

PROCEEDINGS
OF THE
American Society of International Law
AT ITS
THIRTY-SEVENTH ANNUAL MEETING
HELD AT
WASHINGTON, D. C.
APRIL 30-MAY 1, 1943

PUBLISHED BY THE SOCIETY
700 JACKSON PLACE, N. W.
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THE AMERICAN SOCIETY OF INTERNATIONAL LAW

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CONCORD, N. H.

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* Deceased.

CONSTITUTION
OF THE
AMERICAN SOCIETY OF INTERNATIONAL LAW¹
(Revision adopted May 15, 1940, as amended May 1, 1943)

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 cooperate 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 one 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 hereinafter 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

Adopted by the Executive Council, May 22, 1924

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 be elected annually by the Executive Council.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 may be an Honorary Editor-in-Chief elected by the Council; and 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.

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 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

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

² As amended April 25, 1929.

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.

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THIRTY-SEVENTH ANNUAL MEETING
OF THE
AMERICAN SOCIETY OF INTERNATIONAL LAW
THE HOTEL STATLER, WASHINGTON, D. C.

FIRST SESSION

Friday, April 30, 1943, 8:15 o'clock, p.m.

The Thirty-Seventh Annual Meeting of the American Society of International Law, held in the Congressional Room of the Hotel Statler, Washington, D. C., convened Friday evening, April 30, at 8:15 p.m., Mr. Frederic R. Coudert, President of the Society, presiding.

President COUDERT. My friends and fellow members of this illustrious and honorable Society: I welcome you here at our Thirty-Seventh Annual Meeting.

Before beginning with the business of the meeting, may I mention the fact that we have here two admirable gentlemen, most respected members of this Society. I see them both in the audience. Admiral William L. Rodgers and Mr. Theodore Marburg. May I add a personal note by saying it is not only a pleasure to see such staunch friends of law and of this Society present, but they represent in these trying, hard days everything that is best in the American tradition, and they are welcome indeed among us.

Now, my friends, I wish to read to you a message received from the President of the United States, our Commander-in-Chief:

THE WHITE HOUSE

Washington
April 10, 1943

My dear Mr. Coudert:

I regret that it will not be possible for me to appear before the Society of International Law at its annual meeting beginning April thirtieth, as suggested by your program committee, but I want the Society to know that I am interested in the work which it has been carrying on since 1907.

The objects and purposes of the Society, namely, to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice, are praiseworthy, and the Society's record in promoting interest in this important field is a matter of justifiable pride. Objective and enlightened discussion of the rules of conduct that should govern the relations between nations tends to focus interest on a subject, the importance of which is too little emphasized.

With war raging on all seas and in far-flung lands, we are face to face with the proposition that the alternative to such shocking destruction as exists today is a definite body of law accepted and followed by nations in their relations with each other. It is not sufficient to hope that international problems will automatically adjust themselves. We know too well that progress is achieved the hard way. Men on the battlefields are dying that civiliza-

tion may be saved and that law by which we have learned to govern our conduct toward our neighbor, and not force, shall prevail. The body of law under which our civilization must advance must be a steadily growing one, tempered by past experience but capable of fulfilling the needs of a rapidly changing world. The world must have such law for its dependence. It cannot permit a recurrence of the present reign of lawlessness.

There has scarcely been a time when there was greater need than now for constructive thinking looking to the supremacy of law, justice and common decency in the relations between nations and their peoples. Learned organizations, such as your Society, are in a position to play a helpful part.

To you as President of the Society and to its members, I extend my best wishes.

Very sincerely yours,

FRANKLIN D. ROOSEVELT

On your behalf, knowing what your wishes would be, I answered that admirable letter of our Commander-in-Chief and assured him of the appreciation which we would all feel at his very fine message.

My fellow members and friends of the Society, custom is a very hard taskmaster sometimes. It easily crystallizes into law, and it often makes the less worthy do things because the worthier have done them heretofore. Therefore, it befalls to me tonight to make something in the nature of a presidential address. I realized its difficulties as I looked back some weeks ago over our proceedings from that first memorable evening in 1907, when our great President and perhaps the leading American of that day, certainly the leading jurist, Senator Elihu Root, addressed us. I have been amazed and thrilled at the splendid record that this Society has had, followed as he was by eminent Secretaries of State down to the present great Secretary, who was our President last year. But, like the unfortunate man in the House of Commons who once had to follow Lord Erskine, it may be said of me that I will follow very far behind but I will try to tread as far as I may in their footsteps.

Therefore, I must give to you certain reflections that the present situation has forced upon me and, I believe, has forced upon many of us lawyers, who have a common consciousness of right and wrong and feel a certain professional responsibility as to how the concerns of men should be managed.

To some it may seem premature to speak of the rôle of the lawyers and students of international law in connection with the war while our country is engaged in mortal strife on both oceans with the two most powerful and war-like nations of all time. Our very national existence is at stake and the safety of the nation must primarily rest upon the gallant shoulders of our Army and our Navy. The decisive rôle must be played by our armed forces, and not by the men of the law. All this is of course obviously true and yet this war, however defensive, has a goal broader and more ultimate than immediate temporary security from aggression.

That goal is and must be the attainment of peace—peace under and guaranteed by the rule of law. The activity of the soldier, however devoted and efficient, comes to an end with complete victory, and at that

moment we are confronted with the question of how our country is to be saved from recurrence of world war, with all its modern concomitants of total destruction.

At the first meeting of this Society in 1907 our honored President Elihu Root said:

In opening this meeting of the American Society of International Law, which I hope will be the first of many meetings in unbroken succession to continue long after we personally have ceased to take part in affairs, let me welcome you to the beginning of your labors for a more thorough understanding of this important and fascinating subject. It is impossible that the human mind should be addressed to questions better worth its noblest efforts, offering a greater opportunity for usefulness in the exercise of its powers, or more full of historical and contemporary interests, than in the field of international rights and duties.

* * * * *

The education of public opinion which should lead the sovereign people in each country to understand the definite limitations upon national rights and the full scope and responsibility of national duties, has only just begun. Information, understanding, leadership of opinion in these matters, so vital to wise judgment and right action in international affairs, are much needed. This Society may serve as a *collegium*, in the true sense of the word, in which all who choose to seek a broader knowledge of the law that governs the affairs of nations may give each to the other the incitement of earnest and faithful study and may give to the great body of our countrymen a clearer view of their international rights and responsibilities.¹

Nor must we forget that the object of our Society is not only to foster the study of international law but to "*promote the establishment and maintenance of international relations on the basis of law and justice.*" Secretary Hull truly says:

Without impediment to the fullest prosecution of the war—indeed, for its most effective prosecution—the United Nations should from time to time, as they did in adopting the Atlantic Charter, formulate and proclaim their common views regarding fundamental policies which will chart for mankind a wise course based on enduring spiritual values. In support of such policies, an informed public opinion must be developed. This is a task of intensive study, hard thinking, broad vision, and leadership not for governments alone, but for parents and teachers, and clergymen, and all those, within each nation, who provide spiritual, moral, and intellectual guidance. Never did so great and so compelling a duty in this respect devolve upon those who are in positions of responsibility, public and private.²

I am convinced that if we are to see better days and are to live in a world where for at least a generation or more there may be some assurance of peace, the lawyer, following hard upon the soldier, will have to play a

¹ Proceedings of the American Society of International Law, 1907, p. 43.

² Address by the Hon. Cordell Hull, International Conciliation, July, 1942, p. 9.