America and the Permanent Court of International Justice

Charles Burke Elliott
AMERICA AND THE PERMANENT COURT OF INTERNATIONAL JUSTICE

By CHARLES BURKE ELLIOTT

"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."

President Harding.

"One dream of the ages has been realized in our time." J. B. Scott.

On February 24th, 1923, the president of the United States sent to the Senate a message urging that distinguished body to advise and consent that the United States adhere to the Protocol and accept the Statute of The Permanent Court of International Justice, which is now functioning at the Hague. "It is," said the president, "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. . . . 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."

The message was accompanied by a letter from Secretary of State Hughes, stating the terms and conditions upon which the United States may fully adhere and participate, and remain wholly

*President, American (U. S. and Canada) Branch of the International Law Association, former Justice Supreme Court of Minnesota, and of the Supreme Court of the Philippines.

1An address before the Hennepin Bar Association, Dec. 20, 1923.
free from any legal relations to the League of Nations, or as-
sumption of obligation under the covenant of the league. Presi-
dent Harding's last message to the American people, sent from
his death bed, urged their support of his recommendation, and
President Coolidge, in his message of December 6th, 1923, ap-
proved the recommendation of his predecessor.

The question is now before the Senate.

Let us see how this Court came into existence, what it really
is and what the United States is asked to do.

I

Of all the nations, the United States is the one which,
by its traditions, history and racial inheritance, should support
this court. It is a step toward the substitution of law for force
in world relations. Until quite recently, we have posed as being
a people profoundly imbued with the sense of legality. The
sacredness of law was taken for granted in all economic and
political controversies. The necessity for respecting the law,
whether manifested in the tin star of the village constable, the
judge on the bench or the president of the nation, was never
questioned by good citizens.

Anglo-Saxon and Oriental and Continental history developed
upon different lines. In the Orient and in eastern and southern
and southwestern Europe, government was until quite recently
largely personal, even when not autocratic. The people thought
in terms of an individual ruler, not of an abstract political or
constitutional principle. A king, claiming to act under Divine
authority, governed personally, or through his representative.
There was no separation of the functions of government. The
law was the expression of the will of the ruler, the judge being
merely his agent to declare, and the police to enforce his will.
Some element in the character of the people who lived in the
British Isles led them to reject this idea and develop the principle
that the law was something which had force, by virtue of its in-
herent nature, entirely independent of its source. For a time,
they retained the theory that the king was the source of law and
justice, but finally the king became merely a symbol for the state,
and law the formally expressed command of the organized com-

The struggle which resulted in establishing the principle that
a free people should be governed by laws and not by men, was
severe, bloody and long, and it was still raging when the ancestors
of men who founded this Republic left their homes for a land in which they hoped to be free from personal government.

But where men live in communities, personal interests are certain to conflict and until men become as angels, laws will be broken. The function of judging individuals and compelling the observance of the laws is an application of the primary right of self-defense and inheres in the very conception of government. Our ancestors in the course of time, succeeded in establishing the principle that this function should be reserved to and exercised by judges, sitting in organized courts, who, in the performance of their judicial duties, should be free from the control of king, president or other governmental functionaries. The final establishment of the principle of an independent judiciary was one of the greatest results of the struggle in defense of civil and political rights. Inevitably respect for the law as law induced respect for courts as courts.

The American colonist was an individualist of the extremest type and the American colonies, through more than a century of practical isolation, developed an intense state individualism. Local pride, religious differences and conflicting economic interests led to conflicts between the colonies which at times threatened, and, indeed, actually produced war. The tentative form of national unity devised during the war for independence under the name of the Confederation, rested on the assumption that each state was a sovereignty which could not, consistent with its dignity, appear before a judicial court. But the racial instinct for legality was already strongly developed and provision was made in the articles of confederation for commissions to arbitrate controversies between states and before the adoption of the present constitution several such controversies had been submitted to and decided by the tribunal of arbitration thus established. But the results were not satisfactory, and after much consideration and great hesitation, the step was taken which transferred the transitory boards of arbitration into a permanent judicial court for the determination of controversies between the states of the union, and thus came into being the Supreme Court of the United States. In its early years, it was flouted, abused and ignored, and during the first three years of its existence, it had no cases of any importance to decide. But its authority was finally established and it is now recognized as the greatest of national tribunals. The success of that court profoundly affected the judgment and imagination of Americans. It demonstrated that
at least most of the controversies between states, like those between individuals, can be fairly and finally settled in a court of justice without a resort to arms. That a people who had devised and were successfully operating that court would seek to apply the same principle to their controversies with independent nations was but natural.

But the difficulties in the way of so extending the principle of judicial determination were very great. The conception of territorial sovereignty as distinguished from the personal sovereignty of a king or emperor was then quite new in international law, dating only from the Peace of Westphalia which closed the Thirty Years' War. During the century and a half from that peace to the adoption of the constitution of the United States, the idea of the territorial sovereign state had become thoroughly established and was well on the way to its ultimate apotheosis in the pre-war German theory that the will of such a state is the conclusive test of justice and right. A people accustomed to submitting controversies to an independent judiciary and familiar with the idea of arbitration found nothing inconsistent with a proper conception of sovereignty in the suggestion that nations should submit their controversies to an external, judicial tribunal which they have joined in establishing. Of course, the establishment of a real international court with jurisdiction over states which recognized no lawful restraint upon their desires was then impossible. The next best thing was to urge the use of the secondary form of adjudication known as arbitration.

Thus almost from the beginning of its history, the United States became an outstanding advocate of the principle and practice of arbitration. Jay's Treaty in 1794 provided for the arbitration of the unsettled difficulties between the United States and Great Britain and since that time, the United States has signed many treaties providing for arbitration, and been a party to sixty international arbitrations, of which twenty were with Great Britain.

Prior to the Hague Conferences, the machinery for arbitration had to be devised anew for each case, and there was no uniform procedure. The Hague Conferences of 1899 and 1907 devised what is known as The Permanent Court of Arbitration with a panel of four members from each nation, from which arbitrators may be selected, as required for particular arbitral
tribunals. The establishing of this Arbitral Court was a decided advance in the movement for the pacific adjustment of national controversies, and it must not be forgotten that article I of the Statute of the Permanent Court of International Justice expressly says that "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 disputes for settlement."

But American statesmen realized that arbitration was but a step toward some method of real judicial determination. Its defects are such as inhere in transitory tribunals, which inevitably seek to compromise, rather than to decide according to established legal principles.

During McKinley's administration, Secretary John Hay instructed the American delegation to the First Hague Conference (1899) to propose the organization of a permanent judicial court. But Europe had not been sufficiently educated and was not ready to accept the American suggestion. In the instructions to the American delegation to the Second Hague Conference (1907) prepared by Secretary of State Root, we find the following propositions:

"If there could be a tribunal which would pass upon questions between nations with the same impartial and personal judgment that the Supreme Court of the United States gives to questions arising between citizens of the different states, or between foreign citizens and the citizens of the United States, there can be no doubt that nations would be much more ready to submit their controversies to its decision than they are now to take the chances of arbitration."

"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 made 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."

It was under these instructions that Mr. Choate of the American delegation introduced the project which finally ripened into the existing World Court. The Conference finally agreed to establish such a court, but was unable to complete the work on
account of its inability to devise a method for electing the judges which was satisfactory to both the great and the small nations. However, it adopted the following resolution:

“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.”

Thus the American delegates were successful in having Europe accept the principle of a permanent judicial court.

President Roosevelt, in his message to Congress of December, 1907, in speaking of the work of the Conference, said:

“Substantial progress was also made toward the creation of a permanent judicial tribunal for the determination of international causes. There was very full discussion of the proposal for such a court and a general agreement was finally reached in favor of its creation. The conference recommended to the signatory powers the adoption of a draft upon which it was agreed for the organization of the court, leaving to be determined only the method by which the judges would be selected. This remaining unsettled question is plainly one which time and good temper will solve.”

After the failure of The Hague Conferences to complete the organization of the court for the reasons thus stated by President Roosevelt, Secretary of State Knox, under the direction of President Taft, in an official note, dated October 18th, 1909, said:

“It has been a subject of profound regret to the Government and people of the United States that a court of arbitral justice composed of permanent judges and acting under a sense of judicial responsibility representing the various judicial systems of the world and capable of insuring continuity in arbitral jurisprudence was not established at the Second Hague Peace Conference and the United States likewise regrets that the composition of the proposed court of arbitral justice has not yet been effected through diplomatic channels.

“A careful consideration of the project and of the difficulties preventing the constitution of the court, owing to the shortness of time at the disposal of the conference, has led the government of the United States to the conclusion that it is necessary in the interest of arbitration and the peaceful settlement of international disputes, to take up the question of the establishment of the court as recommended by the recent conference at the Hague and secure, through diplomatic channels, its institution.”

The Republican and Democratic parties by their platform declarations, are committed to the support of a world court.

Such was the condition of the movement when the Great War broke upon the world.
The Peace Conference at Paris did not attempt to create a world court. Article 14 of that part of the Treaty of Versailles called the Covenant of the League of Nations, provided that:

"The Council shall formulate and submit to the members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly."

The United States Senate rejected the treaty and thus stepped out of the procession, leaving the duty of carrying on the work to the representatives of the fifty-two nations by which the treaty was ratified. On February 13, 1920, the Council of the League (composed of representatives of nine of the great powers) under the foregoing direction, extended invitations to ten distinguished international lawyers and statesmen, regardless of their nationality or the membership of their nations in the League, to meet and devise and recommend a plan for the organization of such a court. This committee was composed of Adatci of Japan, Altamira of Spain, Fernandez of Brazil, Descamps of Belgium, Hagerup of Norway, Lapradelle of France, Loder of Holland, Lord Phillimore of England, Ricci-Busatti of Italy, and Root of the United States. Elihu Root was invited, regardless of the fact that the United States was not a member of the League, because of his distinguished services in connection with the education of the world for the work of substituting law for war.

This committee met at the Hague on June 17, 1920, and adjourned July 24, 1920, after devising, adopting and reporting a plan for the court. As recommended by the committee, the jurisdiction of the court was to be compulsory, but the council was of the opinion that this could not be done under the terms of article 14 of the treaty, and modified the statute so as to make the submission of controversies voluntary, unless the individual nations otherwise elected. The plan thus reported contained a complete statute for the court, separate and distinct from the protocols.

On December 13th, 1920, the Assembly of the League, in which the small nations have a decided majority, by a unanimous
vote, expressed its approval of the plan as thus amended and
resolved that as soon as the protocol had been ratified by the
majority of the state members of the League, the Statute should
come into force and the court be called upon to sit in conformity
therewith, for the determination of all disputes between the mem-
bers or states which had ratified and also by the other states to
which the court is open under article 35, paragraph 2 of the
Statute. It was also provided that the protocol remains open for
signatures by the states mentioned in the Annex to the Covenant,
which included the United States. By this act the League of
Nations did not establish the court, as the Statute of the court,
which was entirely distinct from the Covenant of the League,
had to be accepted by the several nations, acting individually out-
side of the League of Nations.

To the protocol, there was also an optional clause which was
open to signatures by such nations as were willing to accept
compulsory jurisdiction as originally provided in the Root-Phillim-
more plan. Under this provision, twenty nations have thus far
accepted compulsory jurisdiction. The necessary number of states
having ratified the statute, the court became a reality, and in due
courses the judges were elected and held a preliminary session
at the Hague January 30th, a formal opening on February 15th,
1922, and the first regular session June 15th following. Such is
the history of the court, now in session in the Peace Palace in
the noble little city of The Hague, which Senator Moses calls
"the rag doll of European diplomacy."

III

In international law, all sovereign nations are equal, as all
individuals are equal before the civil law. But neither nations
nor individuals are equal in power and influence, and the great
powers hesitate to submit the determination of their controversies
to judges named by the smaller nations. As already noted, the
insuperable difficulty in the way of creating the court had been
in devising some method of electing the judges which would be
satisfactory to the great and the small powers.

The committee of jurists which devised what became known
as the Root-Phillimore plan skillfully took advantage of the
existence of The Hague Arbitral Court with its panel of four
members from each nation, and provided that the four repre-
sentatives of each nation should nominate not more than four
persons, not more than two of whom should be of their own
nationality, for election as judges of the court, and that from the list thus nominated the Council and Assembly of the League, acting separately, should, by a clear majority in each body, elect eleven judges and four deputy judges for the court. As the great nations are represented in the Council and the small nations in the Assembly, the vote thus secured would express the will of both the great and the small nations.

The Statute of the Court provides that it must be "composed of a body of independent judges, elected regardless of their nationality, from persons of high moral character who possess the qualities required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law." By this procedure, eleven judges, citizens respectively of Spain, Italy, Brazil, Cuba, Great Britain, Switzerland, Netherlands, United States, Denmark, Japan and France, and four deputy judges, citizens respectively of Norway, the Serb-Croat-Slovene State, Roumania and China, were elected and thereafter duly qualified. As in the appointment of the committee of jurists, recognition was given the United States in the court by the election of Prof. John Bassett Moore, one of the most distinguished living authorities on international law. These judges serve for nine years and receive salaries equivalent to about $6,000.00 per annum. At present, the salaries are paid out of the treasury of the League of Nations with money contributed by the various nations, members of the League.

The Statute of the Court (article 36) provides generally that the jurisdiction of the court comprises all cases which the parties refer to it, and also all matters especially provided for in treaties and conventions in force and it is this jurisdiction only to which the United States would subject itself in the event of adherence to the court. It is purely voluntary and can in no way be made compulsory without the consent of the nations affected thereby.

With the provision authorizing nations to consent to compulsory jurisdiction (also provided for in article 36) we are not at present concerned. Suffice it to say that such nations as sign the optional provision accept 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."

In the event of a dispute as to whether or not the court has jurisdiction, the matter shall be settled by the decision of the court. This is simply the application of the rule that in the absence of statutory regulation, a court is the judge of its own jurisdiction.

In exercising its jurisdiction it is provided by article 38 of the statute that 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 (which provided that the decision of the court has no binding force except, between the parties and in respect of that particular case), judicial decisions and the teachings of the most highly considered 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.

The statute also provides in outline for the procedure of the court, leaving the details to the court under its general rule making power.

When we remember the delay in bringing important matters before the Supreme Court of the United States, it is encouraging to note the work already done by this court. No matters were submitted at its first formal session, but when the court met, on June 15th, 1922, it found three requests for advisory opinion. All these questions related to the work of the International Labor Organization, created by part xiii of the Treaty of Versailles and under certain other treaties signed at Paris.4 These questions were disposed of, but with them we are not at present concerned because, as stated by Secretary Hughes, in his letter of March 1st, 1923, to Senator Lodge, Chairman of the Foreign Affairs Committee, part xiii of the treaty is not one of the parts under which rights are reserved to the United States by our treaty with Germany, and it is not contemplated that the United States shall assume any obligations thereunder.5

4See 35 Harv. L. Rev. 245.
5For a detailed consideration of the questions involved in these advisory opinions, see Professor Manley O. Hudson's article, The First Year
In November, 1922, the dispute between Great Britain and France, as to the nationality decrees issued in Tunis and Morocco (French Zone) on November 8th, was submitted at the request of Great Britain and, after a full hearing, was answered in the negative.\(^6\)

In October, 1922, the court was called upon to determine the status of the Kiel Canal under chapter 380 of the Treaty of Versailles, and after a full hearing, the controversy was determined in a decision adverse to the German contention. Other questions are now before the court, but their consideration is not within the scope of this address. The fact to be noted is, that important questions have already been submitted and determined by the court.

IV

The court thus established was primarily the work of American statesmen, and the consent of the other powers, great and small, to its institution was secured by American appeals and arguments. A distinguished American is a member of the court, although the United States pays no part of his salary. The mechanical difficulties in the way of adhering to the court statute without joining the League of Nations were somewhat difficult,\(^6\) but they have been solved by the reservations which accompanied President Harding's proposal. They are four in number, as follows:

1. That such adhesion shall not be taken to involve any legal relation on the part of the United States and the League of Nations; or the assumption of any legal obligations by the United States under the covenant of the League of Nations.

2. That the United States shall be permitted to participate, through representatives designated for the purpose and upon an equality with the state members, respectively, of the Council and of the Permanent Court of International Justice, 17 Am. Jour. Int. Law 15, et seq.; The Permanent Court of International Justice on Labor Cases, Sanger, Proc. Int. Law Assn. 1921, p. 46.

\(^6\)The court held that the dispute was not, by international law solely a matter of domestic jurisdiction. In commenting on the decision, an unfriendly critic of the court wrote: "It must be admitted, first, that the court has been scrupulous and exact in confining its response solely to the question submitted. It has carefully abstained from any intrusion upon other functions provided for by the Covenant or which pertain to national tribunals.

"Secondly, the reasoning is cogent, cumulative and, it should be added, convincing. It is believed it will meet with the approval of most minds of sound common sense and legal training.

"Third, the method is broad and comprehensive and has in it little of conservatism."

Dr. C. N. Gregory, 17 Am. Jour. of Int. Law p. 305.

\(^6\)See Foreign Affairs, for Dec. 1922, p. 71.
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.

3. That the United States shall pay a fair share of the expense of the court as determined and appropriated from time to time by the Congress of the United States.

4. 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."

With these reservations, it is not possible that the United States can be committed to any course in the future that it does not desire, freely, to pursue.

V

Immediately upon the sending of President Harding's recommendation to the Senate, opposition developed on the part of a faction led by the little group of active Republican senators which had violently opposed the ratification of the Treaty of Versailles. These men, however, constituted but a small minority of their party in the Senate, and it was only by combining with certain irreconcilables in the Democratic party that they were able to muster the necessary votes to defeat the treaty. The majority of the Republican senators, including Senator Lodge, voted for the ratification of the treaty, including the Covenant of the League of Nations, with certain reservations. The opposition on the part of the senators to adherence by the United States to the present court statute seems to be partisan, factional and personal, inspired by the fear that it may be a step toward the rebuilding of an international organization and the consequent loss of their personal prestige. In this opposition we also find a few very technical lawyers who seek to construe a great international document by the technical rules applicable to a lease or a building contract and a group of writing politicians and orators who hope to find an issue which will appeal to the timid part of the public.

In support of the recommendation of the president and his secretary charged with the conduct of our foreign affairs, we find practically all the great organizations through which the instructed sense of thinking people is expressed, ranging from the United States Chambers of Commerce, the American Bar Association, many state and local bar associations, state legislatures, great national church organizations and the League of Women Voters to local clubs and societies almost without number. I have yet
AMERICA AND THE WORLD COURT

to learn of any such body expressing disapproval. Among the individuals actively supporting the movement, we find Root, Taft, Hughes, Coolidge, Wickersham, President Lowell of Harvard (referred to by Senator Moses as suffering from an inferiority complex), and every other college president and minister in the United States, so far as heard from. To my mind, these gentlemen are better qualified for leadership on such an issue than even Minnesota's two distinguished senators.

The objections to America's adherence are mostly trivial when not contradictory. We find it alleged with equal sincerity and energy that the court is an all-powerful body which will impose its will upon the nations; that it has no teeth and is so weak that it will not be able to enforce its decrees; that it is no court at all, but merely a board of arbitration; that its decisions might be accepted as declarations of international law which would not be satisfactory to the United States; that no international court should be established until a complete code of International law has been agreed upon; that the people of the United States are overwhelmingly opposed to supporting the court, and that, by adherence, the United States would become a member of the League of Nations.

Let us see what these objections amount to: It is true that the court has no physical power to enforce its judgments and decrees, but this is true also of most courts and particularly of the Supreme Court of the United States, in cases between the states of the Union. That court has entered its decree against a state in a number of cases and while, in the early days, there were attempts to defy the court, they resulted only in delay, as public opinion ultimately enforced compliance. The enforcement of the judgments of tribunals of arbitration rests upon the good faith of the litigants, and so powerful is this sanction that it has always been effective. The self-respect of a nation compels the observance of an agreement to abide the decision in a case where it has voluntarily agreed to arbitration. That a nation after formally submitting to the jurisdiction of a court, will refuse to obey the decree, is inconceivable. Judging by past experience, there is no reason to anticipate that any nation will refuse to recognize the binding force of the decrees of this court.

Certainly it is regrettable that no complete code of international law exists, but this is equally true of the common law which is daily declared and enforced in our courts. To postpone
the organization of an international court until international law is completely codified means the permanent adjournment of the project, because without a court, I fear that we will have to wait many generations for the desired code. Historically, courts precede enacted law, and by their decisions crystallize custom and vaguely recognized principles into formal law. Logically the court must precede the sheriff as the expression of its power to enforce its decrees. We may well prefer a court without a sheriff to a sheriff without a court, which is the present international condition. Some progress is being made toward codification, but some years' experience as a member of a committee charged with the work of formulating such a code has somewhat dampened my natural optimism. The difficulties are very great and the progress is slow. I believe that the World Court will be a most effective agency in bringing into existence a generally recognized body of international law, just as the national courts have determined the common law.

It is said that there is danger in submitting our legal contentions to the adjudication of judges trained in other systems of jurisprudence. This does present a problem, but the danger is much exaggerated. There are principles of law which are common to all systems of jurisprudence, and they are exactly those applicable to international controversies. The diversity is mostly in technical, local law, and procedure matters remote from the work of a World Court. Neither is the danger that national prejudice may affect the minds of the judges a serious matter. As far as humanly possible, the personal and national equation has been eliminated. Six of the eleven judges (five excluding the judge from the United States) and all of the four deputy judges, are nationals of small or secondary powers, and the manner of their election will enable the smaller states to maintain that condition if they think it desirable. This objection applies with much greater force to arbitration than to judicial determination by independent judges acting under a sense of judicial responsibility.

There seems to be no valid reason to fear that the United States will be made a victim. The natural instincts and the professional pride of independent judges, the sense of noblesse oblige, which is so strong in the judiciary, will operate in favor of just and unprejudiced action. That the court may establish principles of international law contrary to the ideas of this country is always
possible, and we must depend upon the reasonableness, justice and propriety of our contentions, if we expect them to prevail.

The objection which probably seems most serious to many people, and the only one worthy of serious discussion, is that adhesion to the court's statute would bring the United States into the League of Nations whether or not it desires to enter the League. We have already shown the part taken by the League in the organization of the court, and for that work it should be given the credit. I confess my utter inability to see how the United States can be made to do anything against its will. As President Harding told the Senate, Secretary Hughes in his letter "indicates how with certain reservations we may fully adhere and participate, and remain perfectly free from any legal relation to the League, or assumption of obligation under the covenant of the League."

In his address to representatives of the press on April 24th, 1923, the president said:

"We had no thought of joining the League, we seek none of its offering, and will accept none of its obligations. The situation was felt out over a considerable period of time, and when satisfied that there was an appropriate course of action without connection with the League, provided the Senate consented, I proposed adherence to the court protocol and asked the Senate's consent. . . . It was pointed out that no rights under the League would be incurred, but to make certain that we would not be involved, the letter of the secretary of state suggests suitable reservations to afford ample guarantee."

Secretary Hughes, a former justice of the Supreme Court, and certainly competent to speak on the question of the construction of the protocols and the statute, says that the court "is an establishment separate from the League, having a distinct legal status resting upon a protocol and statute. It is organized, and acts in accordance with judicial standards, and its decisions are not subject to review by the League of Nations."

If any American, by virtue of legal learning and character, is competent to express an opinion upon this question, it is Elihu Root. In an address last year, as president of the American Society of International Law, Mr. Root said:

"The Court did not originate in the League of Nations. It originated in the proposal of the United States to the First Hague Conference of 1899. Upon the urgency of the United States in the Hague Conference of 1907 the project was worked out and agreed upon in its essential features, except the method of selecting the judges. It should be observed that the protocol or treaty
constituting this court make it a World court and not a League court; and especially should be noted that all states, including the United States, are made competent suitors before the court; that the citizens of all states, including the United States, are made eligible for election to be judges in the court, and that all states which were members of the old Permanent Court of Arbitration at the Hague, including the United States, are entitled to make nominations which shall form a part of the eligible list from which judges are to be elected. . . . It is said that by adhering to the protocol, the United States would in some way become entangled in the League of Nations to which it does not wish to belong. This apprehension can result only from a lack of clear understanding of what is proposed. The protocol recognizes two distinct classes of states,—one, the states that are members of the League of Nations, and the other, states that are not members of the League of Nations. It is proposed that we adhere to the protocol expressly as a state which is not a member of the League of Nations. The only obligation we assume is to pay a sum of money toward the support of the court, the amount to be determined by our own Congress. The only right we acquire is to have a voice in the selection of judges. We may or we may not choose to litigate before the court. If we do choose to litigate, we establish no relations to any one except the perfectly definite and well understood relations of a litigant in any court.”

As well said by Herbert Hoover:

“The proposals to join the court have been criticized from various angles. The first of these is that it leads us into some undescribed political entanglement. This is untrue, for the decrees of the International Court are based upon the process of law, not upon political agreement; their enforcement rests wholly on public opinion and not upon force. In supporting this court, we subscribe to no compulsion whatever. We do not need to submit any case to the court unless we feel like doing so at the time the case arises. No other nation can summon us into court except with our consent. The court itself can not summon us in, nor in any manner or degree exert upon us any kind of compulsion, not even moral. Our proposal to enter the court and the act of adhesion to it which President Harding has asked, is based upon the assumption that compulsion is not necessary for peoples of good will and a sense of justice.”

Personally, I agree with President Butler, of Columbia University, that adherence to the world court would no more make us a party to the League of Nations than to the Holy Roman Empire.

A good illustration of the sort of propaganda that is being conducted by the opponents of the court movement is found in a recent article by former Senator Beveridge. I have read it
with great care in order to learn if there are any reasons why
we should ignore the advice of Harding, Coolidge, Hughes, Root
and others of their standing, and accept the assertions of Bev-
eridge, Moses and Johnson that the court is a creature of the
League of Nations. The writer says that the court was created
by the League, is paid by the League, advises the League, and
is an auxiliary of the League. Not one of these statements is
correct, although each contains a certain modicum of truth.
The fact is that the League appointed a committee of outside
jurists who devised the plan for a court. The nations, through
the old Hague Conference panel of jurists, nominated a list
of judges, and from the list so nominated, the Council and
Assembly of the League elected the judges. The judges are paid
through the offices of the League, but with money contributed
by the nations for that purpose. In its judicial conduct, the
court is as independent of the League as the Supreme Court of
the United States is of the Congress which has power almost
to abolish it.

It is true that it advises the League, but not at all in the sense
conveyed to the uninformed by Mr. Beveridge's statement.

The rendering of advisory opinions upon questions submitted
to it by the League is cited by Beveridge as evidence that the
court is a mere annex of the League. It is remarkable that an
American lawyer, and particularly one who poses as an authority
upon constitutional law, should cite this provision as objection-
able. Similar provisions obtained in the New England states from
Colonial days, and are now found in the constitutions of Massa-
chusetts, New Hampshire, Maine, Rhode Island, Florida, Col-
orado, and South Dakota. The Permanent Court of Interna-
tional Justice has adopted rules upon this subject so as to assim-
ilate the process as far as possible to a judicial proceeding, and
especially so as to exclude any supposition that advisory opinions
may be rendered in a diplomatic sense and without publicity.⑧

The proposition is that we send a representative to the
Council and one to the Assembly, with authority to participate in
the election of the judges and then retire. "But," says Bev-
eridge, "if we sit for one purpose is it not human nature that
we will sit in for other purposes, and finally for all purposes?"

⑧ J. B. Moore, 22 Col. L. Rev. 527.
As to the nature of advisory opinions, see Perkins v. Westwood, (1917)
226 Mass. 268, 271, 115 N.E. 411; Thayer, Legal Essays, p. 42; Elliott, The
Legislature and the Courts, 5 Pol. Sci. Quar. 256.
The answer is quite simple, No. The assertion that sending a delegate to Geneva to vote on a specific question and then retire, would imply, or require that he remain for other purposes and finally for all purposes, requires no other answer.

Certain Senators say that they are in favor of a World Court (thus rendering lip service to the principle) but against this particular court. They favor the creation of an entirely new court with no connection whatever with the League of Nations. The proposition would be reasonable if no court was in existence; in fact, it is merely the old proposition which the United States urged upon the Hague Conferences long before the war. To imagine that the fifty two nations of the world which followed America's lead to this court, which they are now supporting, would seriously consider a proposition to toss it into the discard in order to soothe our tender susceptibilities shows a lamentable misconception as to America's standing in the world.

Senator Moses favors "reviving" the old Hague tribunal of Arbitration ignoring the fact that a live institution does not require reviving. Of course, all such suggestions are merely old time devices for defeating a measure by indirection.

The issue should be met by the United States fairly and on its merits. The court is in existence and is functioning satisfactorily. It is the consummation of long years of American effort and should receive our support. The objections to America's adhesion are purely fanciful, based almost entirely on fear that we may be asked to assume responsibility. Since when has America become afraid of responsibility?

By adhesion, we assume no obligations under or toward the League of Nations. We can not, without our consent, be required to submit any question to the court. Our adherence will add greatly to the moral strength of the tribunal and make it still more effective as an agency of advancing civilization. It will not, of course, prevent all war, but it is a useful agency for the settlement of those irritating and dangerous controversies which create the conditions out of which wars arise—"a solid gain to civilization and the peace of the world."

APPENDIX A

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
AMERICA AND THE WORLD COURT

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.

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 jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute of the Court, under the following conditions:

STATUTE OF WORLD COURT

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 juris-consults of recognized competence in international law.

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

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

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

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

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

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

Art. 7. The Secretary-General of the League of Nations shall pre-
pare 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
fulfills 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 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 fulfill 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 chamber. 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-President, 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 provision 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 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, ad-
vocates 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 admissable 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.