

# LEAGUE *of* NATIONS

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## AMERICA AND THE PERMANENT COURT OF INTERNATIONAL JUSTICE

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**WORLD PEACE FOUNDATION**

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# World Peace Foundation

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\*FOUNDED IN 1910 BY EDWIN GINN



The corporation is constituted for the purpose of educating the people of all nations to a full knowledge of the waste and destructiveness of war, its evil effects on present social conditions and on the well-being of future generations, and to promote international justice and the brotherhood of man; and, generally, by every practical means to promote peace and good will among all mankind.—*By-laws of the Corporation.*

It is to this patient and thorough work of education, through the school, the college, the church, the press, the pamphlet and the book, that the World Peace Foundation addresses itself.—Edwin Ginn.

The idea of force can not at once be eradicated. It is useless to believe that the nations can be persuaded to disband their present armies and dismantle their present navies, trusting in each other or in the Hague Tribunal to settle any possible differences between them, unless, first, some substitute for the existing forces is provided and demonstrated by experience to be adequate to protect the rights, dignity and territory of the respective nations. My own belief is that the idea which underlies the movement for the Hague Court can be developed so that the nations can be persuaded each to contribute a small percentage of their military forces at sea and on land to form an *International Guard or Police Force*.—Edwin Ginn.

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## WORLD PEACE FOUNDATION PAMPHLETS

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## HISTORICAL NOTES

BY MANLEY O. HUDSON

The idea of a world court to which nations might carry their differences for judicial settlement dates back for many centuries. A Frenchman, Pierre Dubois, suggested it in 1305; and another Frenchman, Emeric Crucé, published a book in 1623 which gave it definition and direction.<sup>1</sup> But it was not until the nineteenth century that it became a matter of practical consideration by statesmen and students of international relations.

The conspicuous successes in international arbitration during the latter half of the last century, and more particularly the success of the Geneva Arbitration between the United States and Great Britain in 1872, gave a big impetus to the movement for establishing an international court. David Dudley Field espoused the idea in his "Outline of an International Code," first published in 1872. And in 1897 President McKinley stated in his first inaugural address that the leading feature of American foreign policy throughout our entire national history had been our insistence on "the adjustment of difficulties by judicial methods rather than by force of arms."

### *The Permanent Court of Arbitration*

The American delegation to the first Hague Conference in 1899 was instructed by President McKinley and Secretary Hay to act upon "the long-continued and widespread interest among the people of the United States in the establishment of an international court," and to propose a plan for an international tribunal to which the nations might submit "all questions of disagreement between them, excepting such as may relate to or involve their political independence or territorial integrity." The Hague Conference modified the American plan which was submitted, and drew up a Convention for the Pacific Settlement of International

<sup>1</sup>Emeric Crucé, *Le Nouveau Cynde*. Crucé's book has been translated into English by Thomas Willing Balch under the title of *The New Cyneas* (Philadelphia, 1909). See also Veanitch, *Deux Précurseurs Français du Pacifisme*, 1911, p. 29.

Disputes, under which there was established the Permanent Court of Arbitration.<sup>1</sup> In its final report, the American delegation expressed the opinion that this Permanent Court of Arbitration was "a thoroughly practical beginning" which would "produce valuable results from the outset," and would serve as the "germ out of which a better and better system will be gradually evolved." This "court" was organized in 1900, and in 1902 President Roosevelt submitted the first case to it—the Pius Fund Case between the United States and Mexico. Since its organization, eighteen cases have been handled with success by the tribunals of this Permanent Court of Arbitration.<sup>2</sup>

### *Proposed Permanent Court of Arbitral Justice*

But the Permanent Court of Arbitration is in fact not permanent and not a court. It is a panel, now containing the names of about 130 men; four members may be appointed by each state. It never meets. It merely serves as a group from which contending states may choose their arbiters for particular disputes to be arbitrated according to the procedure of the Hague Convention for the Pacific Settlement of International Disputes.<sup>3</sup> Thus it has long been deemed inadequate.

In 1907, the American delegates to the second Hague Conference were instructed by President Roosevelt and Secretary Root to work for the development of the Permanent Court of Arbitration "into a permanent tribunal composed of judges who are judicial officers and nothing else, who are paid adequate salaries, who have no other occupation, and who will devote their entire time to the trial and decision of international causes by judicial methods and under a sense of judicial responsibility." Earnest efforts to this end were made by the American delegation, with the support of the British and German delegations through-

<sup>1</sup>See Scott, *The Hague Peace Conferences*, vol. II, p. 14.

<sup>2</sup>For the constitution of the Permanent Court of Arbitration, see chapter II of the First Hague Convention of 1907, in Scott, *Hague Conventions and Declarations of 1899 and 1907*, p. 57 ff. For the texts of opinions rendered, see *The Hague Court Reports*, published by the Carnegie Endowment For International Peace in 1916 and 1921; Wilson, *Hague Cases* (1915). A list of the members of the Permanent Court of Arbitration is published periodically by the secretary-general.

<sup>3</sup>In the recent Norwegian-American arbitration, the members of the tribunal were not chosen from the panel called the Permanent Court of Arbitration.

out; but they met with very incomplete success. For though the conference succeeded in agreeing on the general plan of a new Permanent Court of Arbitral Justice, no agreement could be reached on the method of choosing the judges. The competition between the equality of states on the one hand and the political dominance of the Great Powers on the other hand, created an impossible deadlock; and the conference adjourned without surmounting it. Yet the American delegation felt encouraged to report that "the foundations of a Permanent Court have been broadly and firmly laid. . . . A little time, a little patience, and the great work is accomplished."<sup>1</sup>

The plan drawn up at the second Hague Conference was never put into force. Secretary Bacon made an effort in 1909 to have the proposed International Prize Court invested with the functions of the Permanent Court of Arbitral Justice, and his efforts were continued by Secretary Knox; but without success.<sup>2</sup>

### *The Permanent Court of International Justice*

The world thus came to 1914 with no general machinery for handling international disputes except the Permanent Court of Arbitration. At the end of the World War, it was generally taken for granted that a new court would be established. The Italian delegation at the Peace Conference put forward a proposal to this end, following very closely the earlier Hague Conventions on the Pacific Settlement of International Disputes. But the time was so short and the problems of the peace were so pressing that no attempt was made to agree upon a definite plan, and the Peace Conference contented itself with drawing up article 14 of the Covenant of the League of Nations.

The Council of the League lost no time in carrying out the mandate given to it by article 14. At its second session in February, 1920, the Council invited a group of distinguished jurists to frame a plan for the new Court. This commission was composed of the following: Adatci (Japan), Altamira (Spain), Descamps (Belgium), Fernandes (Brazil), Hagerup (Norway), de Lapradelle (France), Loder (Netherlands), Phillimore (Great

<sup>1</sup>See the report in Sen. Doc. No. 444, 60th Congress, 1st session, at p. 58.

<sup>2</sup>See 4 *American Journal of International Law*, Supp., p. 102.

Britain), Ricci-Busatti (Italy) and Root (United States). It met at The Hague from June 16 to July 24, 1920. On the suggestion of Mr. Root, it decided to adopt as a basis of discussion the plan for a Permanent Court of Arbitral Justice drawn up at the second Hague Conference; and it was at Mr. Root's suggestion, also, that the difficulties with reference to electing the judges were surmounted by resorting to the compromise which had already been reached between the large and small powers in setting up the Council and Assembly of the League.

The project of the Commission of Jurists was submitted to the Council of the League of Nations at San Sebastian on August 5, 1920. It was debated for several months in both the Council and the Assembly, and after a number of amendments had been agreed upon, it was finally adopted by the Assembly on December 13, 1920. A protocol of signature was opened on December 16, 1920, and the project for the Court approved by the Council and Assembly was annexed to it as a Statute. This protocol constitutes an independent treaty which has now been signed by 46 states, of which 35 have ratified. The statute came into force in September, 1921, when the protocol had been ratified by 28 states.

The first election of the judges was held on September 14-16, 1921, and the Court thereupon came into being. A first (extraordinary) session was held at The Hague, from January 30 to March 24, 1922; officers were elected, the organization was completed, and rules of procedure were handed down. On May 12, 1922, conditions were drawn up by the Council, which allow all states to have access to the Court on equal terms, regardless of membership in the League of Nations.

### *Cases Before the New Court*

On June 15, 1922, the Court met in its first (ordinary) session at The Hague, and before adjourning on August 12, 1922, it handed down three advisory opinions, all having to do with questions relating to the International Labour Organization.

It met again, in a second (extraordinary) session on January 8, 1923, and on February 7, 1923, it handed down a fourth advisory opinion, declaring that the British-French dispute over the nationality laws of Tunis and Morocco (French Zone) did not relate to a



matter solely within the domestic jurisdiction of France. Its second (ordinary) session will begin on June 15, 1923, and the following cases will probably be on the docket for that session: (1) Dispute between Great Britain and France concerning the nationality laws of Tunis and Morocco (French Zone) of November 8, 1921; (2) Dispute between the Allied Powers and Germany concerning the use of the Kiel Canal under article 380 of the treaty of Versailles; (3) Question submitted by the Council of the League concerning the protection of German minorities in Poland.

The new Permanent Court of International Justice is thus firmly established; its judges command the respect and confidence of governments and peoples throughout the world; a hopeful beginning of its work has been made; and it seems not too sanguine to think that a future of great usefulness lies before it. The Government of the United States had no part in the final steps of establishing it, and is not to-day contributing in any way toward its support. But President Harding, in his message of February 24, 1923, has proposed that the United States shall join with the other nations in maintaining it, and when that step shall have been taken it should greatly strengthen the prestige and position of the new Court.

It now seems possible to say that a new milestone has been laid on the road from war to peace, and that a big advance has been made toward the substitution of law for force.

## **I. PROPOSED ADHESION OF THE UNITED STATES<sup>1</sup>**

### **1. MESSAGE OF THE PRESIDENT SUBMITTING THE PROTOCOL AND STATUTE FOR THE ADVICE AND CONSENT OF THE SENATE**

#### **TO THE SENATE:**

There has been established at The Hague a Permanent Court of International Justice for the trial and decision of international causes by judicial methods, now effective through the ratification by the signatory powers of a special protocol. It is organized and functioning. The United States is a competent suitor in the court, through provision of the statute creating it, but that relation is not sufficient for a nation long committed to the peaceful settlement of international controversies. Indeed, our nation had a conspicuous place in the advocacy of such an agency of peace and international adjustment, and our deliberate public opinion of to-day is overwhelmingly in favor of our full participation, and the attending obligations of maintenance and the furtherance of its prestige. It is for this reason that I am now asking for the consent of the Senate to our adhesion to the protocol.

With this request I am sending to the Senate a copy of the letter addressed to me by the Secretary of State in which he presents in detail the history of the establishment of the court, takes note of the objection to our adherence because of the court's organization under the auspices of the League of Nations, and its relation thereto, and indicates how, with certain reservations, we may fully adhere and participate, and remain wholly free from any legal relation to the League or assumption of obligation under the Covenant of the League.

I forbear repeating the presentation made by the Secretary of State, but there is one phase of the matter not covered in his letter with which I choose frankly to acquaint the Senate. For a long period, indeed ever since the International Conference on the Limitation of Armament, the consideration of plans under which we might adhere to the protocol has been under way. We were unwilling to adhere unless we could participate in the selection of

<sup>1</sup>Reprinted from Sen. Doc. No. 309, 67th Congress, 4th session.

the judges; we could not hope to participate with an American accord if adherence involved any legal relation to the League. These conditions, there is good reason to believe, will be acceptable to the signatory powers, though nothing definitely can be done until the United States tenders adhesion with these reservations. Manifestly the Executive cannot make this tender until the Senate has spoken its approval. Therefore, I most earnestly urge your favorable advice and consent. I would rejoice if some action could be taken even in the short period which remains of the present session.

It is not a new problem in international relationship. It is wholly a question of accepting an established institution of high character, and making effective all the fine things which have been said by us in favor of such an agency of advanced civilization. It would be well worth the while of the Senate to make such special effort as is becoming to record its approval. Such action would add to our own consciousness of participation in the fortunate advancement of international relationship and remind the world anew that we are ready for our proper part in furthering peace and adding to stability in world affairs.

WARREN G. HARDING.

The WHITE HOUSE, February 24, 1923.

2. CONDITIONS OF ADHESION. LETTER OF THE SECRETARY OF  
STATE TO THE PRESIDENT

THE SECRETARY OF STATE,  
*Washington, February 17, 1923.*

MY DEAR MR. PRESIDENT:

Referring to our interviews with respect to the advisability of action by this Government in order to give its adhesion upon appropriate conditions to the protocol establishing the Permanent Court of International Justice, I beg leave to submit the following considerations:

From its foundations this Government has taken a leading part in promoting the judicial settlement of international disputes. Prior to the first peace conference at The Hague in 1889 the United States had participated in 57 arbitrations, 20 of which were with Great Britain. The President of the United States had acted arbitrator between other nations in five cases and ministers of

the United States or other persons, designated by this Government, had acted as arbitrator or umpire in seven cases. In 1890 the Congress adopted a concurrent resolution providing: .

That the President be, and is hereby, requested to invite, from time to time, as fit occasions may arise, negotiations with any Government with which the United States has or may have diplomatic relations, to the end that any differences or disputes arising between the two Governments which cannot be adjusted by diplomatic agency may be referred to arbitration and be peaceably adjusted by such means. (*Congressional Record*, Fifty-First Congress, First Session, Part 3, Vol. 21, p. 2986.)

In his instructions to the delegates of this Government to the First Peace Conference at The Hague, Secretary Hay said:

Nothing can secure for human government and for the authority of law which it represents so deep a respect and so firm a loyalty as the spectacle of sovereign and independent states, whose duty it is to prescribe the rules of justice and impose penalties upon the lawless, bowing with reverence before the august supremacy of those principles of right which give to law its eternal foundation.

A plan for a permanent international tribunal accompanied these instructions.

At that conference there was adopted a "convention for the pacific settlement of international disputes," which provided for a permanent court of arbitration. This organization, however, while called a permanent court, really consists of an eligible list of persons, designated by the contracting parties respectively, from whom tribunals may be constituted for the determination of such controversies as the parties concerned may agree to submit to them. .

In 1908 and 1909 the United States concluded 19 general conventions of arbitration which, in accordance with The Hague conventions, provided for arbitration by special agreement of differences which are of a legal nature or which relate to the interpretation of treaties, and which it may not have been possible to settle by diplomacy, provided that the differences do not affect the vital interest, the independence or the honor of the two contracting states and do not concern the interests of third parties. Moreover, since the first peace conference at The Hague, a number of conventions have been concluded by this Government submitting to arbitration questions of great importance.

It is believed that the preponderant opinion in this country has not only favored the policy of judicial settlement of justiciable

international disputes through arbitral tribunals specially established, but it has also strongly desired that a permanent court of international justice should be established and maintained. In his instructions to the delegates of the United States to the second peace conference, held at The Hague in 1907, Secretary Root emphasized the importance of the establishment of such a tribunal in conformity with accepted judicial standards. He said:

It should be your effort to bring about in the second conference a development of The Hague tribunal into a permanent *tribunal*, composed of judges who are judicial officers and nothing else; who are paid adequate salaries; who have no other occupation, and who will devote their entire time to the trial and decision of international causes by judicial methods and under a sense of judicial responsibility. These judges should be so selected from the different countries that the different systems of law and procedure and the principal languages shall be fairly represented. The court should be of such dignity, consideration and rank that the best and ablest jurists will accept appointment to it and that the whole world will have absolute confidence in its judgment.

The second peace conference discussed a plan looking to the attainment of this object, but the project failed because an agreement could not be reached with respect to the method of selecting judges. The conference adopted the following recommendation:

The conference recommends to the signatory powers the adoption of the project hereto annexed, of a convention for the establishment of a court of arbitral justice and its putting into effect as soon as an accord shall be reached upon the choice of the judges and the constitution of the court.

The Covenant of the League of Nations provided, in article 14, that the Council of the League should formulate and submit to the Members of the League plans for the establishment of a permanent court of international justice, which should be competent to hear and determine any dispute of an international character, which the parties thereto should submit to it, and which also might give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly of the League. This provision of the Covenant, it may be said, did not enter into the subsequent controversy with respect to participation by this Government in the League of Nations; on the contrary, it is believed that this controversy reflected but little, if any, divergence of view in this country with respect to the advisability of establishing a Permanent International Court.

Pursuant to the direction contained in the article above quoted,

the Council of the League appointed an advisory committee of jurists, which sat at The Hague in the summer of 1920 and formulated a plan for the establishment of such a court. Hon. Elihu Root was a member of that committee. It recommended a plan, which was subsequently examined by the Council and Assembly of the League, and, after certain amendments had been made, the statute constituting the permanent court of international justice was adopted by the assembly of the League on December 13, 1920.

While these steps were taken under the auspices of the League, the statute constituting the permanent court of international justice did not become effective upon its adoption by the Assembly of the League. On the contrary, it became effective by virtue of the signature and ratification by the signatory powers of a special protocol. The reason for this procedure was that, although the plan of the court was prepared under article 14 of the Covenant, the statute went beyond the terms of the covenant, especially in making the court available to states which were not Members of the League of Nations. Accordingly, a protocol of signature was prepared by which the signatory powers declared their acceptance of the adjoined statute of the permanent court of international justice. The permanent court thus established by the signatory powers under the protocol with statute annexed, is now completely organized and at work.

The statute of the court provides for the selection of the judges; defines their qualifications and prescribes the jurisdiction of the court and the procedure to be followed in litigation before it.

The court consists of 15 members—11 judges, called "ordinary judges," and 4 deputy judges. The 11 judges constitute the full court. In case they cannot all be present, deputies are to sit as judges in place of the absentees; but if 11 judges are not available, nine may constitute a quorum. It is provided that the judges shall be elected, regardless of their nationality, from among persons of high moral character, possessing the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law. The judges are elected by the Council and Assembly of the League, each body proceeding independently. The successful candidate must obtain an absolute majority of votes in each body. The judges are elected for nine years and are eligible for

re-election. The ordinary judges are forbidden to exercise any political or administrative function. This provision does not apply to the deputy judges except when performing their duties on the court.

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.

Provision has also been made so that any signatory power, if it desires, may in signing the protocol accept as compulsory *ipso facto* and without special convention 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, and (d) the nature or extent of the reparation to be made for the breach of an international obligation.

This is an entirely optional clause and unless it is signed the jurisdiction of the court is not obligatory.

The first election of judges of the court took place in September, 1921. The 11 ordinary judges are the following: Viscount Robert Bannatyne Finlay, Great Britain; B. C. J. Loder, Holland; Ruy Barbosa, Brazil; D. J. Nyholm, Denmark; Charles André Weiss, France; John Bassett Moore, United States; Antonio Sanchez de Bustamante, Cuba; Rafael Altamira, Spain; Yorozu Oda, Japan; Dionisio Anzilotti, Italy; Max Huber, Switzerland.

The four deputies are: Michailo Yovanovitch, Serb-Croat-Slovene State; F. V. N. Beichmann, Norway; Demetre Negulesco, Rumania; Chung-Hui Wang, China.

It will be noted that one of the most distinguished American jurists has been elected a member of the court—Hon. John Bassett Moore.

In considering the question of participation of the United States in the support of the Permanent Court, it may be observed that the United States is already a competent suitor in the court. The statute expressly provides that the court shall be open not only to members of the League but to states mentioned in the Annex to the Covenant.

But it is not enough that the United States should have the privileges of a suitor. In view of the vast importance of provision

for the peaceful settlement of international controversies, of the time-honored policy of this Government in promoting such settlements, and of the fact that it has at last been found feasible to establish upon a sound basis a permanent international court of the highest distinction and to invest it with a jurisdiction which conforms to American principles and practice, I am profoundly convinced that this Government, under appropriate conditions, should become a party to the convention establishing the court and should contribute its fair share of the expense of maintenance.

I find no insuperable obstacle in the fact that the United States is not a Member of the League of Nations. The statute of the court has various procedural provisions relating to the League. But none of these provisions, save those for the election of judges, to which I shall presently refer, are of a character which would create any difficulty in the support of the court by the United States despite its non-membership in the League. None of these provisions impairs the independence of the court. It is an establishment separate from the League, having a distinct legal status resting upon the protocol and statute. It is organized and acts in accordance with judicial standards, and its decisions are not controlled or subject to review by the League of Nations.

In order to avoid any question that adhesion to the protocol and acceptance of the statute of the court would 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 Covenant of the League of Nations, it would be appropriate, if so desired, to have the point distinctly reserved as a part of the terms of the adhesion on the part of this Government.

Again, as already noted, the signature of the protocol and the consequent acceptance of the Statute, in the absence of assent to the optional compulsory clause, does not require the acceptance by the signatory powers of the jurisdiction of the court except in such cases as may thereafter be voluntarily submitted to the court. Hence, in adhering to the protocol, the United States would not be required to depart from the position, which it has thus far taken, that there should be a special agreement for the submission of a particular controversy to arbitral decision.

There is, however, one fundamental objection to adhesion on



the part of the United States to the protocol and the acceptance of the statute in its present form. That is, that under the provisions of the statute only Members of the League of Nations are entitled to a voice in the election of judges. The objection is not met by the fact that this Government is represented by its own national group in The Hague Court of Arbitration and that this group may nominate candidates for election as judges of the Permanent Court of International Justice. This provision relates simply to the nomination of candidates; the election of judges rests with the Council and Assembly of the League of Nations. It is no disparagement of the distinguished abilities of the judges, who have already been chosen, to say that the United States could not be expected to give its formal support to a permanent international tribunal in the election of the members of which it had no right to take part.

I believe that the validity of this objection is recognized and that it will be feasible to provide for the suitable participation by the United States in the election of judges, both ordinary and deputy judges, and in the filling of vacancies. The practical advantage of the present system of electing judges by the majority votes of the Council and Assembly of the League acting separately, is quite manifest. It was this arrangement which solved the difficulty, theretofore appearing almost insuperable, of providing an electoral system conserving the interests of the powers both great and small. It would be impracticable, in my judgment, to disturb the essential features of this system. It may also be observed that the members of the Council and Assembly of the League in electing the judges of the court do not act under the Covenant of the League of Nations, but under the statute of the court and in the capacity of electors, performing duties defined by the Statute. It would seem to be reasonable and practicable, that in adhering to the protocol and accepting the Statute, this Government should prescribe as a condition that the United States, through representatives designated for the purpose, should be permitted to participate, upon an equality with other state Members of the League of Nations, in all proceedings both of the Council and of the Assembly of the League for the election of judges or deputy judges of the court or for the filling of vacancies in these offices.

As the Statute of the court prescribes its organization, competence and procedure, it would also be appropriate to provide, as a condition of the adhesion of the United States, that the Statute should not be amended without the consent of the United States.

The expenses of the court are not burdensome. Under the Statute of the court, these expenses are borne by the League of Nations; the League determines the budget and apportions the amount among its Members. I understand that the largest contribution by any state is but little more than \$35,000 a year. In this matter also, the members of the Council and Assembly of the League do not act under the Covenant of the League but under the Statute of the court. The United States if it adhered to the protocol, would, of course, desire to pay its fair share of the expense of maintaining the court. The amount of this contribution would, however, be subject to determination by Congress and to the making of appropriations for the purpose. Reference to this matter also might properly be made in the instrument of adhesion.

Accordingly I beg to recommend that, if this course meets with your approval, you request the Senate to take suitable action, advising and consenting to the adhesion on the part of the United States to the Protocol of December 16, 1920, accepting the adjoined Statute of the Permanent Court of International Justice, but not the optional clause for compulsory jurisdiction; provided, however, that such adhesion shall be upon the following conditions and understandings to be made a part of the instrument of adhesion:

I. That such adhesion 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 Covenant of the League of Nations constituting Part I of the treaty of Versailles.

II. 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 Council or the Assembly for the election of judges or deputy judges of the Permanent Court of International Justice, or for the filling of vacancies.

III. 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.

IV. 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.

If the Senate gives its assent upon this basis, steps can then be taken for the adhesion of the United States to the protocol in the manner authorized. The attitude of this Government will thus be defined and communicated to the other signatory powers whose acquiescence in the stated conditions will be necessary.

Copies of the Resolution of the Assembly of the League of Nations of December 13, 1920,<sup>1</sup> the Protocol of December 16, 1920,<sup>2</sup> and the Statute of the court<sup>3</sup> are inclosed herewith.

I am, my dear Mr. President,

Faithfully yours,

CHARLES E. HUGHES.

<sup>1</sup>See p. 359.

<sup>2</sup>See p. 360.

<sup>3</sup>See p. 364.

## II. THE SENATE'S ATTITUDE TOWARD PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES<sup>1</sup>

### 1. MESSAGE OF THE PRESIDENT TRANSMITTING LETTER OF THE SECRETARY OF STATE,

HON. HENRY CABOT LODGE,

*United States Senate, Washington, D.C.*

*The WHITE HOUSE,  
Washington, March 2, 1923.*

MY DEAR SENATOR LODGE: On Wednesday you sent to me the request of the Foreign Relations Committee for information relative to the proposal that we adhere to the protocol establishing an International Court of Justice at The Hague. I immediately submitted the inquiries of your committee to the Secretary of State for detailed reply.

I am pleased to transmit to you herewith a letter from the Secretary of State covering the various questions raised in the committee resolution of inquiry. I need not add that the reply of the Secretary of State has my most hearty approval.

Very truly yours,

WARREN G. HARDING.

### 2. THE SENATE'S RECORD, LETTER OF THE SECRETARY OF STATE

*DEPARTMENT OF STATE,  
Washington, March 1, 1923.*

MY DEAR MR. PRESIDENT: I have received your letter of February 28 inclosing a request handed to you by Senator Lodge, chairman of the Senate Committee on Foreign Relations, for certain information desired by the committee in order to reach a decision relative to advising and consenting to our adhesion to the protocol establishing the Permanent Court of International Justice. I beg leave to submit the following statement upon the points raised:

First, the inquiry is this:

"That the President be requested to advise the committee

<sup>1</sup>Text of correspondence reprinted from Sen. Doc. No. 342, 67th Congress, 4th session.

whether he favors an agreement obligating all powers or Governments who are signers of the protocol creating the court to submit all questions about which there is a dispute and which can not be settled by diplomatic efforts relative to:

“(a) The interpretation of treaties;

“(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 reparation to be made for the breach of an international obligation;

“(e) The interpretation of a sentence passed by the court.”

I understand that the question is not intended to elicit your purely personal opinion, or whether you would look with an approving eye upon an agreement of this sort made effective by the action of all powers, but whether you, as President, in the exercise of your constitutional authority to negotiate treaties, favor the undertaking to negotiate a treaty on the part of the United States with other powers, creating such an obligatory jurisdiction.

So understood, I think that the question must be answered in the negative. This is for the reason that the Senate has so clearly defined its attitude in opposition to such an agreement, that until there is ground for believing that this attitude has been changed, it would be entirely futile for the Executive to negotiate a treaty of the sort described.

I may briefly refer to earlier efforts in this direction.

In the latter part of the Cleveland Administration a very strong public sentiment was expressed in favor of a general arbitration treaty between the United States and Great Britain, this being regarded as a step toward a plan for all civilized nations. In January, 1897, the Olney-Pauncefote treaty was signed, with provisions for compulsory arbitration having a wide scope. This treaty was supported not only by the Cleveland Administration but President McKinley indorsed it in the strongest terms in his annual message of December 6, 1897, urging “the early action of the Senate thereon, not merely as a matter of policy, but as a duty to mankind.” But, despite the safeguards established by the treaty, the provisions for compulsory arbitration met with disfavor in the Senate, and the treaty failed. (Moore’s Int. Law Dig., Vol. VII., pp. 76-78.)

A series of arbitration treaties was concluded in 1904 by Secretary Hay with about 12 states. Warned by the fate of the Olney-Pauncefote treaty, Secretary Hay limited the provision for obligatory arbitration in these treaties to "differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy." Even with this limitation, there was added the further proviso: "Provided, nevertheless, that they (the differences) do not affect the vital interests, the independence or the honor of the two contracting states, and do not concern the interest of third parties."

It was also provided that the parties should conclude a "special agreement" in each individual case, "defining clearly the matter in dispute, the scope of the powers of the arbitrators and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure."

Notwithstanding the limited scope of these treaties for compulsory arbitration, the Senate amended them by substituting the phrase "special treaty" for "special agreement," so that in every individual case of arbitration a special treaty would have to be made with the advice and consent of the Senate. (Moore's *Int. Dig.*, Vol. VII., pp. 102-103.) In view of this change, Secretary Hay announced that the President would not submit the amendment to the other Governments.

It should also be observed that the Hague conventions of 1899 and 1907, to which the United States is a party, relating to the general arbitration of certain classes of international differences, do not make recourse to the tribunal compulsory.

In 1908 a series of arbitration treaties was negotiated by the United States. The provisions of those treaties were limited to "differences which may exist of a legal nature or relating to the interpretation of treaties existing between the two contracting parties and which it may not have been possible to settle by diplomacy," with the proviso "that they do not affect the vital interests, the independence or the honor or the two contracting states and do not concern the interests of third parties." Secretary Root also provided, taking account of the failure of the Hay treaties, that "in each individual case" the contracting parties, before appealing to the arbitral tribunal, should conclude a "special

agreement" defining the matter in dispute, the scope and powers of the arbitrator, and so forth, and it was further explicitly stipulated in these treaties that such "special agreement" on the part of the United States should be made by the President "by and with the advice and consent of the Senate." These treaties, with these limiting provisions, made in deference to the opinion of the Senate as to the permissible scope of such agreements, received the Senate's approval.

In 1911 the Taft Administration submitted to the Senate general arbitration conventions with Great Britain and with France which were of broad scope. There were numerous objections on the part of the Senate. There was a provision in Article III that, in case of a controversy as to whether a particular difference was justiciable, the issue should be settled by a proposed joint high commission. Objection was made that such an arrangement was an unconstitutional delegation of power, and the provision was struck out by the Senate. Again the Senate conditioned its approval on numerous other reservations, withholding from the operation of the treaty any question "which affects the admission of aliens into the United States, or the admission of aliens to the educational institutions of the several states, or the territorial integrity of the several states or of the United States, or concerning the question of the alleged indebtedness or monied obligation of any state of the United States, or any question which depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions commonly described as the Monroe doctrine, or other purely governmental policy."

In the amended form the treaties were not acceptable to the administration and remained unratified.

In the light of this record it would seem to be entirely clear that until the Senate changes its attitude, it would be a waste of effort for the President to attempt to negotiate treaties with the other powers providing for an obligatory jurisdiction of the scope stated in the committee's first inquiry quoted above.

If the Senate, or even the Committee on Foreign relations, would indicate that a different point of view is now entertained, you might properly consider the advisability of negotiating such agreements.

The second inquiry is as follows:

"Secondly, if the President favors such an agreement, does he deem advisable to communicate with the other powers to ascertain whether they are willing to obligate themselves as aforesaid.

"In other words, are those who are signers of the protocol creating the court willing to obligate themselves by agreement to submit such questions as aforesaid, or are they to insist that such questions shall only be submitted in case both, or all, parties interested agree to the submission after the controversy arises. The purpose being to give the court obligatory jurisdiction over all purely justiciable questions relating to the interpretation of treaties, questions of international law, to the existence of facts constituting a breach of international obligation, to reparation for the breach of international obligation, to the interpretation of the sentences passed by the court, to the end that these matters may be finally determined in a court of justice."

What has been said above is believed to be a sufficient answer to this question. It may, however, be added that the statute establishing the Permanent Court of International Justice, as I stated in my previous letter, has a provision (Art. 36) by which compulsory jurisdiction can be accepted if desired, in any or all 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; and (d) the nature or extent of the reparation to be made for the breach of an international obligation. Accordingly, attached to the protocol of signature for the establishment of the Permanent Court of International Justice is an "optional clause" by which the signatory may accept this compulsory jurisdiction.

I understand that of the 46 States, which have signed the protocol for the establishment of the court about 15 have ratified this optional clause for compulsory jurisdiction, but among the states which have not as yet assented to the optional clause are to be found, I believe, Great Britain, France, Italy and Japan. The result is that aside from the objection to which I have referred



in answering the first inquiry, there is the additional one resulting from the attitude of these powers.

It was for all the reasons above stated that in my previous letter I recommended that if this course met with your approval, you should request the Senate to give its advice and consent to the adhesion on the part of the United States to the protocol, accepting upon the conditions stated, the adjoined statute of the Permanent Court of International Justice, but not the optional clause for compulsory jurisdiction.

The next inquiry is:

"The committee would also like to ascertain whether it is the purpose of the Administration to have this country recognize Part XIII (labor) of the treaty of Versailles as a binding obligation. See Art. 26 of Statute of League establishing the court."

I submit that the answer should be in the negative. Part XIII of the treaty of Versailles, relating to labor, is not one of the parts under which rights were reserved to the United States by our treaty with Germany. On the contrary, it was distinctly stated in that treaty that the United States assumes no obligations under Part XIII. It is not now contemplated that the United States should assume any obligations of that sort.

Art. 26 of the statute of the court, to which the committee refers in its inquiry, relates to the manner in which labor cases referred to in Part XIII of the treaty of Versailles shall be heard and determined. But this provision would in no way involve the United States in Part XIII. The purpose of the court is to provide a judicial tribunal of the greatest ability and distinction to deal with questions arising under treaties. The fact that the United States gave its adhesion to the protocol and accepted the statute of the court would not make the United States a party to treaties to which it was otherwise not a party, or a participant in disputes in which it would otherwise not be a participant. The function of the court, of course, is to determine questions which arise under treaties, although only two of all the powers concerned in maintaining the court may be parties to the particular treaty or the particular dispute.

Undoubtedly there are a host of treaties to which the United

States is not a party, as well as Part XIII of the treaty of Versailles, which would give rise to questions which such a permanent court of international justice should hear and determine. None of the signatory powers by co-operating in the establishment and maintenance of the court make themselves parties to treaties or assume obligations under treaties between other powers.

It is to the interest of the United States, however, that controversies which arise under treaties to which it is not a party should be the subject of peaceful settlements, so far as it is practicable to obtain them, and to this end that there should be an instrumentality, equipped as a permanent court, through which impartial justice among the nations may be administered according to judicial standards.

Finally, the committee states that:

"They would also like to be informed as to what reservations, if any, have been made by those countries who have adhered to the protocol."

I am not advised that any other state has made reservations on signing or adhering to the protocol.

I am, my dear Mr. President,

Faithfully yours,

CHARLES E. HUGHES.

### **III. APPROVAL BY LEAGUE OF NATIONS ASSEMBLY**

#### **RESOLUTION PASSED UNANIMOUSLY BY ASSEMBLY OF LEAGUE OF NATIONS, DECEMBER 13, 1920**

1. The Assembly unanimously declares its approval of the draft Statute of the Permanent Court of International Justice—as amended by the Assembly—which was prepared by the Council under Article 14 of the Covenant and submitted to the Assembly for its approval.

2. In view of the special wording of Article 14 the Statute of the Court shall be submitted within the shortest possible time to the Members of the League of Nations for adoption in the form of a protocol duly ratified and declaring their recognition of this Statute. It shall be the duty of the Council to submit the Statute to the Members.

3. As soon as this Protocol has been ratified by the majority of the Members of the League, the Statute of the Court shall come into force and the Court shall be called upon to sit in conformity with the said Statute in all disputes between the Members or states which have ratified, as well as between the other states, to which the Court is open under Article 35, paragraph 2, of the said Statute.

4. The said Protocol shall likewise remain open for signature by the states mentioned in the Annex to the Covenant.

## IV. PERMANENT COURT OF INTERNATIONAL JUSTICE

### PROTOCOL OF SIGNATURE

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 signatures of 46 Member states.]

### OPTIONAL CLAUSE

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

<sup>1</sup>The text is reprinted from League of Nations, *Treaty Series*, VI, 380, where the signatories and the plenipotentiaries acting on their behalf are attached. For the status of ratification, see p. 384, below.

jurisdiction of the Court in conformity with article 36, paragraph 2, of the Statute of the Court, under the following conditions:<sup>1</sup>

*Austria.*—On behalf of the Austrian Republic, I declare that the latter recognizes, in relation to any other Member or State which accepts the same obligation, that is to say, on the condition of reciprocity, the jurisdiction of the Permanent Court as compulsory, *ipso facto* and without any special convention, for a period of five years.

[March 14, 1922.]

(Signed) EMMERICH PFÜGL.

*Brazil.*—The instrument of ratification (September 6, 1921) deposited with the Permanent Secretariat of the League of Nations by the Brazilian Government contains the following passage:

"... we declare to recognize as compulsory, in accordance with the said resolution of the National Legislature, the jurisdiction of the said Court for the period of five years, on condition of reciprocity and as soon as it has likewise been recognized as such by two at least of the Powers permanently represented on the Council of the League of Nations."

*Bulgaria.*—On behalf of the Government of the Kingdom of Bulgaria, I recognize, in relation to any other Member or State which accepts the same obligation, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention, unconditionally.

[July 29, 1921.]

(Signed) POMENOV.

*China.*—The Chinese Government recognize as compulsory, *ipso facto* and without special convention, in relation to any Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court in conformity with Art. 36, par. 2, of the Statute of the Court for a period of five years.

[May 13, 1922.]

(Signed) TA. F. TANG.

*Costa Rica.*—On condition of reciprocity.

(Signed) MANUEL M. DE PERALTA.

*Denmark.*—On behalf of the Danish Government and subject to ratification, I recognize, in relation to any Member or State the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto*, and without special convention, for a period of five years.

[May 19, 1921.]

(Signed) HERLUF ZAHLE.

*Finland.*—On behalf of the Government of the Republic of Finland, and subject to ratification, I recognize, in relation to any other Member or State which ac-

<sup>1</sup>Arranged in alphabetical order from League of Nations, *Treaty Series*, VI, 384. For the status of acceptances see p. 384.

cepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, ipso facto and without any special convention, for a period of five years.

(Signed) ENCKELL.

*Haiti*.—On behalf of the Republic of Haiti, I recognize the jurisdiction of the Permanent Court of International Justice as compulsory.

(Signed) F. ADDOR.  
*Consul.*

*Liberia*.—On behalf of the Government of the Republic of Liberia, and subject to ratification by the Liberian Senate, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, ipso facto and without any special convention.

(Signed) B. LEHMAN.

*Lithuania*.—For a period of five years.  
[October 5, 1921.]

(Signed) GALVANAUSKAS.

*Luxemburg*.—On behalf of the Government of Luxemburg and subject to ratification, I recognize, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, ipso facto and without special convention, for a period of five years.

(Signed) LEFORT.

*Netherlands*.—The following declaration was made by the Netherlands Chargé d'Affaires at the moment of the deposit of the deed of ratification and is contained in the Procès-Verbal of Deposit of the deed:

"On behalf of the Government of the Netherlands, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the condition of reciprocity, the jurisdiction of the Court as compulsory, ipso facto and without any special convention, in conformity with Art. 36, par. 2, of the Statute of the Court, for a period of five years, in respect of any future dispute in regard to which the parties have not agreed to have recourse to some other means of friendly settlement."

[July 20, 1921.]

(Signed) MOSSELMANS.  
*Chargé d'Affaires a. i. des Pays-Bas.*

*Norway*.—On behalf of the Government of His Majesty the King of Norway, and subject to ratification, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, ipso facto, and without any special convention, for a period of five years.

[September 6, 1921.]

(Signed) FRIDTJOF NANSEN.

*Panama.*—The following declaration was transmitted by M. R. A. Amador, Chargé d'Affaires of the Republic of Panama at Paris, in a letter dated October 25, 1921, addressed to Sir Eric Drummond, Secretary-General of the League of Nations: "On behalf of the Government of Panama, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, ipso facto and without any special convention."

(Signed) R. A. AMADOR,  
*Chargé d'Affaires.*

*Portugal.*—On behalf of Portugal, I recognize, in relation to any Member or State accepting the same obligation, the jurisdiction of the Court as compulsory, ipso facto and without special convention.

[September 12, 1921.]

(Signed) AFFONSO COSTA.

*Salvador.*—On condition of reciprocity.

(Signed) J. GUSTAVO GUERRERO.  
ARTURO R. AVILA.

*Sweden.*—On behalf of the Government of His Majesty the King of Sweden, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the condition of reciprocity, the jurisdiction of the Court as compulsory, ipso facto and without any special convention, for a period of five years.

[Geneva, August 16, 1921.]

(Signed) P. DE ADLERCREUTE.

*Switzerland.*—On behalf of the Swiss Government and subject to ratification by the Federal Assembly, I recognize, in relation to any Member or State accepting the same obligation, that it is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, ipso facto and without special convention, for a period of five years.

[April 16, 1921.]

(Signed) MOTTA.

*Uruguay.*—On behalf of the Government of Uruguay, I recognize, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, ipso facto and without special convention.

[August 24, 1921.]

(Signed) B. FERNANDES Y MEDINA.

## STATUTE

FOR THE PERMANENT COURT OF INTERNATIONAL JUSTICE PROVIDED FOR  
BY ARTICLE 14 OF THE COVENANT OF THE  
LEAGUE OF NATIONS

ARTICLE 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.

## 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 list 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.<sup>1</sup>

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.

<sup>1</sup>Article 44 of the convention of The Hague of 1907 for the pacific settlement of international disputes reads as follows:

"Each contracting Power selects four persons at the most, of known competency



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. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible for appointment.

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. 11. If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

ART. 12. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the Assembly and three by the Council, may be formed, at any time, at the request of either the Assembly or the Council, for the purpose of choosing one name for each seat still vacant, to submit to the Assembly and the Council for their respective acceptance.

If the Conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Articles 4 and 5.

If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been appointed shall, within a period to be fixed by the Council, proceed to fill the vacant seats by

in questions of international law, of the highest moral reputation, and disposed to accept the duties of arbitrator.

"The persons thus selected are inscribed, as members of the Court, in a list which shall be notified to all the contracting Powers by the Bureau.

"Any alteration in the list of arbitrators is brought by the Bureau to the knowledge of the contracting Powers.

"Two or more Powers may agree on the selection in common of one or more members.

"The same person can be selected by different Powers.

"The members of the Court are appointed for a term of six years. These appointments are renewable.

"Should a member of the Court die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. In this case the appointment is made for a fresh period of six years."

selection from among those candidates who have obtained votes either in the Assembly or in the Council.

In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

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

They may be re-elected.

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. 15. Deputy-judges shall be called upon to sit in the order laid down in a list.

This list shall be prepared by the Court and shall have regard firstly to priority of election and secondly to age.

ART. 16. The ordinary Members of the Court may not exercise any political or administrative function. This provision 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.

Formal notification thereof shall be made to the Secretary-General of the League of Nations, by the Registrar.

This notification makes the place vacant.

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 re-elected.

It shall appoint its Registrar.

The duties of Registrar of the Court shall not be deemed incompatible with those of Secretary-General of the Permanent Court of Arbitration.

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

The President and Registrar shall reside at the seat of the Court.

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.

If the President considers that for some special reason one of the members of the Court should not sit on a particular case, he shall give him notice accordingly.

If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

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. 26. Labor cases, particularly cases referred to in Part XIII (Labor) of the Treaty of Versailles and the corresponding portion of the other Treaties of Peace, shall be heard and determined by the Court under the following conditions:

The Court will appoint every three years a special chamber of five judges, selected so far as possible with due regard to the provisions of Article 9. In addition, two judges shall be selected for the purpose of replacing a judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by this chamber. In the absence of any such demand, the Court will sit with the number of judges provided for in Article 25. On all occasions the judges will be assisted by four technical assessors sitting with them, but without the right to vote, and chosen with a view to insuring a just representation of the competing interests.

If there is a national of one only of the parties sitting as a judge in the chamber referred to in the preceding paragraph, the President will invite one of the other judges to retire in favor of a judge chosen by the other party in accordance with Article 31.

The technical assessors shall be chosen for each particular case in accordance with rules of procedure under Article 30 from a list of "Assessors for Labor cases" composed of two persons nominated by each Member of the League of Nations and an equivalent number nominated by the Governing Body of the Labor Office. The Governing Body will nominate, as to one half, representatives of the workers, and as to one half, representatives of employers from the list referred to in Article 412 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace.

In Labor cases the International Labor Office shall be at liberty to furnish the Court with all relevant information, and for this purpose the Director of that Office shall receive copies of all the written proceedings.

ART. 27. Cases relating to transit and communications, particularly cases referred to in Part XII (Ports, Waterways and Railways) of the Treaty of Versailles and the corresponding portions of the other Treaties of Peace shall be heard and determined by the Court under the following conditions:

The Court will appoint every three years a special chamber of five judges, selected so far as possible with due regard to the provisions of Article 9. In addition, two judges shall be selected for the purpose of replacing a judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by this cham-

ber. In the absence of any such demand, the Court will sit with the number of judges provided for in Article 25. When desired by the parties or decided by the Court, the judges will be assisted by four technical assessors sitting with them, but without the right to vote.

If there is a national of one only of the parties sitting as a judge in the chamber referred to in the preceding paragraph, the President will invite one of the other judges to retire in favor of a judge chosen by the other party in accordance with Article 31.

The technical assessors shall be chosen for each particular case in accordance with rules of procedure under Article 30 from a list of "Assessors for Transit and Communications cases" composed of two persons nominated by each Member of the League of Nations.

ART. 28. The special chambers provided for in Articles 26 and 27 may, with the consent of the parties to the dispute, sit elsewhere than at The Hague.

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.

Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point is settled by the decision of the Court.

Judges selected or chosen as laid down in paragraphs 2 and 3 of this Article shall fulfil the conditions required by Articles 2, 16, 17, 20, 24 of this Statute. They shall take part in the decision on an equal footing with their colleagues.

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.

The President shall receive a special grant for his period of office, to be fixed in the same way.

The Vice-Presidents, judges and deputy-judges shall receive a grant for the actual performance of their duties, to be fixed in the same way.

Traveling expenses incurred in the performance of their duties shall be refunded to judges and deputy-judges who do not reside at the seat of the Court.

Grants due to judges selected or chosen as provided in Article 31 shall be determined in the same way.

The salary of the Registrar shall be decided by the Council upon the proposal of the Court.

The Assembly of the League of Nations shall lay down, on the proposal of the Council, a special regulation fixing the conditions under which retiring pensions may be given to the personnel of the Court.

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.

In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court will be given in French and English. In this case the Court will at the same time determine which of the two texts shall be considered as authoritative.

The Court may, at the request of the parties, authorize a language other than French or English to be used.

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. 43. The procedure shall consist of two parts: written and oral.

The written proceedings shall consist of the communication to the judges and to the parties of cases, counter-cases and, if necessary, replies; also all papers and documents in support.

These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

A certified copy of every document produced by one party shall be communicated to the other party.

The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel and advocates.

ART. 44. For the service of all notices upon persons other than the agents, counsel and advocates, the Court shall apply direct to the Government of the State upon whose territory the notice has to be served.

The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

ART. 45. The hearing shall be under the control of the President or, in his absence, of the Vice-President; if both are absent, the senior judge shall preside.

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. 47. Minutes shall be made at each hearing, and signed by the Registrar and the President.

These minutes shall be the only authentic record.

ART. 48. The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

ART. 49. The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

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. 51. During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

ART. 52. After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

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. 58. The judgment shall be signed by the President and by the Registrar. It shall be read in open Court, due notice having been given to the agents.

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.

The proceedings for revision will be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

The application for revision must be made at latest within six months of the discovery of the new fact.

No application for revision may be made after the lapse of ten years from the date of the sentence.

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.

## RULES OF COURT

### *Preamble*

The Court,

By virtue of Article 30 of its Statute,

Adopts the present Rules:

### CHAPTER I. *The Court*

#### HEADING 1. *Constitution of the Court*

##### SECTION A. *Judges and Assessors*

Art. 1. Subject to the provisions of Article 14 of the Statute, the term of office of judges and deputy-judges shall commence on January 1st of the year following their election.

Art. 2. Judges and deputy-judges elected at an earlier session of the Assembly and of the Council of the League of Nations shall take precedence respectively over judges and deputy-judges elected at a subsequent session. Judges and deputy-judges elected during the same session shall take precedence according to age. Judges shall take precedence over deputy-judges.

National judges chosen from outside the Court, under the terms of Article 31 of the Statute, shall take precedence after deputy-judges in order of age.

The list of deputy-judges shall be prepared in accordance with these principles.



The Vice-President shall take his seat on the right of the President. The other Members of the Court shall take their seats to the right and left of the President in the order laid down above.

Art. 3. Deputy-judges whose presence is necessary shall be summoned in the order laid down in the list referred to in the preceding Article, that is to say, each of them will be summoned in rotation throughout the list.

Should a deputy-judge be so far from the seat of the Court that, in the opinion of the President, a summons would not reach him in sufficient time, the deputy-judge next on the list shall be summoned; nevertheless, the judge to whom the summons should have been addressed shall be called upon, if possible, on the next occasion that the presence of a deputy-judge is required.

A deputy-judge who has begun a case shall be summoned again, if necessary out of his turn, in order to continue to sit in the case until it is finished.

Should a deputy-judge be summoned to take his seat in a particular case as a national judge, under the terms of Article 31 of the Statute, such summons shall not be regarded as coming within the terms of the present Article.

Art. 4. In cases in which one or more parties are entitled to choose a judge *ad hoc* of their nationality, the full Court may sit with a number of judges exceeding eleven.

When the Court has satisfied itself, in accordance with Article 31 of the Statute, that there are several parties in the same interest and that none of them has a judge of its nationality upon the bench, the Court shall invite them, within a period to be fixed by the Court, to select by common agreement a deputy judge of the nationality of one of the parties, should there be one; or, should there not be one, a judge chosen in accordance with the principles of the above-mentioned Article.

Should the parties have failed to notify the Court of their selection or choice when the time limit expires, they shall be regarded as having renounced the right conferred upon them by Article 31.

Art. 5. Before entering upon his duties, each member of the Court or judge summoned to complete the Court, under the terms of Article 31 of the Statute, shall make the following solemn declaration in accordance with Article 20 of the Statute:

"I solemnly declare that I will exercise all my powers and duties as a judge honorably and faithfully, impartially and conscientiously."

A special public sitting of the Court may, if necessary, be convened for this purpose.

At the public inaugural sitting held after a new election of the whole Court the required declaration shall be made first by the President, secondly by the Vice-President, and then by the remaining judges in the order laid down in Article 2.

Art. 6. For the purpose of applying Article 18 of the Statute, the President or if necessary the Vice-President, shall convene the judges and deputy-judges. The member affected shall be allowed to furnish explanations. When he has done so the question shall be discussed and a vote shall be taken, the member in question not being present. If the members present are unanimously agreed, the Registrar shall issue the notification prescribed in the above-mentioned Article.

Art. 7. The President shall take steps to obtain all information which might be helpful to the Court in selecting technical assessors in each case. With regard to the questions referred to in Article 26 of the Statute, he shall, in particular, consult the Governing Body of the International Labour Office.

The assessors shall be appointed by an absolute majority of votes, either by the Court or by the special Chamber which has to deal with the case in question.

Art. 8. Assessors shall make the following solemn declaration at the first sitting of the Court at which they are present:

"I solemnly declare that I will exercise my duties and powers as an assessor honorably and faithfully, impartially and conscientiously, and that I will scrupulously observe all the provisions of the Statute and of the Rules of Court."

#### SECTION B. *The Presidency*

Art. 9. The election of the President and Vice-President shall take place at the end of the ordinary session immediately before the normal termination of the period of office of the retiring President and Vice-President.

After a new election of the whole Court, the election of the President and Vice-President shall take place at the commencement of the following session. The President and Vice-President elected in these circumstances shall take up their duties on the day of their election. They shall remain in office until the end of the second year after the year of their election.

Should the President or the Vice-President cease to belong to the Court before the expiration of their normal term of office, an election shall be held for the purpose of appointing a substitute for the unexpired portion of their term of office. If necessary, an extraordinary session of the Court may be convened for this purpose.

The elections referred to in the present Article shall take place by secret ballot. The candidate obtaining an absolute majority of votes shall be declared elected.

Art. 10. The President shall direct the work and administration of the Court; he shall preside at the meetings of the full Court.

Art. 11. The Vice-President shall take the place of the President, should the latter be unable to be present, or, should he cease to hold office, until the new President has been appointed by the Court.

Art. 12. The President shall reside within a radius of ten kilometres from the Peace Palace at the Hague.

The main annual vacation of the President shall not exceed three months.

Art. 13. After a new election of the whole Court and until such time as the President and Vice-President have been elected, the judge who takes precedence according to the order laid down in Article 2, shall perform the duties of President.

The same principle shall be applied should both the President and the Vice-President be unable to be present, or should both appointments be vacant at the same time.

#### SECTION C. *The Chambers*

Art. 14. The members of the Chambers constituted by virtue of Articles 26, 27 and 29 of the Statute shall be appointed at a meeting of the full Court by an absolute majority of votes, regard being had for the purposes of this selection to any preference expressed by the judges, so far as the provisions of Article 9 of the Statute permit.

The substitutes mentioned in Articles 26 and 27 of the Statute shall be appointed in the same manner. Two judges shall also be chosen to replace any member of the Chamber for summary procedure who may be unable to sit.

The election shall take place at the end of the ordinary session of the Court, and

the period of appointment of the members elected shall commence on January 1st of the following year.

Nevertheless, after a new election of the whole Court the election shall take place at the beginning of the following session. The period of appointment shall commence on the date of election and shall terminate, in the case of the Chamber referred to in Article 29 of the Statute, at the end of the same year and, in the case of the Chambers referred to in Articles 26 and 27 of the Statute, at the end of the second year after the year of election.

The Presidents of the Chambers shall be appointed at a sitting of the full Court. Nevertheless, the President of the Court shall, *ex officio* preside over any Chamber of which he may be elected a member; similarly, the Vice-President of the Court shall, *ex officio* preside over any Chamber of which he may be elected a member, provided that the President is not also a member.

Art. 15. The special Chambers for labour cases and for communications and transit cases may not sit with a greater number than five judges.

Except as provided in the second paragraph of the preceding Article, the composition of the Chamber for summary procedure may not be altered.

Art. 16. Deputy-judges shall not be summoned to complete the special Chambers or the Chamber for summary procedure, unless sufficient judges are not available to complete the number required.

#### SECTION D. *The Registry*

Art. 17. The Court shall select its Registrar from amongst candidates proposed by members of the Court.

The election shall be by secret ballot and by a majority of votes. In the event of an equality of votes, the President shall have a casting vote.

The Registrar shall be elected for a term of seven years commencing on January 1st of the year following that in which the election takes place. He may be re-elected.

Should the Registrar cease to hold his office before the expiration of the term above-mentioned, an election shall be held for the purpose of appointing a successor.

Art. 18. Before taking up his duties, the Registrar shall make the following declaration at a meeting of the full Court:

"I solemnly declare that I will perform the duties conferred upon me as Registrar of the Permanent Court of International Justice in all loyalty, discretion and good conscience."

The other members of the Registry shall make a similar declaration before the President, the Registrar being present.

Art. 19. The Registrar shall reside within a radius of ten kilometres from the Peace Palace at The Hague.

The main annual vacation of the Registrar shall not exceed two months.

Art. 20. The staff of the Registry shall be appointed by the Court on proposals submitted by the Registrar.

Art. 21. The Regulations for the Staff of the Registry shall be adopted by the President on the proposal of the Registrar, subject to subsequent approval by the Court.

Art. 22. The Court shall determine or modify the organization of the Registry

upon proposals submitted by the Registrar. On the proposal of the Registrar, the President shall appoint the member of the Registry who is to act for the Registrar in his absence or, in the event of his ceasing to hold his office, until a successor has been appointed.

Art. 23. The registers kept in the archives shall be so arranged as to give particulars with regard to the following points amongst others:

1. For each case or question, all documents pertaining to it and all action taken with regard to it in chronological order; all such documents shall bear the same file number and shall be numbered consecutively within the file;

2. All decisions of the Court in chronological order, with references to the respective files;

3. All advisory opinions given by the Court in chronological order, with references to the respective files;

4. All notifications and similar communications sent out by the Court, with references to the respective files.

Indexes kept in the archives shall comprise:

1. A card index of names with necessary references;

2. A card index of subject matter with like references.

Art. 24. During hours to be fixed by the President the Registrar shall receive any documents and reply to any enquiries, subject to the provisions of Article 38 of the present Rules and to the observance of professional secrecy.

Art. 25. The Registrar shall be the channel for all communications to and from the Court.

The Registrar shall ensure that the date of despatch and receipt of all communications and notifications may readily be verified. Communications and notifications sent by post shall be registered. Communications addressed to the official representatives or to the agents of the parties shall be considered as having been addressed to the parties themselves. The date of receipt shall be noted on all documents received by the Registrar, and a receipt bearing this date and the number under which the document has been registered shall be given to the sender, if a request to that effect be made.

Art. 26. The Registrar shall be responsible for the archives, the accounts and all administrative work. He shall have the custody of the seals and stamps of the Court. He shall himself be present at all meetings of the full Court and either he, or a person appointed to represent him with the approval of the Court, shall be present at all sittings of the various Chambers; he shall be responsible for drawing up the minutes of the meetings.

He shall further undertake all duties which may be laid upon him by the present Rules.

The duties of the Registry shall be set forth in detail in a List of Instructions to be submitted by the Registrar to the President for his approval.

#### HEADING 2.—*Working of the Court*

Art. 27. In the year following a new election of the whole Court the ordinary annual session shall commence on the fifteenth of January.

If the day fixed for the opening of a session is regarded as a holiday at the place where the Court is sitting, the session shall be opened on the working day following.

Art. 28. The list of cases shall be prepared and kept up to date by the Registrar under the responsibility of the President. The list for each session shall contain all questions submitted to the Court for an advisory opinion and all cases in regard to which the written proceedings are concluded, in the order in which the documents submitting each question or case have been received by the Registrar. If in the course of a session, a question is submitted to the Court or the written proceedings in regard to any case are concluded, the Court shall decide whether such question or case shall be added to the list for that session.

The Registrar shall prepare and keep up to date extracts from the above list showing the cases to be dealt with by the respective Chambers.

The Registrar shall also prepare and keep a list of cases for revision.

Art. 29. During the sessions the dates and hours of sittings shall be fixed by the President.

Art. 30. If at any sitting of the full Court it is impossible to obtain the prescribed quorum, the Court shall adjourn until the quorum is obtained.

Art. 31. The Court shall sit in private to deliberate upon the decision of any case or on the reply to any question submitted to it.

During the deliberation referred to in the preceding paragraph, only persons authorized to take part in the deliberation and the Registrar shall be present. No other person shall be admitted except by virtue of a special decision taken by the Court, having regard to exceptional circumstances.

Every member of the Court who is present at the deliberation shall state his opinion together with the reasons on which it is based.

The decision of the Court shall be based upon the conclusions adopted after final discussion by a majority of the members.

Any member of the Court may request that a question which is to be voted upon shall be drawn up on precise terms in both the official languages and distributed to the Court. A request to this effect shall be complied with.

## CHAPTER II. *Procedure*

### HEADING 1. *Contentious Procedure*

#### SECTION A. *General Provisions*

Art. 32. The rules contained under this heading shall in no way preclude the adoption by the Court of such other rules as may be jointly proposed by the parties concerned, due regard being paid to the particular circumstances of each case.

Art. 33. The Court shall fix time limits in each case by assigning a definite date for the completion of the various acts of procedure, having regard as far as possible to any agreement between the parties.

The Court may extend time limits which it has fixed. It may likewise decide in certain circumstances that any proceeding taken after the expiration of a time limit shall be considered as valid.

If the Court is not sitting the powers conferred upon it by this article shall be exercised by the President, subject to any subsequent decision of the Court.

Art. 34. All documents of the written proceedings submitted to the Court shall be accompanied by not less than thirty printed copies certified correct. The President may order additional copies to be supplied.

**SECTION B. Procedure before the Court and before the special Chambers***(Articles 26 and 27 of the Statute)***I. Institution of Proceedings**

Art. 35. When a case is brought before the Court by means of a special agreement, the latter, or the document notifying the Court of the agreement, shall mention the addresses selected at the seat of the Court to which notices and communications intended for the respective parties are to be sent.

In all other cases in which the Court has jurisdiction, the application shall include, in addition to an indication of the subject of the dispute and the names of the parties concerned, a succinct statement of facts, an indication of the claim and the address selected at the seat of the Court to which notices and communications are to be sent.

Should proceedings be instituted by means of an application, the first document sent in reply thereto shall mention the address selected at the seat of the Court to which subsequent notices and communications in regard to the case are to be sent.

Should the notice of a special agreement, or the application, contain a request that the case be referred to one of the special Chambers mentioned in Articles 26 or 27 of the Statute, such request shall be complied with, provided that the parties are in agreement.

Similarly, a request to the effect that technical assessors be attached to the Court, in accordance with Article 27 of the Statute, or that the case be referred to the Chamber for summary procedure shall also be granted; compliance with the latter request is, however, subject to the condition that the case does not refer to any of the questions indicated in Articles 26 and 27 of the Statute.

Art. 36. The Registrar shall forthwith communicate to all members of the Court special agreements or applications which have been notified to him.

**II. Written Proceedings**

Art. 37. Should the parties agree that the proceedings shall be conducted in French or in English, the documents constituting the written procedure shall be submitted only in the language adopted by the parties.

In the absence of an agreement with regard to the language to be employed, documents shall be submitted in French or in English.

Should the use of a language other than French or English be authorized, a translation into French or into English shall be attached to the original of each document submitted.

The Registrar shall not be bound to make translations of documents submitted in accordance with the above rules.

In the case of voluminous documents the Court, or the President if the Court is not sitting, may, at the request of the party concerned, sanction the submission of translations of portions of documents only.

Art. 38. The Court, or the President, if the Court is not sitting, may, after hearing the parties, order the Registrar to hold the cases and counter-cases of each suit at the disposal of the Government of any State which is entitled to appear before the Court.

Art. 39. In cases in which proceedings have been instituted by means of a

special agreement, the following documents may be presented in the order stated below, provided that no agreement to the contrary has been concluded between the parties:

- a case, submitted by each party within the same limit of time;
- a counter-case, submitted by each party within the same limit of time;
- a reply, submitted by each party within the same limit of time.

When proceedings are instituted by means of an application, failing any agreement to the contrary between the parties, the documents shall be presented in the order stated below:

- the case by the applicant;
- the counter-case by the respondent;
- the reply by the applicant;
- the rejoinder by the respondent.

Art. 40. Cases shall contain:

1. a statement of the facts on which the claim is based;
2. a statement of law;
3. a statement of conclusions;
4. a list of the document in support; these documents shall be attached to the case.

Counter-cases shall contain:

1. the affirmation or contestation of the facts stated in the case;
2. a statement of additional facts, if any;
3. a statement of law;
4. conclusions based on the facts stated; these conclusions may include counter-claims, in so far as the latter come within the jurisdiction of the Court;
5. a list of the document in support; these documents shall be attached to the counter-case.

Art. 41. Upon the termination of the written proceedings the President shall fix a date for the commencement of the oral proceedings.

Art. 42. The Registrar shall forward to each of the members of the Court, a copy of all documents in the case as he receives them.

### *III. Oral Proceedings*

Art. 43. In the case of a public sitting, the Registrar shall publish in the Press all necessary information as to the date and hour fixed.

Art. 44. The Registrar shall arrange for the interpretation from French into English and from English into French of all statements, questions and answers which the Court may direct to be so interpreted.

Whenever a language other than French or English is employed, either under the terms of the third paragraph of Article 39 of the Statute or in a particular instance, the necessary arrangements for translation into one of the two official languages shall be made by the party concerned. In the case of witnesses or experts who appear at the instance of the Court, these arrangements shall be made by the Registrar.

Art. 45. The Court shall determine in each case whether the representatives of the parties shall address the Court before or after the production of the evidence; the parties shall, however, retain the right to comment on the evidence given.

Art. 46. The order in which the agents, advocates or counsel, shall be called upon to speak shall be determined by the Court, failing an agreement between the parties on the subject.

Art. 47. In sufficient time before the opening of the oral proceedings, each party shall inform the Court and the other parties of all evidence which it intends to produce, together with the names, Christian names, description and residence of witnesses whom it desires to be heard.

It shall further give a general indication of the point or points to which the evidence is to refer.

Art. 48. The Court may, subject to the provisions of Article 44 of the Statute, invite the parties to call witnesses, or may call for the production of any other evidence on points of fact in regard to which the parties are not in agreement.

Art. 49. The Court, or the President should the Court not be sitting, shall, at the request of one of the parties or on its own initiative, take the necessary steps for the examination of witnesses out of Court.

Art. 50. Each witness shall make the following solemn declaration before giving his evidence in Court:

"I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth."

Art. 51. Witnesses shall be examined by the representatives of the parties under the control of the President. Questions may be put to them by the President and afterwards by the judges.

Art. 52. The indemnities of witnesses who appear at the instance of the Court shall be paid out of the funds of the Court.

Art. 53. Any report or record of any enquiry carried out at the request of the Court, under the terms of Article 50 of the Statute, and reports furnished to the Court by experts, in accordance with the same Article, shall be forthwith communicated to the parties.

Art. 54. A record shall be made of the evidence taken. The portion containing the evidence of each witness shall be read over to him and approved by him.

As regards the remainder of the oral proceedings, the Court shall decide in each case whether verbatim records of all or certain portions of them shall be prepared for its own use.

Art. 55. The minutes mentioned in Article 47 of the Statute shall in particular include:

1. the names of the judges;
2. the names of the agents, advocates and counsel;
3. the names, Christian names, description and residence of witnesses heard;
4. a specification of other evidence produced;
5. any declarations made by the parties;
6. all decisions taken by the Court during the hearing.

Art. 56. Before the oral proceedings are concluded each party may present his bill of costs.

#### *IV. Interim Protection*

Art. 57. When the Court is not sitting, any measures for the preservation in the meantime of the respective rights of the parties shall be indicated by the President.

Any refusal by the parties to conform to the suggestions of the Court or of the President, with regard to such measures, shall be placed in record.



*V. Intervention*

Art. 58. An application for permission to intervene, under the terms of Article 62 of the Statute, must be communicated to the Registrar at latest before the commencement of the oral proceedings.

Nevertheless the Court may, in exceptional circumstances, consider an application submitted at a later stage.

Art. 59. The application referred to in the preceding Article shall contain:

1. a specification of the case in which the applicant desires to intervene;
2. a statement of law and of fact justifying intervention;
3. a list of the documents in support of the application; these documents shall be attached.

Such application shall be immediately communicated to the parties, who shall send to the Registrar any observations which they may desire to make within a period to be fixed by the Court, or by the President, should the Court not be sitting.

Art. 60. Any State desiring to intervene, under the terms of Article 63 of the Statute, shall inform the Registrar in writing at latest before the commencement of the oral proceedings.

The Court, or the President if the Court is not sitting, shall take the necessary steps to enable the intervening State to inspect the documents in the case, in so far as they relate to the interpretation of the convention in question, and to submit its observations thereon to the Court.

*VI. Agreement*

Art. 61. If the parties conclude an agreement regarding the settlement of the dispute and give written notice of such agreement to the Court before the close of the proceedings, the Court shall officially record the conclusion of the agreement.

Should the parties by mutual agreement notify the Court in writing that they intend to break off proceedings, the Court shall officially record the fact and proceedings shall be terminated.

*VII. Judgment*

Art. 62. The judgment shall contain:

1. the date on which it is pronounced;
2. the names of the judges participating;
3. the names and style of the parties;
4. the names of the agents of the parties;
5. the conclusions of the parties;
6. the matters of fact;
7. the reasons in point of law;
8. the operative provisions of the judgment;
9. the decision, if any, referred to in Article 64 of the Statute.

The opinions of judges who dissent from the judgment, shall be attached thereto should they express a desire to that effect.

Art. 63. After having been read in open Court the text of the judgment shall forthwith be communicated to all parties concerned and to the Secretary-General of the League of Nations.

Art. 64. The judgment shall be regarded as taking effect on the day on which it is read in open Court, in accordance with Article 58 of the Statute.

Art. 65. A collection of the judgments of the Court shall be printed and published under the responsibility of the Registrar.

#### *VIII. Revision*

Art. 66. Application for revision shall be made in the same form as the application mentioned in Article 40 of the Statute.

It shall contain:

1. the reference to the judgment impeached;
2. the fact on which the application is based;
3. a list of the documents in support; these documents shall be attached.

It shall be the duty of the registrar to give immediate notice of an application for revision to the other parties concerned. The latter may submit observations within a time limit to be fixed by the Court, or by the President should the Court not be sitting.

If the judgment impeached was pronounced by the full Court, the application for revision shall also be dealt with by the full Court. If the judgment impeached was pronounced by one of the Chambers mentioned in Articles 26, 27 or 29 of the Statute, the application for revision shall be dealt with by the same Chamber. The provisions of Article 13 of the Statute shall apply in all cases.

If the Court, under the third paragraph of Article 61 of the Statute, makes a special order rendering the admission of the application conditional upon previous compliance with the terms of the judgment impeached, this condition shall be immediately communicated to the applicant by the Registrar, and proceedings in revision shall be stayed pending receipt by the Registrar of proof of previous compliance with the original judgment and until such proof shall have been accepted by the Court.

#### *SECTION C. Summary Procedure*

Art. 67. Except as provided under the present section the rules for procedure before the full Court shall apply to summary procedure.

Art. 68. Upon receipt by the Registrar of the document instituting proceedings in a case which, by virtue of an agreement between the parties, is to be dealt with by summary procedure, the President shall convene as soon as possible the Chamber referred to in Article 29 of the Statute.

Art. 69. The proceedings are opened by the presentation of a case by each party. These cases shall be communicated by the Registrar to the members of the Chamber and to the opposing party.

The cases shall contain reference to all evidence which the parties may desire to produce.

Should the Chamber consider that the cases do not furnish adequate information, it may, in the absence of an agreement to the contrary between the parties, institute oral proceedings. It shall fix a date for the commencement of the oral proceedings.

At the hearing, the Chamber shall call upon the parties to supply oral explanations. It may sanction the production of any evidence mentioned in the cases.

If it is desired that witnesses or experts whose names are mentioned in the case

should be heard, such witnesses or experts must be available to appear before the Chamber when required.

Art. 70. The judgment is the judgment of the Court rendered in the Chamber of summary procedure. It shall be read at a public sitting of the Chamber.

#### HEADING 2.—*Advisory Procedure*

Art. 71. Advisory opinions shall be given after deliberation by the full Court. The opinions of dissenting judges may, at their request, be attached to the opinion of the Court.

Art. 72. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request, signed either by the President of the Assembly or the President of the Council of the League of Nations, or by the Secretary-General of the League under instructions from the Assembly or the Council.

The request shall contain an exact statement of the question upon which an opinion is required, and shall be accompanied by all documents likely to throw light upon the question.

Art. 73. The Registrar shall forthwith give notice of the request for an advisory opinion to the members of the Court, and to the Members of the League of Nations, through the Secretary-General of the League, and to the States mentioned in the Annex to the Covenant.

Notice of such request shall also be given to any international organizations which are likely to be able to furnish information on the question.

Art. 74. Any advisory opinion which may be given by the Court and the request in response to which it was given shall be printed and published in a special collection for which the Registrar shall be responsible.

#### HEADING 3.—*Errors*

Art. 75. The Court, or the President if the Court is not sitting, shall be entitled to correct an error in any order, judgment or opinion, arising from a slip or accidental omission.

Done at The Hague, the twenty-fourth day of March, one thousand nine hundred and twenty-two.

(s.) LODER,  
*President.*

(s.) A. HAMMARSKJÖLD,  
*Registrar.*

## V. ACCEPTANCE OF THE COURT

### 1. RATIFICATIONS OF THE PROTOCOL—35

Albania	Esthonia	Poland
Australia	Finland	Portugal
Austria	France	Rumania
Belgium	Greece	Serb-Croat-Slovene
Brazil	Haiti	State
British Empire	India	Siam
Bulgaria	Italy	South Africa, Union of
Canada	Japan	Spain
China	Lithuania	Sweden
Cuba	Netherlands	Switzerland
Czechoslovakia	New Zealand	Uruguay
Denmark	Norway	Venezuela

### 2. SIGNATORIES OF THE PROTOCOL—11

Bolivia	Latvia	Paraguay
Chile	Liberia	Persia
Colombia	Luxemburg	Salvador
Costa Rica	Panama	

## VI. ACCEPTANCE OF THE OPTIONAL CLAUSE

### 1. RATIFICATIONS OF THE OPTIONAL CLAUSE—12

Austria	Denmark	Norway
Brazil	Esthonia	Portugal
Bulgaria	Lithuania	Switzerland
China	Netherlands	Uruguay

### 2. SIGNATORIES OF THE OPTIONAL CLAUSE—8

Costa Rica	Liberia	Salvador
Finland	Luxemburg	Sweden <sup>1</sup>
Haiti <sup>1</sup>	Panama	

<sup>1</sup>Haiti and Sweden put the optional clause in force without ratification.

## VII. ADMISSION TO THE COURT

RESOLUTION OF THE COUNCIL OF THE LEAGUE OF NATIONS  
DEFINING ADMISSION TO THE COURT OF STATES NOT MEMBERS OF  
THE LEAGUE AND NOT MENTIONED IN THE ANNEX TO THE COVE-  
NANT. AGREED TO MAY 12, 1922.<sup>1</sup>

The Council of the League of Nations,

In virtue of the powers conferred upon it by Article 35, par. 2,  
of the Statute of the Permanent Court of International Justice,  
and subject to the provisions of that article,

Resolves:

(1) The Permanent Court of International Justice shall be open to a State which is not a Member of the League of Nations or mentioned in the Annex to the Covenant of the League, upon the following condition, namely: that such State shall previously have deposited with the Registrar of the Court a declaration by which it accepts the jurisdiction of the Court, in accordance with the Covenant of the League of Nations and with the terms and subject to the conditions of the Statute and Rules of Procedure of the Court, and undertakes to carry out in full good faith the decision or decisions of the Court and not to resort to war against a State complying therewith.

(2) Such declaration may be either particular or general.

A particular declaration is one accepting the jurisdiction of the Court in respect only of a particular dispute or disputes which have already arisen.

A general declaration is one accepting the jurisdiction generally in respect of all disputes, or of a particular class or classes of disputes which have already arisen or which may arise in the future.

A State, in making such a general declaration, may accept the jurisdiction of the Court as compulsory, *ipso facto*, and without special convention, in conformity with Article 36 of the Statute of the Court; but such acceptance may not, without special conventions, be relied upon as regards Members of the League of Nations or States mentioned in the Annex to the Covenant which

<sup>1</sup>League of Nations, *Official Journal*, III, 526 and 609. The resolution was passed subject to certain amendments proposed by the representative of France, which, however, have not been reported to the Council in textual form.

The United States is mentioned in the Annex to the Covenant.

have signed or may hereafter sign the "optional clause" provided for by the additional protocol of December 16, 1920.

(3) The original declarations made under the terms of this resolution shall be kept in the custody of the Registrar of the Court. Certified true copies thereof shall be transmitted, in accordance with the practice of the Court, to all Members of the League of Nations and States mentioned in the Annex to the Covenant, and to such other States as the Court may determine, and to the Secretary-General of the League of Nations.

(4) The Council of the League of Nations reserves the right to rescind or amend this resolution by a resolution which shall be communicated to the Court; and on the receipt of such communication by the Registrar of the Court, and to the extent determined by the new resolution, existing declarations shall cease to be effective except in regard to disputes which are already before the Court.

(5) All questions as to the validity or the effect of a declaration made under the terms of this resolution shall be decided by the Court.

## VIII. JUDGES OF THE COURT

*Elected September 14-15, 1921, to serve nine years*

<i>Judge</i>	<i>National of</i>	<i>Born</i>
Rafael ALTAMIRA y Crevea . . . . .	Spain	1866
Dionisio ANZILOTTI . . . . .	Italy	1869
Ruy BARBOSA <sup>1</sup> . . . . .	Brazil	1849
Antonio Sánchez de BUSTAMANTE . . . .	Cuba	1865
Robert Bannatyne Viscount FINLAY . .	Great Britain	1842
Hans Max HUBER . . . . .	Switzerland	1874
Bernard Cornelis Johannes LODER, Presi- dent . . . . .	Netherlands	1849
John Bassett MOORE . . . . .	United States	1860
Didrik Galtrup Gjedde NYHOLM . . . .	Denmark	1858
Yorozu ODA . . . . .	Japan	1868
Charles André WEISS, Vice-President . .	France	1858

### DEPUTY JUDGES

Frederik Valdemar Nikolai BEICHMANN .	Norway	1859
Mikhailo JOVANOVIĆ . . . . .	Serb-Croat- Slovene State	1853
Demitrie NEGULESCO . . . . .	Rumania	1876
WANG Ch'ung-hui . . . . .	China	1882

### SPECIAL CHAMBERS, 1923

*Summary Procedure*—LODER (President), WEISS and MOORE; FINLAY and ALTAMIRA, substitutes.

*Labor Questions*—FINLAY (President), BUSTAMANTE, ALTAMIRA, ANZILOTTI and HUBER; NYHOLM and MOORE, substitutes.

*Transit and Communications*—WEISS (President), BARBOSA, NYHOLM, MOORE and ODA; ANZILOTTI and HUBER, substitutes.

Registrar . . . . . Åke Hammarskjöld (Sweden)

<sup>1</sup>Died on March 1, 1923.

## IX. REMUNERATION OF MEMBERS OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE

RESOLUTION PASSED UNANIMOUSLY AT ASSEMBLY OF LEAGUE OF NATIONS, 31ST PLENARY SESSION, DECEMBER 18, 1920

The Assembly of the League of Nations, in conformity with the provisions of Article 32 of the Statute, fixes the salaries and allowances of members of the Permanent Court of International Justice as follows:

### *President*

	<i>Dutch florins</i>	
Annual salary	15,000	\$6,030
Special allowance	45,000	18,090
Total	60,000	\$24,120

### *Vice-President*

Annual salary	15,000	\$6,030
Duty-allowance (200x150)	30,000 (maximum)	12,060
Total	45,000	\$18,090

### *Ordinary Judges*

Annual salary	15,000	\$6,030
Duty-allowance (200x100)	20,000 (maximum)	8,040
Total	35,000	\$14,070

### *Deputy-Judges*

Duty-allowance (200x150)	30,000 (maximum)	\$12,060
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Duty-allowances are payable from the day of departure until the return of the beneficiary.

An additional allowance of 50 florins (\$20.10) per day is assigned for each day of actual presence at The Hague to the Vice-President and to the ordinary and deputy-judges.

Allowances and salaries are free of all tax.



**REGULATIONS REGARDING THE INDEMNITIES OF TECHNICAL ASSESSORS**

1. Technical assessors sitting at the request of the parties to assist the judges under the terms of Art. 27, par. 2, of the Statute and Art. 35, par. 5, of the Rules of Court, shall receive a daily subsistence allowance of 50 florins during the period for which they are obliged by their duties to reside at the place where the Court is sitting, unless they habitually reside there; in which case they shall receive a daily allowance of 25 florins. In addition, necessary traveling expenses shall be refunded to them.

2. The total amounts of these subsistence allowances and traveling expenses shall be fixed in each case by the Court and paid by the Registrar, in accordance with the principles governing the assessment of indemnities and repayment of traveling expenses of assessors sitting either under the terms of Art. 26 of the Statute or as a result of a decision of the Court.

3. The amounts thus paid out shall be refunded by the parties in equal proportions. The refund shall take place after judgment has been pronounced.

## **X. DECISIONS**

### **CASES BEFORE THE COURT**

1. **Great Britain v. France:** The nationality decrees issued by France in Tunis and Morocco (French zone) on November 8, 1921, and their application to British subjects. Pending.

This case is the matter which came before the Court in Advisory Opinion 4, below. The resolution of the Council of League of October 4, 1922, by which that opinion was requested, recites that "the two Governments have agreed that, if the opinion of the Court upon the . . . question is that it is not solely a matter of domestic jurisdiction, the whole dispute will be referred to arbitration or to judicial settlement under conditions to be agreed between the Governments."

Immediately after the rendering of the advisory opinion on February 7, 1923, the French agent announced that his Government was ready to place the whole dispute before the Court.

2. **France, Great Britain, Italy and Japan v. Germany:** The use of the Kiel Canal under Art. 386 of the treaty of Versailles. Pending.

The German authorities on March 21, 1921, refused to allow the *Wimbledon*, a steamship of British registry, free access to the Kiel Canal. The applicants to the Court, who for the first time in history arraign a sovereign state before an international court without its consent, base their case upon Art. 380 of the treaty of Versailles, which provides that "the Kiel Canal and its approaches shall be maintained free and open to the vessels of commerce and of war of all nations at peace with Germany on terms of entire equality." The action is brought under Art. 386 of that treaty, which refers disputes respecting the canal "to the jurisdiction instituted by the League of Nations," which by Art. 37 of the Statute is the Court.

### **ADVISORY OPINIONS RENDERED TO THE COUNCIL OF THE LEAGUE**

1. "Was the workers' delegate for the Netherlands at the third session of the International Labor Conference nominated in accordance with the provisions of par. 3 of Art. 389 of the treaty of Versailles?"

This question involved the right of five general labor organizations to nominate the workers' delegate. On their failure to agree the Queen of the Netherlands appointed the common nominee of three of the organizations. The largest organization protested this appointment.

*Opinion:* July 31, 1922. "The Court is of opinion that the workers' delegate . . . was nominated in accordance with the provisions of par. 3 of Art. 389 of the treaty of Versailles." By Loder, president, Weiss, vice-president, Finlay, Nyholm, Moore, Bustamante, Altamira, Oda, Anzilotti, judges; Beichmann and Negulesco deputy judges.

2. "Does the competence of the International Labor Organization extend to international regulation of the conditions of labor of persons employed in agriculture?"

The question arose from a series of items on the agenda of the Third Session of the Labor Conference which took some affirmative action with respect to agriculture. The French Government brought the question forward in order to get a definite ruling.

*Opinion:* August 12, 1922. "The Court is of opinion that the competence of the International Labor Organization does extend to international regulation of the conditions of labor of persons employed in agriculture." By Loder, president, Finlay, Nyholm, Moore, Bustamante, Altamira, Oda, Anzilotti. Weiss, vice-president, and Negulesco not concurring.

3. "Does examination of proposals for the organization and development of methods of agricultural production, and of other questions of a like character, fall within the competence of the International Labor Organization?"

Question brought forward under same circumstances as foregoing.

*Opinion:* August 12, 1922. "Answer in the negative." By Loder, president, Weiss, vice-president, Finlay, Nyholm, Moore, Bustamante, Altamira, Oda, Anzilotti, Negulesco.

4. "Is or is not the dispute between France and Great Britain as to the nationality decrees issued in Tunis and Morocco (French zone) on November 8, 1921, and their application to British subjects solely a matter of domestic jurisdiction by international law (Art. 15, par. 8, of Covenant)?"

The decrees defined as nationals of France "any individual born [in Tunis or Moroccan French Zone] of foreign parents one of whom was born there." After diplomatic correspondence, the British Government proposed arbitration, which method of solution was declined by France. The British Government consequently brought the matter before the Council. The Court observed in its advisory opinion "that it may well happen that, in a matter which, like that of nationality, is not in principle regulated by international law, the right of a state to use its discretion is nevertheless restricted by obligations which it may have taken toward other states."

*Opinion:* February 7, 1923. Owing to the provisions of Anglo-French treaties, the court found that "the dispute is not, by international law, solely a matter of domestic jurisdiction," and "therefore replies to the question submitted to it in the negative." By Loder, president, Weiss, vice president, Finlay, Nyholm, Moore, Anzilotti, Huber, Beichmann, Negulesco.

5. (a) Colonists formerly of German nationality, now domiciled in Polish territory previously belonging to Germany, have acquired Polish nationality, particularly in virtue of Art. 91 of the treaty of Versailles. They occupy holdings under contracts which although concluded with the German Colonization Commission prior to the Armistice of November 11, 1918, did not receive an *Auflassung* (conveyance) before that date. The Polish Government regards itself as the legitimate owner of these holdings under Art. 256 of the treaty of Versailles and considers itself entitled to cancel the contracts. In consequence, the Polish authorities have taken certain measures by which the colonists will be expelled from the holdings.

(b) The Polish authorities will not recognize leases conceded before November 11, 1918, by the German Government to German nationals who have now become Polish subjects. These are leases over German state properties which have subsequently been transferred to the Polish state in virtue of the treaty of Versailles, in particular of Art. 256.

"(1) Do the points referred to in (a) and (b) above involve international obligations of the kind contemplated by the treaty between the United States of America, the British Empire, France, Italy, Japan and Poland, signed at Versailles on June

28, 1919, and do these points come within the competence of the League of Nations as defined in that treaty?

"(2) Should the first question be answered in the affirmative, the Council requests the Court to give an advisory opinion on the question whether the position adopted by the Polish Government and referred to in (a) and (b) above, is in conformity with its international obligations."

*Catalog on request*

**PUBLICATIONS**  
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