

Professor Scott, whose name will always be associated with historic attempts to make a High Court of Nations, gave much thought and care to the proposed court at the time and has done his utmost ever since to have it made into a living agency of justice. His plan was brought before the Conference by Mr. Choate, who assisted him enthusiastically. It had the joint sponsorship of the United States, England and Germany. No less strenuous a personage than Baron Marschall von Bieberstein, Germany's first delegate, expressed the belief that such a court would automatically attract to itself the disputes of nations for settlement.

The agreement providing for the court contains thirty-five articles. The first article reads as follows:—

“With a view of promoting the cause of arbitration, the contracting powers agree to constitute, without altering the status of the Permanent Court of Arbitration, a Judicial Arbitration Court of free and easy access, composed of judges representing the various juridical systems of the world, and capable of ensuring continuity in jurisprudence of arbitration.”

The main features of the proposed court correspond with Mr. Root's idea of a court of law. They may be best appreciated by a comparison with the so-called Permanent Court of Arbitration. First of all, the proposed institution is a court, and not a panel. The number of its judges, though not given in the agreement, is expected to be fifteen, with deputies as alternates. Fifteen members would mean nearly twice as large a body as the Supreme Court of the United States, which consists of nine judges, but is small compared with the number allowed to the court of 1899, which may consist of four arbitrators from every one of the forty-six states that are commonly recognized as belonging to the family of nations, though two or more states may choose the same judges and may therefore go outside their own nationality for their appointees.

Furthermore, the members of the court of 1899 are appointed for a term of but six years, though their appointment is renewable. The judges of the proposed court would have a term of twelve years, which is also renewable. The judges of the court of 1899 are