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Arbitration and the World Court

By

Charles G. Fenwick, Ph.D.

and

International Law and Organization Committee

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THE CATHOLIC ASSOCIATION FOR
INTERNATIONAL PEACE
1312 Massachusetts Avenue, N.W.
Washington, D. C.

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APPRECIATION for their coöperation in sponsoring this report is hereby expressed to Rosemont College, Rosemont, Pennsylvania, in their response to the Holy Father's appeal, "May they all unite in the peace of Christ in a full concord of thoughts and emotions, of desires and prayers, of deeds and words—the spoken word, the written word, the printed word—and then an atmosphere of genuine peace, warming and beneficent, will envelop all the world."

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Study Presented

to

The Catholic Association for International Peace

by

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Arbitration and the World Court

I—The Supreme Court of the United States as an Example of a Court of Settlement of Disputes Between Nations

THE ideal of a world of nations coöperating together for the promotion of their mutual interests and submitting their disputes to the peaceful arbitrament of international courts is one from which few responsible persons would dissent at the present day. It is an ideal representing the highest principles of Christian ethics, proclaimed from time to time in the past by religious leaders and philosophers even when the practice of nations may have departed far from it. Within recent years substantial progress has been made toward a clarification of the practical conditions necessary to the attainment of the ideal. The old dogmatic assertion that wars are inevitable and that it is part of human nature to fight is giving way to a realization that the evil of war can and must be eradicated if Christian civilization is to survive. Our concern today is no longer how to make more tolerable wars that cannot be abolished, but rather how to find ways and means by which the ideal of international coöperation and world peace may become an actual reality in the face of existing conditions. The goal is now clearly before us, even if we are still far short of attaining it.

The peaceful settlement of international disputes raises two distinct practical problems. There is, first of all, the problem of obtaining an impartial international tribunal before which disputes may be brought for settlement. Unless a court can be found which will command the confidence of nations it is unlikely that the appeal for a peaceful settlement can be made to prevail against the desire of a nation to obtain what it believes to be its due. Secondly, it will be necessary to formulate in reasonably clear terms the rules of law to be applied by the court. For unless a nation knows beforehand the principles by which its case will be judged it will in most instances be unwilling to believe that any court would be truly impartial.

In seeking an answer to these two problems we naturally look for analogies and illustrations in the relations of citizen to citizen within the individual state. Here we find that through succeeding centuries the authority of the courts has come to be accepted as final and absolute. It may happen on occasion that a particular court will render a decision which ap-

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pears unjust not only to the losing party, which could hardly be expected to see the justice of the award, but to the community at large. In such a case no one would think of suggesting that the courts be abolished in favor of a return of hand-to-hand combat. Rather the effort would be to change the law which led to the unjust decision, or, if the judge himself be unworthy, to remove him in favor of another better fitted to interpret the law.

In the same way it has been for a hundred and forty years the rule of the American Constitution that the individual states of the Union must submit their disputes to the Supreme Court of the United States. Year after year the Supreme Court has heard the claims of one state against another. Missouri has brought suit against Illinois to prevent the construction of the Chicago drainage canal which threatened to pollute the waters of the Mississippi; Kansas has brought suit against Colorado to prevent the diversion of the waters of the Arkansas River; and Virginia has brought suit against West Virginia to secure the payment of a debt. In all these cases the decision of the dispute has been accepted by the losing parties as a final settlement not because they believed their case was a bad one, but because they acknowledged the authority and general impartiality of the Supreme Court and realized that the only alternative to accepting its decision would be a resort to force and consequent general anarchy.

In the history of international relations numerous instances of the settlement of disputes between states by arbitration can be found in ancient Greece and Rome, and in the Holy Roman Empire at the time the Papacy was at the height of its moral influence and authority. A relapse came with the growth of nationalism in the sixteenth century and the assertion of the unrestricted "sovereignty" of states in the succeeding centuries. Beginning, however, with the Jay Treaty of 1794, the United States initiated a new movement in favor of the arbitration of international disputes, and its record during the nineteenth century is one to be proud of in spite of serious breaks in it. By the close of the nineteenth century the earlier isolated instances of arbitration had multiplied rapidly, and the nations came to realize the need of giving definite organization to a practice which was becoming more and more recognized as the necessary alternative to armed force.

II—Arbitration as a Procedure for the Settlement of International Disputes

In the first place it was seen that if arbitration was to be more widely resorted to it was desirable to conclude treaties in which the parties would agree beforehand to submit their future disputes to arbitration when the occasion should arise. To wait until a dispute had arisen and then propose that it be arbitrated was to risk the adverse pressure of national passions aroused by the dispute. An agreement made in advance of the existence of a dispute, when the parties were in a cooler and more rational mood, would operate as a brake in time of a crisis and would pledge the good faith of the nations to resort to arbitration. This ideal led to the conclusion, in the first decade of the twentieth century, of a large number of bilateral treaties in which the contracting parties agreed to submit to arbitration disputes of a specified character. The difficulty presented by these treaties was that the nations were unwilling to submit all of their disputes without exception to arbitration, since they had not as yet confidence in the court which might be called upon to decide them, and they were not sure what principles of law would be applied by the court.

A solution was found for this difficulty by providing loopholes of escape from the obligations of the treaty whenever an escape might seem desirable. Thus in the series of treaties entered into by the United States in 1908, known as the Root treaties, the contracting parties agreed to arbitrate all "legal" disputes, as distinct from "political" disputes, and disputes relating to the interpretation of treaties; but even this obligation was limited by the proviso that in no case should the dispute be one affecting the vital interests, the independence, or the honor of the two contracting states, or the interests of third parties.

Valuable as these treaties were as a first step in the recognition of an obligation to arbitrate, it was easily seen that the loophole was so large that as a practical matter the only kind of disputes which the parties agreed to arbitrate were those they would not be likely to fight over in any case, and the disputes which were excepted from the obligation were the very ones which experience had shown were the usual causes of war. In 1911, President Taft made an effort to correct this feature

of the Root treaties by substituting new treaties which recited that the parties were prepared to arbitrate all "justiciable" disputes, that is, disputes which were of such a character as to lend themselves to a decision based upon principles of law or equity. The question then arose, who should determine whether a dispute was "justiciable" or not, and on that point the President and the Senate failed to come to an agreement, with the result that the treaties were never ratified.

Under Mr. Bryan, as Secretary of State, new treaties were drawn up in 1913 which had a somewhat different object in view. It was recognized that no agreement could be hoped for by which all disputes of whatever character would have to be submitted to arbitration. Conceding that, why could not the nations agree that whatever the character of the dispute, whether it involved vital interests or merely some lesser claim, it should at least be submitted to an impartial commission for investigation and report, in the hope that during the interval the disputants might modify the insistence of their demands and be willing to accept a compromise? By reason of a clause forbidding a resort to war while the commission was sitting and for a period of three months afterwards, these treaties came to be known as the "Cooling-Off Treaties," their technical name being "Treaties for the Advancement of Peace." They were entered into by the United States with a large number of states, and their influence has been far-reaching, due to the emphasis they laid upon the desirability of postponing decisions in time of national excitement and referring disputes to impartial commissions for discussion even when there was no obligation to accept the report of the commission. Treaties of this character are now known as "Treaties of Conciliation," as distinct from "Arbitration Treaties," the difference between the two being chiefly in the absence or presence of an obligation to submit to the award of the commission.

The second phase of the effort in the last decade of the nineteenth century to give more definite organization to methods of peaceful settlement of international disputes consisted in plans for the establishment of a fixed court to replace the occasional courts created in the past for each particular dispute. In 1899, a Peace Conference met at The Hague and created an institution known as the Hague Permanent Court of Arbitration. This "court" was not in any real sense a court, since it

consisted merely in a list of judges appointed by the states which were parties to the agreement, from which list any two states which might happen to have a dispute could select the judges who were thereupon authorized to decide their particular case. Since the composition of the particular tribunal changed with each case submitted to arbitration, the designation "permanent" scarcely described the court as a working institution. Nevertheless the Hague Court served a useful purpose; it is still in existence and has a noteworthy record of decisions. The United States has been a party to it from the beginning and has submitted a number of cases to it.

III—The Proposed Judicial Arbitration Court of 1907

At the second Hague Conference of 1907, efforts were made by the American delegates to establish a truly permanent court which would have a fixed composition and be in regular and continuous session. Only a court of this kind, it was asserted, could possess "a sense of judicial responsibility" and command the authority necessary to bring the nations to submit to it. It was to be a "judicial" court as distinct from an arbitration court, the word "judicial" meaning that the court would render legal decisions rather than make awards more or less by compromise between conflicting claims. The efforts of the American delegates were, however, unsuccessful, owing chiefly to the difficulty of reconciling the claims of the large and the small states to equal representation upon it.

At the close of the World War it was generally recognized that among the new agencies of peace must be a court of a more permanent character, after the character of that proposed by the American delegates in 1907. Article 14 of the Covenant of the League of Nations made provision for the formulation of plans for such a court, and in pursuance of this provision the Council of the League of Nations appointed a committee of ten jurists to prepare the plan of what was to be known as the Permanent Court of International Justice. The committee of jurists met at The Hague in 1920, having among its members Mr. Elihu Root who, as Secretary of State of the United States in 1908, had been instrumental in negotiating the Root treaties of arbitration and who was an outstanding advocate of judicial institutions as an agency of international peace. The chief

problem before the committee was the old one which had proved the stumbling-block in 1907, namely, that of reconciling the claims of both large and small states to a seat upon the court. The court had to be reasonably small in number, and in consequence it could not have a representative of every nation upon it; at the same time the Great Powers were unwilling to establish a court which did not have one of their own nationals among its judges. The idea still persisted of regarding the court as a political as well as a judicial body; and in view of the uncertain character of many of the rules of international law this attitude was natural if not altogether justifiable.

A solution of this difficult problem was found by providing that the judges of the court should be elected by the Council and the Assembly of the League of Nations sitting separately. Since the Council of the League represented the larger states, they would be able to prevent by their vote in the Council the election of any judge who might seem to have a bias against them. On the other hand the smaller states, having a majority in the Assembly of the League, would be able to block the election of a judge who might seem to them to have the great-power point of view. A parallel to this attitude might be found in the conflict that has on occasion taken place in the Senate of the United States when it has been a question of confirming nominees to the Supreme Court who are suspected of being unduly favorable to big corporations or biased against them.

A second problem before the draft committee was to determine what should be the authority or jurisdiction of the court to hear cases. No previous court had possessed any jurisdiction other than that which the parties to a dispute might be willing to confer upon it in each particular case. The draft committee now proposed that the jurisdiction of the court should be made obligatory for four groups of cases, namely, cases involving the interpretation of a treaty, a question of international law, the existence of facts constituting the violation of an international obligation, and the reparation to be made for any such violation. These four groups of cases dealt with points of law and points of fact, and it was believed that they were of a character which made it safe for a nation to agree beforehand to submit them to the decision of the court.

IV—Organization of the Permanent Court of International Justice (The "World Court")

The draft plan prepared by the committee of jurists, drawn up in the form of a "Statute" or constitution, was submitted first to the Assembly of the League, which finally adopted it on December 13, 1920, after certain amendments had been made. The most important amendment changed the jurisdiction of the court, so that recourse to it should be in all cases voluntary. The obligation to submit the four groups of cases was taken out of the Statute and offered in the form of an "Optional Clause" which might or might not be accepted by individual nations according as they saw fit to undertake the obligation. Following the adoption of the Statute of the court by the Assembly of the League it was decided that the court should come into existence not by the action of the League of Nations but as the result of a new treaty to be ratified by the nations wishing to become parties to it, and to be an obligation distinct from the Covenant of the League. This new treaty bears the name of the Protocol of the Permanent Court of International Justice, and being a separate agreement, standing on its own legal ground, it can be signed by nations not members of the League of Nations. On January 1, 1936, forty-nine states had in the popular sense "joined the World Court" by formal ratification of the Protocol. Of these forty-nine states, forty-one had signed the Optional Clause accepting the jurisdiction of the Court for the four groups of law-and-fact cases. Provision is made in the Statute that the Court shall be open not only to those states which have ratified the protocol of signature but also to states, such as the United States, which have the right to ratify but have not done so, and to states which have as yet no right to join but which might desire to bring their cases before the Court.

Under the Protocol of 1920, the Court consisted of fifteen members, eleven judges and four deputy judges, who were elected for a term of nine years. On September 25, 1930, the Assembly of the League of Nations, exercising powers granted under Article 3 of the Statute, increased the number of judges to fifteen. Nominations to membership are made by having recourse to the old Hague Court of Arbitration established in 1899, which, acting by national groups, proposes the names to

be voted upon by the Council and the Assembly of the League. The conditions of nomination are such as to insure the election of judges who are reasonably free from national bias. At the same time the judges must possess individual qualifications in respect to moral character and juristic ability, while a general qualification of the Court as a whole is that it should "represent the main forms of civilization and the principal legal systems of the world." In order to quiet the fears of certain states that their case might be prejudiced if none of the judges were of their nationality, provision is made in the Statute that in such event special judges of the nationality of the contesting parties should be appointed for the particular case. From one point of view this was a grave concession to national prejudices, for it suggests that judges will always vote on the side of their own nation; but inasmuch as the national judge is but one of a court of eleven, now become fifteen, the appointment of such judges may be looked upon rather as intending to insure that the case of the particular country shall be considered from every angle.

V—Jurisdiction of the Permanent Court of International Justice

The jurisdiction of the Court insofar as the Statute itself goes is, as has been seen, entirely optional. But since as a matter of fact a large majority of the states which are parties to the Court have signed the Optional Clause conferring jurisdiction upon the Court in the four specified groups of cases the obligatory jurisdiction of the Court is actually very wide. Moreover the Court has what may be called a "special jurisdiction" based upon separate treaties which, while relating primarily to other matters, contain an "arbitral clause" which obligates the parties to submit to the Permanent Court any disputes which may happen to arise in connection with the interpretation of the treaty. The Versailles Treaty and the several mandates and minorities treaties contain provisions of this kind, as do the treaties entered into by the members of the International Labor Organization.

A somewhat unusual characteristic of the Court is its function of rendering what are known as "advisory opinions." In Article 14 of the Covenant of the League of Nations, which

called upon the Council to prepare plans for the Court, it was stated that "the Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly." The Court was thus thought of as having two sets of activities. On the one hand it was to render "judgments," which are formal awards handed down in a dispute between two litigants and binding upon them as a final settlement of the case. On the other hand it might be called upon to give advisory opinions, which would not have a definitive character and would be no more than an expression of the opinion of the Court upon the subject submitted to it for an opinion. Originally the idea behind the proposal of advisory opinions seems to have been to enable the Council or the Assembly to turn to the Court for an interpretation of the Covenant, which like other constitutions was phrased in general terms that might call on occasion for clarification. Subsequently it was felt that the Court might assist the Council or the Assembly of the League in their function of conciliation in the event that either of the two bodies might have before it a dispute not submitted by the contending parties to arbitration and involving danger of war. Suppose the dispute thus brought before the Council or the Assembly should contain questions of law as well as political claims not covered by any of the accepted rules of law. In such a case the Council or the Assembly might wish to refer the legal question to the World Court for an advisory opinion; and the Court in giving the advisory opinion would be assisting in the settlement of the dispute by offering its expert judgment upon those aspects of the case which it was a proper function of courts to decide.

When the committee of jurists met in 1920 to prepare the plan for the Court it included provisions for advisory opinions in the draft statute; but these were stricken out by the Assembly of the League at the time the Statute was finally accepted by it, the ground for such action being that provisions of that kind belonged properly in the rules of the Court, not in the Constitution of the Court. In consequence when the judges of the Court met after their election to frame their rules of procedure, known as "Rules of the Court," they included (Articles 71-74) provisions for giving advisory opinions. The amendments to the Statute of the Court, adopted in 1929 and now pending ratification, propose to transfer to the Statute the

essential parts of the revised rules of procedure with regard to advisory opinions and thus give greater permanence to the conditions under which this function of the Court must be exercised.

While this function of the World Court in rendering advisory opinions to the Council or to the Assembly of the League of Nations is a new departure in international relations there are numerous precedents for it in the constitutional law of individual states of the United States. The Constitution of Massachusetts, for example, has made provision since 1780 for advisory opinions to be given by the Justices of the Supreme Judicial Court "upon important questions of law and upon solemn occasion," at the request of either branch of the legislature, or of the Governor and the Council. A number of opinions have been given in accordance with this provision and they stand on a different footing from decisions of the Court proper and do not have the force of precedent given to decisions of the Court. On the other hand opinions given under the Constitution of Colorado are not mere "opinions of the justices," as in Massachusetts, but judgments of the Court itself, and they have all the force and effect of precedent attaching to decisions of the Court.

In the case of the World Court an effort was made, as stated in the words of Judge John Bassett Moore, "to assimilate the process as far as possible to a judicial proceeding"; that is, the whole procedure of hearing the case, including the appearance of the contesting parties, the submission of evidence, and the publicity to be given to the case, is to follow as far as possible the procedure customary when a formal decision is being given upon resort to the Court by the contesting parties themselves.

In the course of fourteen or more years the Council has upon a number of occasions requested the Court for advisory opinions. In all cases but one they have been duly rendered and have materially contributed toward the settlement of disputes through the conciliation procedure of the Council. Advisory opinions have thus become an accepted function of the Court and they have proved their practical usefulness, whatever theoretical objections may be raised against this departure from the strict judicial function of giving a final award between two contesting parties. In a letter of November 18, 1929, to President Hoover, Secretary of State Stimson referred to the advisory opinions of the Court as promising to play "a most use-

ful part" in the work of developing international law; and he pointed out that the past record of the World Court had already given proof of what could be done in that respect.

As of the date of January 1, 1936, the Permanent Court of International Justice had handed down twenty-three decisions or "judgments" and twenty-seven advisory opinions. Looking first at the judgments of the Court, two may be selected as typical of the way in which the Court functions when cases are referred to it by two or more contesting parties. The case of the Steamship *Wimbledon,* decided in 1923, involved the interpretation of Article 380 of the Treaty of Versailles, which provided that the Kiel Canal and its approaches should be maintained "free and open to the vessels of commerce and war of all nations at peace with Germany on terms of entire equality." In 1921, Germany, being the territorial sovereign of the Canal, refused to permit the *Wimbledon* to use the Canal on the ground that the steamship was carrying arms to Poland while that state was at war with Russia, and that the passage of the vessel through the Canal would constitute a violation of the neutrality of Germany. In consequence of the action taken by Germany, Great Britain, France, Italy and Japan asked the Court for a judgment as to the rights of the parties under the treaty. The Court held that Germany was under an obligation to keep the Kiel Canal open at all times without making any distinction between vessels of war and vessels of commerce and without taking account of the contraband character of the goods carried by the vessel, provided only that the vessel must belong to a nation at peace with Germany.

In the case of the Steamship *Lotus,* decided in 1927, the question before the Court was to determine whether under the general rules of international law a state had the right to put on trial the officer of a foreign vessel for an offense alleged to have been committed on the high seas. A collision had occurred in the Ægean Sea between the French mail steamer *Lotus* and a Turkish collier, the *Boz-Kourt,* in which the collier was sunk with a loss of eight Turkish nationals. When the *Lotus* reached Constantinople the officer of the watch was arrested and convicted in court and given a sentence of imprisonment. The French government protested against this assumption of jurisdiction over one of its nationals, and the matter was referred by agreement to the World Court. The Court de-

cided that there was no rule of international law to prevent Turkey from exercising jusisdiction over the officer of the French vessel when the latter had put in at a Turkish port, and that the French claim of exclusive control over acts taking place on board a French vessel on the high seas but having their effects upon a Turkish vessel could not be sustained.

Of the important advisory opinions of the Court, an early one involved a dispute between Great Britain and France over certain "nationality decrees" issued by the French government in regard to Tunis and Morocco over which countries France held a protectorate. The effect of the decrees was to make French citizens any persons born in the two countries of foreign parents one of whom was born there. This provision brought the decrees into conflict with the British nationality law, with the result that Great Britain objected to the application of the decrees in such cases. France replied that nationality was a "domestic question" which each state had the right to regulate for itself. The British government then appealed to the Council of the League of Nations; but before the Council could recommend a settlement of the dispute it had to decide whether the dispute *did* relate to a domestic matter, since if that were the case it could not make a recommendation. The Council then asked the Court for an advisory opinion upon the question whether the nationality decrees were a domestic matter outside the jurisdiction of the Council. The Court replied that in principle questions of nationality were domestic questions, but that in the particular case the right of France to issue the decrees was restricted by its treaties with Great Britain, so that the dispute in consequence took on an international aspect, and the Council might properly make a recommendation.

A more recent advisory opinion of the Court has been the subject of much discussion. In 1931, Austria entered into a customs agreement with Germany as a way of relieving the economic strain under which it had been since the close of the World War. France objected to the customs-union on the ground that it was in violation of the provisions of the Treaty of Saint Germain and of the Geneva Protocol of 1922, which obligated Austria not to "compromise her independence." The Council of the League thereupon referred to the Court the question whether the customs agreement between Austria and

Germany would have the alleged effect and thus be in violation of the obligations of Austria assumed by the treaties. A request was made by the Council that the matter be treated as urgent, with the result that within four months the Court handed down its opinion. By a vote of eight to seven the Court held that the proposed customs-union was not compatible with the obligations of Austria's treaty of 1922, which specifically provided that Austria should not "violate its economic independence by granting to any state a special régime or exclusive advantages calculated to threaten this independence." The minority of the Court rendered a dissenting opinion, holding that customs agreements in general did not constitute a danger to the independence of a state and that the special régime set up by Austria in this case did not violate her economic independence as forbidden by the Geneva Protocol.

This advisory opinion of the Court has been much criticized on the ground that the judges of the Court appeared to be taking sides on a political question rather than deciding upon the strictly legal aspects of the case. While the criticism is not without foundation, at the same time it must be recognized that cases will come up before any international court, no matter how constituted, in which the personal views of the judges will to some extent color their opinions. The Supreme Court of the United States has on various occasions in the course of its long history been accused of allowing the personal opinions of its members to influence their decisions, as in the decision of the Court in the case of the income tax law of 1895. At the same time it frequently happens that national as well as international courts, seeking to give a strictly legal decision, are made to bear the blame for conditions which it is the proper duty of the legislature, or of the parties to a contract, to change. Domestic courts have frequently been called upon and have had no other choice but to enforce contracts which appeared to work an injustice to one of the parties but which were "within the law" until the legislature chose to take action to the contrary.

VI—The United States and the Permanent Court of International Justice

The question whether the United States should join with other states in maintaining the Court and coöperating in its

activities first became an active one in 1923 when, on February 17th, Secretary of State Hughes recommended to President Harding that the United States adhere to the Protocol of Signature of December 16, 1920, by which the Court was created. In his letter to the President, Secretary Hughes explained that from its foundation the United States Government had "taken a leading part in promoting the judicial settlement of international disputes." While under the Statute of the Court the United States was privileged to bring a case before the Court as a suitor, said Mr. Hughes, this was not sufficient in view of the great importance of the institution of an international court invested "with a jurisdiction which conforms to American principles and practice." He found no insuperable obstacle in the fact that the United States was not a member of the League of Nations. Accordingly he proposed four "conditions and understandings" which were to be made part of the instrument of adhesion. These were that the adhesion of the United States should not be taken to involve any legal relation on the part of the United States to the League of Nations; that the United States should participate upon equal terms in the election of the judges of the Court; that the United States should pay a fair share of the expenses of the Court; and that the Statute of the Court should not be amended without the consent of the United States.

In accordance with the recommendation of Secretary Hughes, President Harding, on February 24, 1923, asked the consent of the Senate to the adhesion of the United States to the Protocol. In was not, however, until December, 1925, that the matter was actively taken up by the Senate, and then, after a month's discussion, the Senate, on January 27, 1926, adopted a Resolution giving its advice and consent to the adhesion of the United States to the Protocol (expressly excluding the Optional Clause) subject to five reservations. The first four of the reservations followed the "conditions" suggested by Secretary Hughes in his letter of February 17, 1923, with an addition to the fourth condition to the effect that the United States might at any time withdraw its adherence to the Protocol. The fifth reservation of the Senate was destined to be the subject of much controversy. It related to the function of the Court in rendering advisory opinions; and it provided that all such opinions should be rendered publicly and after due notice and pub-

lic hearing or opportunity of public hearing to any state concerned. This part of the reservation was in accordance with the procedure followed by the Court and occasioned no controversy. The second part of the reservation provided that the Court should not, without the consent of the United States, "entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest."

In view of these reservations a conference of the signatories of the Protocol was held at Geneva in September, 1926, to consider the effect of the reservations; and in answer to the belief of a number of states represented at the conference that the second part of the fifth reservation might prove to be an obstacle to the advisory jurisdiction of the Court a statement was adopted, on September 23, suggesting a way in which the objection might be overcome. This statement, in the form of a Final Act, was promptly submitted to the United States, but it was not until February 19, 1929, that Secretary Kellogg informed the Signatories of the Protocol of the attitude of the United States toward the Final Act. There were, said Secretary Kellogg, "some elements of uncertainty" in the proposals which seemed to require further discussion.

In reply to Secretary Kellogg's letter, the Council of the League of Nations requested the Committee on Amendments to the Statute of the Court to make suggestions with a view to facilitating the accession of the United States to the Protocol "on conditions satisfactory to all the interests concerned." On March 18th, the Committee drew up a draft protocol containing a plan, known as the "Root formula," by which an agreement might be reached between the United States and the signatory states. This plan was acceptable to President Hoover, and the approval of the United States was communicated to the Secretary-General of the League of Nations on September 4, 1929. In the meantime amendments had been proposed to the Statute of the Court with the object of incorporating certain of the conditions fixed by the United States in 1926.

The legal situation resulting from this procedure called for the adhesion of the United States to three separate protocols: the original Protocol of 1920, a new Protocol for the revision of the Statute, and a third Protocol for the adhesion of the United States covering the special conditions upon which the

United States was to be permitted to adhere.[1] On December 9, 1930, President Hoover instructed the American Chargé d'Affaires at Bern to sign the protocols in the name of the United States, and on the following day the President transmitted the protocols to the Senate for its advice and consent as the necessary preliminary to ratification. It was not, however, until June 1, 1932, that the Senate Committee on Foreign Relations submitted a report to the Senate. This report reviewed the whole situation, examined in detail the "Root formula," and came to the conclusion that the difference between the original Reservation V of the Senate Resolution of 1926 and the new Protocol embodying the Root formula was "so slight, even though the Root construction (of the formula) be rejected, as to approach the vanishing point." "Whether the question be viewed selfishly or altruistically," said the Committee, "our Government ought to give to the Court the moral support that would follow from association in maintaining it."

In spite of the favorable report submitted by the Committee on Foreign Relations no immediate action was taken. In the same month, however, the platforms of both the Republican and the Democratic parties carried provisions favoring support of the Court by the United States; and the advocates of the Court were led to the conclusion, with the sanction of public opinion thus expressed, the advice and consent of the Senate could now definitely be counted upon. Problems of domestic politics made it seem advisable, however, to postpone consideration of the matter; and it was not until the early months of 1934 that the Committee on Foreign Relations of the Senate again held public hearings, the outcome of which was an announcement that the matter would be placed on the Senate's agenda at the beginning of the session in 1935.

On January 10, 1935, the Committee on Foreign Relations presented a favorable report, recommending the adoption of a resolution reciting the three protocols submitted to the Senate by President Hoover in 1930, and giving the advice and consent of the Senate to them, without, however, accepting or agreeing to the optional clause for compulsory jurisdiction of the Court and with the "clear understanding" that the Court would not, over an objection by the United States, "entertain any request for an advisory opinion touching any dispute or question in

[1] See Appendix A.

which the United States has or claims an interest." On January 16, President Roosevelt sent a special message to the Senate urging that it give its consent "in such form as not to defeat or to delay the objective of adherence." Debate continued for ten days, during which two additions were made to the pending resolution borrowed from the resolution of 1926. By the first the Senate reaffirmed the traditional policy of the United States in not interfering with or entangling itself in the political questions of any foreign state, and renewed the statement that adherence to the protocols should not be construed to imply a relinquishment by the United States of its traditional attitude toward purely American questions. By the second addition the Senate made it clear that recourse to the Court for the settlement of particular disputes could only be had by agreement of the parties to the dispute as expressed through general or special treaties concluded between them. Assurance was thus made doubly sure that there would be no "commitments," and that the United States would preserve full liberty of action.

The resolution finally came to a vote on January 29, when it was carried by a majority of only 52 to 36, seven less than the two-thirds majority required. The vote was not along party or sectional lines, and the repudiation of the party platforms of 1932 must be explained by changes of public opinion in different localities of the country and by the pressure brought to bear upon senators who had previously favored the Court. Analysis of the objections raised against the Court is somewhat difficult; but it would appear that the chief objection was the connection of the Court with the League of Nations, so that adherence to the Court might have the effect of being a "first step" into the League. Around this primary objection revolved a number of others, such as the failure of certain European governments to pay their war debts, the alleged tendency of the Court to give "political" decisions, as was said to be the case in the Austro-German Customs Régime opinion, the failure of the several disarmament conferences, and in general the war clouds looming upon the horizon of Europe and in the Far East. The Court was denounced on the one hand as being a danger to the United States, and on the other hand from the opposite approach as being an ineffective agency for the settlement of disputes, having no authoritative jurisdiction and no sanctions behind it. Prominent among the forces which rallied opposition to the

Court were the radio broadcasts of Father Coughlin and the daily editorials of the Hearst newspapers. There would seem to be little doubt but that the minority in the Senate which under the two-thirds rule was sufficient to defeat the Court had behind it a proportionate popular vote, if not a larger vote. On the other hand the numerous organizations which had previously expressed themselves in favor of the Court, the bar associations, the American Federation of Labor, the American Chamber of Commerce, the National Grange, and other religious and civic groups were caught off their guard by the suddenness of the attack and were less vocal than the opposition at the time the vote in the Senate was taken. There is under our government no way of telling accurately the extent of popular support of or opposition to the Senate resolution or what elements of public opinion either group represented. In a representative government it must be assumed that legislators reflect the sentiment of popular majorities, making due allowance for the fact that the elements of public opinion that are opposed to a given measure command the attention of a legislator more than do the elements that favor it.[2]

What conclusions can be drawn from the above statement of facts to serve as a guide for the future policy of the United States toward the Court? Is it possible, under the present state of international relations, for the United States to coöperate with the existing World Court upon conditions mutually acceptable to all the signatories of the Protocols, or must all thought of such coöperation be abandoned for the time being? As a practical matter it is simply out of the question to suggest the creation of some new world court, even if the opponents of the present Court were to undertake to specify in detail the features of such a Court. On the one hand the nations which are now associated with the Court are satisfied on the whole with its record of some sixty judgments, orders and advisory opinions; they are convinced by its record that the Court has proved an impartial arbiter of the disputes and questions submitted to it; they find that it has been able to decide legal issues without being influenced by political considerations beyond the degree to which judges of every court, national as well as international, are influenced; they would regard it as

2 Since the above was written the Republican platform of 1936 has repudiated adhesion to the World Court. No explanation was given of the change from the former policy of the party.

naïve, to say the least, to be asked by the United States to put aside an institution which has been in active operation for sixteen years for a new court which differed in no substantial way from the one that it replaced. On the other hand it is doubtful whether any international court whatever would, under the existing conditions in Europe, satisfy a large number of the opponents of the present Court. They do not want any court at all as things now stand; they do not want any closer association with foreign nations than they now have; and however innocent they might concede the obligations entailed by the association of the United States with the Court to be, they do not care to assume them lest undesirable inferences might be drawn from them. So deep is their present distrust of other nations, principally the Great Powers of Europe, that not even the appeals of four successive Presidents and their Secretaries of State have been able to influence their judgment in the matter.

VII—The Relation Between Peace and Justice

What then remains to be done by those who believe that such an attitude is an unreasoning one and betrays the same narrow nationalism which Americans are ready to criticize in foreign nations? The problem is clearly an educational one, proceeding upon the assumption that the opposition to the Court will yield to a fair and impartial presentation of the facts concerning it. What are the steps in such an educational program? In the first place it must be emphasized that all proposals for arbitration and judicial settlement must be judged not on their merits in the abstract but as alternatives to the anarchy of war. Just as the individual accepts restraints upon his personal conduct because of the necessity of maintaining public law and order, so the nations must accept restraints because of the same necessity. If each nation is to insist upon being the judge in its own case and refuses to accept any intermediation on the part of the community of nations at large, then there would seem to be no hope of ending the anarchy which leads to war. In this connection it must be stressed that it is the consistent teaching of Catholic theologians that the same principles of morality which are binding upon individuals are binding upon the state of which they are citizens; and it is

only a question as to how those principles may be applied under the circumstances.

Secondly, it must be constantly borne in mind that if the ideal of the peaceful settlement of international disputes is to be attained some positive measures must be adopted to attain it. It is undoubtedly true that if human nature everywhere would conform to the precepts of Christian morality there would be no more war, and too great emphasis cannot be placed upon the necessity of higher standards of moral conduct on the part of citizens and nations alike. At the same time Catholic theologians have always gone on to point out that in the world as it exists, it is imperative that principles of moral conduct should be embodied in definite institutions or forms of organization by which the community at large may protect itself against the wilfulness of an individual who may on occasion insist upon being the judge in his own case and act in conflict with the standards of the community. For that purpose we have courts of law within the state, by which the judgment of the commuity may be given effect as against the arbitrary will of the individual. In like manner between nations there is need of definite institutions which will give form and effect to the principles of moral conduct obligatory upon them. If arbitration and judicial settlement are, when other means have failed, the necessary alternatives to war, then arbitration and judicial settlement must be embodied in institutions which will make them practical forms of procedure in the daily life of the nations. The choice between one or other of the two forms of procedure is more a question of effectiveness than of moral principle. It was the United States which in 1907, at the Second Hague Conference, urged upon the nations that the various tribunals of arbitration which had met on occasion to decide the disputes of states might be supplemented by a more permanent body of judges, holding office over long terms and possessed, as Secretary Root expressed it, of a sense of judicial responsibility. Such a court, it was urged by the delegates of the United States, would give continuity to the procedure of arbitration and would permit the development of international law by the slow growth of judicial precedent which characterizes the development of national law.

Can the objection offered to the adherence of the United States to the existing Permanent Court of International Justice

on the ground that it is tied up with the political system of Europe be overcome? There is no question but that it may be overcome from the point of view of any *legal* "commitments." The reservations adopted by the Senate met fully all possible objections on that score. What of the indirect dangers of "entanglements" resulting from the mere association of the United States with other nations in a coöperative effort to reduce the dangers of war? Here the objection to the adherence of the United States to the Court becomes so intangible that it is difficult to find ways of meeting it. But although intangible it is none the less real; for there exists a very definite complex in the United States against any forms of coöperation that go beyond the mere social interests of international life. That complex can apparently only be broken by continued emphasis upon the dangers of international anarchy and the necessity of finding practical ways of meeting the danger, and upon the consequent duty of American citizens to make sure that their criticism of existing institutions is accompanied by constructive proposals for meeting the danger. We must not shirk our obligations by retiring within our national boundaries and washing our hands of any responsibility for a problem which is essentially a world problem, to be solved, if at all, by the common coöperation of the whole community of nations.

Finally it must be the object of education to point out that the adhesion of the United States to the World Court would not, in itself, go far toward meeting the present situation. In view of the limited jurisdiction of the Court and of the unwillingness of other nations as well as the United States to turn over to the Court the settlement of the more serious conflicts of policy which give rise to war, the adherence of the United States to the Court would be, in respect to the crisis that now confronts the nations, little more than a symbol. The symbol would, indeed, be of great value, as expressing the desire of the United States to coöperate for the promotion of peace in one significant way. But it is important to emphasize that the settlement of disputes between states by international courts must be accompanied by what may be called "legislative" action to remove the causes of war. The serious conflicts between nations, out of which war is likely to arise, are due in large part to economic and political maladjustments which create conditions of national resentment beyond the capacity of any inter-

national court to handle. The political maladjustments bear upon the presence in one state of minorities which desire to be united with another state by transfer of territory rather than by emigration. It may, indeed, be beyond human ingenuity to devise boundary lines which will satisfy both parties to the controversy; and it may, in consequence, be necessary to minimize the effect of boundary lines by the establishment of neutral zones within which the boundary line does not operate as a barrier to social and economic intercourse. The economic maladjustments bear upon the policy of each nation in seeking to promote its own material welfare without regard for the effect of its measures upon the welfare of other states. This "economic nationalism," which has grown greatly in strength of recent years, must be modified if there is to be any hope of permanent peace between the nations. Monopolistic control of the raw materials of industry, ruthless competition for foreign markets, the exploitation of colonies and dependencies, discriminatory tariffs which go beyond the protection of national labor standards, the manipulation of currencies without consideration of the injury inflicted upon other countries—these are some of the manifestations of economic nationalism; and it would seem to be obvious that if the nations really desire to avoid the disastrous consequences of war they must make some sacrifices for peace and must find a way of regulating economic competition which will promote the general welfare of the community of nations. Such a regulation of international trade would, indeed, in the belief of many economists, do more to promote the welfare of the individual state than the more immediate concentration upon its own national interests. In any event, however, it is the alternative to international anarchy, and must therefore be advocated with that object in view.

The moral principles underlying international coöperation have been made the subject of a number of encyclicals which have been dealt with in other publications of the Catholic Association for International Peace, so that it is unnecessary to enter upon them in a study which has been confined to the legal aspects of arbitration and judicial settlement. One point, however, deserves attention. The correlation between peace and justice, to which attention has been called above, is strikingly expressed in the encyclical of Pope Benedict XV in 1920, *On International Reconciliation*. Here the Holy Father, witnessing

the effort made at the close of the World War to establish a coöperative system of international security, gave to the plan his formal approval, subject only to the condition that it should be based upon justice and charity. "It would be truly desirable," said the Pope, "that all states should put aside mutual suspicion and unite in one single society or rather family of peoples, both to guarantee their own independence and to safeguard order in the political relations of states. . . . Once this league among the nations is founded on the Christian law in all that regards justice and charity, the Church will surely not refuse it valid aid." The same principles are reiterated in the Pastoral Letter of the American Hierarchy of February, 1920, where, after emphasizing the necessity of the organization of international peace, it is pointed out that a nation is not only not dispensed by reason of its superior civilization and industrial progress from the obligation to assist other states, but is "under a greater responsibility to exert its influence for the maintenance of justice and the diffusion of goodwill among all peoples." The letter goes on to quote a letter of Pope Benedict XV to the American people on December 31, 1918, in which the Holy Father expressed his hope and desire for an international organization "which by abolishing conscription will reduce armaments, by establishing international tribunals will eliminate or settle disputes, and by placing peace on a solid foundation will guarantee to all independence and equality of rights."

These are strong statements of the urgent necessity of finding ways and means of international coöperation. In view of them it would seem difficult to escape the conclusion that there is a strong presumption in favor of the duty of the United States to coöperate with existing international institutions which the great majority of other nations have found to be of practical value; and, moreover, that criticism of such institutions, while always in order, should not be purely destructive, but should be accompanied by constructive substitutes for the institution criticized. Much of the recent criticism of the World Court has gone so far as to repudiate the principles upon which any other practicable court must rest; and it has thus closed the door not only to amendments of the existing Court but to the establishment of any court at all. Experience would seem to indicate that, in matters where common action is essential, the path of progress lies in the improvement of an institution that is al-

ready working rather than in a negative policy of abstention and isolation. The words of Washington, in a letter written in 1787 to Patrick Henry at the time the Constitution of the United States had been drawn up by the Philadelphia Convention and was awaiting ratification, may be appropriately recalled: "I wish the Constitution, which is offered, had been more perfect; but I sincerely believe it is the best that could be obtained at this time. And, as a constitutional door is opened for amendments hereafter, the adoption of it, under the present circumstances of the Union, is in my opinion desirable." This was not a very enthusiastic endorsement of a document which has since come to be our national pride; but it demonstrates better than enthusiasm the statesmanship of a wise and prudent man. No one will question that the world today needs the coöperation of the United States to help promote peace. If that coöperation can be given under the safeguards of the recent Senate resolution it should not be refused from indifference to the welfare of the great community of nations of which the United States is a member.

"Postscript" to Report on World Court

While the substance of this report was approved on the whole by the members of the Committee on International Law and Organization and of the Executive Committee, there were a number of dissenting opinions which must be recorded. One member felt that while the study put very effectively the case for adherence to the World Court by the United States, it did not treat so understandingly what was admitted to be the present conviction of the American people against joining the Court. The report, he observed, pointed out that the jurisdiction of the Court was limited and that there was need of "legislative" action to remove the causes of war, which meant that adhering to the Court without joining the League of Nations would not be a matter of much importance; and since the American people did not want to join the League the mere joining the Court might be looked upon as "a futility and probably a source of embarrassment." Another member, while approving of the report as a clear statement of the moral necessity of states to use whatever tribunal of arbitration was available to prevent disaster and war, thought that the last few pages of the report

were spoiled by the appearance of argument designed seemingly to link the League with any such tribunal of peace; and again another member felt that the report seemed to give at least some substance to the objection that joining the Court would be the first step toward joining the League, and that the last few pages seemed to get somewhat beyond the specific subject and into the whole side-field of international coöperation. A fourth member dissented to the extent of not seeing the value of the report at all. It did not discuss what was really the interest of the American people, and that was the controversial criticism of the Court and the fact that so many nations should be willing to take the United States into the Court on its own terms. The argument coming from the Catholic Association for International Peace was thought to be premature until the Association was more definite in its criticism of legal philosophies and the content of the concept "Justice."

March 1, 1936.

APPENDIX A

Documents Relating to the World Court

1. Protocol of Signature, December 16, 1920 26
2. The Statute of the Court 26
3. The Optional Clause 32
4. Resolution of the United States Senate, January 27, 1926 32
5. Protocol of the Adhesion of the United States, September 14. 1929 33

1. Protocol of Signature, Opened for Signature at Geneva, December 16, 1920

The Members of the League of Nations, through the undersigned, duly authorized, declare their acceptance of the adjoined Statute of the Permanent Court of International Justice, which was approved by a unanimous vote of the Assembly of the League on the 13th December, 1920, at Geneva.

Consequently, they hereby declare that they accept the jurisdiction of the Court in accordance with the terms and subject to the conditions of the above-mentioned Statute.

The present Protocol, which has been drawn up in accordance with the decision taken by the Assembly of the League of Nations on the 13th December, 1920, is subject to ratification. Each power shall send its ratification to the Secretary-General of the League of Nations; the latter shall take the necessary steps to notify such ratification to the other signatory powers. The ratification shall be deposited in the archives of the Secretariat of the League of Nations.

The said Protocol shall remain open for signature by the Members of the League of Nations and by the States mentioned in the Annex to the Covenant of the League.

The Statute of the Court shall come into force as provided in the above-mentioned decision.

Executed at Geneva, in a single copy, the French and English texts of which shall both be authentic.

December 16, 1920.

[Here follow the signatures of 55 states.]

2. Statute of the Permanent Court of International Justice, Annexed to the Protocol of Signature of December 16, 1920 [1]

Art. 1. A Permanent Court of International Justice is hereby established in accordance with Article 14 of the Covenant of the League of Nations. This Court shall be in addition to the Court of Arbitration organized by the Conventions of The Hague of 1899 and 1907, and to the special Tribunals of Arbitration to which states are always at liberty to submit their disputes for settlement.

[1] The articles eliminated deal with relatively minor details.

Chapter I

Organization of the Court

Art. 2. The Permanent Court of International Justice shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law.

Art. 3. The Court shall consist of fifteen members: eleven judges and four deputy-judges. The number of judges and deputy-judges may hereafter be increased by the Assembly, upon the proposal of the Council of the League of Nations, to a total of fifteen judges and six deputy-judges.

Art. 4. The members of the Court shall be elected by the Assembly and by the Council from a list of persons nominated by the national groups in the Court of Arbitration, in accordance with the following provisions.

In the case of Members of the League of Nations not represented in the Permanent Court of Arbitration, the lists of candidates shall be drawn up by national groups appointed for this purpose by their Governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.

Art. 5. At least three months before the date of the election, the Secretary-General of the League of Nations shall address a written request to the Members of the Court of Arbitration belonging to the states mentioned in the Annex to the Covenant or to the states which join the League subsequently, and to the persons appointed under paragraph 2 of Article 4, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case must the number of candidates nominated be more than double the number of seats to be filled.

Art. 6. Before making these nominations, each national group is recommended to consult its Highest Court of Justice, its Legal Faculties and Schools of Law, and its National Academies and national sections of International Academies devoted to the study of Law.

Art. 7. The Secretary-General of the League of Nations shall prepare a list in alphabetical order of all the persons thus nominated. . . .

The Secretary-General shall submit this list to the Assembly and to the Council.

Art. 8. The Assembly and the Council shall proceed independently of one another to elect, firstly the judges, then the deputy-judges.

Art. 9. At every election, the electors shall bear in mind that not only should all the persons appointed as members of the Court possess the qualifications required, but the whole body also should represent

the main forms of civilization and the principal legal systems of the world.

Art. 10. Those candidates who obtain an absolute majority of votes in the Assembly and in the Council shall be considered as elected.

In the event of more than one national of the same Member of the League being elected by the votes of both the Assembly and the Council, the eldest of these only shall be considered as elected. . . .

Art. 13. The members of the Court shall be elected for nine years.

They may be reëlected.

They shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

Art. 14. Vacancies which may occur shall be filled by the same method as that laid down for the first election. A member of the Court elected to replace a member whose period of appointment had not expired will hold the appointment for the remainder of his predecessor's term. . . .

Art. 16. The ordinary members of the Court may not exercise any political or administrative function. This porvision does not apply to the deputy-judges except when performing their duties on the Court.

Any doubt on this point is settled by the decision of the Court.

Art. 17. No member of the Court can act as agent, counsel or advocate in any case of an international nature. This provision only applies to the deputy-judges as regards cases in which they are called upon to exercise their functions on the Court.

No member may participate in the decision of any case in which he has previously taken an active part, as agent, counsel or advocate for one of the contesting parties, or as a member of a national or international court, or of a commission of inquiry, or in any other capacity.

Any doubt on this point is settled by the decision of the Court.

Art. 18. A member of the Court can not be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions. . . .

Art. 19. The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

Art. 20. Every member of the Court shall, before taking up his duties, make a solemn declaration in open Court that he will exercise his powers impartially and conscientiously.

Art. 21. The Court shall elect its President and Vice-President for three years; they may be reëlected.

It shall appoint its Registrar. . . .

Art. 22. The seat of the Court shall be established at The Hague. . . .

Art. 23. A session of the Court shall be held every year.

Unless otherwise provided by Rules of Court, this session shall begin on the 15th of June, and shall continue for so long as may be deemed necessary to finish the cases on the list.

The President may summon an extraordinary session of the Court whenever necessary.

Art. 24. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President. . . .

Art. 25. The full Court shall sit except when it is expressly provided otherwise.

If eleven judges can not be present, the number shall be made up by calling on deputy-judges to sit.

If, however, eleven judges are not available, a quorum of nine judges shall suffice to constitute the Court. . . .

Art. 29. With a view to the speedy dispatch of business, the Court shall form annually a chamber composed of three judges who, at the request of the contesting parties, may hear and determine cases by summary procedure.

Art. 30. The Court shall frame rules for regulating its procedure. In particular, it shall lay down rules for summary procedure.

Art. 31. Judges of the nationality of each contesting party shall retain their right to sit in the case before the Court.

If the Court includes upon the Bench a judge of the nationality of one of the parties only, the other party may select from among the deputy-judges a judge of its nationality, if there be one. If there should not be one, the party may choose a judge, preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.

If the Court includes upon the Bench no judge of the nationality of the contesting parties, each of these may proceed to select or choose a judge as provided in the preceding paragraph. . . .

Art. 32. The judges shall receive an annual indemnity to be determined by the Assembly of the League of Nations upon the proposal of the Council. This indemnity must not be decreased during the period of a judge's appointment. . . .

Art. 33. The expenses of the Court shall be borne by the League of Nations, in such a manner as shall be decided by the Assembly upon the proposal of the Council.

Chapter II

Competence of the Court

Art. 34. Only states or Members of the League of Nations can be parties in cases before the Court.

Art. 35. The Court shall be open to the Members of the League and also to states mentioned in the Annex to the Covenant..

The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Council, but in no case shall such provisions place the parties in a position of inequality before the Court.

When a state which is not a Member of the League of Nations is a party to a dispute, the Court will fix the amount which that party is to contribute toward the expenses of the Court.

Art. 36. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in treaties and conventions in force.

The Members of the League of Nations and the states mentioned in the Annex to the Covenant may, either when signing or ratifying the Protocol to which the present Statute is adjoined, or at a later moment, declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other Member or state accepting the same obligation, the jurisdiction of the Court in all or any of the classes of legal disputes concerning:

(*a*) The interpretation of a treaty;
(*b*) Any question of international law;
(*c*) The existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) The nature or extent of the reparation to be made for the breach of an international obligation.

The declaration referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain Members or states, or for a certain time.

In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

Art. 37. When a treaty or convention in force provides for the reference of a matter to a tribunal to be instituted by the League of Nations, the Court will be such tribunal.

Art. 38. The Court shall apply:

1. International conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
2. International custom, as evidence of a general practice accepted as law;
3. The general principles of law recognized by civilized nations;
4. Subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono,* if the parties agree thereto.

Chapter III

Procedure

Art. 39. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment will be delivered in French. If the parties agree that the case shall be conducted in English, the judgment will be delivered in English. . . .

Art. 40. Cases are brought before the Court, as the case may be, either by the notification of the special agreement, or by a written application addressed to the Registrar. In either case the subject of the dispute and the contesting parties must be indicated.

The Registrar shall forthwith communicate the application to all concerned.

He shall also notify the Members of the League of Nations through the Secretary-General.

Art. 41. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to reserve the respective rights of either party.

Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and the Council.

Art. 42. The parties shall be represented by agents.

They may have the assistance of counsel or advocates before the Court. . . .

Art. 46. The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted. . . .

Art. 50. The Court may, at any time, intrust any individual, body, bureau, commission or other organization that it may select, with the task of carrying out an inquiry or giving an expert opinion. . . .

Art. 53. Whenever one of the parties shall not appear before the Court, or shall fail to defend his case, the other party may call upon the Court to decide in favor of his claim.

The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37, but also that the claim is well founded in fact and law.

Art. 54. When, subject to the control of the Court, the agents, advocates and counsel have completed their presentation of the case, the President shall declare the hearing closed.

The Court shall withdraw to consider the judgment.

The deliberations of the Court shall take place in private and remain secret.

Art. 55. All questions shall be decided by a majority of the judges present at the hearing.

In the event of an equality of votes, the President or his deputy shall have a casting vote.

Art. 56. The judgment shall state the reasons on which it is based.

It shall contain the names of the judges who have taken part in the decision.

Art. 57. If the judgment does not represent in whole or in part the unanimous opinion of the judges, dissenting judges are entitled to deliver a separate opinion. . . .

Art. 59. The decision of the Court has no binding force except between the parties and in respect of that particular case.

Art. 60. The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

Art. 61. An application for revision of a judgment can be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence. . . .

Art. 62. Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene as a third party.

It will be for the Court to decide upon this request.

Art. 63. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.

Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

Art. 64. Unless otherwise decided by the Court, each party shall bear its own costs.

3. Optional Clause and Declarations of Acceptance

The undersigned, being duly authorized thereto, further declare, on behalf of their Government, that, from this date, they accept as compulsory *ipso facto* and without special Convention, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute of the Court, under the following conditions:

[Here follow signatures, with declarations of conditions applying to each Member signing.]

4. Senate Resolution of January 27, 1926, Giving Advice and Consent to the Adhesion by the United States to the Protocol of December 16, 1920, with Reservations

Whereas the President, under date of February 24, 1923, transmitted a message to the Senate, accompanied by a letter from the Secretary of State, dated February 17, 1923, asking the favorable advice and consent of the Senate to the adherence on the part of the United States to the Protocol of December 16, 1920, of Signature of the Statute for the Permanent Court of International Justice, set out in the said message of the President (without accepting or agreeing to the optional clause for compulsory jurisdiction contained therein), upon the conditions and understandings hereafter stated, to be made a part of the instrument of adherence: Therefore, be it

Resolved (*two-thirds of the Senators present concurring*), That the Senate advise and consent to the adherence on the part of the United States to the said Protocol of December 16, 1920, and the adjoined Statute for the Permanent Court of International Justice (without accepting or agreeing to the optional clause for compulsory jurisdiction contained in said Statute), and that the signature of the United States be affixed to the said Protocol, subject to the following reservations and understandings, which are hereby made a part and condition of this resolution, namely:

1. That such adherence shall not be taken to involve any legal relation on the part of the United States to the League of Nations or the assumption of any obligations by the United States under the treaty of Versailles.
2. That the United States shall be permitted to participate through representatives designated for the purpose and upon an equality with the other states, Members, respectively, of the Council and Assembly of the League of Nations, in any and all proceedings of either the Coun-

cil or the Assembly for the election of judges or deputy-judges of the Permanent Court of International Justice or for the filling of vacancies.

3. That the United States will pay a fair share of the expenses of the Court as determined and appropriated from time to time by the Congress of the United States.

4. That the United States may at any time withdraw its adherence to the said Protocol and that the Statute for the Permanent Court of International Justice adjoined to the Protocol shall not be amended without the consent of the United States.

5. That the Court shall not render any advisory opinion except publicly after due notice to all states adhering to the Court and to all interested states and after public hearing or opportunity for hearing given to any state concerned; nor shall it, without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest.

The signature of the United States to the said Protocol shall not be affixed until the powers signatory to such Protocol shall have indicated, through an exchange of notes, their acceptance of the foregoing reservations and understandings as a part and a condition of adherence by the United States to the said Protocol.

Resolved, further, As a part of this act of ratification that the United States approve the Protocol and Statute hereinabove mentioned, with the understanding that recourse to the Permanent Court of International Justice for the settlement of differences between the United States and any other state or states can be had only by agreement thereto through general or special treaties concluded between the parties in dispute; and

Resolved, further, That adherence to the said Protocol and Statute hereby approved shall not be so construed as to require the United States to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign state; nor shall adherence to the said Protocol and Statute be construed to imply a relinquishment by the United States of its traditional attitude toward purely American questions.

5. Protocol for the Adhesion of the United States to the Protocol of Signature of December 16, 1920. Opened for Signature at Geneva, September 14, 1929

(*Not in Force, February 1, 1936*)

The states signatories of the Protocol of Signature of the Statute of the Permanent Court of International Justice, dated December 16, 1920, and the United States of America, through the undersigned duly authorized representatives, have mutually agreed upon the following provisions regarding the adherence of the United States of America to the said Protocol subject to the five reservations formulated by the United States in the resolution adopted by the Senate on January 27, 1926.

ART. 1. The states signatories of the said Protocol accept the special conditions attached by the United States in the five reservations mentioned above to its adherence to the said Protocol upon the terms and conditions set out in the following articles.

ART. 2. The United States shall be admitted to participate, through representatives designated for the purpose and upon an equality with the signatory states Members of the League of Nations represented in the Council or in the Assembly, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy-judges of the Permanent Court of International Justice, provided for in the Statute of the Court. The vote of the United States shall be counted in determining the absolute majority of votes required by the Statute.

ART. 3. No amendment of the Statute of the Court may be made without the consent of all the contracting states.

ART. 4. The Court shall render advisory opinions in public session after notice and opportunity for hearing substantially as provided in the now existing Articles 73 and 74 of the Rules of Court.

ART. 5. With a view to ensuring that the Court shall not, without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest, the Secretary-General of the League of Nations shall, through any channel designated for that purpose by the United States, inform the United States of any proposal before the Council or the Assembly of the League for obtaining an advisory opinion from the Court, and thereupon, if desired, an exchange of views as to whether an interest of the United States is affected shall proceed with all convenient speed between the Council or Assembly of the League and the United States.

Whenever a request for an advisory opinion comes to the Court, the Registrar shall notify the United States thereof, among other states mentioned in the now existing Article 73 of the Rules of Court, stating a reasonable time limit fixed by the President within which a written statement by the United States concerning the request will be received. If for any reason no sufficient opportunity for an exchange of views upon such request should have been afforded and the United States advises the Court that the question upon which the opinion of the Court is asked is one that affects the interests of the United States, proceedings shall be stayed for a period sufficient to enable such an exchange of views between the Council or the Assembly and the United States to take place.

With regard to requesting an advisory opinion of the Court in any case covered by the preceding paragraphs, there shall be attributed to an objection of the United States the same force and effect as attaches to a vote against asking for the opinion given by a Member of the League of Nations in the Council or in the Assembly.

If, after the exchange of views provided for in paragraphs 1 and 2 of this article, it shall appear that no agreement can be reached and the United States is not prepared to forego its objection, the exercise of the powers of withdrawal provided for in Article 8 hereof will follow naturally without any imputation of unfriendliness or unwillingness to coöperate generally for peace and good will.

Art. 6. Subject to the provisions of Article 8 below, the provisions of the present Protocol shall have the same force and effect as the provisions of the Statute of the Court and any future signature of the Protocol of December 16, 1920, shall be deemed to be an acceptance of the provisions of the present Protocol.

Art. 7. The present Protocol shall be ratified. Each state shall forward the instrument of ratification to the Secretary-General of the League of Nations, who shall inform all the other signatory states. The instruments of ratification shall be deposited in the archives of the Secretariat of the League of Nations.

The present Protocol shall come into force as soon as all states which have ratified the Protocol of December 16, 1920, and also the United States, have deposited their ratifications.

Art. 8. The United States may at an time notify the Secretary-General of the League of Nations that it withdraws its adherence to the Protocol of December 16, 1920. The Secretary-General shall immediately communicate this notification to all the other states signatories of the Protocol.

In such case, the present Protocol shall cease to be in force as from the receipt by the Secretary-General of the notification by the United States.

On their part, each of the other contracting states may at any time notify the Secretary-General of the League of Nations that it desires to withdraw its acceptance of the special conditions attached by the United States to its adherence to the Protocol of December 16, 1920. The Secretary-General shall immediately give communication of this notification to each of the states signatories of the present Protocol. The present Protocol shall be considered as ceasing to be in force if and when, within one year from the date of receipt of the said notification, not less than two-thirds of the contracting states other than the United States shall have notified the Secretary-General of the League of Nations that they desire to withdraw the above-mentioned acceptance.

Done at Geneva, the fourteenth day of September, nineteen hundred and twenty-nine, in a single copy, of which the French and English texts shall both be authoritative.

[Here follow signatures of 54 states.]

APPENDIX B

N. C. W. C. STUDY CLUB OUTLINE

ON

ARBITRATION AND THE WORLD COURT

Lesson I

The Supreme Court of the United States as an example of a court for the settlement of disputes between nations. (Text—Section I.)

Topics for Discussion

1. Jurisdiction of the Supreme Court: controversies between states of the American Union. Right of the aggrieved party to bring suit

without consent of the other party; no question of sovereign rights giving exemption from suit.

2. Varied legal character of the questions involved in suits between States of the American Union: boundary suits (Rhode Island *v.* Massachusetts, 1846); nuisance suits (Missouri *v.* Illinois, 1906); suits to collect debts (Virginia *v.* West Virginia, 1911); water rights (Wyoming *v.* Colorado, 1922; Connecticut *v.* Massachusetts, 1931).

3. Composition of the Supreme Court: membership not determined by fact that the judge is a citizen of a particular State of the Union; judges represent the United States, not the particular States of which they happened to be citizens at the time of their appointment.

Papers

1. Inadequate character of the method of arbitration provided for in the Articles of Confederation, 1781-1789, for the settlement of disputes between States. (John Fiske, *The Critical Period.*)

2. Principles of law applied in the settlement by the Supreme Court of controversies between States of the Union. (C. G. Fenwick, *International Law,* 1934, under table of judicial decisions, p. xliii.)

3. Effectiveness of decisions rendered by the Supreme Court. (J. B. Scott, *Judicial Settlement of Controversies Between States of the American Union,* Oxford, 1919.)

Lesson II

Arbitration as a procedure for the Settlement of International Disputes. (Text—Section II.)

Topics for Discussion

1. Limited character of the obligation to arbitrate, as undertaken in most treaties: insertion of provisos making exception of disputes of the kind most likely to lead to war, *e. g.,* disputes relating to honor and vital interests.

2. Changing character of international tribunals: judges always chosen for the particular controversy; tendency of arbitrators to act as attorneys rather than as judges; experience obtained in one case not often available in subsequent cases.

3. Lack of continuity in the development of the law: decisions of special arbitration tribunals not likely to influence future tribunals. Compare part played by judicial precedents in the development of national law.

4. Advantages of arbitration when the issues involved are political rather than legal, *i. e.,* when they involve matters of honor and alleged vital national interests. Nations sometimes unwilling to entrust the settlement of an acute dispute to an arbitration tribunal unless they can control its membership in the given case. This frequently holds where the principles of law to be applied are not clear and the prejudices of the arbitrators might be decisive.

Papers

1. Leading rôle played by the United States in the development of arbitration during the nineteenth century. (*Arbitration and the United States*, pp. 477-555, World Peace Foundation, Boston, 1926.)
2. The Root Treaties of 1908: negotiations attending the determination of the scope of the proviso making exception of disputes relating to national honor or vital interests. (*Arbitration and the United States,* pp. 497-524, World Peace Foundation, Boston, 1926.)
3. The Bryan Treaties for the Advancement of Peace: advantages of investigation of disputes as a preliminary to peaceful settlement. (J. B. Scott, *Treaties for the Advancement of Peace,* New York, 1920.)
4. Historical illustration of an important arbitration case, *e.g.,* The Alabama Claims Case, 1872. (*Papers Relating to the Treaty of Washington,* Vols. I-VI.)

Lesson III

The Proposed Judicial Arbitration Court of 1907. (Text—Section III.)

Topics for Discussion

1. The meaning of "judicial settlement" as distinct from arbitration. The advantages of judicial responsibility on the part of the judges. Permanent judges as distinct from temporary arbitrators. Judicial tradition as a controlling factor in the development of law.
2. Leadership of the United States in proposing a permanent tribunal. Instructions of Secretary Root to the American delegates to the Hague Peace Conference of 1907.
3. Problem of determining the judges of the court. Rivalries between the large and the small states. Compromises suggested.

Papers

1. Arguments for the creation of a permanent court, as presented by the American delegation. (J. B. Scott, *The Status of the International Court of Justice,* New York, 1916.)
2. Reasons for the failure of the proposed Judicial Arbitration Court (Court of Arbitral Justice). (A. P. Higgins, *The Hague Peace Conferences,* Cambridge, 1909; J. B. Scott, *The Hague Peace Conferences of 1899 and 1907,* Baltimore, 1909.)

Lesson IV

Organization of the Permanent Court of International Justice (The "World Court"). (Text—Section IV.)

Topics for Discussion

1. The problem of selecting the judges of the Court. Desire of all states to be represented on the Court. Necessity of limiting the size of the Court. Desirability of giving representation to the different legal systems of the world.

2. Solution of the problem by method of electing the judges by joint vote of the Council and the Assembly of the League. Question whether this means that the Court is an "agent of the League," a "League Court." Impractical character of the objection on this point.

3. Qualifications of judges as laid down in the Statute of the Court. Nomination of judges by the old Hague Court of Arbitration.

4. Non-partisan rôle of the judges in relation to national affiliations. Judges as representatives of the world community rather than of the interests of their particular states. Can judges rise to the responsibility imposed upon them? Does the possibility of prejudice on the part of an individual judge, where the interests of his particular nation are involved, constitute a vital defect in judicial procedure?

Papers

1. A study of the national character and judicial attainments of the judges of the Court since its creation. Has obvious bias been shown on any occasion? Has it differed in character from the bias occasionally shown by national judges? (Hudson, *The Permanent Court of International Justice,* Cambridge, 1925.)

2. A study of alternative methods of selecting the judges so as to remove any criticism of connection of the Court with the League of Nations. Compare the selection of judges of the Supreme Court of the United States by the President, subject to confirmation by the Senate. Does this make the Supreme Court dependent upon the Executive or the Senate? Is the function of the League in the election of judges anything more than a convenient procedure, planned so as to balance the claims of the large and the small states?

Lesson V

Jurisdiction of the Permanent Court of International Justice. (Text—Sections V and VI.)

Topics for Discussion

1. Voluntary character of the jurisdiction exercised by the Court in the absence of special agreement. Special condition made by the United States, in Senate Reservations of 1926, that in no case may the jurisdiction of the Court be other than voluntary in regard to the United States.

2. Limited compulsory, or obligatory, jurisdiction conferred upon the Court by the states signing the "Optional Clause." Character of this jurisdiction: questions of law and questions of fact.

3. The law to be applied by the Court. Principles and rules of international law; treaties and conventions; decisions *ex æquo et bono* possible when the parties agree.

4. Growing practice of states of inserting in special treaties a clause providing that disputes arising out of the special treaty shall be submitted to the Court. Advantages of this practice.

5. Character of advisory opinions as distinct from decisions. Purpose of making provision for advisory opinions. Special function performed by advisory opinions. Assumption that advisory opinions are not a proper judicial function.

6. Need of developing and codifying international law so as to provide a more definite basis for decisions of the Court. Extent to which the Court itself can aid in the development of international law. Provision in the Statute that decisions of the Court shall not have the force of law-making precedents does not prevent the growth of law by respect shown for decisions of the Court.

Papers

1. A study of the Senate Reservations of January 27, 1926, and of the arguments *pro* and *con* on the purpose and jurisdiction of the Court. (Hudson, *The World Court,* 1921-1934, Boston, 1934); *Congressional Record,* January, 1926.)
2. A study of the arguments directed by the opposition in the Senate against advisory opinions. Why advisory opinions were thought dangerous when decisions were not? What experience has shown in regard to advisory opinions. (Hudson, *The World Court,* 1921-1934; Fachiri, *The Permanent Court of International Justice,* 2nd Edition, New York, 1932.)
3. The development of international law by means of the decisions of the Permanent Court. (Lauterpacht, *The Development of Law by the Permanent Court of International Justice,* New York, 1934.) For advanced students.
4. Practice of certain State courts of the United States in rendering advisory opinions. (Hudson, *The Permanent Court of International Justice,* Cambridge, 1925, Part I.)

Papers

Lesson VI

The Relation Between Peace and Justice. (Text—Section VII.)

Topics for Discussion

1. The primary function of law: the protection of rights recognized by the law, the maintenance of the *status quo* pending legislative changes in the law. In national law this is a function of the courts, supported by the executive department.
2. Secondary function of law (secondary in a logical sense only; at times paramount in practical importance): the promotion of justice; the correction of conditions that develop in the course of time and tend to suppress equality of opportunity; to make its provisions tolerable to those who are to be controlled by it. A legislative function as distinct from the judicial function of the courts.
3. Progress in the law consists in effecting a balance between the need of stability, *i.e.,* the maintenance of the existing order, and the need of change to make the law correspond with the social needs of the people whom it is to govern.

4. Inadequate provision made for changes in international relations under the Covenant of the League. Too great stress put upon the prevention of violence; too little provision made for the redress of grievances. Limited provision made in Article 19 of the Covenant of the League of Nations for changes in treaties that have become inapplicable and for consideration of conditions whose continuance might endanger the peace of the world.

Papers

1. The extent to which international law may be made an instrument of peaceful change in international relations. (*Proceedings*, American Society of International Law, 1936, pp. 26, 36, 55.)

2. Relation between political and economic security. Political nationalism resorting to economic nationalism to strengthen national armaments and economic nationalism building up armaments to protect its foreign markets. (Rappard, *The Common Menace of Economic and Military Armaments.* Cobden Lecture for 1936.)

3. Approval given by Pope Benedict in 1920 to the plan of an organized society of nations with the object of guaranteeing their mutual independence and safeguarding order among the nations, provided only that such a league should be based on charity and justice. What changes in the existing League are needed to make it a league "based upon charity and justice." What should be the organization and functions of a true "Christian Commonwealth of Nations"? (Papers presented at annual meeting, April 13-14, 1936, of the Catholic Association for International Peace, being published as a separate report.)

APPENDIX C

BIBLIOGRAPHY

Fachiri, A. P., *The Permanent Court of International Justice,* 2nd edit. (New York, 1932). A technical study of the organization and functions of the Court, including an analysis of the decisions and advisory opinions up to the date of publication. A useful manual.

Hudson, M. O., *The World Court, 1921-1934* (Boston; World Peace Foundation, 1934). A popular survey of the Court and its activities, containing a study of the organization of the Court and an analysis of the decisions and advisory opinions of the Court, as well as complete documentary material covering the establishment of the Court, its procedure, and in particular the action taken by the United States in regard to the Court. Doubtless the most useful of the many volumes of a non-technical character relating to the Court.

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The Permanent Court of International Justice. Cambridge, 1925.) An earlier collection of articles and addresses surveying the various questions raised by the establishment of the Court and its practical operation.

Jessup, P. C., *The United States and the World Court* (Boston: World Peace Foundation, 1929). A detailed study of the Senate reservations adopted in 1926, and of the negotiations to which they gave rise and the action taken in regard to them by the states signatories to the Protocol of 1920. Appendices contain full documentary material relating to the relations of the United States to the Court. A useful supplement to Hudson's *World Court, 1921-1934.*

Scott, J. B., *The Hague Court Reports* (New York, 1916). Second Series, 1932. A compilation of the various decisions rendered by the Hague Permanent Court of Arbitration established in 1899, together with summaries of the several controversies and the texts of the awards. Indispensible material for a study of the practical working of arbitration tribunals as distinct from the Permanent Court of International Justice.

The Hague Peace Conferences of 1899 and 1907 (Baltimore, 1909). A survey of the problem of arbitration and of the creation of the Hague Permanent Court of Arbitration and of the proposed Judicial Arbitration Court (Court of Arbitral Justice).

World Peace Foundation, *Arbitration and the United States* (Boston, 1926). A study of the development of arbitration as a means for the pacific settlement of international disputes, with special reference to the policy of the United States. It contains a discussion of the Root treaties of 1908, the Taft-Knox treaties of 1911, the Bryan Treaties for the Advancement of Peace, and the Central American Court of Justice. A very useful manual giving the necessary background for study of the Permanent Court of International Justice and showing the relation between arbitration and judicial settlement.

THE Catholic Association for International Peace has grown out of a series of meetings during 1926-1927. Following the Eucharistic Congress in Chicago in 1926, representatives of a dozen nations met with Americans for discussion. In October of the same year a meeting was held in Cleveland where a temporary organization called The Catholic Committee on International Relations was formed. The permanent name, The Catholic Association for International Peace, was adopted at a two-day Conference in Washington in 1927. Since 1927 the Association has held the following Conferences: six Annual in Washington, one in Cleveland and one in New York; four Regional, at St. Louis University, Notre Dame University, Marquette University and Villanova College; seven Student, at the College of Notre Dame in Baltimore; Trinity College, Washington; Our Lady of the Lake College, San Antonio; Saint Mary College, Leavenworth, Kans.; one in Richmond; College of St. Elizabeth, Convent Station, N. J.; and Rosary College, River Forest, Ill. It is a membership organization. Its objects and purposes are:

> To study, disseminate and apply the principles of natural law and Christian charity to international problems of the day;
> To consider the moral and legal aspects of any action which may be proposed or advocated in the international sphere;
> To examine and consider issues which bear upon international goodwill;
> To encourage the formation of conferences, lectures and study circles;
> To issue reports on questions of international importance;
> To further, in coöperation with similar Catholic organizations in other countries, in accord with the teachings of the Church, the object and purposes of world peace and happiness.
> The ultimate purpose is to promote, in conformity with the mind of the Church, "The Peace of Christ in the Kingdom of Christ."

The Association works through the preparation of committee reports. Following careful preparation, these are discussed both publicly and privately in order to secure able revision and they are then published by the organization. Additional committees will be created from time to time. The Association solicits the membership and coöperation of Catholics of like mind. It is seeking especially the membership and coöperation of those whose experience and studies are such that they can take part in the preparation of committee reports.

The Committees on Ethics, Law and Organization, and Economic Relations serve as a guiding committee on the particular questions for all other committees. Questions involving moral judgments must be submitted to the Committee on Ethics.

Publications of the Catholic Association for International Peace

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