

33
PROCEEDINGS

OF THE

American Society of International Law

AT ITS

THIRTY-EIGHTH ANNUAL MEETING

HELD AT

WASHINGTON, D. C.

APRIL 28-29, 1944

PUBLISHED BY THE SOCIETY

700 JACKSON PLACE, N. W.

WASHINGTON, D. C.

1944



PROCEEDINGS
OF THE
American Society of International Law
AT ITS
THIRTY-EIGHTH ANNUAL MEETING
HELD AT
WASHINGTON, D. C.
APRIL 28-29, 1944

PUBLISHED BY THE SOCIETY
700 JACKSON PLACE, N. W.
WASHINGTON, D. C.
1944

COPYRIGHT, 1944, BY
THE AMERICAN SOCIETY OF INTERNATIONAL LAW

RUMFORD PRESS
CONCORD, N. H.

OFFICERS
OF THE
AMERICAN SOCIETY OF INTERNATIONAL LAW
FOR THE YEAR 1944-1945

PRESIDENT

FREDERIC R. COUDERT

HONORARY PRESIDENT

CORDELL HULL

HONORARY VICE-PRESIDENTS

PHILIP MARSHALL BROWN	JOHN BASSETT MOORE
CHARLES G. FENWICK	JACKSON H. RALSTON
MANLEY O. HUDSON	LEO S. ROWE
CHARLES EVANS HUGHES	HENRY L. STIMSON
CHARLES CHENEY HYDE	CHARLES WARREN
GEORGE GRAFTON WILSON	

VICE-PRESIDENTS

WILLIAM C. DENNIS	GEORGE A. FINCH
ELBERT D. THOMAS	

SECRETARY

JAMES O. MURDOCK*

TREASURER

LESTER H. WOOLSEY

EXECUTIVE COUNCIL

TO SERVE UNTIL 1945

WILLARD B. COWLES, D. C.	GREEN H. HACKWORTH, D. C.
EDWIN D. DICKINSON, California	PHILIP C. JESSUP, New York
EDWARD MEAD EARLE, New Jersey	HELEN DWIGHT REID, Pennsylvania
D. F. FLEMING, Tennessee	QUINCY WRIGHT, Illinois

TO SERVE UNTIL 1946

CLARENCE A. BERDAHL, Illinois	FRED K. NIELSEN, D. C.
RICHARD W. FLOURNOY, Maryland	NORMAN J. PADEFORD, Massachusetts
ARCHIBALD KING, D. C.	LAWRENCE PREUSS, Michigan
JAMES O. MURDOCK, D. C.	DURWARD V. SANDIFER, Maryland

TO SERVE UNTIL 1947

EDWIN BORCHARD, Connecticut	BESSIE C. RANDOLPH, Virginia
MITCHELL B. CARROLL, New York	ALLEN HUNTER WHITE, Pennsylvania
CLYDE EAGLETON, New York	ROBERT R. WILSON, North Carolina
AMOS J. PEASLEE, New Jersey	HERBERT WRIGHT, D. C.

* Until September 1, 1944. Beginning on that date, Pitman B. Potter will assume the office of Secretary.

EDITORIAL BOARD
AMERICAN JOURNAL OF INTERNATIONAL LAW

GEORGE GRAFTON WILSON, Honorary Editor-in-Chief
GEORGE A. FINCH, Editor-in-Chief
PITMAN B. POTTER, Managing Editor

HONORARY EDITORS

PHILIP MARSHALL BROWN ARTHUR K. KUHN
CHARLES CHENEY HYDE ELLERY C. STOWELL
LESTER H. WOOLSEY

EDITORS

EDWIN BORCHARD PHILIP C. JESSUP
HERBERT W. BRIGGS JOSEF L. KUNZ
FREDERICK S. DUNN LLEWELLYN E. PFANKUCHEN
CLYDE EAGLETON EDGAR TURLINGTON
CHARLES G. FENWICK JOHN B. WHITTON
MALBONE W. GRAHAM ROBERT R. WILSON
MANLEY O. HUDSON HERBERT WRIGHT
QUINCY WRIGHT

COMMITTEES

Committee on Nominations: EDWIN D. DICKINSON, Chairman; WILLARD B. COWLES, PHILIP C. JESSUP, HELEN DWIGHT REID, QUINCY WRIGHT.

Committee on Annual Meeting: EDGAR TURLINGTON, Chairman; EDWARD W. ALLEN, EDWIN D. DICKINSON, GEORGE A. FINCH, HAROLD S. QUIGLEY.

Committee on Selection of Honorary Members: CHARLES WARREN, Chairman; EDWIN BORCHARD, EDWIN D. DICKINSON, MANLEY O. HUDSON, CHARLES CHENEY HYDE, BESSIE C. RANDOLPH.

Committee on Increase of Membership: WILLIAM R. VALLANCE, Chairman; HERBERT W. BRIGGS, JOHN P. BULLINGTON, H. MILTON COLVIN, WILLARD B. COWLES, ARNOLD FRYE, JOHN MAKTO, NORMAN J. PADELFORD, WILLIAM PHILLIPS.

Committee on Codification of International Law: MANLEY O. HUDSON, Chairman; EDWIN BORCHARD, EDWIN D. DICKINSON, CHARLES G. FENWICK, GREEN H. HACKWORTH, PHILIP C. JESSUP, QUINCY WRIGHT.

Committee on Publications of the Department of State: HERBERT WRIGHT, Chairman; KENNETH COLEGROVE, PHILIP C. JESSUP, CHARLES E. MARTIN, GEORGE RUBLEE, JAMES A. SHANLEY, STANLEY P. SMITH, GRAHAM H. STUART, CHARLES WARREN, LESTER H. WOOLSEY.

Committee on Coöperation with Other Societies: AMOS J. PEASLEE, Chairman; EDWARD W. ALLEN, JOHN P. BULLINGTON, PERCY E. CORBETT, ARTHUR K. KUHN.

Committee on Coördination of Inter-American Law: H. MILTON COLVIN, Chairman; PHANOR J. EDER, DAVID E. GRANT, ARTHUR K. KUHN, JAMES O. MURDOCK, WILLIAM C. RIGBY, EDGAR TURLINGTON.

Advisory Committee on International Publications for Foreign Libraries: ELTON R. JAMES, Chairman; CLYDE EAGLETON, DENYS P. MYERS.

Delegates to the American Council of Learned Societies: ELBERT D. THOMAS (1946), GEORGE GRAFTON WILSON (1948); *Alternates:* CHARLES WARREN (1946), GEORGE A. FINCH (1948).

CONSTITUTION
OF THE
AMERICAN SOCIETY OF INTERNATIONAL LAW ¹
(Revision adopted May 15, 1940, as amended May 1, 1943 and
April 29, 1944)

ARTICLE I

Name

This Society shall be known as the American Society of International Law.

ARTICLE II

Object or Purpose

The object of this Society is to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice. For this purpose it will coöperate with similar societies in this and other countries.

ARTICLE III

Membership

Annual Members. On the nomination of two members in regular standing new members may be elected by the Executive Council acting under such rules and regulations as it may prescribe. Annual members shall pay dues of five dollars and shall thereupon become entitled to all privileges of the Society including copies of the *American Journal of International Law* issued during the year. Upon failure to pay dues for one year a member may in the discretion of the Executive Council be suspended or dropped from membership.

Life Members. Upon payment of two hundred dollars any person eligible for annual membership may be elected by the Executive Council a life member and shall be entitled to all the privileges of annual members.

Honorary Members. Persons not citizens of the United States, who shall have rendered distinguished service to the cause which this Society is formed to promote, may upon nomination of the Executive Council be elected to honorary membership by the Society. Only one honorary member may be elected in any one year. Such members have the full privileges of life membership but pay no dues.

Additional Classes of Membership. The Executive Council may establish additional classes of membership upon such terms and with such dues as it shall determine.²

¹ The history of the origin and organization of the American Society of International Law can be found in the Proceedings of the First Annual Meeting at p. 23. The original Constitution was adopted January 12, 1906.

² See Regulations adopted April 27, 1939, and May 1, 1943, *post*, p. x.

ARTICLE IV

Officers

The officers of the Society shall consist of an Honorary President, a President, such number of Honorary Vice-Presidents as may be fixed from time to time by the Executive Council, three Vice-Presidents, a Secretary and a Treasurer, all of whom shall be elected annually, but the President shall not be eligible for more than three consecutive annual terms.

The Secretary and the Treasurer shall be elected by the Executive Council. All other officers shall be elected by the Society except as herein-after provided for the filling of vacancies occurring between elections.

At every annual election candidates for all offices to be filled by the Society at such election shall be placed in nomination by a Nominating Committee which shall consist of the five members receiving the highest number of ballots at the last session of the preceding annual meeting of the Society. Nominations for membership on the Committee may be made by the Executive Council or from the floor.

All officers shall be elected by a majority vote of the members present and voting.

All officers shall serve until their successors are chosen.

ARTICLE V

Duties of Officers

The President shall preside at all meetings of the Society and shall perform such other duties as the Executive Council may assign to him. In the absence of the President his duties shall devolve upon one of the Vice-Presidents to be designated by the Executive Council, by the Society, or by the President.

The Secretary shall keep the records and conduct the correspondence of the Society and shall perform such other duties as may be assigned to him by the Society or by the Executive Council.

The Treasurer shall receive and have the custody of the funds of the Society and shall invest and disburse them subject to the rules and under the direction of the Executive Council. The fiscal year shall begin on the first day of January.

The officers shall perform the duties prescribed in Article VI or elsewhere in this Constitution.

ARTICLE VI

The Executive Council

There shall be an Executive Council herein termed the Council. The Council shall have charge of the general interests of the Society and shall possess the governing power except as otherwise specifically provided in this Constitution. The Council shall call regular and special meetings and arrange programs therefor, shall appropriate money, shall appoint from among

the members of the Society committees and their chairmen with appropriate powers, and shall have power to arrange for the issue of a periodical or other publications.

The Council shall consist of the officers of the Society and twenty-four elected members whose terms of office shall be three years. Eight members shall be elected by the Society each year and the service of Council members shall begin at the meeting of the Council immediately following the meeting of the Society at which they were elected. The terms of office and the Council members already elected for those terms at the time this Constitution is revised shall continue unchanged. No elective member of the Council shall be eligible for reelection until at least one year after the expiration of his term. The Council shall have power to fill vacancies in its membership occasioned by death, resignation, failure to elect, or for other causes. Such appointees shall hold office until the next annual election.

The President of the Society shall be the Chairman of the Council. In case of his absence the Council may elect a temporary chairman.

The Secretary of the Society shall be the Secretary of the Council. He shall keep the records and conduct the correspondence of the Council and shall perform such other duties as may be assigned to him by the Council.

Seven members shall constitute a quorum and a majority vote of those present shall be necessary for decisions.

Meetings of the Council shall be called by the Secretary on instructions of the President, or of a Vice-President acting for the President, or upon the written request of seven members of the Council.

ARTICLE VII

Meetings

Annual meetings of the Society shall be held at a time and place to be determined by the Executive Council. The chief purpose of the meetings is the presentation of papers, and discussions. The Society shall also elect officers and transact such other business as may be necessary.

Special meetings may be held at any time and place on the call of the Executive Council, or of the Secretary upon written request of thirty members. At least ten days' notice of a special meeting shall be given to each member of the Society by mail, such notice to specify the object of the meeting. No other business shall be transacted at such meetings unless admitted by a two-thirds vote of those present and voting.

Twenty-five members shall constitute a quorum at all meetings and a majority of those present and voting shall be necessary for decisions.

ARTICLE VIII

Resolutions

All resolutions relating to the principles of international law or to international relations which shall be offered at any meeting of the Society shall,

in the discretion of the presiding officer, or on the demand of three members, be referred to the appropriate committee or the Council, and no vote shall be taken until a report shall have been made thereon.

ARTICLE IX

Amendments

This Constitution may be amended at any annual meeting of the Society by a two-thirds vote of the members present and voting. Amendments may be proposed by the Executive Council. They may also be proposed through a communication in writing signed by at least five members of the Society and deposited with the Secretary within ten months after the previous annual meeting. Amendments so deposited shall be reported upon by the Council at the next annual meeting.

All proposed amendments shall be submitted in writing to the members of the Society at least ten days before the meeting at which they are to be voted upon. No amendment shall be voted upon until the Council shall have made a report thereon to the Society.

ADDITIONAL CLASSES OF MEMBERSHIP

REGULATIONS ADOPTED BY THE EXECUTIVE COUNCIL, MAY 1, 1943

*Student Membership: **

1. Student membership shall be open to any properly qualified graduate or undergraduate student who shall file with the Secretary of the Society a certificate signed by the head of the department or by the registration officer or other appropriate officer of a college, university, or institution of higher learning, indicating that such student is enrolled in the regular manner as a student of such college, university or institution at the date of filing such certificate.

2. Student membership is valid for one year after the conferring of such membership. But this membership may be renewed from time to time, at the discretion of the Secretary, on receiving satisfactory evidence that the person is still regularly enrolled as a student in a college, university or institution.

3. The annual dues for student membership shall be three dollars per year.

4. Student members are entitled to receive the regular issues of the *American Journal of International Law*, and to participate in the meetings of the American Society of International Law, but are not entitled to vote or be eligible to hold office.

5. Any student member may become a regular member of the Society

* These Regulations were originally adopted April 27, 1939.

upon paying the regular dues, and shall thereafter have all the privileges attaching to regular membership.

Contributing Members:

1. On the nomination of two members in regular standing and upon payment of ten dollars dues for each year, any person may be elected by the Executive Council a contributing member.

2. Any member of the Society heretofore elected may become a contributing member upon written notice to the Treasurer and payment of the annual sum of ten dollars if he has not yet paid his regular dues for the current year or five dollars if such dues have heretofore been paid.

3. Contributing members shall be entitled to all the privileges of annual members. The holders of these memberships will be designated as such in the roster of members.

4. Any contributing member may become an annual member upon written notice to the Treasurer before the expiration of the current year, and shall thereafter pay only the regular dues.

5. Upon failure to pay dues for one year a contributing member may in the discretion of the Executive Council be suspended or dropped from membership.

Supporting Members:

The regulations regarding contributing members apply *mutatis mutandis* to supporting members except that the annual dues for the latter class are twenty-five dollars.

Patrons:

1. Upon payment of five thousand dollars or more, or upon filing with the Executive Council of satisfactory evidence establishing that the Society has been made the beneficiary of such a sum, any person eligible for annual membership and any member heretofore elected may be elected by the Executive Council a Patron of the Society and shall have the full privileges of life membership. The above-mentioned payment or evidence shall be in lieu of dues.

2. A Patron of the Society shall continue to be indicated as such even after his death.

3. As a token of its appreciation, the Society shall list the names of its Patrons in each issue of the *American Journal of International Law*.

4. Upon payment of five thousand dollars or more, or upon filing with the Executive Council of satisfactory evidence that the Society has been made the beneficiary of such a sum, the Executive Council may declare a deceased person to be a Patron of the Society posthumously. The name of such a person shall be included in the above-mentioned list under the heading "In Memoriam."

REGULATIONS REGARDING THE EDITING AND PUBLICATION OF THE AMERICAN
JOURNAL OF INTERNATIONAL LAW

*As adopted by the Executive Council, May 22, 1924, with subsequent
amendments*

1. There shall be a Board of Editors charged with the general supervision of editing the *American Journal of International Law* and determining general matters of policy in relation thereto.

2. The Board shall consist of seventeen members to be elected annually by the Executive Council from among the members of the Society of American nationality who have capacity for scientific production and whose availability and probability of activity qualify them for useful membership on the Board.¹

3. Membership upon the Board of Editors shall involve, in addition to the duties otherwise prescribed herein, obtaining articles and other material for publication, the preparation of contributions, especially editorial comments and book reviews, and the examination of and giving advice upon the suitability for publication of articles prepared by non-members of the Board. The minimum number of contributions which each Editor shall be called upon to contribute or obtain for publication in the *Journal* is to be determined by the Board.²

4. There shall be an Editor-in-Chief and a Managing Editor to be elected annually from among the members of the Board by the Executive Council, and to serve until their successors assume office.³

There may be an Honorary Editor-in-Chief to be elected annually by the Executive Council. The Executive Council may also elect annually as honorary members of the Board of Editors members of the Board of long service who have reached the age of sixty-five. Such honorary members shall be in addition to the membership of the Board provided for in Section 2 of these Regulations. They shall continue to exercise such editorial functions as they may wish to perform, subject to all other regulations herein prescribed.³

The Editor-in-Chief shall call and preside at all meetings of the Board of Editors, and when the Board is not in session he shall determine matters of policy regarding the contents of the *Journal*.

The Managing Editor shall have charge of the publication of the *Journal*, shall receive contributions and other material for publication, including books for review, and conduct the correspondence regarding the same.

In the event of the temporary inability of the Editor-in-Chief to serve, his duties shall be performed by the Managing Editor, unless the Editor-in-Chief shall designate an acting Editor-in-Chief.

5. The *Journal* shall be made up of leading articles, editorial comments, a chronicle of international events, a list of public documents relating to

¹ As amended April 24, 1926, April 25, 1929, and April 29, 1944.

² As amended April 25, 1929.

³ As amended April 29, 1944.

international law, judicial decisions involving questions of international law, book reviews and notes, a list of periodical literature relating to international law, and a supplement.

(a) Before publication all articles shall receive the approval of two members of the Board. In case an article is rejected by one Editor, the question of its submission to another Editor shall be decided by the Editor-in-Chief. Articles by members of the Board of Editors shall be submitted to the Editor-in-Chief, who shall decide as to their publication.

(b) Editorial comments must be written and signed by the members of the Board of Editors, and shall be published without submission to any other Editor, except that they shall be governed by the provisions of Paragraph 6 hereof. Current notes of international events, containing no comment, may be printed over the signatures of non-members of the Board of Editors in the discretion of the Managing Editor.

(c) In the department of judicial decisions, preference in publication shall be given to the texts of decisions of international courts and arbitral awards which are not printed in a regular series of publications available for public distribution. This department may also contain the texts of decisions of the Supreme Court of the United States and the highest courts of other nations involving important questions of international law. Comments upon court decisions, either those printed in the *Journal*, or those not of sufficient importance to print textually, may be supplied by members of the Board of Editors, and shall be printed as editorial comments or current notes.

(d) The chronicle of international events, and the lists of public documents relating to international law and periodical literature of international law, shall be prepared under the direction of the Managing Editor.

(e) The supplement shall be made up of the texts of important treaties and other official documents. Material for it shall be supplied by the Managing Editor, taking into consideration such suggestions from the members of the Board as they may have to offer from time to time.

6. The final make-up of each number of the *Journal* shall be submitted by the Managing Editor to the Editor-in-Chief, who shall have the power to veto the publication of any contribution or other material. In the absence of such a veto, the Managing Editor shall be authorized to publish the *Journal*, using approved material so far as approval is prescribed herein.

7. The *Journal* shall be published upon the 15th days of January, April, July and October, or as near to those dates as possible, and the Managing Editor shall have power to proceed with the publication of the *Journal* from the materials in his hand upon the first day of the month preceding the month of publication.

8. The Managing Editor shall receive such compensation for his services, and such allowance for clerical assistance, as may be fixed by the Executive Council.

TABLE OF CONTENTS

	PAGE
OFFICERS AND COMMITTEES FOR THE YEAR 1944-1945.....	v
CONSTITUTION OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW..	vii
Regulations regarding additional classes of membership.....	x
Regulations for the <i>American Journal of International Law</i>	xii

First Session

FRIDAY, APRIL 28, 1944, 8:15 O'CLOCK P.M.

Letter from the Secretary of State of the United States.....	1
Presidential Address. <i>Frederic R. Coudert</i>	2
The International Law of the Future. <i>Manley O. Hudson</i>	9
World Organization. <i>John J. Parker</i>	20

Second Session

SATURDAY, APRIL 29, 1944, 10 O'CLOCK A.M.

Borderlines of National and International Jurisdiction. <i>Howard B. Calderwood</i>	40
Discussion led by Lester H. Woolsey.....	48
Law and Peaceful Change. <i>Frederick S. Dunn</i>	60
Discussion led by Philip Marshall Brown.....	65

Third Session

SATURDAY, APRIL 29, 1944, 2 O'CLOCK P.M.

Enforcement of International Law. <i>Quincy Wright</i>	77
Discussion led by Edward Warner.....	87

BUSINESS MEETING

In Memoriam.....	97
Memorial resolution—James Brown Scott.....	98
Secretary and Managing Editor—Grant from Carnegie Endowment..	100
Amendment of the Society's Constitution.....	101
Report of Committee on Annual Meeting.....	102
Report of Committee on Honorary Members.....	103
Report of Committee on Membership.....	105
Report of Committee on Codification of International Law.....	106
Report of Committee on State Department Publications.....	106
Report of Committee on Coöperation with Other Societies.....	112

Delegates to Conference of Inter-American Bar Association	113
Report of Committee on Coördination of Inter-American Law	114
Election of Officers	114
Election of Committee on Nominations	117

Annual Dinner

SATURDAY, APRIL 29, 1944, 7:30 o'CLOCK P.M.

Members and Guests in attendance	118
Remarks of the Toastmaster	120, 130, 136, 143
Addresses by:	
The Right Honorable the Viscount Halifax, K.G.	123
Hon. Tom Connally	131
Dr. Felix Morley	137

Appendices

MINUTES OF THE EXECUTIVE COUNCIL:	
April 28, 1944	145
April 29, 1944	150
REPORT OF THE TREASURER	153
REPORT OF THE COMMITTEE ON PUBLICATIONS OF THE DEPARTMENT OF STATE	157
REPORT OF THE SPECIAL COMMITTEE ON THE BOARD OF EDITORS OF THE AMERICAN JOURNAL OF INTERNATIONAL LAW	171
STATEMENT BY THE CHAIRMAN OF THE COMMITTEE ON CODIFICATION OF INTERNATIONAL LAW	176
LIST OF MEMBERS OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW	177
INDEX	196

THIRTY-EIGHTH ANNUAL MEETING
OF THE
AMERICAN SOCIETY OF INTERNATIONAL LAW
THE CARLTON HOTEL, WASHINGTON, D. C.
FIRST SESSION

Friday, April 28, 1944, 8:15 o'clock, p.m.

The Thirty-Eighth Annual Meeting of the American Society of International Law, held in the Carlton Room of the Carlton Hotel, Washington, D. C., convened Friday evening, April 28, at 8:15 p.m., Mr. Frederic R. Coudert, President of the Society, presiding.

President COUDERT. If the meeting will please come to order, we will proceed with our opening meeting.

Honored Guests and my friends of the Society: In a time most critical, perhaps more critical than our nation has ever gone through, our former honored President, the Secretary of State, Cordell Hull, is displaying the highest statesmanship in dealing with the most difficult problems that confront us and placing those problems on a plane above all partisanship and personalism. He is steadfastly working to obtain through international action the objects so clearly stated in our Constitution as the purpose of this Society, the purpose which it has had from its inception nearly forty years ago: "the establishment and maintenance of international relations on the basis of law and justice."

It is therefore particularly gratifying to have received a message from him for the present occasion, and I take great pleasure in reading the letter which he addressed to me for the Society:

DEPARTMENT OF STATE

Washington
March 30, 1944

My dear Mr. Coudert:

I understand that at the forthcoming Annual Meeting of the American Society of International Law, the future of international law is to be considered. As a former President of the organization and one of its well-wishers, I desire to express my gratification that the organization is to give serious thought to this subject.

With the added emphasis that the present world conflict has given to the importance of maintaining peace through reliance upon law and orderly procedures, we are faced with a realization that the body of international law merits careful reexamination in the light of present day situations and those with which we are likely to be faced in the days to come. The state of the law to which we must look in the solution of international problems, is a subject worthy of the attention of the ablest minds of our generation.

To you as President of the Society and to each and every member, I extend my greetings.

Very sincerely yours,

CORDELL HULL

Now, my friends, in conformity with time-honored custom, the President, who is necessarily the servant of the Society and, therefore, is most rigorously bound by its law, is bound to make some kind of address. If I have confided it to paper and it may seem to you dull, I can cite as a precedent what a very able and highly respected older lawyer once said to me about arguing a case in the Supreme Court. To my surprise, he read his argument, and I felt a certain sense of superiority in that I did not read mine. When we got through, I said, "I note you read your argument. Do you usually do that?" He said, "I did not when I was your age, but now that I have had considerable experience in many difficult cases, I know how much danger there is in slopping over." I never forgot the lesson he gave me.

We are here for our thirty-eighth Annual Meeting at a time when the reign of law among the nations appears to be at the lowest ebb that it has attained through generations. International law and the future of civilization appear to be in the crucible of chaos, and no man can tell what their future may be. And yet, we have felt that it was a fitting occasion, not for black pessimism, but rather a time for considering the shaping of things to come; a time for striving through human will-power for a better world by a reasoned consideration of definite and concrete objectives. Such a world must be based upon "the rule of law" among the nations in place of that of violence.

Man precedes institutions, but man is little without institutions, and out of this chaos we believe may grow institutions which, canalizing and utilizing the best instincts in man, may make for the enforcement and growth of law among the peoples of the world. We refuse to be discouraged because we are confident that our nation and its Allies are now battling in that great cause, and we urge the peculiar duty of everyone interested in the maintenance of law among the nations to prepare for the day of victory in order that our aspirations and efforts may not, as in World War I, meet with frustration.

In 1907 the founders of this Society—many of whom I had the honor to know well—envisaged a future for the maintenance and development of international law, to which they dedicated our Society—but how different a future from that which came to pass! That two utterly devastating world wars should occur within twenty-five years of each other—the first within a few years after the founding of our Society—would have seemed to them a grotesque and an impossible happening, a mad dream, "a tale told by an idiot"! To them war seemed, indeed, a great calamity, but one which, in the future could be localized and much of its rigor alleviated by rules of law to be observed by belligerent and neutral alike. They believed war would in time tend to disappear as something too contrary to human reason and elemental morality. Rather it seemed that progress was a steady and an inevitable concomitant of history, and that the world must ever tend in increasing degree to extend the reign of law among the nations.

The Nineteenth Century had seen such great progress in the field of humanitarian endeavor, and in respect for the life of the human being, that reversion to the primitive, savage rule of sheer might seemed impossible. The apparent progress of law, its substitution through the methods of diplomacy, arbitration and judicial settlement for war appeared to be the natural, nay, the inevitable tendency which could not be long or seriously checked or reversed.

That we were on the brink of another dark age seemed incredible to all but perhaps a few far-seeing men. It was even thought that the lawyer would displace the soldier in the final determination of international controversies. As was said by a lawyer, one who had had long experience in international relations, in an address in 1897:

The lawyer—or as he is finely called when his client is a nation, the jurist, at the opportune moment, steps upon the scene, and the halting march of progress is resumed, the wheels of commerce continue to revolve, protocols take the place of declarations, pleadings of bulletins, and legal opinions of proclamations. No ghastly list of dead and wounded sickens the homes of the contestants. When the fight is over, no healing processes of time and taxation are needed to repair the waste, for reason has had the last word and has reached a result quite as certain to be just as though the debate had been fought out at Waterloo, Gettysburg, or Sedan. If this be one of the fruits of this so-called science, it is indeed a blessed science that deserves to live forever.

It was assumed that the discussions of the future would range about the formulation and interpretation of international law and the principles assented to by the community of nations, founded upon the common moral concepts recognized by Christian nations having a similar ethical tradition. It is true that there was also learned discussion regarding the nature of international law and acute analysis of the concept of sovereignty, but these discussions were largely academic. The public generally, and even the lawyers, publicists and legislators, took little interest in such problems. They were engaged in the discussion of tariffs, antitrust laws, limitations upon corporate power; these seemed to be the main problems of the time.

In 1914 came the grim awakening. The press and the public became aware of the existence of international law, mainly through its violations. Here came the beginning of the end of the general belief in necessary and automatic progress toward the substitution of law for force in a march toward the millennium—a millennium to be brought about through sonorous phrases and legislative reforms dictated by a public opinion, which aimed to outlaw war, to create plenty and to inaugurate a reign of virtue by mere statutory enactment.

With the creation of the League of Nations and the Permanent Court of International Justice following victory in a war which had been termed “a war to end wars” came a new period of hope, but this period of revived optimism was short-lived, and the growing differences and bitterness among the