

THE
AMERICAN JOURNAL
OF
INTERNATIONAL LAW



VOLUME 39

1945

PUBLISHED BY

THE AMERICAN SOCIETY OF INTERNATIONAL LAW

PUBLICATION OFFICE:
THE RUMFORD PRESS
CONCORD, N. H.

EXECUTIVE AND EDITORIAL OFFICE:
700 JACKSON PLACE, N.W.
WASHINGTON 6, D. C.

Copyright, 1945, by the American Society of International Law

BOARD OF EDITORS

Honorary Editor-in-Chief

GEORGE GRAFTON WILSON, Harvard University

Editor-in-Chief

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

Managing Editor

PITMAN B. POTTER, 700 Jackson Place, Washington, D. C.

EDWIN BORCHARD
Yale Law School

HERBERT W. BRIGGS
Cornell University

PHILIP MARSHALL BROWN *
Washington, D. C.

FREDERICK S. DUNN
Yale University

CLYDE EAGLETON
New York University

CHARLES G. FENWICK
Washington, D. C.

MALBONE W. GRAHAM
University of California, Los Angeles

MANLEY O. HUDSON
Cambridge, Mass.

CHARLES CHENEY HYDE *
Columbia University Law School

PHILIP C. JESSUP
Columbia University Law School

* Honorary

ARTHUR K. KUHN *
New York, N. Y.

JOSEF L. KUNZ
Toledo University

LLEWELLYN E. PFANKUCHEN
University of Wisconsin

ELLERY C. STOWELL *
American University

EDGAR TURLINGTON
Washington, D. C.

JOHN B. WHITTON
Princeton University

ROBERT R. WILSON
Duke University

LESTER H. WOOLSEY *
Washington, D. C.

HERBERT WRIGHT †
Catholic University of America

QUINCY WRIGHT
University of Chicago

† Deceased

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 cooperate 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 of the American Society of International Law.

The JOURNAL is supplied to all members of the American Society of International Law without extra charge (except for foreign postage as indicated below) as a privilege of membership. The annual subscription to non-members of the Society is five dollars per annum and should be placed with the American Society of International Law, 700 Jackson Place, Washington 6, D. C. Annual members and subscribers residing in foreign countries outside the domestic postal area pay one dollar extra per annum for foreign postage; Canada fifty cents extra. 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 Pitman B. Potter, Secretary and Managing Editor, 700 Jackson Place, N. W., Washington 6, D. C.

AMERICAN JOURNAL OF INTERNATIONAL LAW

VOL. 39

CONTENTS

1945

[No. 1, January, 1945, pp. 1-162; No. 2, April, 1945, pp. 163-390; No. 3, July, 1945, pp. 391-644; No. 4, October, 1945, pp. 645-875.]

	PAGE
THE TWENTY-THIRD YEAR OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE AND ITS FUTURE. <i>Manley O. Hudson</i>	1
ACQUISITION OF NATIONALITY IN THE EMERGENCY REFUGEE SHELTER. <i>Albert G. D. Levy</i>	13
POSTWAR INTERNATIONAL ORGANIZATION AND THE WORK OF THE SECTION OF INTERNATIONAL AND COMPARATIVE LAW OF THE AMERICAN BAR ASSOCIATION. <i>Mitchell B. Carroll</i>	20
WAS THE SOVIET UNION EXPELLED FROM THE LEAGUE OF NATIONS? <i>Leo Gross</i>	35
THE OLD AND THE NEW LEAGUE: THE COVENANT AND THE DUMBARTON OAKS PROPOSALS. <i>Hans Kelsen</i>	45
THE NEED FOR AN INTERNATIONAL LEGISLATIVE DRAFTING BUREAU. <i>C. Wilfred Jenks</i>	163
THE MEANING AND THE RANGE OF THE NORM <i>Pacta Sunt Servanda</i> . <i>Josef L. Kunz</i>	180
GERMAN PRISONERS OF WAR IN THE UNITED STATES. <i>John Brown Mason</i>	198
TRANSFER OF PROPERTY IN ENEMY OCCUPIED TERRITORY. <i>Jacob Robinson</i>	216
ON THE FOUNDATIONS OF INTERNATIONAL LAW. <i>John P. Humphrey</i>	231
THE LAW OF ASYLUM WITH RESPECT TO THE PROPERTY OF REFUGEES. <i>Folke Schmidt</i>	244
WAR CRIMINALS <i>Quincy Wright</i>	257
RELIEF <i>Pendente Lite</i> IN THE PERMANENT COURT OF INTERNATIONAL JUSTICE. <i>Edward Dumbauld</i>	391
THE ALEXANDRETTA DISPUTE. <i>Majid Khadduri</i>	406
PROCEDURAL PROBLEMS IN INTERNATIONAL ARBITRATION. <i>Kenneth S. Carlston</i>	426
CURRENT VIEWS OF THE SOVIET UNION ON THE INTERNATIONAL ORGANIZATION OF SECURITY, ECONOMIC COÖPERATION, AND INTERNATIONAL LAW: A SUMMARY. <i>Charles Prince</i>	450
THE DISPOSITION OF ENEMY DEPENDENT AREAS. <i>Annette Baker Fox</i>	486
THE INTER-AMERICAN SYSTEM AND THE CONFERENCE OF CHAPULTEPEC. <i>Manuel S. Canyes</i>	504
THE LEGAL STATUS OF GERMANY ACCORDING TO THE DECLARATION OF BERLIN. <i>Hans Kelsen</i>	518
INTERVENTION: INDIVIDUAL AND COLLECTIVE. <i>Charles G. Fenwick</i>	645
POWER POLITICS AND INTERNATIONAL ORGANIZATION. <i>Herbert W. Briggs</i>	664

iii

	PAGE
THE DISTINCTION BETWEEN COMBATANT AND NONCOMBATANT IN THE LAW OF WAR. <i>Lester Nurick</i>	680
THE FINANCIAL EXPERIENCE OF UNRRA. <i>Theodore A. Sumberg</i>	698
INTERNATIONAL AGENCIES IN THE WESTERN HEMISPHERE. <i>Ruth D. Masters</i>	713
ATOMIC BOMBS IN INTERNATIONAL SOCIETY. <i>Elbert D. Thomas</i>	736
EDITORIAL COMMENT:	
Imperialism. <i>Philip Marshall Brown</i>	84
Judicial Notice of Foreign Law. <i>Arthur K. Kuhn</i>	86
The Future of the International Law for the Protection of National Minorities. <i>Josef L. Kunz</i>	89
An Approach to the Dumbarton Oaks Proposals. <i>Manley O. Hudson</i>	95
The Dumbarton Oaks Conference. <i>Edwin Borchard</i>	97
Membership in the Proposed General International Organization. <i>Herbert W. Briggs</i>	101
The Dumbarton Oaks Proposals Viewed Against Recent Experience in Interna- tional Organization. <i>Pitman B. Potter</i>	103
Armistices—1944 Style. <i>Malbone W. Graham</i>	286
Poland at Yalta and Dumbarton Oaks. <i>L. H. Woolsey</i>	295
Poland and the Crimea Conference. <i>Herbert Wright</i>	300
Vienna as Headquarters of the New League. <i>Josef L. Kunz</i>	309
Some Legal Questions Concerning War Relocation. <i>Robert R. Wilson</i>	314
Voting Procedure in the Security Council. <i>Pitman B. Potter</i>	318
The Inter-American Conference on Problems of War and Peace at Mexico City and the Problem of the Reorganization of the Inter-American System. <i>Josef L. Kunz</i>	527
The Vitality of International Law. <i>Philip Marshall Brown</i>	533
The Chairmanship of the San Francisco Conference. <i>John B. Whitton</i>	535
The Proposed Constitutional Amendment on Treaty-Making. <i>Edwin Borchard</i> ...	537
The United Nations Charter. <i>George A. Finch</i>	541
The United Nations Charter and the Covenant of the League of Nations. <i>Pitman B. Potter</i>	546
Herbert Wright. 1892–1945. <i>George A. Finch</i>	551
Acceptance by the United States of the Optional Clause of the International Court of Justice. <i>Philip C. Jessup</i>	745
International Law and the Charter of the United Nations. <i>Clyde Eagleton</i>	751
Development of International Law by the United Nations. <i>Philip C. Jessup</i> ...	754
The United Nations Commission on Human Rights. <i>Edgar Turlington</i>	757
The Inter-American System and the United Nations Organization. <i>Josef L. Kunz</i> .	758
The Charter and the Constitution. <i>Edwin Borchard</i>	767
The Extension of Sovereign Immunity to Government-Owned Commercial Corpora- tions. <i>Arthur K. Kuhn</i>	772
The Value of International Law in Occupied Territory. <i>Quincy Wright</i>	775
The Laws of War and the Atomic Bomb. <i>Ellery C. Stowell</i>	784
Basic Energy and International Law. <i>Pitman B. Potter</i>	788
International Law and Proposed Freedom of Information. <i>Robert R. Wilson</i>	790
CURRENT NOTES:	
Annual Meeting of the Society. <i>Edgar Turlington</i>	108
Cuban Action for Protection of Nationals Injured in Axis States. <i>Pitman B. Potter</i>	108
Publication of Papers of John Bassett Moore. <i>Pitman B. Potter</i>	109

	PAGE
The Drafting of United States Nationals by Great Britain. <i>Egon Schwelb</i>	109
The Position of the Executive and Administrative Heads of the United Nations International Organizations. <i>Egon F. Ranshofen-Wertheimer</i>	323
The Status of Soviet Forces in British Law. <i>Egon Schwelb</i>	330
Report of the Secretary of the Society on Meetings of the American Council of Learned Societies. <i>Pitman B. Potter</i>	332
Inter-American Lawyers Meet. <i>William Roy Vallance</i>	553
Recent Legislation Affecting the American Foreign Service. <i>Elton Atwater</i>	559
The United Nations War Crimes Commission. <i>M. E. Bathurst</i>	565
Miscellaneous Notes. <i>Pitman B. Potter</i>	570
The Immunity of Government-Owned Merchant Vessels. <i>Frederic R. Sanborn</i>	794
The Pact of the League of Arab States. <i>Philip W. Ireland</i>	797
The Thirtieth Anniversary of the Foundation of the Grotius Society. <i>Roman K. Kuratowski</i>	801
Origin of the Term International Organization. <i>Pitman B. Potter</i>	803
CHRONICLE OF INTERNATIONAL EVENTS. <i>Dorothy R. Dart</i>	112, 335, 573, 807
JUDICIAL DECISIONS INVOLVING QUESTIONS OF INTERNATIONAL LAW:	
<i>Kansas v. Missouri</i>	122
<i>Georges Triandafilou v. Ministere Public</i>	345
<i>Panos Stamatopoulos v. Ministere Public</i>	347
<i>Malero Manuel v. Ministere Public</i>	349
<i>Republic of Mexico v. Hoffman</i>	585
<i>Rex v. Brosig</i>	592
<i>Part Cargo Ex M. V. Glenroy</i>	599
<i>Shoshone Indians v. United States</i>	818
<i>The Cristobal Colon</i>	839
BOOK REVIEWS AND NOTES	134, 356, 610, 847
BOOKS RECEIVED	159, 385, 641, 870
PERIODICAL LITERATURE OF INTERNATIONAL LAW. <i>Wilbur S. Finch</i>	161, 388, 643, 873
INDEX	877
SUPPLEMENT SECTION OF DOCUMENTS. (Separately paged and indexed.)	