

THE
AMERICAN JOURNAL
OF
INTERNATIONAL LAW



VOLUME 44

1950

PUBLISHED BY

THE AMERICAN SOCIETY OF INTERNATIONAL LAW

PUBLICATION OFFICE:
LANCASTER PRESS, INC.
LANCASTER, PA.

EXECUTIVE AND EDITORIAL OFFICE:
1422 F STREET, N.W.
WASHINGTON 4, D.C.

Copyright, 1950, 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, 1422 F Street, N.W., Washington 4, D. C.

WILLIAM W. BISHOP, JR.
University of Michigan Law School

PHILIP C. JESSUP
Columbia University Law School

EDWIN BORCHARD *
Yale Law School

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

HERBERT W. BRIGGS
Cornell University

JOSEF L. KUNZ
Toledo University

PHILIP MARSHALL BROWN *
Washington, D. C.

MYRES S. McDUGAL
Yale Law School

WILLIAM C. DENNIS *
Richmond, Ind.

PITMAN B. POTTER
American University

CLYDE EAGLETON
New York University

LAWRENCE PREUSS
University of Michigan

CHARLES G. FENWICK
Washington, D. C.

EDGAR TURLINGTON
Washington, D. C.

MALBONE W. GRAHAM
University of California, Los Angeles

JOHN B. WHITTON
Princeton University

MANLEY O. HUDSON
Harvard University

ROBERT R. WILSON
Duke University

CHARLES CHENEY HYDE *
Columbia University Law School

LESTER H. WOOLSEY *
Washington, D. C.

QUINCY WRIGHT
University of Chicago

Secretary of the Board of Editors

ELEANOR H. FINCH

* Honorary.

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 cooperates with similar societies in this and other countries.

The views expressed in the articles, editorial comments, book reviews and notes, and other contributions which appear in the JOURNAL 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 JOURNAL is supplied to all members of the American Society of International Law without extra charge (except as indicated below). The annual subscription to non-members of the Society is \$7.50 per annum. 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 \$2.00 per copy.

Applications for membership in the Society or correspondence with reference to the JOURNAL, and books for review should be sent to the Executive Secretary, 1422 F Street, N.W., Washington 4, D. C.

AMERICAN JOURNAL OF INTERNATIONAL LAW

VOL. 44

CONTENTS

1950

[No. 1, January, 1950, pp. 1-242; No. 2, April, 1950, pp. 243-452; No. 3, July, 1950, pp. 453-616; No. 4, October, 1950, pp. 617-809]

	PAGE
THE TWENTY-EIGHTH YEAR OF THE WORLD COURT. <i>Manley O. Hudson</i>	1
TOWARDS AN INTERNATIONAL CRIMINAL COURT. <i>Vespasian V. Pella</i>	37
MAINSPRINGS OF CHINESE COMMUNIST FOREIGN POLICY. <i>H. Arthur Steiner</i>	69
AMERICAN CONSULAR RIGHTS IN COMMUNIST CHINA. <i>Herbert W. Briggs</i>	243
THE DRAFT DECLARATION ON RIGHTS AND DUTIES OF STATES. <i>Hans Kelsen</i>	259
THE CASE OF HYDERABAD BEFORE THE SECURITY COUNCIL. <i>Clyde Eagleton</i>	277
THE CLOSING OF THE MIXED COURTS OF EGYPT. <i>Jasper Y. Brinton</i>	303
TREATY PROVISIONS FOR THE INHERITANCE OF PERSONAL PROPERTY. <i>Virginia V. Meekison</i>	313
THE SOVIET SYSTEM OF COLLECTIVE SECURITY COMPARED WITH THE WESTERN SYSTEM. <i>W. W. Kulski</i>	453
THE RESPONSIBILITY OF THE SUCCESSOR STATE FOR WAR DEBTS. <i>Hans J. Cahn</i> ..	477
CAPTURED ENEMY PROPERTY: BOOTY OF WAR AND SEIZED ENEMY PROPERTY. <i>Wm. Gerald Downey, Jr.</i>	488
BRITISH EFFORTS TO CRUSH THE AFRICAN SLAVE TRADE, 1807-1929. <i>Howard Hazen Wilson</i>	505
THE LEGAL EFFECTS OF RECOGNITION. <i>Philip Marshall Brown</i>	617
RELATION OF INTERNATIONAL LAW TO INTERNAL LAW IN THE FRENCH CONSTITUTIONAL SYSTEM. <i>Lawrence Preuss</i>	641
RECENT DEVELOPMENTS IN HIGH SEAS FISHERIES JURISDICTION. <i>Chas. B. Selak, Jr.</i> ..	670
THE VENEZUELA-BRITISH GUIANA BOUNDARY ARBITRATION OF 1899. <i>Clifton J. Child</i>	682
NOTES ON LEGAL QUESTIONS CONCERNING THE UNITED NATIONS. <i>Yuen-li Liang</i> :	
Observance of Human Rights in Bulgaria, Hungary and Rumania	100
United Nations Practice with Respect to Reservations to Multipartite Instruments	117
What is an International Conference?	333
Use of the Term "Acceptance" in the United Nations Treaty Practice	342
The First Session of the International Law Commission: Review of its Work by the General Assembly	527
Abstention and Absence of a Permanent Member in Relation to the Voting Procedure in the Security Council	694
EDITORIAL COMMENT:	
Nazi Laws in United States Courts. <i>Lester H. Woolsey</i>	129
Swing of the Pendulum: From Overestimation to Underestimation of International Law. <i>Josef L. Kuns</i>	135

	PAGE
An International Right of Reply. <i>John B. Whitton</i>	141
“Treaty-Merchant” Clauses in U. S. Commercial Treaties. <i>Robert E. Wilson</i>	145
Adoption of French Children by American Citizens. <i>Arthur K. Kuhn</i>	150
Closure of Ports by the Chinese Nationalist Government. <i>Lester H. Woolsey</i>	350
Some Thoughts on the Recognition of New Governments and Régimes. <i>Malbone W. Graham</i>	356
Principal Legal and Political Problems Involved in the Kashmir Case. <i>Pitman B. Potter</i>	361
The American Committee on Dependent Territories. <i>Charles G. Fenwick</i> ...	363
United States Treaty Developments. <i>Herbert W. Briggs</i>	370
Charter Provisions on Human Rights in American Law. <i>Manley O. Hudson</i>	543
Some Thoughts About Recognition. <i>Quincy Wright</i>	548
International Law and National Legislation in the Trial of War Criminals— The Yamashita Case. <i>Arthur K. Kuhn</i>	559
Freedom of Communication Across National Boundaries. <i>Charles G. Fenwick</i>	562
Legal Aspects of the Situation in Korea. <i>Pitman B. Potter</i>	709
Critical Remarks on Lauterpacht’s “Recognition in International Law.” <i>Josef L. Kunz</i>	713
The Venezuela-British Guiana Boundary Arbitration of 1899. <i>William Cullen Dennis</i>	720
 CURRENT NOTES:	
Annual Meeting of the Society	153
Award of Certificate for Meritorious Work in International Law	153
Report of Special Committee on United Nations Practice	154
Organizational Framework of the North Atlantic Treaty. <i>T. V. Kalijarvi and F. O. Wilcox</i>	155
Nation v. State: Judgment for Nation. <i>William Gorham Rice</i>	162
International Political Science Association	164
International Academy of Political Science and Constitutional History.....	164
International Congress of Private Law	165
Legatum Visserianum	166
First Meeting of the Inter-American Council of Jurists. <i>Alwyn V. Freeman</i>	374
Legal Control over Resident Enemy Aliens in Time of War. <i>Michael Brandon</i>	382
New Czechoslovak Legislation on Nationality. <i>Paul Reiner</i>	387
The Fulbright Act in Operation. <i>Leo Gross</i>	390
New Scandinavian Journal of International Law. <i>J. L. Kunz</i>	394
21st Session of Hague Academy of International Law	395
International Law Association Meeting	396
New Offices of the Society	566
Increase in Membership Dues	566
Annual Meeting of the Society. <i>Eleanor H. Finch</i>	567
Transfer of Sovereignty Over Indonesia. <i>Homer G. Angelo</i>	569
Proclaiming of Treaties in the United States. <i>Henry Reiff</i>	572

CONTENTS OF VOLUME 44

v

	PAGE
State v. Nation: Fresh Evidence Admitted. <i>Michael Brandon</i>	577
Interpretation of Peace Treaties with Bulgaria, Hungary, and Rumania. <i>Kenneth S. Carlston</i>	728
On the Status of International Legislation. <i>Salo Engel</i>	737
Scott Prizes in International Law	740
Old and New International Publications. <i>P. B. P.</i>	740
Incorporation of the Society. <i>Edward Dumbauld</i>	741
CHRONICLE OF INTERNATIONAL EVENTS. <i>Dorothy E. Dart</i>	167, 397
JUDICIAL DECISIONS INVOLVING QUESTIONS OF INTERNATIONAL LAW. <i>William W. Bishop, Jr.</i>	181, 408, 579, 742
BOOK REVIEWS AND NOTES	215, 427, 596, 778
BOOKS RECEIVED	238, 448, 611, 804
PERIODICAL LITERATURE OF INTERNATIONAL LAW	240, 450, 613, 806
INDEX	810
SUPPLEMENT SECTION OF DOCUMENTS. (Separately paged and indexed.)	

AMERICAN JOURNAL OF INTERNATIONAL LAW

VOL. 44

January, 1950

NO. 1

CONTENTS

	PAGE	
THE TWENTY-EIGHTH YEAR OF THE WORLD COURT. <i>Manley O. Hudson</i>	1	
TOWARDS AN INTERNATIONAL CRIMINAL COURT. <i>Vespasian V. Pella</i>	37	
MAINSPRINGS OF CHINESE COMMUNIST FOREIGN POLICY. <i>H. Arthur Steiner</i>	69	
NOTES ON LEGAL QUESTIONS CONCERNING THE UNITED NATIONS. <i>Yuen-li Liang</i> : Observance of Human Rights in Bulgaria, Hungary and Rumania	100	
United Nations Practice with Respect to Reservations to Multipartite Instruments	117	
EDITORIAL COMMENT:		
Nazi Laws in United States Courts. <i>Lester H. Woolsey</i>	129	
Swing of the Pendulum: From Overestimation to Underestimation of International Law. <i>Josef L. Kunz</i>	135	
An International Right of Reply. <i>John B. Whitton</i>	141	
"Treaty-Merchant" Clauses in United States Commercial Treaties. <i>Robert R. Wilson</i>	145	
Adoption of French Children by American Citizens. <i>Arthur K. Kuhn</i>	150	
CURRENT NOTES:		
Annual meeting of the Society	153	
Award of Certificate for Meritorious Work in International Law	153	
Report of Special Committee on United Nations Practice	154	
Organizational Framework of the North Atlantic Treaty. <i>T. V. Kalijarvi and F. O. Wilcox</i>	155	
<i>Nation v. State</i> : Judgment for Nation. <i>William Gorham Rice</i>	162	
International Political Science Association	164	
International Academy of Political Science and Constitutional History	164	
International Congress of Private Law	165	
Legatum Visserianum	166	
CHRONICLE OF INTERNATIONAL EVENTS. <i>Dorothy R. Dart</i>		167
JUDICIAL DECISIONS INVOLVING QUESTIONS OF INTERNATIONAL LAW. <i>William W. Bishop, Jr.</i>	181	
BOOK REVIEWS AND NOTES:		
Reviews: Kozhevnikov, <i>Sovetskoe Gosudarstvo i Mezhdunarodnoe Pravo 1917-1947</i> , 215; Barcia Trelles, <i>Estudios de Política Internacional y Derecho de Gentes</i> , 216; Makarov, <i>Allgemeine Lehren des Staatsangehörigkeitsrechts</i> , 217; Van Nispel tot Sevenaer, <i>La Prise d'Otages</i> , 219; Morgenthau, <i>Politics Among Nations</i> , 219; London, <i>How Foreign Policy is Made</i> , 221; Eagleton, <i>International Government</i> , 224; Salomon, <i>L'O.N.U. et La Paix: Le Conseil de Sécurité et le Règlement Pacifique des Différends</i> , 225; Chaumont, <i>La Sécurité des États et la Sécurité du Monde</i> , 226; Mirkin-Guetzévitch and Hamburger, <i>Yearbook on Human Rights for 1946</i> , 227; Adam, <i>L'Organisation Européenne de Coopération Economique</i> , 228; Price, <i>The Evolution of the Zollverein</i> , 229; Cairns, <i>Legal Philosophy from Plato to Hegel</i> , 230.	238	
Notes: Verdross-Drossberg, 231; Telders, 232; Ross, 232; <i>The Charter and Judgment of the Nürnberg Tribunal</i> , 233; <i>Systematic Survey of Treaties for the Pacific Settlement of International Disputes 1928-1948</i> , 233; Hawtry, 234; <i>Looking Toward One World</i> , 234; Gross, 235; Levi, 236.	240	
Books Received	238	
PERIODICAL LITERATURE OF INTERNATIONAL LAW	240	
SUPPLEMENT SECTION OF OFFICIAL DOCUMENTS. (Separately paged and indexed.)		

BOARD OF EDITORS

Honorary Editor-in-Chief

GEORGE GRAFTON WILSON, Harvard University

Editor-in-Chief

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

WILLIAM W. BISHOP, JR.
University of Michigan Law School

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

EDWIN BORCHARD *
Yale Law School

JOSEF L. KUNZ
Toledo University

HERBERT W. BRIGGS
Cornell University

JOHN E. LOCKWOOD
New York, N. Y.

PHILIP MARSHALL BROWN *
Washington, D. C.

MYRES S. McDougAL
Yale Law School

WILLIAM C. DENNIS *
Richmond, Ind.

PITMAN B. POTTER
American University

CLYDE EAGLETON
New York University

LAWRENCE PREUSS
University of Michigan

CHARLES G. FENWICK
Washington, D. C.

ELLERY C. STOWELL *
San Francisco, Calif.

MALBONE W. GRAHAM
University of California, Los Angeles

EDGAR TURLINGTON
Washington, D. C.

MANLEY O. HUDSON
Harvard University

JOHN B. WHITTON
Princeton University

CHARLES CHENEY HYDE *
Columbia University Law School

ROBERT R. WILSON
Duke University

PHILIP C. JESSUP
Columbia University Law School

LESTER H. WOOLSEY *
Washington, D. C.

QUINCY WRIGHT
University of Chicago

Secretary of the Board of Editors

ELEANOR H. FINCH

* Honorary.

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 coöperates with similar societies in this and other countries.

The views expressed in the articles, editorial comments, book reviews and notes, and other contributions which appear in the JOURNAL 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 JOURNAL is supplied to all members of the American Society of International Law without extra charge (except as indicated below). The annual subscription to non-members of the Society is five dollars per annum. 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 or correspondence with reference to the JOURNAL, and books for review should be sent to the Executive Secretary, 700 Jackson Place, N.W., Washington 6, D. C.