#### THE

# AMERICAN JOURNAL

OF

## INTERNATIONAL LAW



**VOLUME 34** 

1940

#### PUBLISHED BY

THE AMERICAN SOCIETY OF INTERNATIONAL LAW

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

Copyright, 1940, by the American Society of International Law

#### BOARD OF EDITORS

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

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

# Editor-in-Chief GEORGE GRAFTON WILSON, Harvard University

#### Managing Editor

George A. Finch, 700 Jackson Place, N. W., Washington, D. C.

The object of the American Society of International Law is to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice. For this purpose it will coöperate with similar societies in this and other countries.

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

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

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

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

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

### AMERICAN JOURNAL OF INTERNATIONAL LAW

VOL. 34 CONTENTS	1940
[No. 1, January, 1940, pp. 1–192; No. 2, April, 1940, pp. 193–390; No. 3, July, 1940, pp. 568; No. 4, October, 1940, pp. 569–784]	391-
	PAGE
18th Year of Permanent Court of International Justice. Manley O. Hudson	1
SABOTAGE CLAIMS AGAINST GERMANY. L. H. Woolsey	23
REVISION OF NATIONALITY LAWS OF THE UNITED STATES. Richard W. Flournoy	36
RELATIONS OFFICIEUSES AND INTENT TO RECOGNIZE. Herbert W. Briggs	47
RESPONSIBILITY OF STATES FOR INTERNATIONAL PROPAGANDA. Vernon Van Dyke	58
THE WILHELMINA. John C. Crighton	74
FAR EASTERN POLICIES OF THE UNITED STATES. W. W. Willoughby	193
EGYPT: THE TRANSITION PERIOD. Jasper Y. Brinton	208
AMERICAN CIVIL WAR PRECEDENTS. Alice Morrissey McDiarmid	220
International Law as Affected by the United States Neutrality Act and the Resolutions of Panama. Quincy Wright	238
Removal of Enemy Persons from Neutral Vessels. Herbert W. Briggs	249
Positivism, Functionalism, and International Law. Hans J. Morgenthau	260
PRESENT STATUS OF NEUTRALITY. Quincy Wright	391
AMERICAN RIGHTS IN THE PANAMA CANAL. Norman J. Padelford	416
ENEMY ALIEN PROBLEM IN THE PRESENT WAR. Robert M. W. Kempner	443
REFEADING GROTIUS IN THE YEAR 1940. Durward V. Sandifer	459
Origins of French Protectorate Over Catholic Missions in China. H. M.	200
Cole	473
NEGLECTED ASPECTS OF THE DESTROYER DEAL. Herbert W. Briggs	569
INTERNATIONAL LAW AND SOCIAL STRUCTURE. Gerhart Niemeyer	588
THE PANAMA CANAL IN TIME OF PEACE. Norman J. Padelford	601
AGENCY IN INTERNATIONAL LAW. Angelo Piero Sereni	638
Enforcement of Multipartite Administrative Treaties in the United States.	
Henry Reiff	661
Editorial Comment:	
Law of neutrality and policy of keeping out of war. G. G. Wilson	89
The City of Flint. Charles Cheney Hyde	89 95
Duty of impartiality on part of neutral. Clyde Eagleton	99
Aërial flights by belligerents over neutral territory. A. K. Kuhn	104
Armed merchantmen. Edwin Borchard	107
Protective jurisdiction. Philip Marshall Brown	112
Declaration of Panama. C. G. Fenwick	116
Collecting on defaulted foreign dollar bonds. J. Reuben Clark, Jr	119
The neutrality of Éire. Robert R. Wilson	$\frac{125}{285}$
Was Norway delinquent in the Altmark case? Edwin Borchard	289
The Cromwell incident. Ellery C. Stowell.	294
Mexican Supreme Court decision in oil companies expropriation cases. A. K. Kuhn	297
"Cardenas Doctrine." Philip Marshall Brown	300
Power to declare neutrality under American law. Quincy Wright	302

iv CONTENTS

	PAGE
Vae Victis. Ellery C. Stowell	310
Diversion of merchantmen. Philip C. Jessup	312
Interference with American mails. Clyde Eagleton	315
Standards of humanitarianism in war. Robert R. Wilson	<b>8</b> 20
Coöperation of United States in conservation of whales. E. C. Stowell	324
Annual meeting of the Society. George A. Finch	492
Time and international law. George Grafton Wilson	496
Government traffic in contraband. L. H. Woolsey	498
Changing concepts of international law. Philip Marshall Brown	503
In support of international law. Philip C. Jessup	505
Government consent to publication of diplomatic correspondence. R. R. Wilson	508
Transfer of destroyers to Great Britain. Quincy Wright	680
Attorney General's opinion on exchange of destroyers for naval bases. Edwin	
Borchard	690
Neutrality on the defensive. Charles G. Fenwick	697
Needs of international law. Clyde Eagleton	699
Leased territories. George Grafton Wilson	703
Monroe Doctrine in 1940. Philip C. Jessup	704
Japan joins the Axis. Ellery C. Stowell	711
CURRENT NOTES:	
Annual meeting of the Society	
Notice of proposed revision of the Society's Constitution	326
Professor Theodor Niemeyer	334
International law section of American Bar Association	335
The analytical index	512
James Wilford Garner memorial student loan fund	513
Eighth American Scientific Congress. George A. Finch	513
Eighth International Conference of American States. George A. Finch	714
CHRONICLE OF INTERNATIONAL EVENTS. Dorothy R. Dart	, 717
Judicial Decisions Involving Questions of International Law:	
California Supreme Court: People v. Stralla and Adams	143
Mixed Claims Commission, U. SGermany: Lehigh Valley R. R. Co. v. Germany	154
Great Britain, Vacation Court: In re Ning Yi-Ching	347
New York Court of Appeals: Lamont v. Travelers Insurance Co	349
Great Britain, Court of Criminal Appeal: Rex v. Ketter	529
Court of Appeal: Kawasaki Kisen Kabushiki v. Bantham S. S. Co	533
U. S. Atty. Gen.; Exchange of destroyers for naval and air bases	728
Arbitral award: Sudden & Christenson v. United States	737
Book Reviews and Notes	<b>, 75</b> 3
BOOKS RECEIVED	<b>, 7</b> 83
Periodical Literature of International Law. Eleanor H. Finch191, 386, 567	<b>, 7</b> 84
Index	-
Supplement Section of Documents. (Separately paged and indexed.)	,
Dufflement dection of Locuments. (Ocuments ubect blue hidexcu.)	