

JUDICIAL PROCEDURE

Protocol signed at Madrid January 12, 1877

Entered into force January 12, 1877

*Terminated April 14, 1903, by treaty of July 3, 1902*¹

Treaty Series 331

PROTOCOL OF A CONFERENCE HELD AT MADRID, ON THE 12TH OF JANUARY, 1877, BETWEEN THE HONORABLE CALEB CUSHING, MINISTER PLENI-POTENTIARY OF THE UNITED STATES OF AMERICA, AND HIS EXCEL-LENCY SEÑOR DON FERNANDO CALDERON Y COLLANTES, MINISTER OF STATE OF HIS MAJESTY THE KING OF SPAIN

The respective parties, mutually desiring to terminate amicably all controversy as to the effect of existing treaties in certain matters of judicial procedure, and for the reasons set forth and representations exchanged in various notes and previous conferences, proceeded to make declaration on both sides as to the understanding of the two Governments in the premises, and respecting the true application of said treaties.

Señor Calderon y Collantes declared as follows:

1. No citizen of the United States residing in Spain, her adjacent islands, or her ultramarine possessions, charged with acts of sedition, treason or conspiracy against the institutions, the public security, the integrity of the territory or against the Supreme Government, or any other crime whatsoever, shall be subject to trial by any exceptional tribunal, but exclusively by the ordinary jurisdiction, except in the case of being captured with arms in hand.

2. Those who, not coming within this last case, may be arrested or imprisoned, shall be deemed to have been so arrested or imprisoned by order of the civil authority for the effects of the Law of April 17, 1821, even though the arrest or imprisonment shall have been effected by armed force.

3. Those who may be taken with arms in hand, and who are therefore comprehended in the exception of the first article, shall be tried by ordinary council of war, in conformity with the second article of the hereinbefore-mentioned law; but even in this case the accused shall enjoy for their defense the guarantees embodied in the aforesaid Law of April 17, 1821.

¹ TS 422, *post*, p. 628.