

creation of apt machinery and the proceedings before arbitral tribunals systematized.

For this twofold purpose the signatory powers, to quote Article 20 of the convention, "undertake to organize a Permanent Court of Arbitration, accessible at all times, and operating, unless otherwise stipulated by the parties, in accordance with the rules of procedure inserted in the present convention." In order to organize the Permanent Court contemplated by this article, each of the signatory powers was entitled to, and actually did select, "four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of arbitrators." The persons thus selected constitute the list or panel of the so-called court and are appointed for a term of six years, which may be renewed. From this list of select arbiters, the nations in controversy desiring to avail themselves of the provisions of the convention may form a temporary tribunal for the trial of the case, by choosing the requisite number of judges and, in default of agreement, "each party appoints two arbitrators, and these together choose an umpire." This method, which would permit the temporary tribunal to be composed of four interested persons, was amended by the Second Conference as follows:

Each party appoints two arbitrators, of whom one only can be its national or chosen from among the persons selected by it as members of the Permanent Court. These arbitrators together choose an umpire.

Under the revised procedure, therefore, there can be but two persons directly interested in the award of the tribunal. Under these circumstances it is evident, as was said at the Second Peace Conference, that "the Permanent Court is not permanent, because it is not composed of permanent judges; it is not accessible, because it has to be constituted for each case; it is not a court, because it is not composed of judges." It is unnecessary to point out to those who have had experience in the creation and operation of the temporary tribunal that it is difficult and time-consuming to constitute; that the expenses incurred in its operation and which fall upon the individual litigants are excessive; and that its awards are not wholly free from the suspicion or taint of compromise. The delay involved in its composition is in itself a deterrent to arbitration, for nations are undoubtedly less inclined to submit a case to arbitration, even when the list is known from which the temporary tribunal can be constituted, than they would be, if "a