THE

AMERICAN JOURNAL

OF

INTERNATIONAL LAW



VOLUME 35

1941

PUBLISHED BY

THE AMERICAN SOCIETY OF INTERNATIONAL LAW

Publication Office: THE RUMFORD PRESS Concord, N. H. EDITORIAL AND EXECUTIVE OFFICE: 700 JACKSON PLACE, N.W. WASHINGTON, D. C.

Copyright, 1941, by the American Society of International Law

BOARD OF EDITORS

EDWIN M. BORCHARD, Yale Law School.
HERBERT W. BRIGGS, Cornell University.
PHILIP MARSHALL BROWN, Washington, D. C.
CLYDE EAGLETON, New York University.
CHARLES G. FENWICK, Bryn Mawr College.
MANLEY O. HUDSON, Cambridge, Mass.
CHARLES CHENEY HYDE, Columbia University Law School.
PHILIP C. JESSUP, Columbia University Law School.
ARTHUR K. KUHN, New York, N. Y.
JESSE S. REEVES, University of Michigan.
ELLERY C. STOWELL, American University.
ROBERT R. WILSON, Duke University.
LESTER H. WOOLSEY, Washington, D. C.
QUINCY WRIGHT, University of Chicago.

Honorary Editor-in-Chief
James Brown Scott, Washington, D. C.

Editor-in-Chief GEORGE GRAFTON WILSON, Harvard University

Managing Editor

GEORGE A. FINCH, 700 Jackson Place, N. W., Washington, D. C.

The object of the American Society of International Law 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.

The views expressed in the articles, editorial comments, book reviews and notices, and other contributions, which appear in these pages are those of the individual authors and are not to be taken as representing the views of the Board of Editors or of the American Society of International Law.

THE AMERICAN JOURNAL OF INTERNATIONAL LAW is supplied to all members of the Society without extra charge, as the membership fee of five dollars per annum includes the right to all issues of the JOURNAL published during the year for which the dues are paid. (Members residing in foreign countries outside the domestic postal zone pay one dollar extra per annum for foreign postage; Canada fifty cents extra.)

The annual subscription to non-members of the Society is five dollars per annum (plus the above-mentioned sums for foreign postage) and should be placed with the AMERICAN SOCIETY OF INTERNATIONAL LAW, 700 Jackson Place, N. W., Washington, D. C.

Single copies of the Journal will be supplied at \$1.50 per copy.

Applications for membership in the Society, correspondence with reference to the Journal, and books for review should be sent to George A. Finch, Secretary and Managing Editor, 700 Jackson Place, N. W., Washington, D. C.

AMERICAN JOURNAL OF INTERNATIONAL LAW

VOL. 35 CONTENT	5 1941
[No. 1, January, 1941, pp. 1-204; No. 2, April, 1941, 604; No. 4, October, 1941	
	PAGE
19TH YEAR OF PERMANENT COURT OF INTERNATION.	
THE INTER-AMERICAN NEUTRALITY COMMITTEE.	
THE MOST-FAVORED-NATION CLAUSE AND THE COUR	
NEUTRALITY, BELLIGERENCY, AND THE PANAMA CAN	•
THE INTERNATIONAL REGULATION OF WHALING.	Larry Leonard 90
GROTIUS: LAW OF WAR AND PEACE. Prolegomena.	G. G. Wilson 205
THE FREE SEA-PRODUCE THE EVIDENCE. T. Bat	/
Expropriation of Foreign Property. John H.	Terz
REQUISITION OF SHIPS DURING SPANISH CIVIL WAR.	Lawrence Preuss 263
Litigation of the Sabotage Claims against Germ	ANY. Lester H. Woolsey 282
INTERNATIONAL LAW AND AMERICAN POLICY. Free	eric R. Coudert 429
WEARING OF THE ENEMY'S UNIFORM. Valentine J.	bst III 435
SOVEREIGNTY OVER ISLANDS IN THE PACIFIC. Beat	ice Orent and Pauline Reinsch 443
CONSTITUTIONAL LIMITATIONS ON THE TREATY-MAI	ING POWER. J. Mervyn Jones 462
Interpretation of Decisions of International T	
RECOGNITION IN INTERNATIONAL LAW. Hans Kels	
WAR, NEUTRALITY AND NON-BELLIGERENCY. Edu	
Intervention by way of Propaganda. C. G. Fer	
Competence of Courts in regard to Non-Sove	
W. T. R. Fox	
Equality of States in Ancient China. Shih-Ts	
EDITORIAL COMMENT:	0.000
The organization of peace. Arthur K. Kuhn.	
Secretary Hull on the Kellogg-Briand Pact. (
International criminal justice. Philip Marsha	l Brown 118
Non-belligerency in relation to neutrality. Ro	
The Habana Conference and inter-American coo	
Interpretation of the term "High Contracting P	
American members of the Permanent Court of The Lend-Lease Bill and international law. Q	•
The Nationality Act of 1940. Charles Cheney	· ·
"Let the consuls take heed." Ellery C. Stowe	
"Acts of war." Clyde Eagleton	
Conflict of law in registration of aliens. Arthu	
International law and totalitarian war. P. C.	
Amende honorable. Ellery C. Stowell	
A British-French arbitration of 1918. Manley	
	de Eagleton
G. Howland Shaw and our Foreign Service. If The submarine and place of safety. George Gr	
Taking of foreign ships in American ports. L .	
Validity of the Greenland agreement. Herbert	
· · · · · · · · · · · · · · · · · · ·	<i>yy</i>

iv contents

	PAGI
Jus inter gentes. Philip Marshall Brown	513
Jurisdiction over the littoral bed of the sea. Edwin Borchard	518
Escaped prisoners of war in neutral jurisdiction. Robert R. Wilson	519
Rôle of organization in international law. C. G. Fenwick	524
Law without force. Herbert W. Briggs	527
Foreign-funds control and foreign-owned property. Arthur K. Kuhn	651
The shifting bases of international law. Philip Marshall Brown	654
The legislation of the Peace Conference. Philip C. Jessup	656
Of the illusion that war does not change. Clyde Eagleton	659
The international rights of man. George A. Finch	662
The Trail Smelter arbitration. Arthur K. Kuhn	665
Sovereignty in exile. Philip Marshall Brown	666
The Home Service of the Department of State. Ellery C. Stowell	668
CURRENT NOTES:	
Annual meeting of the Society140, 346	, 531
Violation by Spain of the Tangier Statute. Gabriel Delore	140
Seventh Conference of Teachers of International Law140	
Attorney General Jackson's address before Inter-American Bar Association	348
International Labor Organization in 1940. Smith Simpson	359
North American Regional Radio-Engineering Meeting. H. B. Otterman	363
Franking privilege for communications with prisoners of war. John H. Spencer	365
Czechoslovak Association of International Law	532
Statement and testimony by the Secretary of State on the Lend-Lease bill	533
Professor Karl Neumeyer. Hans J. Morgenthau	672
Research facilities in the National Archives. Quintin M. Sanger	672
CHRONICLE OF INTERNATIONAL EVENTS. Dorothy R. Dart	, 674
Judicial Decisions Involving Questions of International Law:	
U. S. Supreme Court: Arkansas v. Tennessee	154
U. S. Court of Customs and Patent Appeals: Bill Co. v. United States	160
Great Britain-France. Arbitration of Runciman-Clémentel agreement	379
United States Supreme Court:	
Bacardi Corporation v. Puerto Rico	383
Z. & F. Assets Realization Corporation v. Secretary of State	394
Hines (Pennsylvania) v. Davidowitz	555
Skiriotes v. Florida	569
Trail Smelter Arbitral Decision. March 11, 1941	684
BOOK REVIEWS AND NOTES	, 737
BOOKS RECEIVED	, 756
PERIODICAL LITERATURE OF INTERNATIONAL LAW. Eleanor H. Finch and Wilbur S.	
Finch	. 758
INDEX	•
Supplement Section of Documents. (Separately paged and indexed.)	, 00
Supplement decrion of Locuments. (Separately paged and indexed.)	