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THE INTER-AMERICAN BAR ASSOCIATION*

R. G. Patton**

In considering the factors which are doing worthwhile work in promoting hemispheric solidarity, note should be taken of the fact that for several years now the legal profession has been doing its part. Moreover, at this time when there exists considerable criticism that some of the agencies which are engaged in this essentially worthy enterprise have been too zealous for the real good of the cause, it is comforting to note that, like the Pan-American Union, the movement for creation of an all-American association of lawyers originated in Latin America. In 1926, Dr. J. Honorno Silguiera, President of the Argentine Bar Associations, had proposed to the Institute of the Order of Brazilian Lawyers a closer association among the bar associations of Latin America, and this had resulted in cooperation among those of Argentina, Brazil, Chile, Bolivia, Peru, Paraguay and Uruguay. Later, as an incident to his visit to the American Bar Association in Chicago in December 1933, the president of the Brazilian Bar Association stated:¹

"A greater approximation between the bars of Brazil and other countries of the Americas and their colleagues in this country should be sought, as a desirable and necessary step to bring about a more complete understanding of the many questions presented by the complexity of our present civilization. There is a very sincere and wholehearted wish on the part of the Brazilian attorneys to build up a closer relationship with their fellow colleagues in this country."

In 1934 the revered and world renowned Col. John H. Wigmore headed a Special Committee of the former Association on International Bar Relations. The report of the committee advocated an association of the organized bars of the whole world without special reference to any separate association of the bars

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*Compiled from the writer's knowledge of the events recounted, from bibliography cited infra, and from the published addresses of Hon. William Roy Vallance, Secretary-General, and of Col. William Catron Rigby, Treasurer.

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¹59 Am. Bar Reports, 621.
²59 Am. Bar Reports, 621.
of the western hemisphere. But since that time rapid developments in the world, and the closer drawing of the ties of friendship and commerce in many directions among the countries of this hemisphere, have increasingly indicated the value of an association limited to the lawyers of the various countries of the New World, but aimed at realizing all of the purposes outlined for general world association in the American Bar Association committee's 1934 report. Such an association would be certain to promote the cultivation of the spirit of good neighborliness and friendliness among the lawyers in the various countries of this hemisphere, for lawyers comprise so large a part of the intellectual, administrative, legislative and judicial leadership of the various countries—leadership that both reflects and leads the currents of thought.

The American Bar Association soon fell in with this trend toward a separate intercontinental association in the Americas. In line with the Brazilian idea expressed by the president of the bar association of that country back in 1933, the American Bar Association at its 1937 meeting (Kansas City) adopted a resolution prepared by Dr. James Brown Scott, expressing itself "in favor of cooperation with the other 21 national bar associations of the American continents in promoting uniformity of law in the Americas through the study and investigation of mutual problems of comparative law," and recommending that at the Eighth International Conference of American States to be held in Peru in 1938 representatives of the association "take appropriate steps for the preparation at subsequent meetings to be held in connection with later inter-American conferences, or projects on certain phases of comparative law problems pertaining to the Americas." At its 1939 meeting (San Francisco) the association took the final step of favoring "the establishment of an inter-American bar association" and authorized its Section on International and Comparative Law "to explore fully the possibility of establishing such an association."

The Section found an opportune time for presenting the project at the 1940 meeting in Washington of the Eighth American Scientific Congress. The matter was there referred to the latter's section on International Law, Public Law and Jurisprudence. A widespread interest in the idea was shown by the number of organization drafts presented by representatives of the thirteen

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8 Am. Bar Reports, 393.
964 Am. Bar Reports, 399.
countries there represented. These were harmonized so that an organization was effected and a constitution was adopted. It truly reflects the composite thought and joint labor of the representatives of the bar associations of all the countries taking part in the congress. It adheres to a basic principle announced by the “Wigmore Committee” in its 1934 report (supra) “that the basis of affiliation should be representative, i.e., by delegates from organized bars of the respective nations and not by individual membership.” The membership is of two classes associations of a national character, such as the American Bar Association; and those of a state, province, city, or other subdivision of a nation, self-governing dominion, or self-governing colony. The constitution provides for the usual directing bodies and officers, also for sections and committees. English, Spanish, Portuguese and French are recognized as official languages and “all documents printed shall be distributed to member associations in any or all of these languages on request.” Pursuant to action of its House of Delegates at the 1940 meeting, the American Bar Association approved the constitution and became a member.5

The first Conference of this newly created organization, the Inter-American Bar Association, was held in Havana, Cuba, March 24-28, 1941, under the presidency of Dr. Manuel Fernandez Supervielle, who was also the President of the Colegio de Abogados de la Habana, the hospitable host association. The President, Secretary of State, and high officials of the Cuban Government and the City of Havana cordially welcomed and entertained the delegates.

The opening and closing sessions were held in the Chamber of the House of Representatives in the Capitol of Cuba. Other sessions and some fourteen roundtable discussions relating to legal questions of general interest throughout the Americas were held in the Hotel Nacional. Over 600 delegates, observers and guests, representing 46 member Bar Associations from sixteen member countries, were present. The constructive work of this historic and successful conference is concretely expressed in the twenty-one substantive resolutions and recommendations adopted. These cover such subjects as Inter-American Cooperation, Protection of Foreign Investments, Aviation and Transportation, Cooperation, Letters Rogatory, Legal Ethics, Incorporation in Civil Law of the Common Law Trust, Copyright Protection, Immigration, Naturalization and Citizenship Laws, Legal Documentation, Prevention .

of Double Taxation, Administrative Law, Exchange of Legal Documents, Customs Laws and Commercial Treaties, Publica-
tion of a Journal, Bibliographical Legal Indexes, Industrial Prop-
erty Protection, Translation of American Law Institute Reemate-
ment of the Common Law, Bustamente Code of Private Inter-
national Law, Intellectual Cooperation, Organization of Academy
of Comparative and International Law, and Institutes of Compara-
tive Constitutional and Comparative Law. Work on the basis of
these resolutions is being carried forward by the officers and com-
mittees of the Association.

One part of the program was a roundtable discussion under
the Chairmanship of Dr. Edmundo Miranda Jordao, President of
the Brazilian Bar Association. The Secretary’s report states that
"a paper was read by Dr. Hessel E. Yntema of the University of
Michigan on the subject ‘Comparative Legal Research and Uni-
fication of Laws.’ Judge Otto Schoenrich also presented an im-
portant paper on the subject ‘Comparative Law and Pan-American
Solidarity’ And a paper prepared by Dr. R. G. Patton of Min-
nneapolis, dealt with the subject ‘The Land Title Records of
Canada and the United States.’"

As a result of the foregoing papers, the conference adopted
three resolutions, the first of which, proposed by Dr. Ricardo J.
Alfaro, was as follows

“The First Conference of the Inter-American Bar Associa-
tion declares

That it recognizes the advisability and feasibility of in-
corporating in the civil law of the Latin American countries
the institution of the trust along the lines upon which it
exists in Anglo-Saxon countries, and recommends the enact-
ment of adequate laws so that in this important matter the
two great legal systems in force in the American continent
may be brought into harmony.”

The convention also appointed a committee on Trusts of
which Dr. Ricardo J. Alfaro is chairman. It should be mentioned
that Dr. Alfaro was formerly President of the Republic of Panama,
later Minister of Panama to this country, and is now engaged
in the practice of law in Washington, D. C. In 1920 he wrote a
book on the subject “El Fideicomisio.” This book outlined the

6Report of the Proceedings of the Havana Convention are available in
either English or Spanish at a price of $3.80 per copy (book of about 500
pages), address the Secretary-General, 337 Southern Building, Washington,
D. C. The book was reviewed in the Book Section of the Am. Jour. Inter-
national Law, Jan. 1944 issue, p. 164.
place el fideicomisio has in the civil law and its similarity to certain phases of the trust institution of Anglo-American law. It also contained a proposed bill for the purpose of creating a statutory fideicomisio having the characteristics of the modern trust. His proposed bill was enacted into law by the Republic of Panama in 1925. Three years later, the Puerto Rican Legislature enacted a similar law. In 1926 Mexico had adopted a general banking law which included the essential provisions of the Panama law. Other Latin American countries which authorize corporate trusteeships to a greater or lesser extent are Bolivia, Chile, Colombia and Costa Rica. Another member of the trust committee is Dr. Edmundo de Miranda Jordao, President of the Inter-American Bar Association during its fiscal year 1942-1943.

Dr. Alfaro and the author are undertaking the project of collecting and editing a rather considerable volume of material which is scattered through numerous publications and articles relative to the modern fideicomisio as it has been given statutory life in civil law jurisdictions, including not only those above mentioned but also Quebec and Louisiana. The project includes comparison of the fideicomisio with the law of trusts in the United States as set forth in the "Restatement of the Law of Trusts" prepared by the American Law Institute, and suggested forms for creation of express trusts in all the forms in common use in the United States. The editorial work is in direct charge of the author. The plan calls for publication of the materials at as early a date as is practicable in Spanish. Whether publication will be made also in English and Portuguese will depend upon the interest manifested and the demand for such additional publications.

The Havana conference unanimously accepted the invitation of the Argentine Association of Bar Associations to hold the second conference in Buenos Aires. Plans were made to hold the meeting in September 1942, but by midsummer transportation difficulties made it necessary for the Executive Committee to cancel the conference and to provide instead for a 3-day meeting of the Council and of the several committees at Washington.

By the summer of 1943 conditions had so improved as to justify the meeting scheduled to be held at Rio de Janeiro. It was held August 7 to 12 with an attendance of approximately three hundred outstanding members of the bar of the western hemisphere. The conference was held under the presidency of Dr.
Edmundo de Mirando Jordao, president also of the Institute da Ordem dos Advogados Brasileiros which celebrated its one hundredth anniversary on the opening day of the conference. The conference was noteworthy for the high positions held by its delegates in both governmental and bar activities. Mention should be made of the fact that the address of George Maurice Morris, President of the American Bar Association, was quoted extensively in the press and was the subject of numerous editorials. A report of the Rio conference was recently published by the Pan American Union.

An invitation to hold the Third Conference in Mexico City was received from the Barra Mexicana. The president of the Barra Mexicana, Dr. Carlos Sanchez Mejorada, was elected president of the Association. He is a dynamic person and speaks English fluently. An article by him, with his picture, recently appeared in the Spanish edition of the Rotarian. An interesting convention in an interesting city is in prospect. It will be held July 31 to August 8, 1944. The Secretary-General has expressed the hope that the Minnesota State Bar Association will send some delegates, and has offered to make hotel reservations upon request.

The potentialities of the Association for constructive achievement appear to be great. Closer personal relationships and increased mutual confidence among the leaders of the bars of the Americas should form the basis for cooperation in improving the administration of justice. The small differences and great similarities between the civil and the common law would be revealed to practitioners who become familiar with both systems. An intelligent understanding of the diversity of the customs and procedures employed to achieve justice by resort to reason and pacific means should serve to strengthen both systems of law. The Association, above all, offers an opportunity for lawyers of the New World to cooperate in strengthening the foundations of democratic institutions so that they may be maintained free from abuse and reactionary degradation.

The widespread mutual understanding and cooperation of professional men devoted to the various sciences form the foundation for international cultural, economic and political unity. If educated men with free minds do not develop and demonstrate the capacity to work together for common constructive ends, there is small hope for mass world cooperation or even regional cooperation.

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8Rotario Revista, Jan., 1944.