

**AMERICAN ADDRESSES  
AT THE SECOND HAGUE  
PEACE CONFERENCE**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649046096

American Addresses at the Second Hague Peace Conference by Joseph H. Choate & Horace Porter & James Brown Scott

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.  
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

[www.triestepublishing.com](http://www.triestepublishing.com)

**JOSEPH H. CHOATE & HORACE PORTER & JAMES BROWN SCOTT**

**AMERICAN ADDRESSES  
AT THE SECOND HAGUE  
PEACE CONFERENCE**



AMERICAN ADDRESSES  
AT THE SECOND HAGUE  
PEACE CONFERENCE

DELIVERED BY

JOSEPH H. CHOATE  
GENERAL HORACE PORTER  
JAMES BROWN SCOTT

EDITED WITH INTRODUCTORY NOTES

BY

JAMES BROWN SCOTT

TECHNICAL DELEGATE OF THE UNITED STATES TO THE  
SECOND HAGUE PEACE CONFERENCE  
ASSOCIATE OF THE INSTITUTE OF INTERNATIONAL LAW

*SECOND EDITION*

BOSTON  
WORLD PEACE FOUNDATION  
1916

Int 6829.5.2

COPYRIGHT, 1910, BY GINN AND COMPANY  
ALL RIGHTS RESERVED



Massachusetts

**The Sibley Press**  
GINN AND COMPANY · PRO-  
PALETORS · BOSTON · U.S.A.

## PREFACE

The following collection consists of addresses delivered by three members of the American delegation to the Second Hague Peace Conference, dealing with the subjects of the immunity of unoffending private property of the enemy upon the high seas, the limitation of force in the collection of contract debts, arbitration, an international prize court, and the project for the establishment of a permanent court of arbitral justice, composed of judges acting under a sense of judicial responsibility and representing the various languages and systems of law. General in their nature, it is believed that the publication of these addresses may be of some interest, if not of permanent value.

It has been deemed advisable to include, by way of introduction, an address delivered by each of the three members upon the conference and the results actually achieved by it. A brief note on formal and informal addresses at The Hague has been prefixed, and, where considered necessary to the understanding of the addresses proper, a brief introductory note has been supplied.

An appendix has been added, containing the texts discussed in the various addresses.

JAMES BROWN SCOTT

WASHINGTON, D.C.,  
October 18, 1909





## CONTENTS

INTRODUCTION	PAGE
I. NOTE ON FORMAL AND INFORMAL ADDRESSES AT THE CONFERENCE	vii
II. PROGRESS AT THE SECOND HAGUE CONFERENCE— <i>Joseph H. Choate</i>	xiii
III. THE SECOND HAGUE CONFERENCE— <i>General Horace Porter</i>	xxvi
IV. THE SECOND HAGUE CONFERENCE A PEACE CONFERENCE— <i>James Brown Scott</i>	xxxii
AMERICAN ADDRESSES AT THE SECOND HAGUE CONFERENCE	
I. IMMUNITY FROM CAPTURE OF PRIVATE UNOFFENDING PROPERTY OF THE ENEMY UPON THE HIGH SEAS— <i>Joseph H. Choate</i>	1
II. THE LIMITATION OF FORCE IN THE COLLECTION OF CONTRACTUAL DEBTS— <i>General Horace Porter</i>	25
III. ARBITRATION AT THE SECOND HAGUE CONFERENCE	
1. THE AMERICAN PROJECT OF INTERNATIONAL ARBITRATION— <i>Joseph H. Choate</i>	34
2. THE COMPROMIS CLAUSE IN THE AMERICAN PROJECT OF INTERNATIONAL ARBITRATION— <i>James Brown Scott</i>	40
3. THE ANGLO-AMERICAN PROJECT OF INTERNATIONAL ARBITRATION— <i>Joseph H. Choate</i>	44
4. THE RETENTION OF THE COMPROMIS CLAUSE IN INTERNATIONAL ARBITRATION— <i>James Brown Scott</i>	53
5. THE AUSTRO-HUNGARIAN RESOLUTION— <i>Joseph H. Choate</i>	57
6. THE RESOLUTION ON COMPULSORY ARBITRATION— <i>Joseph H. Choate</i>	63
7. TRIBUTE TO M. BOURGEOIS— <i>Joseph H. Choate</i>	65
IV. THE INTERNATIONAL COURT OF PRIZE— <i>Joseph H. Choate</i>	69
V. THE PROPOSED COURT OF ARBITRAL JUSTICE	
1. THE AMERICAN PROJECT FOR A PERMANENT COURT OF ARBITRAL JUSTICE— <i>Joseph H. Choate</i>	78
2. THE ELEMENTS ENTERING INTO THE COMPOSITION OF AN INTERNATIONAL COURT OF ARBITRAL JUSTICE— <i>James Brown Scott</i>	84
3. THE PROPOSED COURT OF ARBITRAL JUSTICE— <i>Joseph H. Choate</i>	97
4. SUGGESTED COMPOSITION OF THE COURT OF ARBITRAL JUSTICE— <i>James Brown Scott</i>	99

	PAGE
5. COMPOSITION OF THE PROPOSED COURT OF ARBITRAL JUSTICE — <i>Joseph H. Choate</i> . . . . .	103
6. THE SELECTION OF JUDGES OF THE COURT OF ARBITRAL JUSTICE BY THE PRINCIPLE OF ELECTION — <i>Joseph H. Choate</i> . . . . .	109
VI. REPORT TO THE CONFERENCE RECOMMENDING THE ESTABLISHMENT OF A COURT OF ARBITRAL JUSTICE — <i>James Brown Scott</i> . . . . .	112

## APPENDIX

I. THE DISPATCH OF SEÑOR LUÍS M. DRAGO, MINISTER OF FOREIGN RELATIONS OF THE ARGENTINE REPUBLIC, TO SEÑOR MARTÍN GRACÍA MÉROU, MINISTER OF THE ARGENTINE REPUBLIC TO THE UNITED STATES . . . . .	179
II. THE CONVENTION FOR THE LIMITATION OF THE EMPLOYMENT OF FORCE FOR THE RECOVERY OF CONTRACT DEBTS . . . . .	185
III. THE AMERICAN PROJECT OF INTERNATIONAL ARBITRATION . . . . .	188
IV. THE ANGLO-AMERICAN DRAFT CONVENTION OF INTERNATIONAL ARBITRATION . . . . .	189
V. QUESTIONNAIRE CONCERNING THE INTERNATIONAL COURT OF PRIZE . . . . .	193
VI. THE CONVENTION FOR THE ESTABLISHMENT OF AN INTERNATIONAL COURT OF PRIZE . . . . .	194
VII. THE AMERICAN PROJECT FOR A PERMANENT COURT OF ARBITRATION . . . . .	205
VIII. THE PROJECT FOR A PERMANENT COURT OF ARBITRATION DRAFTED BY THE AMERICAN DELEGATION, UPON WHICH THE JOINT PROJECT OF GERMANY, GREAT BRITAIN, AND THE UNITED STATES WAS BASED . . . . .	206
IX. SUGGESTED COMPOSITION OF THE COURT OF ARBITRAL JUSTICE PRESENTED BY THE AMERICAN, BRITISH, AND GERMAN DELEGATION . . . . .	210
X. DRAFT CONVENTION FOR THE ESTABLISHMENT OF THE COURT OF ARBITRAL JUSTICE . . . . .	212

## INTRODUCTION

### I. NOTE ON FORMAL AND INFORMAL ADDRESSES AT THE CONFERENCE<sup>1</sup>

It may be interesting to consider briefly the character of the addresses made at the conference, in order that a clearer idea may be gained of the assembly, and of the manner in which projects were presented and justified, — indeed forced upon the attention of the delegates. The reglement provided that projects should be presented to the conference, printed, and distributed, before they were discussed, and this rule was adhered to. Amendments were indeed presented and accepted in the course of the sessions, but discussion did not take place upon original propositions until they had been printed and distributed to the members. The addresses, therefore, would naturally fall into two classes: first, formal and carefully prepared orations, in the nature of essays; and second, unprepared and impromptu speeches delivered in the course of debate, either upon an original proposition, a proposed amendment, or a criticism of the subject under immediate discussion. The formal addresses were read from written copies, such as the opening addresses of the Dutch minister of foreign affairs and of the president of the conference. The various chairmen usually read their addresses, although that was not the case with M. de Martens, who spoke freely and without notes. The remarkable addresses of Baron Marschall von Bieberstein, in which he rejected arbitration with reserves, but promised to consider *sans parti pris* the arbitration of carefully selected lists of subjects, and his later address opposing the carefully devised and acceptable project of certain specified subjects, were documents prepared with great care and read from manuscript. Mr. Choate's elaborate argument for the immunity from capture of unoffending private property of the enemy upon the high seas was likewise read. The admirable address of General Porter upon the limitation of force in the collection of contract debts was a set speech,

<sup>1</sup> Reprinted from Scott's *Hague Peace Conferences of 1864 and 1907*, Vol. I, pp. 173-179.