cultivating and protecting international law, which guarantees to the weaker, smaller States the same rights and the same position as the major Powers.

‘Gentlemen, I wish you a pleasant return to your countries and to your homes. May you keep a favourable memory of Switzerland and of your Swiss colleagues!’

The minutes of the present meeting were immediately read and adopted.

The **President** addressed a few words of farewell to the delegates, and pronounced the Conference closed.

The meeting rose at 12.30 p.m.

IN THE NAME OF THE
CONFERENCE:

NUMA DROZ

President

CHARLES SOLDAN

BERNARD FREY

Secretaries

Records of the Third International Conference for the Protection of Literary and Artistic Works

Convened in Berne September 6 to 9, 1886

MINUTES
OF THE
FIRST MEETING
OF THE
CONFERENCE FOR THE
PROTECTION
OF LITERARY AND

ARTISTIC WORKS

September 6, 1886

The meeting was opened at 11.10 a.m., in the hall of the Council of States.

The following were present:

Belgium: H.E. Mr. Maurice Delfosse,
Envoy Extraordinary and

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|-----------------------|---|--------------------------------------|--|
| | Minister Plenipotentiary,
Berne. | | of la Almina , Envoy
Extraordinary and
Minister Plenipotentiary
of Spain, Berne. |
| France: | H.E. Mr. Emmanuel Arago ,
Senator, Ambassador of
the French Republic to
the Swiss Confederation,
Berne. | | Don José Villa-Amil y Castro ,
Head of the Intellectual
Property Department of
the Ministry of Public
Education. |
| Germany: | H.E. Mr. Otto von Bülow ,
Private Legation Coun-
sellor in Office and
Chamberlain to H.M.
the Emperor of Germany
and King of Prussia,
Envoy Extraordinary and
Minister Plenipotentiary
to the Swiss Confedera-
tion, Berne. | Switzerland: | Federal Councillor Numa
Droz , Vice-President of
the Federal Council,
Head of the Department
of Commerce and
Agriculture.
Federal Councillor Louis
Ruchonnet , Head of the
Department of Justice
and Police. |
| Great Britain: | H.E. Sir Francis O. Adams ,
K. C. M. G., C. B., Envoy
Extraordinary and Minister
Plenipotentiary of Her
Britannic Majesty, Berne.
Mr. J. H. G. Bergne ,
C.M.G., Director at the
Foreign Office, London. | | Mr. A. d'Orelli , Professor of
Law at the University of
Zurich. |
| Haiti: | Mr. Louis-Joseph
Janvier , Doctor of
Medicine of the Paris
Faculty, diplomate of
the Paris Medical
Faculty, diplomate of
the School of Political
Science of Paris (admin-
istrative section and
diplomatic section). | Tunisia: | Mr. Louis Renault , Professor
at the Law Faculty of
Paris and at the Free
School of Political
Science. |
| | | United States
of America: | Mr. Boyd Winchester ,
Resident Minister and
Consul General of the
United States of
America, Berne. |
| Italy: | Mr. C. E. di Beccaria dei
Marchesi d'Incisa , chargé
d'affaires of H.M. the
King of Italy to the Swiss
Confederation, Berne. | | Federal Councillor Numa Droz opened the
meeting with the following address:
'Gentlemen,
'It was three years ago that there was held, in
this hall, under the auspices of the
International Literary and Artistic Association,
a meeting of men of letters, artists and legal
experts of various countries, the purpose of
which was to study the basis on which a univer-
sal convention for the protection of authors'
rights could be founded. A draft was drawn up
by common consent and submitted to the
Swiss Federal Council, which agreed to take
upon itself the mission of communicating it to
the Governments of the other States, and
which at the same time took the initiative of a
Diplomatic Conference for the establishment
of an International Union similar to those
already existing in other spheres, notably in |
| Japan: | Mr. Kurokawa , Counsellor of
the Legation of Japan
in Rome, Delegate <i>ad
audiendum</i> . | | |
| Liberia: | Mr. Guillaume Koentzer ,
Imperial Counsellor,
Consul General of the
Republic of Liberia,
member of the Chamber
of Commerce of Vienna. | | |
| Spain: | H.E. Senator Don Melchior
Sangro y Rueda , Count | | |

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connection with the protection of industrial property.

‘This initiative was generally well received. The following year, on September 8, 1884, I had the honour of welcoming here, in the name of the Federal Council, representatives of Austria-Hungary, Belgium, Costa Rica, France, Germany, Great Britain, Haiti, the Netherlands, El Salvador, Sweden and Norway and Switzerland. Other States that had declared their sympathy towards their projected work had been unable, owing to various circumstances, to send their delegates to Berne.

‘The Federal Government had substituted for the rudimentary draft by the International Literary and Artistic Association a more complete programme, which was elaborated on further by the Conference. A draft Convention emerged from these strenuous deliberations; it, together with final minutes signed by all the delegates present, were transmitted by the Federal Council to the Governments of all civilized countries, with the request that they examine it and give final instructions to their delegates for a new Conference.

‘On September 7, 1885, we had the pleasure of greeting the representatives of the following countries: Belgium, France, Germany, Great Britain, Italy, Haiti, Honduras, the Netherlands, Spain, Sweden and Norway, Switzerland, Tunisia and the United States of America.

‘The work had made rapid progress in the minds of those concerned. In fact, the more the moment of concluding approached, the more the difficulty of general agreement grew. The most advanced countries in the field of the protection of literary and artistic works naturally wished for international codification that corresponded as closely as possible to their ideals. Others declared themselves unable to go so far at one stroke. Moreover, each country was attached to certain peculiarities of its domestic legislation and objected to sacrificing too great a portion of its autonomy. The work of the Conference had to be even more painstaking, more intense than the first time. Mutual concessions had to be made; and when, after a great number of meetings, agreement was eventually reached, we had the impression of having drawn up a Convention that

deserved to be approved by all concerned as an example of genuine progress, which wisely took account of the possibilities of the time, granting authors real protection, and capable, without substantive reworking, of being improved as experience and future developments might dictate. It was unanimously recognized that the text eventually drawn up had to be final, and consequently not susceptible of amendment.

‘Today, Gentlemen, you as Plenipotentiaries are called upon to convert this draft Convention into a diplomatic instrument with your signatures. Allow me to pay a well-deserved tribute to all those, both present and absent, who have collaborated effectively in the making of this important treaty, which is destined to stimulate the intellectual effort of mankind through the legitimate protection of his work.

‘Yes, Gentlemen, the achievement of this satisfactory result made demands on the legal expertise, the practical skills, the spirit of conciliation and the conscientious, hard work of the delegates at the two Diplomatic Conferences that preceded this one. To be fair, I should name each one of them and indicate what part he played in the overall or detailed discussions. Yet I feel obliged to confine myself to addressing our thanks to them collectively, nevertheless asking your permission to give a special mention to the eminent services rendered in the course of this work by certain of our colleagues.

‘We were pleased to have as our sole Vice-President for the previous Conferences His Excellency Mr. Emmanuel Arago, Ambassador of France, whom Counsellor Reichardt, the Delegate of Germany, had nominated for that post, “as a tribute,” he said, “not only to a distinguished person and supporter of our work but also to France, which has always been among the first to lend its powerful support whenever the protection of copyright has needed to be proclaimed, publicized or perfected.” Mr. Arago brought to the post a most gracious and conciliatory spirit: he strove to bring about the acceptance—and indeed fully succeeded in doing so—of such solutions as were most apt to win collective approval, and applied himself to restraining, both here and outside, that impatience that could have compromised the very success of the Convention,

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and this to the greater detriment of authors whose works we wish to see protected in the greatest possible number of countries.

‘Very special credit is also due to the British Delegate, His Excellency Sir Francis Adams and his colleague Mr. Bergne, head of the Treaty Department of the Foreign Office. The accession of Great Britain was of paramount importance to the success of the Union, yet almost insurmountable obstacles attributable to the state of its domestic legislation seemed liable to dash all hopes of including that country among the immediate signatories of the Convention. However, last year, Sir Francis and Mr. Bergne gave us assurances that they would neglect no opportunity of bringing closer the moment of British accession. They have shewn that there was little space in their dictionary for the word “impossible,” for today they have brought us not only the accession of Great Britain but also that of its colonies, representing a total population of more than 300 million souls. This magnificent result is due to hard work, to perseverance and to a sureness of eye for which today we address our most sincere congratulations to our two colleagues.

‘As constituted in its initial stages, Gentlemen, the International Union for the Protection of Literary and Artistic Works represents a substantial portion of mankind. It will govern authors’ rights in a territory comprising approximately 500 million inhabitants. In Europe it encompasses the main countries that produce literary and artistic works, and soon, we sincerely hope, it will also register the accession of the United States of America, which occupies such a distinguished position in this connection: the declaration of support contained in a recent message from President Cleveland, and the presence in our midst of Minister Winchester give us confidence that this will soon come to pass.

‘Of the States that have remained outside, we regret to see that they include all those of Slavonic language. And yet the literary and artistic movement is growing more and more in those countries and is attracting interested attention on the part of peoples of more ancient culture. We should like to think that the day is not far off when their Governments

will recognize that the protection of authors’ rights is one of the best means of developing letters and the arts, which are the source of all civilization and the way to all real greatness.

‘We also regret not seeing the representatives of two countries that took part in the previous Conferences, namely Austria-Hungary and the Netherlands; however, the state of their legislation does not allow them to accede at the present time. They will no doubt lose no time in joining us.

‘So far we have no news of Sweden and Norway, whose representatives played a prominent part in the previous Conferences.

‘We imagined that it was merely a question of delay and that, if those countries were not to figure among the signatories of the Convention, they would be the first to accede to it. Our surmise was fully confirmed by a communication from the Ministry of Foreign Affairs of Stockholm, received this very morning, from which I quote the following passage:

‘As it has not been possible to complete the necessary legislative work either in Sweden or in Norway in the 1885 parliamentary session, the Government of the King regrets that it is unable to take part in the new Conference, but it wishes to address to the Federal Council, and through it to the States represented at the Conference, its firm hope that it will be able, before the expiry of the period set for the exchange of ratifications, to accede to the provisions of the Convention and its attachments.’

‘Finally, some States have declared that the Convention was a matter of no interest to them, that they had no national literature and that they wished to be able to profit freely by the intellectual products of others. For my part I think that those States are on the wrong track, and that they are misguided as to their real interests. By recognizing authors’ rights, they would encourage national production and would cease to be simply the dependants of other peoples and to be subjected exclusively to intellectual influences from outside; soon ideas would be exchanged between them and us that would benefit both, as letters and the arts need to be incessantly renewed: modern man is becoming more and more accustomed to seek food for his mind as well as for his body in all

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parts of the world and in all climates, and who knows what treasures could be revealed by the literary and artistic genius of new peoples, if it were sufficiently stimulated and supported?

'Be that as it may, Gentlemen, we ourselves can trust in the future of our work. It is the solemn consecration of a principle of law and justice, and its effect is to tighten the bonds that should unite mankind, apart from which it will certainly contribute to the encouragement and multiplication of the noblest products of human ingenuity; in all these respects, therefore, it is a work of civilization that does honour to our time.

'Switzerland is proud, Gentlemen, to have presided over the development of this work and to have been considered worthy by you of proceeding more directly with its realization by becoming the headquarters of the international body that is to serve as the centre of the Union. I wish to address to you our heartfelt gratitude, and in the name of our people I am pleased to salute the new creation, the offspring of an ideal and the future mother of further progress, which is going to emerge from this Conference.

'I declare this Conference open, and request you as to be so kind as to constitute yourselves, first by appointing a President.'

H.E. Mr. **Emmanuel Arago** replied in the following terms:

'We all expected that the distinguished speaker whom we have just heard, when expressing his kind memories of the hard-worked International Conferences of 1884 and 1885, would not fail to overlook almost completely the one who so wisely conducted their useful work. I feel therefore that we should remedy that oversight unanimously; and we could not do that better than by electing Federal Councillor NUMA DROZ once again President of our meeting by acclamation.'

Mr. **Droz** accepted and thanked the Delegates.

H.E. Mr. **Otto von Bülow**, proposed that H.E. Mr. **Emmanuel Arago** should be appointed to the sole Vice-Presidency of the Conference, as he had been in previous years.

This proposal was adopted by acclamation.

H.E. Mr. **Emmanuel Arago** accepted and addressed his thanks to the Assembly.

Sir **F. O. Adams** addressed the Conference in the following terms:

'I first wish to thank you most sincerely, on behalf of the British Delegation, for the excessively complimentary words that you were kind enough to say about us. All that we can say for certain is that we have done our best to achieve the object of our wishes, which is indeed now on the point of attaining fruition.

'In the second declaration that I made to the 1885 Conference, I thanked my distinguished colleagues for the genuine spirit of conciliation that they had shewn when they gave their consent to amendments proposed by the British Delegation with a view to facilitating our task in our dealings with Her Majesty's Government. The report drawn up by Mr. **Bergne** and myself, which was published in the British Blue Book, records that we emphatically recommended to our Government that it should make the necessary amendments to the country's legislation to enable Great Britain to become one of the original signatories of the International Convention. The Conferences that took place at the Foreign Office in London during the first months of this year, under the chairmanship of Mr. **BRYCE**, then Under-Secretary of State, resulted in strenuous discussions, but they did eventually finish satisfactorily, and the draft legislation that resulted has been adopted by the two Houses of Parliament without serious opposition. The Queen has graciously given her assent. As for the British colonies, they wasted no time in giving their support to the draft legislation, one after the other.

'So at the present time, Gentlemen, the task of all of us is about to be completed; our last act will be the signature of this International Convention, under which we will be setting up a new Union which, we hope and trust, will take on ever broader proportions from year to year, until such time as it gathers together all the civilized nations of the world, and thereby becomes not just an *international* but a *universal* Union.

'That, Gentlemen, is I think our collective wish, pleased as we are to be the founders of a real work for peace.

'This work for peace is going to tighten the bonds between nations. There will be one more

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Union with its headquarters in Berne, in Switzerland whose position of neutrality has gradually turned it, with the sincere consent of other peoples, into the “*home of international unions.*”

The **President** presented the Secretaries in the persons of Mr. CHARLES SOLDAN, Judge at the Cantonal Tribunal of Vaud in Lausanne, and Mr. BERNARD FREY, Secretary of the International Bureau of Industrial Property in Berne.

On a proposal by the **President**, the presentation of credentials was postponed to a later meeting.

The assembly proceeded to the discussion of the addition proposed by the Swiss Federal Council to the first paragraph of Article 7 of the draft Convention, shown in italics in the text below:

‘Articles from newspapers or periodical journals published in one of the countries of the Union may be reproduced, in the original or in translation, *in the other countries of the Union*, except where the authors or publishers thereof have expressly prohibited it. For journals, it may be sufficient for the prohibition to be stated in a general way at the head of each issue of the journal.’

The **President** pointed out that the above words, which were in the draft adopted in 1884, had been omitted in the text adopted the previous year, but that their absence could present drawbacks.

H.E. Mr. **Otto von Bülow** was of the opinion that the addition was not absolutely necessary to clarify the scope of Article 7, and recalled that it had been agreed the previous year that nothing would be changed in the 1885 draft. He added that he had instructions to vote against the proposed edition.

Sir **Francis Adams** declared that he could accept the amendment.

Mr. **Renault** and Mr. **di Beccaria** made the same declaration with regard to themselves.

The **President** put the proposed addition to the vote, which was adopted by all except Germany.

The Conference embarked on the Declaration proposed by France, which was worded as follows:

‘In view of the fact that some doubts have arisen regarding the meaning of Articles 5, 7, 9

and 10 of the Convention concluded this day, the undersigned Plenipotentiaries have recognized that they required clarification, and to that end have, by common consent, adopted the following declaration:

“(1) The second paragraph of Article 5 is applicable to serialized novels.

“(2) As serialized novels take the form less of a newspaper article than of a literary work published in a special manner, it is understood that, with regard to their reproduction, either in the original or in translation, they are governed not by Article 7 but by Articles 2, 5, 10 and 11 of the Convention concluded this day.

“(3) The right of publication of dramatic and dramatico-musical works, either in the original or in translation, and the right of performance of such works, either in the original or in translation, are entirely distinct one from the other; consequently, the publication of such a work does not authorize any person to perform without the consent of its author, any more than performance authorizes publication.

“(4) Unauthorized indirect appropriations, which Article 10 declares to be unlawful reproductions, include especially dramatization, that is, the transformation of a novel into a play, or vice versa.”

Mr. **di Beccaria** said that Italy considered the first three items of the Declaration to be purely explanatory, and therefore unnecessary; as for the fourth item, however, it regarded it as entailing an amendment of the Convention, and therefore did not feel able to accede to it, lest a result already achieved should have to be rediscussed.

H.E. Mr. **Emmanuel Arago**, faced with the opposition of the Delegate of Italy, and with a view to securing unanimous signature, announced that he withdrew the draft Declaration.

Mr. **Renault** made the following statement:

‘The French Government regarded its draft Declaration as not making even the slightest amendment to the Convention, but as doing no more than formulate expressly solutions that were already written into it. Its purpose was to enlighten the numerous persons concerned (men of letters, newspaper or magazine editors, etc.) who would have to comply with or invoke the treaty. We consider that only a

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few words would be sufficient to show that the proposed solutions derive from the Convention and from the deliberations that prepared for it; we are pleased to note that the Federal Council, which is well placed in every respect to know the text and the spirit of the provisions drawn up last year, recommended the adoption of our draft Declaration when it communicated it to the contracting Governments. Faced as we are by the doubts and misgivings expressed by the representatives of a number of countries, we should reopen the discussion; yet we do not want to. We shall abide by the undertaking made last year to consider the discussions closed; moreover, we wish to bring about as soon as possible the final conclusion of the treaty that is going to set up the International Union for the Protection of Literary and Artistic Works. While fully defending the position taken up by the French Government when it proposed its draft, we therefore feel obliged to withdraw it in order to avoid delaying the signature of the Convention.'

Mr. **Bergne** made the following statements:

'In the light of the observations made by Mr. Renault, it seems appropriate to me to explain the position of Great Britain regarding the Declaration proposed by France.

'It was not possible during the last session of Parliament to present a Bill for the complete codification of our legislation on literary and artistic property. We had to confine ourselves to effecting the adoption of a law introducing amendments such as would enable Great Britain to join the International Union.

'Under our present legislation, it is possible to perform on stage a novel dramatized without the consent of the author; one cannot, however, publish the dramatization as a book.

'We are prepared to recommend to our Government that, should draft legislation for the codification of the present law be later presented to the British Parliament, it include a clause prohibiting the performance as well as the publication of an unauthorized dramatization of a novel; clearly however, given the present state of our domestic legislation, we cannot today sign a Declaration to that effect.

'As for the principles set out in the first three paragraphs, our Government has no objection

to them: it considers them to be purely explanatory.'

H.E. Mr. **Otto von Bülow** declared for his part that his Government considered the draft Declaration to be not fully in conformity with the 1885 Convention, and that he would have had to vote against the French proposal if it had been maintained.

In view of the withdrawal of the proposed Declaration, it was not voted upon.

The **President** mentioned that the blank left in item 6 of the draft Final Protocol had to be filled, and opened discussions on the setting of the date and place of the next Conference, and also on the following proposal made by the British Delegation:

'The next meeting of the Conference shall take place within ten years following the signature of the Convention, unless all of the signatory Powers jointly request that such meeting take place at an earlier date.'

Sir **Francis Adams** explained the proposal in the following terms:

'The British Delegation has been entrusted by its Government with making the proposal before you on the subject of the date on which it would be appropriate to convene the next Conference.

'The reasons are as follows:

'Our Government considers that revisions of the Convention that might call for amendment of the domestic law of Contracting States should not take place too frequently.

'If the state of things introduced by the present Convention is not allowed to prevail for quite a considerable period, it will never be possible to ascertain precisely what changes should be incorporated in it. Every addition or amendment to the Convention would require corresponding changes in the law of certain Contracting States if the Union were to continue to be a harmonization of principles. Quite considerable difficulties could result.

'In Great Britain, for instance, we have succeeded, not without considerable difficulty, in effecting the adoption of a law based on the actual text of the Convention, and it will be impossible to go back on the provisions of that law before a quite considerable time has passed.

'In our opinion it would be very beneficial to allow the Convention to subsist as it is now for a period of ten years following signature, in

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order that the laws of each State may be assured of sufficient stability in relation to it.

'If, however, in the intervening period, four signatory powers should jointly request the convening of the Conference at an earlier date, our Government would be willing to accede to their opinion.'

H.E. Mr. **Otto von Bülow** declared his acceptance of the above proposal, subject to the following addition:

'However, no such request may be formulated until four years have elapsed following signature of the Convention.'

On behalf of the British Delegation, Sir **Francis Adams** endorsed the above proposal.

Mr. **Renault** objected to the setting of such a remote time limit. While understanding the proposal made by Great Britain, which had just amended its domestic legislation, he considered that that country was sufficiently protected against the eventuality of a revision of the Convention that might run counter to its wishes by the third paragraph of Article 17, according to which no change to the Convention would be valid for the Union as a whole unless it won the unanimous consent of the countries constituting it. He considered that there was no ground for departing from what had been done in that connection by other international unions. The setting of the next Conference at an early date had the twofold advantage of encouraging signatory countries to implement the Convention, and of inducing other States to take advantage of the convening of the Conference to effect their accession to the Union. Those arguments were all the more applicable to the German proposal, which would block the convening of a new Conference, even if the contracting countries were virtually unanimous in considering it necessary. Consequently, Mr. Renault proposed rejecting the British proposal, and setting the date of the next meeting at the present time.

Mr. **Ruchonnet** also considered that a date should be set, but that it should not be an early one in order to avoid the convening of the Conference before a sufficient amount of experience had provided it with subject matter for its work. He proposed setting the date of the next Conference in 1892.

H.E. Mr. **Emmanuel Arago** and Mr. **Renault**, while agreeing to the above date, asked that a majority of the countries of the Union be allowed to decide on the convening of the Conference at an earlier date.

The **President** pointed out that it was preferable to take as the starting point the date of entry into force of the Convention rather than the date of signature, as did the British and German proposals. In order to satisfy all the various opinions expressed, he proposed saying that the next Conference would take place within a period of four to six years from the entry into force of the Convention, and that its date would be set, within those limits, by the Government of the country in which it was to take place on the prior advice of the International Bureau.

The Conference unanimously adopted the above proposal, then decided, also unanimously, on a proposal by Sir **Francis Adams**, that the next meeting would take place in Paris.

Consequently, item 6 of the Final Protocol was worded as follows:

'The next Conference shall be held at Paris between four and six years from the date of the coming into force of the Convention.'

'The French Government will fix the date within these limits after having consulted the International Bureau.'

H.E. Mr. **Maurice Delfosse** regarded it as fully understood that the amendments that the Conference might later make to the Convention, if they were to be binding on all the countries of the Union, would have to be written into Conventions concluded in the same diplomatic form as that which was about to be signed, and subjected to the same ratification procedure as it.

The Conference declared its agreement with this view.

On a proposal by the **President** it was agreed that a Record of Signature would be drawn up, that it would be signed and printed separately from the text of the Convention, and that it would contain the declarations regarding the accession of colonies and the classification of the Contracting States according to their contributions to the expenses of the International Bureau. Moreover, in order to avoid unnecessary

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work the Conference decided that the seals of the Plenipotentiaries would be affixed only at the foot of the Convention, and not on the attachments.

The Conference then verified the enumeration and designation of the contracting parties.

Mr. **Winchester** took this opportunity to make the following statement:

‘Mr. President, Delegates,

‘In a circular from the Swiss Federal Council the Government of the United States of America was invited, as were the other Powers represented at the literary conference that took place in this city in September 1885, to confer on a delegate the necessary instructions and powers for attendance of this Conference and for the signature, on behalf of his country, of the International Convention for the Protection of Literary and Artistic Works, the text of which had been drawn up *ad referendum* by the Conference of the previous year.

‘Once again, the Government of the United States of America does not feel bound to be represented by a delegate with full powers: it feels obliged to abstain from participation as a signatory in the International Convention resulting from the 1885 deliberations, and from contributing thereby, as far as it is itself concerned, in the transformation of this draft Convention into a diplomatic instrument. However, as a testimony of its sympathy for the principle of the international protection of literary and artistic works, the Government of the United States of America wishes, with the agreement of the Conference, to be represented within it, and it has done me the honour of delegating me for the purpose. My presence will nevertheless be subject to the recognition and acceptance of my position of Delegate without full powers, and also of the right for the United States of America, which will not at the present time become a contracting party to the projected Convention, to accede to it later by virtue of the provisions of Article 18, according to which “countries that have not become party to the present Convention and provide in their domestic laws for the protection of the rights to which this Convention refers shall be allowed to accede thereto at their request.” Even though it is prevented from taking part in the Convention as a signatory, my Government

wishes that it should by no means be considered, for that reason, to be opposed to the measure concerned; on the contrary, it is intent on keeping intact its right to accede to the Convention later, if it should appear expedient to do so. And, should the question arise whether the participation of the United States of America in the Conference, within the restricted limits that I have just mentioned, was sufficient to exclude that country from those “that have not become party” to the Convention, and thereby to deprive it of the right to accede to the Convention later, it may be helpful to underline the fact that my Government does not intend to have any part in the outcome of the Conference, in the sense of either acceptance or rejection of the proposed text. The attitude of the United States of America is one of cautious expectation. The Constitution of our country mentions, among the prerogatives expressly reserved to the Congress, the “power to promote the progress of science and the useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries,” which means that the initiative for action to be taken and the setting of limits to be respected in that regard are dependent on the legislative authority rather than the Executive. Authors’ rights and patents are placed on the same footing by Federal legislation, and the Executive cannot lose sight of the fact that questions concerning literary property are always pending before the legislative authority, or misconstrue the constitutional right belonging to the latter to conclude international treaties on this important subject. The question of the international protection of authors’ rights is of great importance to the United States of America: how many nations could accord more interest to it than this conglomeration of 60 million people, distinguished as it is by an active and enlightened intellectual movement? Therefore, without wishing to encroach upon the constitutional prerogative of Congress, which consists in drawing up legislation on authors’ rights and laying down the rights of both foreigners and nationals, who are also under its jurisdiction, the Executive expresses its emphatic and full agreement with the principles written into the

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projected Convention. It also hopes that the time is no longer far off when the property rights in creations of the mind may be ensured everywhere, in such a way as to give equal satisfaction to the requirements of the author and to the right of every man to profit by the dissemination of ideas. The man who applies his brain to creation is entitled to lawful and full remuneration, that being a principle founded on a quite natural sentiment of equity. Up to a point, literary property has been recognized at all times and is today guaranteed by the domestic legislation of almost all States. That right has to be recognized and guaranteed without any distinction as to nationality and regardless of political frontiers. Thanks to the persistent efforts of the Government of the Swiss Confederation, which has so effectively taken the initiative in this movement, and thanks also to the patient and intelligent work of the Conferences that it has convened in this city, the protection of works of literature and art, which has been delayed without reason for so long, is henceforth assured by virtue of a uniform, effective and complete international Convention. That is a result for which we congratulate the Federal Government, and which does it the greatest honour.'

The **President** thanked Mr. Winchester for his statement and assured him, in the name of the Conference, that the accession of the United States of America would be received with the greatest pleasure by all the Contracting States. With regard to the scope of Article 18 of the Convention, to which Mr. Winchester had referred, it did indeed provide for accession on the part of only those States that were not party to the Convention; that, however, could not be allowed to prevent the United States of America from later entering the Union, as, by delegating Mr. Winchester with the limited powers that he had just mentioned, it had taken part in the *Conference*, and not in the *Convention*.

Mr. **Koentzer**, for his part, said that he was authorized to sign the Convention, but that, having no instructions as to the class in which the Republic of Liberia wished to be placed, he would make a reservation to that effect in the Record of Signature.

The meeting rose at 1 p.m.

IN THE NAME OF THE
CONFERENCE:

NUMA DROZ

President

CHARLES SOLDAN

BERNARD FREY

Secretaries

MINUTES

OF THE

SECOND MEETING

OF THE

CONFERENCE FOR THE
PROTECTION OF LITERARY AND
ARTISTIC WORKS

September 7, 1886

**Presided over by Federal Councillor
Numa Droz, President**

The meeting opened at 5.15 p.m.

The delegates who had attended the previous meeting were present.

The Conference proceeded to collate the proofs of the Convention and its attachments, which were found to be in conformity with what had been adopted.

According to what had been agreed the previous day, the **President** invited the delegates to make the statements that were to be set down in the Record of Signature.

With regard to the accession to the Convention of colonies or foreign possessions of contracting countries, the **Count of la Almira** reserved to his Government the right to make its decision known at the time of the exchange of ratifications.

H.E. Mr. **Emmanuel Arago** announced that the accession of France constituted accession by all its colonies.

For his part, **Sir Francis Adams** declared that the accession of Great Britain to the Convention included the United Kingdom of Great Britain and Ireland and all the colonies

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and foreign possessions of Her Britannic Majesty. However, the British Government reserved the right to notify the denunciation thereof at any time, separately and for either one or more of the following colonies or possessions, in the manner provided for in Article 20 of the Convention: India, The Dominion of Canada, Newfoundland, Cape Colony, Natal, New South Wales, Victoria, Queensland, Tasmania, South Australia, Western Australia and New Zealand.

With regard to the classification of the countries of the Union for the purposes of their contributions to the expenses of the International Bureau, the Delegates declared that their countries were to be placed in the following classes:

- Class 1: France, Germany, Great Britain, Italy;
- Class 1: Spain;
- Class 3: Belgium, Switzerland;
- Class 5: Haiti;
- Class 6: Tunisia.

Mr. **Koentzer** declared that the powers that he had received from the Government of Liberia authorized him to sign the Convention, but that he had received no instructions regarding the class in which that country intended to be placed for the purposes of its contributions to the expenses of the International Bureau. Consequently he reserved his Government's decision on that question, which it would make known at the time of its ratification.

The text of the Record of Signature reflecting the above statements was immediately adopted.

The Plenipotentiaries then presented their full powers to the secretariat, which were found to be in due form.

The meeting rose at 6.30 p.m.

IN THE NAME OF THE
CONFERENCE:

NUMA DROZ

President

CHARLES SOLDAN

BERNARD FREY

Secretaries

MINUTES
OF THE
THIRD MEETING
OF THE

CONFERENCE FOR THE
PROTECTION OF LITERARY AND
ARTISTIC WORKS

September 9, 1886

Presided over by Federal Councillor Numa
Droz, President

The meeting opened at 11.30 a.m.

All the members of the Conference were present.

At the invitation of the **President**, the delegates proceeded to sign the Convention and its attachments, and also the Record of Signature, the text of those documents having been read and approved by the assembly at the previous meeting.

The Delegates of Spain had just received from their Government authorization to accede to the Convention and to its attachments on behalf of all the territories dependent on the Spanish Crown, so the Conference noted this declaration and asked the Spanish Delegates to request their Government to renew it at the time of the exchange of ratifications.

The minutes of the first and second meetings, which had been distributed to the delegates in draft form, were then read and adopted, as were these minutes.

The **President** addressed a few words of farewell to the delegates, after which the meeting rose at 12.30 p.m.

IN THE NAME OF THE
CONFERENCE:

NUMA DROZ

President

CHARLES SOLDAN

BERNARD FREY

Secretaries