American addresses at the second Hague peace conference

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AMERICAN ADDRESSES
AT THE SECOND HAGUE
PEACE CONFERENCE

DELIVERED BY
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EDITED WITH INTRODUCTORY NOTES
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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.

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JAMES BROWN SCOTT
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INTRODUCTION

I. NOTE ON FORMAL AND INFORMAL ADDRESSES AT THE CONFERENCE

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,

although the first part of it was delivered without notes. Dr. Drago
read his various addresses, and the same is true of M. Barbosa,
although his unpremeditated reply to M. de Martens's criticism of
a previous address as savoring of politics was, in the opinion of many,
not only M. Barbosa's masterpiece, but was a model of parliamentary
debate. From the many set addresses delivered at the conference, I
take the liberty of quoting in full the address of M. Larreta, on the
International Court of Prize, which is not only a model in itself, but
expresses the attitude of a newcomer in an international conference.
It was so frequently interrupted by applause, and was so thoroughly
enjoyed by the conference, that its selection as a type of the formal
address can hardly be said to be a personal matter:

The Argentine delegation will unreservedly vote for the project drawn up by
the Committee of Examination, but we must first set forth the reasons for which
we acquiesce.

We believe that the prize court will represent an important step forward for
the double fact that it will superpose, so to speak, the awards of an impartial tri-
unal upon the more or less interested appreciations of the belligerents, and that
in addition it will be the first international jurisdiction created by the civilized world.
I will even add that in our opinion a court of this nature becomes at this time not
only a desirable progress, but also an indispensable institution.

The conference is engaged in establishing the legislation of maritime warfare
after ascertaining and determining some points of contact, that is to say, the prin-
ciples and interest which, in this respect, are common to all the civilized nations.
I am well aware that we should not go very far yet on the path that has been
opened to us. Just as we do not think of modifying in a fortnight our warlike
civilization, we will not draw up the final code of maritime warfare in the course
of this conference. But the principles here established will none the less mean a
marked advance over those of the Paris congress, which still prevail in the matter.

It is true that all legislation demands a court for its enforcement, if I may be
permitted to condense in this phrase the eloquent speech of his Excellency M.
Bourgeois on compulsory arbitration. On the other hand, the converse proposition
is no less true. Every court must needs lean on precise legislation. This is why
I venture to predict that when the prize court is once created all the signatory
states will take it to heart to concert for the purpose of completing maritime-
warfare legislation and supplying its deficiencies.

I have nothing more to say on this question, especially after the statement laid
before the commission by its eminent reporter. But knowing that the great diffi-
culty met by the Committee of Examination was in regard to the mode of organ-
ization of the tribunal, I wish to offer some declarations in this respect.

When the question was about the permanent court of arbitration my colleague,
his Excellency M. Saenz Peña, declared that in his opinion the best basis of
representation for each country was found in its aggregate foreign trade. We believe, indeed, that when one criterion is considered there is none better for the appreciation of the comparative capacity of the states from an international standpoint. But we also know that this criterion is not any more essentially absolute than mathematically accurate. As a matter of fact, all statistics are inaccurate, as much on account of the imperfect methods used as by reason of the patriotic sentiment which induces the statisticians to increase the figures in favor of their country. It would thus be well in seeking to establish the representative coefficient of each nation to complete the data of foreign trade taken as a basis with those taken from population, military and naval power, length of seacoast and land boundary, not only of the country itself, but of the neighboring countries; in fine, with all the physical and moral factors which enhance or restrict the relative influence of nations.

For the present, and as an approximate solution, we shall consider it sufficient, according to the declarations made by his Excellency M. Lammarch, that in framing the present project the tonnage of merchant vessels, as well as the power of war vessels, shall have been taken into consideration, besides the amount of foreign trade. We accept the position assigned to the Argentine Republic in the apportionment of judges, not only because we believe in the good faith which determined it, and which in fact is not far from the truth, but also because we have looked upon the project not so much as a problem in arithmetic as an institution of confidence and harmony. (Applause.)

The Argentine Republic may have been entitled to a higher rank. We now lead the whole world in the export of cereals. Our annual foreign trade represents over five hundred francs per capita, the highest figure known; and again our navy exceeds eighty thousand tons, which is a high figure for a state of the South American continent. But, granting that some error may have crept into the appreciation of our relative importance, and that we may be entitled to a slightly longer representation than that assigned to us, this is a small sacrifice which we readily agree to in homage to this great endeavor of law and equity. (Applause.)

However, gentlemen, patriotism is still stronger than the love of peace, and I need not say that while examining the project, we never for an instant lost sight of the interests of our country. In my opinion, these interests find a complete safeguard in the Swedish proposition adopted by the Committee of Examination. Each belligerent will always have a judge. We consider this sufficient, for if we should be involved in war, if so great a calamity ever befell our country, we should then hold in the prize court the same status as the other belligerent; we should all be equal before law and equity. I mean enjoying the same equality which is inseparable from sovereignty.

And since I have uttered the word, permit me to add that while spontaneously accepting this convention we will put forth in the most striking manner the unrestricted sovereignty enjoyed by the Argentine Republic. This is what brought us here; to cooperate without humility but without pride in the endeavor of universal justice. Without humility, but without pride, for while we highly
FORMAL AND INFORMAL ADDRESSES

appreciate the honor of sitting in this assembly, we have in return, by being present, given it the splendor and the power of a world’s meeting. (Applause.)

Turning now to the less formal addresses, it may be said that Mr. Choate was peculiarly happy in his extemporaneous remarks, which, although delivered in English, were understood by a large part of the audience, and which, in translated form, were admired by all. His remarks on the prize court resulted in the establishment of that institution, and although later reduced to writing, they were delivered without notes, in that happy, offhand manner born of familiarity with the court. In ready and incisive speech in the nature of a parliamentary debate, no member shone with greater luster than M. Bourgeois and Baron Marschall von Bieberstein, who, in a few trenchant phrases, laid bare the argument of his opponent and subjected it to ridicule, if he did not wholly discredit it. In the latter days of the conference M. Renault displayed marvelous and unexpected readiness and aptitude in debate, and his replies to Baron Marschall von Bieberstein’s arguments against arbitration are, perhaps, the best unpremeditated debating addresses of the conference. The president, amid the applause of the conference, stated that addresses would be limited to ten minutes, but this regulation was “more honored in the breach than the observance.” Mr. Choate’s argument in favor of the immunity of private property occupied more than an hour in its delivery, and in this respect at least M. Barbosa followed in the footsteps of Mr. Choate, for if no one address exceeded this limit, several of M. Barbosa’s approached it. But these lengthy addresses were interspersed with shorter and sprightlier ones, and the element of humor was not absent. For example, Mr. Choate said, in replying to Marschall von Bieberstein’s platonic devotion to arbitration:

I should like to say a few words in reply to the important discourse delivered by the First Delegate of Germany, with all the deference and regard to which he is justly entitled because of the mighty empire that he represents, as well as for his own great merits and his unfailing personal devotion to the consideration of the important subjects that have arisen before the conference. But with all this deference, it seems to me that either there are, in this conference, two First Delegates of Germany or, if it be only the one whom we have learned to recognize and honor, he speaks with two different voices. Baron Marschall is an ardent admirer